
SUBSTITUTE SENATE BILL 6045

State of Washington

64th Legislature

2015 Regular Session

By Senate Ways & Means (originally sponsored by Senators Becker and Frockt)

READ FIRST TIME 04/02/15.

1 AN ACT Relating to continuation of the hospital safety net
2 assessment for two additional biennia; amending RCW 74.60.005,
3 74.60.020, 74.60.030, 74.60.050, 74.60.090, 74.60.100, 74.60.120,
4 74.60.130, 74.60.150, 74.60.160, and 74.60.901; providing an
5 expiration date; and declaring an emergency.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **Sec. 1.** RCW 74.60.005 and 2013 2nd sp.s. c 17 s 1 are each
8 amended to read as follows:

9 (1) The purpose of this chapter is to provide for a safety net
10 assessment on certain Washington hospitals, which will be used solely
11 to augment funding from all other sources and thereby support
12 additional payments to hospitals for medicaid services as specified
13 in this chapter.

14 (2) The legislature finds that federal health care reform will
15 result in an expansion of medicaid enrollment in this state and an
16 increase in federal financial participation. (~~As a result, the~~
17 ~~hospital safety net assessment and hospital safety net assessment~~
18 ~~fund created in this chapter will begin phasing down over a four-year~~
19 ~~period beginning in fiscal year 2016 as federal medicaid expansion is~~
20 ~~fully implemented. The state will end its reliance on the assessment~~
21 ~~and the fund by the end of fiscal year 2019.))~~

1 (3) In adopting this chapter, it is the intent of the
2 legislature:

3 (a) To impose a hospital safety net assessment to be used solely
4 for the purposes specified in this chapter;

5 (b) To generate approximately (~~four hundred forty six million~~
6 ~~three hundred thirty eight thousand~~) five hundred one million five
7 hundred thousand dollars per state fiscal year (~~in fiscal years 2014~~
8 ~~and 2015, and then phasing down in equal increments to zero by the~~
9 ~~end of fiscal year 2019,~~) in new state and federal funds by
10 disbursing all of that amount to pay for medicaid hospital services
11 and grants to certified public expenditure and critical access
12 hospitals, except costs of administration as specified in this
13 chapter, in the form of additional payments to hospitals and managed
14 care plans, which may not be a substitute for payments from other
15 sources;

16 (c) To generate (~~one hundred ninety nine million eight hundred~~
17 ~~thousand~~) three hundred thirty million dollars (~~in the 2013-2015~~
18 ~~biennium, phasing down to zero by the end of the 2017-2019~~
19 ~~biennium,~~) during the 2015-2017 biennium and three hundred fourteen
20 million dollars during the 2017-2019 biennium in new funds to be used
21 in lieu of state general fund payments for medicaid hospital
22 services;

23 (d) That the total amount assessed not exceed the amount needed,
24 in combination with all other available funds, to support the
25 payments authorized by this chapter; and

26 (e) To condition the assessment on receiving federal approval for
27 receipt of additional federal financial participation and on
28 continuation of other funding sufficient to maintain aggregate
29 payment levels to hospitals for inpatient and outpatient services
30 covered by medicaid, including fee-for-service and managed care, at
31 least at the levels the state paid for those services on July 1,
32 (~~2009~~) 2015, as adjusted for current enrollment and utilization(~~(~~
33 ~~but without regard to payment increases resulting from chapter 30,~~
34 ~~Laws of 2010 1st sp. sess)).~~

35 **Sec. 2.** RCW 74.60.020 and 2013 2nd sp.s. c 17 s 3 are each
36 amended to read as follows:

37 (1) A dedicated fund is hereby established within the state
38 treasury to be known as the hospital safety net assessment fund. The
39 purpose and use of the fund shall be to receive and disburse funds,

1 together with accrued interest, in accordance with this chapter.
2 Moneys in the fund, including interest earned, shall not be used or
3 disbursed for any purposes other than those specified in this
4 chapter. Any amounts expended from the fund that are later recouped
5 by the authority on audit or otherwise shall be returned to the fund.

6 (a) Any unexpended balance in the fund at the end of a fiscal
7 (~~biennium~~) year shall carry over into the following (~~biennium~~)
8 fiscal year or that fiscal year and the following fiscal year and
9 shall be applied to reduce the amount of the assessment under RCW
10 74.60.050(1)(c).

11 (b) Any amounts remaining in the fund after July 1, 2019, shall
12 be refunded to hospitals, pro rata according to the amount paid by
13 the hospital since July 1, 2013, subject to the limitations of
14 federal law.

15 (2) All assessments, interest, and penalties collected by the
16 authority under RCW 74.60.030 and 74.60.050 shall be deposited into
17 the fund.

18 (3) Disbursements from the fund are conditioned upon
19 appropriation and the continued availability of other funds
20 sufficient to maintain aggregate payment levels to hospitals for
21 inpatient and outpatient services covered by medicaid, including fee-
22 for-service and managed care, at least at the levels the state paid
23 for those services on July 1, (~~2009~~) 2015, as adjusted for current
24 enrollment and utilization(~~(, but without regard to payment increases~~
25 ~~resulting from chapter 30, Laws of 2010 1st sp. sess)~~).

