

HOUSE BILL NO. HB0057

Upper payment limit program-private hospitals.

Sponsored by: Joint Labor, Health & Social Services Interim
Committee

A BILL

for

1 AN ACT relating to public welfare; establishing a private
2 hospital assessment as specified; providing for the use of
3 assessments to obtain federal matching funds; providing for
4 payments to private hospitals as specified; establishing an
5 account; providing definitions; providing regulatory
6 authority; providing penalties; and providing for an
7 effective date.

8

9 *Be It Enacted by the Legislature of the State of Wyoming:*

10

11 **Section 1.** W.S. 42-9-101 through 42-9-109 are created
12 to read:

13

14

CHAPTER 9

15

PRIVATE HOSPITAL ASSESSMENT ACT

1

2 **42-9-101. Short title.**

3

4 This chapter shall be known and may be cited as the
5 "Wyoming Private Hospital Assessment Act."

6

7 **42-9-102. Definitions.**

8

9 (a) As used in this chapter:

10

11 (i) "Account" means the private hospital
12 assessment account created by W.S. 42-9-103;

13

14 (ii) "Department" means the department of
15 health;

16

17 (iii) "Fiscal year" means the twelve (12) month
18 period beginning October 1 and ending September 30;

19

20 (iv) "Medicaid" means the medical assistance
21 program established by title XIX of the federal Social
22 Security Act and administered in this state by the

1 department pursuant to the Wyoming Medical Assistance and
2 Services Act;

3

4 (v) "Medicare cost report" means the annual
5 hospital cost report as determined by the centers for
6 medicare and medicaid services and as reported to the
7 health care cost report information system;

8

9 (vi) "Net hospital patient revenue" means gross
10 hospital revenue as reported on the most recently filed
11 medicare cost report, excluding estimated nonhospital
12 ancillary revenue, multiplied by the hospital's ratio of
13 total net to gross revenue. The department shall establish
14 a procedure to reconcile filed cost report information with
15 information from the settled cost report. If a hospital
16 does not file a medicaid cost report, the department shall
17 establish a procedure to determine what the hospital would
18 have reported as net patient hospital revenue if the
19 hospital had filed a medicaid cost report;

20

21 (vii) "Private hospital" means those
22 institutions licensed by the department as hospitals which
23 are not owned or operated by the state or any city, town,

1 county, special district or other political subdivision of
2 the state or local government;

3

4 (viii) "Quarterly adjustment payment" means the
5 payment made to private hospitals pursuant to W.S.
6 42-9-106;

7

8 (ix) "Upper payment limit" means the applicable
9 limitation established pursuant to 42 C.F.R. 447.272, 42
10 C.F.R. 447.321 or as otherwise established by the centers
11 for medicare and medicaid services;

12

13 (x) "Upper payment limit gap" means the amount
14 calculated annually by the department constituting the
15 difference between the applicable upper payment limit and
16 medicaid payments made subject to that limit in a fiscal
17 year, excluding any quarterly adjustment payments
18 authorized by this chapter.

19

20 **42-9-103. Private hospital assessment account.**

21

22 (a) The private hospital assessment account is
23 created.

1

2 (b) The state treasurer shall invest amounts
3 deposited within the account in accordance with law and all
4 investment earnings shall be credited back to the account.
5 Funds in the account are continuously appropriated to the
6 department for the purposes specified in this section.

7

8 (c) The account shall consist of:

9

10 (i) Amounts collected or received by the
11 department from private hospital assessments under this
12 chapter;

13

14 (ii) All federal matching funds received by the
15 department as a result of expenditures made by the
16 department pursuant to this chapter.

17

18 (d) The account shall be used exclusively for the
19 following purposes:

20

21 (i) To pay administrative expenses incurred by
22 the department or its agent in performing the activities
23 authorized by this chapter, provided that these expenses

1 shall not exceed a total of one percent (1%) of the
2 aggregate assessment funds collected in the fiscal year;

3

4 (ii) To secure federal matching funds available
5 through the state medicaid plan as approved pursuant to
6 W.S. 42-9-108, which shall be used to make quarterly
7 adjustment payments as provided by this chapter;

8

9 (iii) To repay to the federal government any
10 excess payments received or made to private hospitals if
11 the state plan, after approval by the centers for medicare
12 and medicaid services, is subsequently disapproved for any
13 reason and after the state has exhausted all appeals.
14 Private hospitals shall refund any excess payments to the
15 assessment account. If a private hospital is unable to
16 refund payments as provided in this paragraph, the
17 department shall develop a payment plan to recoup deficient
18 payments and accordingly deduct amounts from future
19 medicaid payments. The department shall refund the federal
20 government for the federal portion of those overpayments;

21

22 (iv) To refund assessments paid by private
23 hospitals for quarterly adjustment payments which were

1 earned but not paid by the department, but only after the
2 payments authorized by paragraphs (i) and (iii) of this
3 section have been made.

4

5 **42-9-104. Assessments.**

6

7 (a) Each private hospital shall pay a private
8 hospital assessment to the department in accordance with
9 this section. Hospitals owned or operated by the state or
10 any city, town, county, special district or other political
11 subdivision of the state or local government shall not be
12 required to pay the assessment required by this section.

13

14 (b) The assessment due under this section shall be
15 imposed each fiscal year in an amount calculated as a
16 uniform percentage of each hospital's net patient revenue.
17 The assessment rate shall be determined by the department
18 on a prospective basis and shall be based on the percentage
19 of net hospital patient revenue needed to generate an
20 amount not to exceed the nonfederal portion of the upper
21 payment limit gap plus the fee authorized by W.S.
22 42-9-103(d) (i). In no event shall the assessment rate:

23

1 (i) Exceed the indirect guarantee threshold
2 amount established by 42 C.F.R. 433.68(f)(3)(i) or other
3 federal law;

4

5 (ii) Exceed two percent (2%) of a hospital's net
6 patient revenue for the first fiscal year in which the
7 hospital is assessed;

8

9 (iii) Increase by more than one-half of one
10 percent (.5%) of a hospital's net patient revenue for each
11 fiscal year following the first fiscal year in which the
12 hospital is assessed without further approval by the
13 legislature.

