

CHAPTER 141

HOUSE Substitute for SENATE BILL No. 12*
(Amends Chapter 89)

AN ACT relating to assessments on certain hospital providers and health maintenance organizations; amending sections 4, 8, 11 and 13 of 2004 Senate Substitute for House Bill No. 2912 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. Section 4 of 2004 Senate Substitute for House Bill No. 2912 is hereby amended to read as follows: (a) The assessment imposed by section 2, and amendments thereto, for any state fiscal year to which this statute applies shall be due and payable in equal installments ~~on, or on the state business day nearest to, July 19 and January 18 or before June 30 and December 31, commencing with whichever date first occurs after the hospital has received payments for 150 days after the effective date of the payment methodology approved by the centers for medicare and medicaid services.~~ No installment payment of an assessment under this act shall be due and payable, however, until after:

(1) The hospital provider receives written notice from the department that the payment methodologies to hospitals required under this act have been approved by the centers for medicare and medicaid services of the United States department of health and human services under 42 C.F.R. 433.68 for the assessment imposed by section 2, and amendments thereto, has been granted by the centers for medicare and medicaid services of the United States department of health and human services; and

(2) in the case of a hospital provider, the hospital has received payments for ~~two quarters~~ 150 days after the effective date of the payment methodology approved by the centers for medicare and medicaid services.

(b) The department is authorized to establish delayed payment schedules for hospital providers that are unable to make installment payments when due under this section due to financial difficulties, as determined by the department.

(c) If a hospital provider fails to pay the full amount of an installment when due, including any extensions granted under this section, there shall be added to the assessment imposed by section 2, and amendments thereto, unless waived by the department for reasonable cause, a penalty assessment equal to the lesser of:

(1) An amount equal to 5% of the installment amount not paid on or before the due date plus 5% of the portion thereof remaining unpaid on the last day of each month thereafter; or

(2) an amount equal to 100% of the installment amount not paid on or before the due date.

For purposes of subsection (c), payments will be credited first to unpaid installment amounts, rather than to penalty or interest amounts, beginning with the most delinquent installment.

(d) *The effective date for the payment methodology applicable to hospital providers approved by the centers for medicare and medicaid services shall be the date of July 1 or January 1, whichever date is designated in the state plan submitted by the department of social and rehabilitation services for approval by the centers for medicare and medicaid services.*

Sec. 2. Section 8 of 2004 Senate Substitute for House Bill No. 2912 is hereby amended to read as follows: (a) The assessment imposed by section 7, and amendments thereto, for any state fiscal year to which this statute applies shall be due and payable in equal installments ~~on, or on the state business day nearest to, July 19 and January 18 or before June 30 and December 31, commencing with whichever date first occurs after the health maintenance organization has received payments for 150 days after the effective date of the payment methodology approved by the centers for medicare and medicaid services.~~ No installment payment of an assessment under this act shall be due and payable, however, until after:

(1) The health maintenance organization receives written notice from the department that the payment methodologies to health maintenance organizations required under this act have been approved by the centers for medicare and medicaid services of the United States department of health and human services and the state plan amendment for the assessment imposed by section 7, and amendments thereto, has been granted by the centers for medicare and medicaid services of the United States

department of health and human services; and

(2) the health maintenance organization has received payments for ~~two quarters~~ 150 days after the effective date of the payment methodology approved by the centers for medicare and medicaid services.

(b) The department is authorized to establish delayed payment schedules for health maintenance organizations that are unable to make installment payments when due under this section due to financial difficulties, as determined by the department.

(c) If a health maintenance organization fails to pay the full amount of an installment when due, including any extensions of time for delayed payment granted under this section, there shall be added to the assessment imposed by section 7, and amendments thereto, unless waived by the department for reasonable cause, a penalty assessment equal to the lesser of:

(1) An amount equal to 5% of the installment amount not paid on or before the due date plus 5% of the portion thereof remaining unpaid on the last day of each month thereafter; or

(2) an amount equal to 100% of the installment amount not paid on or before the due date.

For purposes of this subsection (c), payments shall be credited first to unpaid installment amounts, rather than to penalty or interest amounts, beginning with the most delinquent installment.

(d) *The effective date for the payment methodology applicable to health maintenance organizations approved by the centers for medicare and medicaid services shall be the date of July 1 or January 1, whichever date is designated in the state plan submitted by the department of social and rehabilitation services for approval by the centers for medicare and medicaid services.*

Sec. 3. Section 11 of 2004 House Bill No. 2912 is hereby amended to read as follows: (a) There is hereby created in the state treasury the health care access improvement fund, which shall be administered by the secretary of social and rehabilitation services. All moneys received for the assessments imposed by section 2 and section 7, and amendments thereto, including any penalty assessments imposed thereon, shall be remitted to the state treasurer in accordance with K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the health care access improvement fund. All expenditures from the health care access improvement fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of social and rehabilitation services or the secretary's designee.

(b) The fund shall not be used to replace any moneys appropriated by the legislature for the department's medicaid program.