26 (4) Disbursements from the fund may be made only:

27 (a) To make payments to hospitals and managed care plans as
28 specified in this chapter;

29 (b) To refund erroneous or excessive payments made by hospitals
30 pursuant to this chapter;

31 (c) For one million dollars per biennium for payment of
32 administrative expenses incurred by the authority in performing the
33 activities authorized by this chapter;

34 (d) For (~~one hundred ninety nine million eight hundred~~
35 ~~thousand~~) three hundred thirty million dollars in the (~~2013-2015~~)
36 2015-2017 biennium and three hundred fourteen million dollars in the
37 2017-2019 biennium, (~~(phasing down to zero by the end of the~~
38 ~~2017-2019 biennium)~~) to be used in lieu of state general fund
39 payments for medicaid hospital services, provided that if the full
40 amount of the payments required under RCW 74.60.120 and 74.60.130

1 cannot be distributed in a given fiscal year, this amount must be
2 reduced proportionately;

3 (e) To repay the federal government for any excess payments made
4 to hospitals from the fund if the assessments or payment increases
5 set forth in this chapter are deemed out of compliance with federal
6 statutes and regulations in a final determination by a court of
7 competent jurisdiction with all appeals exhausted. In such a case,
8 the authority may require hospitals receiving excess payments to
9 refund the payments in question to the fund. The state in turn shall
10 return funds to the federal government in the same proportion as the
11 original financing. If a hospital is unable to refund payments, the
12 state shall develop either a payment plan, or deduct moneys from
13 future medicaid payments, or both;

14 (f) Beginning in state fiscal year 2015, to pay an amount
15 sufficient, when combined with the maximum available amount of
16 federal funds necessary to provide a one percent increase in medicaid
17 hospital inpatient rates to hospitals eligible for quality
18 improvement incentives under RCW 74.09.611.

19 **Sec. 3.** RCW 74.60.030 and 2014 c 143 s 1 are each amended to
20 read as follows:

21 (1)(a) Upon satisfaction of the conditions in RCW 74.60.150(1),
22 and so long as the conditions in RCW 74.60.150(2) have not occurred,
23 an assessment is imposed as set forth in this subsection(~~(, effective~~
24 ~~October 1, 2013))~~). (~~Initial assessment notices must be sent to each~~
25 ~~hospital not earlier than thirty days after satisfaction of the~~
26 ~~conditions in RCW 74.60.150(1). Payment is due not sooner than thirty~~
27 ~~days thereafter. Except for the initial)) Assessment(~~(,)~~) notices
28 must be sent on or about thirty days prior to the end of each quarter
29 and payment is due thirty days thereafter.~~

30 (b) Effective (~~October 1, 2013~~) July 1, 2015, and except as
31 provided in RCW 74.60.050:

32 (i) (~~For fiscal year 2014, an annual assessment for amounts~~
33 ~~determined as described in (b)(ii) through (iv) of this subsection is~~
34 ~~imposed for the time period of October 1, 2013, through June 30,~~
35 ~~2014. The initial assessment notice must cover amounts due from~~
36 ~~October 1, 2013, through either: (A) The end of the calendar quarter~~
37 ~~prior to the satisfaction of the conditions in RCW 74.60.150(1) if~~
38 ~~federal approval is received more than forty five days prior to the~~
39 ~~end of a quarter; or (B) the end of the calendar quarter after the~~

1 satisfaction of the conditions in RCW 74.60.150(1) if federal
2 approval is received within forty five days of the end of a quarter.
3 For subsequent assessments during fiscal year 2014, the authority
4 shall calculate the amount due annually and shall issue assessments
5 for the appropriate proportion of the annual amount due from each
6 hospital;

7 ~~(ii) After the assessments described in (b)(i) of this~~
8 ~~subsection,~~) Each prospective payment system hospital, except
9 psychiatric and rehabilitation hospitals, shall pay a quarterly
10 assessment. Each quarterly assessment shall be no more than one
11 quarter of three hundred ~~((forty-four))~~ sixty-seven dollars for each
12 annual nonmedicare hospital inpatient day, up to a maximum of fifty-
13 four thousand days per year. For each nonmedicare hospital inpatient
14 day in excess of fifty-four thousand days, each prospective payment
15 system hospital shall pay an assessment of one quarter of seven
16 dollars for each such day;

17 ~~((iii) After the assessments described in (b)(i) of this~~
18 ~~subsection,~~) (ii) Each critical access hospital shall pay a
19 quarterly assessment of one quarter of ten dollars for each annual
20 nonmedicare hospital inpatient day;

21 ~~((iv) After the assessments described in (b)(i) of this~~
22 ~~subsection,~~) (iii) Each psychiatric hospital shall pay a quarterly
23 assessment of one quarter of ~~((sixty-seven))~~ no more than seventy-two
24 dollars for each annual nonmedicare hospital inpatient day; and

25 ~~((v) After the assessments described in (b)(i) of this~~
26 ~~subsection,~~) (iv) Each rehabilitation hospital shall pay a quarterly
27 assessment of one quarter of ~~((sixty-seven))~~ no more than seventy-two
28 dollars for each annual nonmedicare hospital inpatient day.