14

15 (c) Unless otherwise determined by the department,
16 the department shall collect and each private hospital
17 shall pay the assessment required by this section on a
18 quarterly basis, each payment constituting twenty-five
19 percent (25%) of the annual assessment determined by the
20 department. The initial payment shall be due not later
21 than forty-five (45) days after the state plan has been
22 approved by the centers for medicare and medicaid services
23 unless a later date is set by the department. Subsequent

1 payments are due not later than forty-five (45) days after
2 the end of each calendar quarter unless a later date is set
3 by the department.

4

5 (d) If a private hospital ceases to operate as a
6 hospital or for any reason ceases to be subject to the
7 assessment imposed under this chapter, the assessment for
8 the fiscal year in which the cessation occurs shall be
9 adjusted by multiplying the annual assessment by a
10 fraction, the numerator of which is the number of days in
11 the year during which the hospital is subject to the
12 assessment and the denominator of which is three hundred
13 sixty-five (365). Immediately upon ceasing to operate as a
14 hospital, or otherwise ceasing to be subject to this
15 chapter, the hospital shall pay the assessment for each
16 quarter as adjusted, to the extent not previously paid.

17

18 **42-9-105. Penalties for failure to pay assessment.**

19

20 (a) If a private hospital fails to pay an assessment
21 due under this chapter, there shall be added to the
22 assessment a penalty equal to five percent (5%) of the
23 amount of the assessment that was not paid when due. The

1 penalty under this section may be waived by the department
2 for good cause. Any payments made after a penalty is
3 assessed under this section shall be credited first to
4 unpaid assessment amounts rather than to penalty amounts,
5 beginning with the most delinquent installment.

6

7 (b) In addition to the penalty under subsection (a)
8 of this section, the department may implement any of the
9 following remedies for failure of a private hospital to pay
10 its assessment when due under this chapter:

11

12 (i) Withhold any medicaid payments, including
13 any quarterly adjustment payments, until the assessment is
14 paid; or

15

16 (ii) Develop a plan that requires the private
17 hospital to pay any delinquent assessment in installments.

18

19 **42-9-106. Quarterly adjustment payments.**

20

21 (a) To preserve the quality and improve access to
22 hospital services for private hospital inpatient and
23 outpatient services rendered on or after July 1, 2016, the

1 department shall make quarterly adjustment payments as set
2 forth in this section.

3

4 (b) Each private hospital that pays assessments under
5 this chapter and is eligible to receive medicaid payments
6 shall be eligible to receive quarterly adjustment payments
7 as provided in this section. The department shall
8 distribute quarterly adjustment payments in an amount up to
9 but not to exceed the applicable upper payment limit gap.
10 The department shall establish a uniform methodology by
11 which to distribute quarterly adjustment payments in
12 compliance with applicable federal and state medicaid laws
13 and regulations.

14

15 (c) Quarterly adjustment payments shall not be used
16 to offset any other payment by medicaid for hospital
17 inpatient or outpatient services to medicaid beneficiaries,
18 including without limitation any fee-for-service, per diem,
19 private hospital inpatient adjustment or cost settlement
20 payment.

21

22 (d) No private hospital shall be guaranteed,
23 expressly or otherwise, that any quarterly adjustment

1 payment will equal or exceed the amount of the private
2 hospital assessments due under this chapter.

3

4 (e) Monies made available by this chapter shall not
5 be used to replace other general revenues appropriated and
6 funded by the legislature or other revenues used to support
7 medicaid.

8

9 **42-9-107. Discontinuation of the assessment and**
10 **quarterly adjustment payments.**

11

12 (a) The assessment imposed by this chapter shall be
13 discontinued if:

14

15 (i) The state plan amendment reflecting the
16 quarterly adjustment payments authorized by this chapter is
17 not approved by the centers for medicare and medicaid
18 services. The department may modify the quarterly
19 adjustment payment provisions as necessary to obtain the
20 centers for medicare and medicaid services approval if the
21 changes do not exceed the authority and purposes of this
22 chapter;

23

1 (ii) Federal financial participation to match
2 assessments under this chapter becomes unavailable under
3 federal law. In this event, the department shall terminate
4 the imposition of assessments beginning on the date the
5 federal statutory, regulatory or interpretive change takes
6 effect.

7
8 (b) If collection of the assessment is discontinued
9 as provided in this section, quarterly adjustment payments
10 shall be discontinued and, after payment of all amounts
11 under W.S. 42-9-103(d)(i) and (iii), any assessments
12 remaining in the account shall be returned to the private
13 hospitals from which the assessments were collected on the
14 same basis as they were collected.

15

16 **42-9-108. Approval of state plan; rulemaking.**

17

18 (a) The department shall seek necessary federal
19 approval in the form of state plan amendments in order to
20 continue to implement the provisions of this chapter.

21

1 (b) The department shall adopt rules and regulations
2 necessary to implement the provisions of this chapter and
3 to obtain approval of the state plan amendments.

4

5 **42-9-109. Multiple facilities.**

6

7 If a person conducts, operates or maintains more than one
8 (1) private hospital licensed by the department, the person
9 shall pay the assessment for each private hospital
10 separately.

11

12 **Section 2.** This act is effective July 1, 2016.

13

14

(END)