29 (2) The authority shall determine each hospital's annual
30 nonmedicare hospital inpatient days by summing the total reported
31 nonmedicare hospital inpatient days for each hospital that is not
32 exempt from the assessment under RCW 74.60.040(~~(, taken)~~). The
33 authority shall obtain inpatient data from the hospital's 2552 cost
34 report data file or successor data file available through the centers
35 for medicare and medicaid services, as of a date to be determined by
36 the authority. For state fiscal year ~~((2014))~~ 2016, the authority
37 shall use cost report data for hospitals' fiscal years ending in
38 ~~((2010))~~ 2012. For subsequent years, the hospitals' next succeeding
39 fiscal year cost report data must be used.

1 (a) With the exception of a prospective payment system hospital
2 commencing operations after January 1, 2009, for any hospital without
3 a cost report for the relevant fiscal year, the authority shall work
4 with the affected hospital to identify appropriate supplemental
5 information that may be used to determine annual nonmedicare hospital
6 inpatient days.

7 (b) A prospective payment system hospital commencing operations
8 after January 1, 2009, must be assessed in accordance with this
9 section after becoming an eligible new prospective payment system
10 hospital as defined in RCW 74.60.010.

11 **Sec. 4.** RCW 74.60.050 and 2013 2nd sp.s. c 17 s 5 are each
12 amended to read as follows:

13 (1) The authority, in cooperation with the office of financial
14 management, shall develop rules for determining the amount to be
15 assessed to individual hospitals, notifying individual hospitals of
16 the assessed amount, and collecting the amounts due. Such rule making
17 shall specifically include provision for:

18 (a) Transmittal of notices of assessment by the authority to each
19 hospital informing the hospital of its nonmedicare hospital inpatient
20 days and the assessment amount due and payable;

21 (b) Interest on delinquent assessments at the rate specified in
22 RCW 82.32.050; and

23 (c) Adjustment of the assessment amounts in accordance with
24 subsection(~~s~~) (2) (~~and (3)~~) of this section.

25 (2) For state fiscal year (~~2015~~) 2016 and each subsequent state
26 fiscal year, the assessment amounts established under RCW 74.60.030
27 must be adjusted as follows:

28 (a) If sufficient other funds, including federal funds, are
29 available to make the payments required under this chapter and fund
30 the state portion of the quality incentive payments under RCW
31 74.09.611 and 74.60.020(4)(f) without utilizing the full assessment
32 under RCW 74.60.030, the authority shall reduce the amount of the
33 assessment to the minimum levels necessary to support those payments;

34 (b) If the total amount of inpatient or outpatient supplemental
35 payments under RCW 74.60.120 is in excess of the upper payment limit
36 and the entire excess amount cannot be disbursed by additional
37 payments to managed care organizations under RCW 74.60.130, the
38 authority shall proportionately reduce future assessments on
39 prospective payment hospitals to the level necessary to generate

1 additional payments to hospitals that are consistent with the upper
2 payment limit plus the maximum permissible amount of additional
3 payments to managed care organizations under RCW 74.60.130;

4 (c) If the amount of payments to managed care organizations under
5 RCW 74.60.130 cannot be distributed because of failure to meet
6 federal actuarial soundness or utilization requirements or other
7 federal requirements, the authority shall apply the amount that
8 cannot be distributed to reduce future assessments to the level
9 necessary to generate additional payments to managed care
10 organizations that are consistent with federal actuarial soundness or
11 utilization requirements or other federal requirements;

12 (d) If required in order to obtain federal matching funds, the
13 maximum number of nonmedicare inpatient days at the higher rate
14 provided under RCW 74.60.030(1)(b)(i) may be adjusted in order to
15 comply with federal requirements;

16 (e) If the number of nonmedicare inpatient days applied to the
17 rates provided in RCW 74.60.030 will not produce sufficient funds to
18 support the payments required under this chapter and the state
19 portion of the quality incentive payments under RCW 74.09.611 and
20 74.60.020(4)(f), the assessment rates provided in RCW 74.60.030 may
21 be increased proportionately by category of hospital to amounts no
22 greater than necessary in order to produce the required level of
23 funds needed to make the payments specified in this chapter and the
24 state portion of the quality incentive payments under RCW 74.09.611
25 and 74.60.020(4)(f); and

26 (f) Any actual or estimated surplus remaining in the fund at the
27 end of the fiscal year must be applied to reduce the assessment
28 amount for the subsequent fiscal year or that fiscal year and the
29 following year.

30 ~~(3) ((For each fiscal year after June 30, 2015, the assessment~~
31 ~~amounts established under RCW 74.60.030 must be adjusted as follows:~~

32 ~~(a) In order to support the payments required in this chapter,~~
33 ~~the assessment amounts must be reduced in approximately equal yearly~~
34 ~~increments each fiscal year by category of hospital until the~~
35 ~~assessment amount is zero by July 1, 2019;~~

36 ~~(b) If sufficient other funds, including federal funds, are~~
37 ~~available to make the payments required under this chapter and fund~~
38 ~~the state portion of the quality incentive payments under RCW~~
39 ~~74.09.611 and 74.60.020(4)(f) without utilizing the full assessment~~

1 under RCW 74.60.030, the authority shall reduce the amount of the
2 assessment to the minimum levels necessary to support those payments;

3 (c) If in any fiscal year the total amount of inpatient or
4 outpatient supplemental payments under RCW 74.60.120 is in excess of
5 the upper payment limit and the entire excess amount cannot be
6 disbursed by additional payments to managed care organizations under
7 RCW 74.60.130, the authority shall proportionately reduce future
8 assessments on prospective payment hospitals to the level necessary
9 to generate additional payments to hospitals that are consistent with
10 the upper payment limit plus the maximum permissible amount of
11 additional payments to managed care organizations under RCW
12 74.60.130;

13 (d) If the amount of payments to managed care organizations under
14 RCW 74.60.130 cannot be distributed because of failure to meet
15 federal actuarial soundness or utilization requirements or other
16 federal requirements, the authority shall apply the amount that
17 cannot be distributed to reduce future assessments to the level
18 necessary to generate additional payments to managed care
19 organizations that are consistent with federal actuarial soundness or
20 utilization requirements or other federal requirements;

21 (e) If required in order to obtain federal matching funds, the
22 maximum number of nonmedicare inpatient days at the higher rate
23 provided under RCW 74.60.030(1)(b)(i) may be adjusted in order to
24 comply with federal requirements;

25 (f) If the number of nonmedicare inpatient days applied to the
26 rates provided in RCW 74.60.030 will not produce sufficient funds to
27 support the payments required under this chapter and the state
28 portion of the quality incentive payments under RCW 74.09.611 and
29 74.60.020(4)(f), the assessment rates provided in RCW 74.60.030 may
30 be increased proportionately by category of hospital to amounts no
31 greater than necessary in order to produce the required level of
32 funds needed to make the payments specified in this chapter and the
33 state portion of the quality incentive payments under RCW 74.09.611
34 and 74.60.020(4)(f); and

35 (g) Any actual or estimated surplus remaining in the fund at the
36 end of the fiscal year must be applied to reduce the assessment
37 amount for the subsequent fiscal year.

38 (4)))(a) Any adjustment to the assessment amounts pursuant to
39 this section, and the data supporting such adjustment, including, but
40 not limited to, relevant data listed in (b) of this subsection, must

1 be submitted to the Washington state hospital association for review
2 and comment at least sixty calendar days prior to implementation of
3 such adjusted assessment amounts. Any review and comment provided by
4 the Washington state hospital association does not limit the ability
5 of the Washington state hospital association or its members to
6 challenge an adjustment or other action by the authority that is not
7 made in accordance with this chapter.

8 (b) The authority shall provide the following data to the
9 Washington state hospital association sixty days before implementing
10 any revised assessment levels, detailed by fiscal year, beginning
11 with fiscal year 2011 and extending to the most recent fiscal year,
12 except in connection with the initial assessment under this chapter:

13 (i) The fund balance;

14 (ii) The amount of assessment paid by each hospital;

15 (iii) The state share, federal share, and total annual medicaid
16 fee-for-service payments for inpatient hospital services made to each
17 hospital under RCW 74.60.120, and the data used to calculate the
18 payments to individual hospitals under that section;

19 (iv) The state share, federal share, and total annual medicaid
20 fee-for-service payments for outpatient hospital services made to
21 each hospital under RCW 74.60.120, and the data used to calculate
22 annual payments to individual hospitals under that section;

23 (v) The annual state share, federal share, and total payments
24 made to each hospital under each of the following programs: Grants to
25 certified public expenditure hospitals under RCW 74.60.090, for
26 critical access hospital payments under RCW 74.60.100; and
27 disproportionate share programs under RCW 74.60.110;

28 (vi) The data used to calculate annual payments to individual
29 hospitals under (b)(v) of this subsection; and

30 (vii) The amount of payments made to managed care plans under RCW
31 74.60.130, including the amount representing additional premium tax,
32 and the data used to calculate those payments.

33 (c) On a monthly basis, the authority shall provide the
34 Washington state hospital association the amount of payments made to
35 managed care plans under RCW 74.60.130, including the amount
36 representing additional premium tax, and the data used to calculate
37 those payments.

38 **Sec. 5.** RCW 74.60.090 and 2013 2nd sp.s. c 17 s 8 are each
39 amended to read as follows:

1 (1) In each fiscal year commencing upon satisfaction of the
2 applicable conditions in RCW 74.60.150(1), funds must be disbursed
3 from the fund and the authority shall make grants to certified public
4 expenditure hospitals, which shall not be considered payments for
5 hospital services, as follows:

6 (a) University of Washington medical center: (~~Three million~~
7 ~~three hundred thousand dollars per state fiscal year in fiscal years~~
8 ~~2014 and 2015, and then reduced in approximately equal increments per~~
9 ~~fiscal year until the grant amount is zero by July 1,)~~) Fourteen
10 million six hundred five thousand dollars in each state fiscal year
11 2016 through 2019 paid as follows:

12 (i) Four million four hundred fifty-five thousand dollars as a
13 grant;

14 (ii) Eight million one hundred fifty thousand dollars to expand
15 the University of Washington family residency program;

16 (iii) Two million dollars to provide integrated, evidence-based
17 psychiatry residency;

18 (b) Harborview medical center: (~~Seven million six hundred~~
19 ~~thousand dollars per state fiscal year in fiscal years 2014 and 2015,~~
20 ~~and then reduced in approximately equal increments per fiscal year~~
21 ~~until the grant amount is zero by July 1,)~~) Ten million two hundred
22 sixty thousand dollars in each state fiscal year 2016 through 2019;

23 (c) All other certified public expenditure hospitals: (~~Four~~
24 ~~million seven hundred thousand dollars per state fiscal year in~~
25 ~~fiscal years 2014 and 2015, and then reduced in approximately equal~~
26 ~~increments per fiscal year until the grant amount is zero by July~~
27 ~~1,)~~) Six million three hundred forty-five thousand dollars in each
28 state fiscal year 2016 through 2019. The amount of payments to
29 individual hospitals under this subsection must be determined using a
30 methodology that provides each hospital with a proportional
31 allocation of the group's total amount of medicaid and state
32 children's health insurance program payments determined from claims
33 and encounter data using the same general methodology set forth in
34 RCW 74.60.120 (3) and (4).

35 (2) Payments must be made quarterly, before the end of each
36 quarter, taking the total disbursement amount and dividing by four to
37 calculate the quarterly amount. (~~The initial payment, which must~~
38 ~~include all amounts due from and after July 1, 2013, to the date of~~
39 ~~the initial payment, must be made within thirty days after~~
40 ~~satisfaction of the conditions in RCW 74.60.150(1).)~~) The authority

1 shall provide a quarterly report of such payments to the Washington
2 state hospital association.

3 **Sec. 6.** RCW 74.60.100 and 2013 2nd sp.s. c 17 s 9 are each
4 amended to read as follows:

5 In each fiscal year commencing upon satisfaction of the
6 conditions in RCW 74.60.150(1), the authority shall make access
7 payments to critical access hospitals that do not qualify for or
8 receive a small rural disproportionate share hospital payment in a
9 given fiscal year in the total amount of ~~((five hundred twenty))~~
10 seven hundred two thousand dollars from the fund and to critical
11 access hospitals that receive disproportionate share payments in the
12 total amount of one million three hundred thirty-six thousand
13 dollars. The amount of payments to individual hospitals under this
14 section must be determined using a methodology that provides each
15 hospital with a proportional allocation of the group's total amount
16 of medicaid and state children's health insurance program payments
17 determined from claims and encounter data using the same general
18 methodology set forth in RCW 74.60.120 (3) and (4). Payments must be
19 made after the authority determines a hospital's payments under RCW
20 74.60.110. These payments shall be in addition to any other amount
21 payable with respect to services provided by critical access
22 hospitals and shall not reduce any other payments to critical access
23 hospitals. The authority shall provide a report of such payments to
24 the Washington state hospital association within thirty days after
25 payments are made.

26 **Sec. 7.** RCW 74.60.120 and 2014 c 143 s 2 are each amended to
27 read as follows:

28 (1) ~~((Beginning))~~ In each state fiscal year ~~((2014))~~, commencing
29 ~~((thirty days after))~~ upon satisfaction of the applicable conditions
30 in RCW 74.60.150(1), ~~((and for the period of state fiscal years 2014~~
31 ~~through 2019,))~~ the authority shall make supplemental payments
32 directly to Washington hospitals, separately for inpatient and
33 outpatient fee-for-service medicaid services, as follows:

34 (a) For inpatient fee-for-service payments for prospective
35 payment hospitals other than psychiatric or rehabilitation hospitals,
36 ~~((twenty nine million two hundred twenty five thousand))~~ twenty-four
37 million eighty-seven thousand five hundred dollars per state fiscal
38 year ~~((in fiscal years 2014 and 2015, and then amounts reduced in~~

1 ~~equal increments per fiscal year until the supplemental payment~~
2 ~~amount is zero by July 1, 2019, from the fund,~~) plus federal
3 matching funds;

4 (b) For outpatient fee-for-service payments for prospective
5 payment hospitals other than psychiatric or rehabilitation hospitals,
6 thirty million dollars per state fiscal year (~~in fiscal years 2014~~
7 ~~and 2015, and then amounts reduced in equal increments per fiscal~~
8 ~~year until the supplemental payment amount is zero by July 1, 2019,~~
9 ~~from the fund,~~) plus federal matching funds;

10 (c) For inpatient fee-for-service payments for psychiatric
11 hospitals, (~~six hundred twenty five thousand~~) eight hundred
12 seventy-five thousand dollars per state fiscal year (~~in fiscal years~~
13 ~~2014 and 2015, and then amounts reduced in equal increments per~~
14 ~~fiscal year until the supplemental payment amount is zero by July 1,~~
15 ~~2019, from the fund,~~) plus federal matching funds;

16 (d) For inpatient fee-for-service payments for rehabilitation
17 hospitals, (~~one hundred fifty thousand~~) two hundred twenty-five
18 thousand dollars per state fiscal year (~~in fiscal years 2014 and~~
19 ~~2015, and then amounts reduced in equal increments per fiscal year~~
20 ~~until the supplemental payment amount is zero by July 1, 2019, from~~
21 ~~the fund,~~) plus federal matching funds;

22 (e) For inpatient fee-for-service payments for border hospitals,
23 two hundred fifty thousand dollars per state fiscal year (~~in fiscal~~
24 ~~years 2014 and 2015, and then amounts reduced in equal increments per~~
25 ~~fiscal year until the supplemental payment amount is zero by July 1,~~
26 ~~2019, from the fund,~~) plus federal matching funds; and

27 (f) For outpatient fee-for-service payments for border hospitals,
28 two hundred fifty thousand dollars per state fiscal year (~~in fiscal~~
29 ~~years 2014 and 2015, and then amounts reduced in equal increments per~~
30 ~~fiscal year until the supplemental payment amount is zero by July 1,~~
31 ~~2019, from the fund,~~) plus federal matching funds.

32 (2) If the amount of inpatient or outpatient payments under
33 subsection (1) of this section, when combined with federal matching
34 funds, exceeds the upper payment limit, payments to each category of
35 hospital must be reduced proportionately to a level where the total
36 payment amount is consistent with the upper payment limit. Funds
37 under this chapter unable to be paid to hospitals under this section
38 because of the upper payment limit must be paid to managed care
39 organizations under RCW 74.60.130, subject to the limitations in this
40 chapter.

1 (3) The amount of such fee-for-service inpatient payments to
2 individual hospitals within each of the categories identified in
3 subsection (1)(a), (c), (d), and (e) of this section must be
4 determined by:

5 (a) Applying the medicaid fee-for-service rates in effect on July
6 1, 2009, without regard to the increases required by chapter 30, Laws
7 of 2010 1st sp. sess. to each hospital's inpatient fee-for-services
8 claims and medicaid managed care encounter data for the base year;

9 (b) Applying the medicaid fee-for-service rates in effect on July
10 1, 2009, without regard to the increases required by chapter 30, Laws
11 of 2010 1st sp. sess. to all hospitals' inpatient fee-for-services
12 claims and medicaid managed care encounter data for the base year;
13 and

14 (c) Using the amounts calculated under (a) and (b) of this
15 subsection to determine an individual hospital's percentage of the
16 total amount to be distributed to each category of hospital.

17 (4) The amount of such fee-for-service outpatient payments to
18 individual hospitals within each of the categories identified in
19 subsection (1)(b) and (f) of this section must be determined by:

20 (a) Applying the medicaid fee-for-service rates in effect on July
21 1, 2009, without regard to the increases required by chapter 30, Laws
22 of 2010 1st sp. sess. to each hospital's outpatient fee-for-services
23 claims and medicaid managed care encounter data for the base year;

24 (b) Applying the medicaid fee-for-service rates in effect on July
25 1, 2009, without regard to the increases required by chapter 30, Laws
26 of 2010 1st sp. sess. to all hospitals' outpatient fee-for-services
27 claims and medicaid managed care encounter data for the base year;
28 and

29 (c) Using the amounts calculated under (a) and (b) of this
30 subsection to determine an individual hospital's percentage of the
31 total amount to be distributed to each category of hospital.

32 (5) (~~Thirty days before the initial payments and~~) Sixty days
33 before the first payment in each subsequent fiscal year, the
34 authority shall provide each hospital and the Washington state
35 hospital association with an explanation of how the amounts due to
36 each hospital under this section were calculated.

37 (6) Payments must be made in quarterly installments on or about
38 the last day of every quarter. (~~The initial payment must be made
39 within thirty days after satisfaction of the conditions in RCW
40 74.60.150(1) and must include all amounts due from July 1, 2013, to~~

1 either: (a) The end of the calendar quarter prior to when the
2 conditions in RCW 70.60.150(1) [~~74.60.150(1)~~] are satisfied if
3 approval is received more than forty five days prior to the end of a
4 quarter; or (b) the end of the calendar quarter after the
5 satisfaction of the conditions in RCW 74.60.150(1) if approval is
6 received within forty five days of the end of a quarter.)

7 (7) A prospective payment system hospital commencing operations
8 after January 1, 2009, is eligible to receive payments in accordance
9 with this section after becoming an eligible new prospective payment
10 system hospital as defined in RCW 74.60.010.

11 (8) Payments under this section are supplemental to all other
12 payments and do not reduce any other payments to hospitals.

13 **Sec. 8.** RCW 74.60.130 and 2014 c 143 s 3 are each amended to
14 read as follows:

15 (1) For state fiscal year ((2014)) 2016 and for each subsequent
16 fiscal year, commencing within thirty days after satisfaction of the
17 conditions in RCW 74.60.150(1) and subsection ((~~6~~)) (5) of this
18 section, ((and for the period of state fiscal years 2014 through
19 2019,)) the authority shall increase capitation payments in a manner
20 consistent with federal contracting requirements to managed care
21 organizations by an amount at least equal to the amount available
22 from the fund after deducting disbursements authorized by RCW
23 74.60.020(4) (c) through (f) and payments required by RCW 74.60.080
24 through 74.60.120. The capitation payment under this subsection must
25 be no less than one hundred ((~~fifty three~~)) million ((~~one hundred~~
26 ~~thirty one thousand six hundred~~)) dollars per state fiscal year ((in
27 fiscal years 2014 and 2015, and then the increased capitation payment
28 amounts are reduced in equal increments per fiscal year until the
29 increased capitation payment amount is zero by July 1, 2019,)) plus
30 the maximum available amount of federal matching funds. The initial
31 payment following satisfaction of the conditions in RCW 74.60.150(1)
32 must include all amounts due from July 1, ((2013)) 2015, to the end
33 of the calendar month during which the conditions in RCW 74.60.150(1)
34 are satisfied. Subsequent payments shall be made monthly.

35 (2) ((In fiscal years 2015, 2016, and 2017, the authority shall
36 use any additional federal matching funds for the increased managed
37 care capitation payments under subsection (1) of this section
38 available from medicaid expansion under the federal patient
39 protection and affordable care act to substitute for assessment funds

1 ~~which otherwise would have been used to pay managed care plans under~~
2 ~~this section.~~

3 ~~(3))~~ Payments to individual managed care organizations shall be
4 determined by the authority based on each organization's or network's
5 enrollment relative to the anticipated total enrollment in each
6 program for the fiscal year in question, the anticipated utilization
7 of hospital services by an organization's or network's medicaid
8 enrollees, and such other factors as are reasonable and appropriate
9 to ensure that purposes of this chapter are met.

10 ~~((4))~~ (3) If the federal government determines that total
11 payments to managed care organizations under this section exceed what
12 is permitted under applicable medicaid laws and regulations, payments
13 must be reduced to levels that meet such requirements, and the
14 balance remaining must be applied as provided in RCW 74.60.050.
15 Further, in the event a managed care organization is legally
16 obligated to repay amounts distributed to hospitals under this
17 section to the state or federal government, a managed care
18 organization may recoup the amount it is obligated to repay under the
19 medicaid program from individual hospitals by not more than the
20 amount of overpayment each hospital received from that managed care
21 organization.

22 ~~((5))~~ (4) Payments under this section do not reduce the amounts
23 that otherwise would be paid to managed care organizations: PROVIDED,
24 That such payments are consistent with actuarial soundness
25 certification and enrollment.

26 ~~((6))~~ (5) Before making such payments, the authority shall
27 require medicaid managed care organizations to comply with the
28 following requirements:

29 (a) All payments to managed care organizations under this chapter
30 must be expended for hospital services provided by Washington
31 hospitals, which for purposes of this section includes psychiatric
32 and rehabilitation hospitals, in a manner consistent with the
33 purposes and provisions of this chapter, and must be equal to all
34 increased capitation payments under this section received by the
35 organization or network, consistent with actuarial certification and
36 enrollment, less an allowance for any estimated premium taxes the
37 organization is required to pay under Title 48 RCW associated with
38 the payments under this chapter;

39 (b) Managed care organizations shall expend the increased
40 capitation payments under this section in a manner consistent with

1 the purposes of this chapter, with the initial expenditures to
2 hospitals to be made within thirty days of receipt of payment from
3 the authority. Subsequent expenditures by the managed care plans are
4 to be made before the end of the quarter in which funds are received
5 from the authority;

6 (c) Providing that any delegation or attempted delegation of an
7 organization's or network's obligations under agreements with the
8 authority do not relieve the organization or network of its
9 obligations under this section and related contract provisions.

10 ~~((+7))~~ (6) No hospital or managed care organizations may use the
11 payments under this section to gain advantage in negotiations.

12 ~~((+8))~~ (7) No hospital has a claim or cause of action against a
13 managed care organization for monetary compensation based on the
14 amount of payments under subsection ~~((+6))~~ (5) of this section.

15 ~~((+9))~~ (8) If funds cannot be used to pay for services in
16 accordance with this chapter the managed care organization or network
17 must return the funds to the authority which shall return them to the
18 hospital safety net assessment fund.

19 **Sec. 9.** RCW 74.60.150 and 2013 2nd sp.s. c 17 s 15 are each
20 amended to read as follows:

21 (1) The assessment, collection, and disbursement of funds under
22 this chapter shall be conditional upon:

23 (a) Final approval by the centers for medicare and medicaid
24 services of any state plan amendments or waiver requests that are
25 necessary in order to implement the applicable sections of this
26 chapter including, if necessary, waiver of the broad-based or
27 uniformity requirements as specified under section 1903(w)(3)(E) of
28 the federal social security act and 42 C.F.R. 433.68(e);

29 (b) To the extent necessary, amendment of contracts between the
30 authority and managed care organizations in order to implement this
31 chapter; and

32 (c) Certification by the office of financial management that
33 appropriations have been adopted that fully support the rates
34 established in this chapter for the upcoming fiscal year.

35 (2) This chapter does not take effect or ceases to be imposed,
36 and any moneys remaining in the fund shall be refunded to hospitals
37 in proportion to the amounts paid by such hospitals, if and to the
38 extent that any of the following conditions occur:

1 (a) The federal department of health and human services and a
2 court of competent jurisdiction makes a final determination, with all
3 appeals exhausted, that any element of this chapter, other than RCW
4 74.60.100, cannot be validly implemented;

5 (b) Funds generated by the assessment for payments to prospective
6 payment hospitals or managed care organizations are determined to be
7 not eligible for federal match;

8 (c) Other funding sufficient to maintain aggregate payment levels
9 to hospitals for inpatient and outpatient services covered by
10 medicaid, including fee-for-service and managed care, at least at the
11 levels the state paid for those services on July 1, ((2009)) 2015, as
12 adjusted for current enrollment and utilization(~~(, but without regard~~
13 ~~to payment increases resulting from chapter 30, Laws of 2010 1st sp.~~
14 ~~sess. 7)~~) is not appropriated or available;

15 (d) Payments required by this chapter are reduced, except as
16 specifically authorized in this chapter, or payments are not made in
17 substantial compliance with the time frames set forth in this
18 chapter; or

19 (e) The fund is used as a substitute for or to supplant other
20 funds, except as authorized by RCW 74.60.020.

21 **Sec. 10.** RCW 74.60.160 and 2013 2nd sp.s. c 17 s 17 are each
22 amended to read as follows:

23 (1) The legislature intends to provide the hospitals with an
24 opportunity to contract with the authority each fiscal biennium to
25 protect the hospitals from future legislative action during the
26 biennium that could result in hospitals receiving less from
27 supplemental payments, increased managed care payments,
28 disproportionate share hospital payments, or access payments than the
29 hospitals expected to receive in return for the assessment based on
30 the biennial appropriations and assessment legislation.

31 (2) Each odd-numbered year after enactment of the biennial
32 omnibus operating appropriations act, the authority shall offer to
33 enter into a contract or to extend an existing contract for the
34 period of the fiscal biennium beginning July 1st with a hospital that
35 is required to pay the assessment under this chapter. The contract
36 must include the following terms:

37 (a) The authority must agree not to do any of the following:

1 (i) Increase the assessment from the level set by the authority
2 pursuant to this chapter on the first day of the contract period for
3 reasons other than those allowed under RCW 74.60.050(~~(+3)~~) (2)(e);

4 (ii) Reduce aggregate payment levels to hospitals for inpatient
5 and outpatient services covered by medicaid, including fee-for-
6 service and managed care, (~~allowing for variations due to budget-~~
7 ~~neutral rebasing and~~) adjusting for changes in enrollment and
8 utilization, from the levels the state paid for those services on the
9 first day of the contract period;

10 (iii) For critical access hospitals only, reduce the levels of
11 disproportionate share hospital payments under RCW 74.60.110 or
12 access payments under RCW 74.60.100 for all critical access hospitals
13 below the levels specified in those sections on the first day of the
14 contract period;

15 (iv) For prospective payment system, psychiatric, and
16 rehabilitation hospitals only, reduce the levels of supplemental
17 payments under RCW 74.60.120 for all prospective payment system
18 hospitals below the levels specified in that section on the first day
19 of the contract period unless the supplemental payments are reduced
20 under RCW 74.60.120(2);

21 (v) For prospective payment system, psychiatric, and
22 rehabilitation hospitals only, reduce the increased capitation
23 payments to managed care organizations under RCW 74.60.130 below the
24 levels specified in that section on the first day of the contract
25 period unless the managed care payments are reduced under RCW
26 74.60.130(~~(+4)~~) (3); or

27 (vi) Except as specified in this chapter, use assessment revenues
28 for any other purpose than to secure federal medicaid matching funds
29 to support payments to hospitals for medicaid services; and

30 (b) As long as payment levels are maintained as required under
31 this chapter, the hospital must agree not to challenge the
32 authority's reduction of hospital reimbursement rates to July 1,
33 2009, levels, which results from the elimination of assessment
34 supported rate restorations and increases, under 42 U.S.C. Sec.
35 1396a(a)(30)(a) either through administrative appeals or in court
36 during the period of the contract.

37 (3) If a court finds that the authority has breached an agreement
38 with a hospital under subsection (2)(a) of this section, the
39 authority:

1 (a) Must immediately refund any assessment payments made
2 subsequent to the breach by that hospital upon receipt; and
3 (b) May discontinue supplemental payments, increased managed care
4 payments, disproportionate share hospital payments, and access
5 payments made subsequent to the breach for the hospital that are
6 required under this chapter.
7 (4) The remedies provided in this section are not exclusive of
8 any other remedies and rights that may be available to the hospital
9 whether provided in this chapter or otherwise in law, equity, or
10 statute.

11 **Sec. 11.** RCW 74.60.901 and 2013 2nd sp.s. c 17 s 19 are each
12 amended to read as follows:

13 This chapter expires July 1, (~~2017~~) 2019.

14 NEW SECTION. **Sec. 12.** This act is necessary for the immediate
15 preservation of the public peace, health, or safety, or support of
16 the state government and its existing public institutions, and takes
17 effect immediately.

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