(c) The fund is created for the purpose of receiving moneys in accordance with this act and disbursing moneys only for the purpose of improving health care delivery and related health activities, notwithstanding any other provision of law.

(d) On or before the 10th day of each month, the director of accounts and reports shall transfer from the state general fund to the health care access improvement fund interest earnings based on:

(1) The average daily balance of moneys in the health care access improvement fund for the preceding month; and

(2) the net earnings rate of the pooled money investment portfolio for the preceding month.

(e) The fund shall consist of the following:

(1) All moneys collected or received by the department from the hospital provider assessment and the health maintenance organization assessment imposed by this act;

(2) any interest or penalty levied in conjunction with the administration of this act; and

(3) all other moneys received for the fund from any other source.

(f) (1) *On July 1 of each fiscal year, the director of accounts and reports shall record a debit to the state treasurer's receivables for the health care access improvement fund and shall record a corresponding credit to the health care access improvement fund in an amount certified by the director of the budget which shall be equal to the sum of 80% of the moneys estimated by the director of the budget to be received from the assessment imposed on hospital providers pursuant to section 2 of*

2004 House Bill No. 2912, and amendments thereto, and credited to the health care access improvement fund during such fiscal year, plus 53% of the moneys estimated by the director of the budget to be received from the assessment imposed on health maintenance organizations pursuant to section 7 of 2004 House Bill No. 2912, and amendments thereto, and credited to the health care access improvement fund during such fiscal year, except that such amount shall be proportionally adjusted during such fiscal year with respect to any change in the moneys estimated by the director of the budget to be received for such assessments, deposited in the state treasury and credited to the health care access improvement fund during such fiscal year. Among other appropriate factors, the director of the budget shall take into consideration the estimated and actual receipts from such assessments for the current fiscal year and the preceding fiscal year in determining the amount to be certified under this subsection (f). All moneys received for the assessments imposed pursuant to sections 2 and 7 of 2004 House Bill No. 2912, and amendments thereto, deposited in the state treasury and credited to the health care access improvement fund during a fiscal year shall reduce the amount debited and credited to the health care access improvement fund under this subsection (f) for such fiscal year.

(2) On June 30 of each fiscal year, the director of accounts and reports shall adjust the amounts debited and credited to the state treasurer's receivables and to the health care access improvement fund pursuant to this subsection (f), to reflect all moneys actually received for the assessments imposed pursuant to sections 2 and 7 of 2004 House Bill No. 2912, and amendments thereto, deposited in the state treasury and credited to the health care access improvement fund during the current fiscal year.

(3) The director of accounts and reports shall notify the state treasurer of all amounts debited and credited to the health care access improvement fund pursuant to this subsection (f) and all reductions and adjustments thereto made pursuant to this subsection (f). The state treasurer shall enter all such amounts debited and credited and shall make reductions and adjustments thereto on the books and records kept and maintained for the health care access improvement fund by the state treasurer in accordance with the notice thereof.

Sec. 4. Section 13 of 2004 House Bill No. 2912 is hereby amended to read as follows: (a) Assessment revenues generated from the hospital provider assessments shall be disbursed as follows:

(1) Not less than 80% of assessment revenues shall be disbursed to hospital providers through a combination of medicaid access improvement payments and increased medicaid rates on designated diagnostic related groupings, procedures or codes;

(2) not more than 20% of assessment revenues shall be disbursed to providers who are persons licensed to practice medicine and surgery or dentistry through increased medicaid rates on designated procedures and codes; and

(3) not more than 3.2% of hospital provider assessment revenues shall be used to fund health care access improvement programs in undergraduate, graduate or continuing medical education, including the medical student loan act.

(b) Assessment revenues generated from the health maintenance organization assessment shall be disbursed as follows:

(1) Not less than 53% of health maintenance organization assessment revenues shall be disbursed to health maintenance organizations that have a contract with the department through increased medicaid ~~rates~~ *capitation payments*;

(2) not more than 30% of health maintenance organization assessment revenues shall be disbursed to fund activities to increase access to dental care, primary care safety net clinics, increased medicaid rates on designated procedures and codes for providers who are persons licensed to practice dentistry, and home and community-based services;

(3) not more than 17% of health maintenance organization assessment revenues shall be disbursed to pharmacy providers through increased medicaid rates.

(c) For the purposes of administering and selecting the disbursements described in subsections (a) and (b) of this section, the health care access improvement panel is hereby established. The panel shall consist of the following: Three members appointed by the Kansas hospital association, two members who are persons licensed to practice medicine

and surgery appointed by the Kansas medical society, one member appointed by each health maintenance organization that has a medicaid managed care contract with the department of social and rehabilitation services, one member appointed by the Kansas association for the medically underserved, and one representative of the department of social and rehabilitation services appointed by the governor. The panel shall meet as soon as possible subsequent to the effective date of this act and shall elect a chairperson from among the members appointed by the Kansas hospital association. A representative of the panel shall be required to make an annual report to the legislature regarding the collection and distribution of all funds received and distributed under this act.

Sec. 5. Sections 4, 8, 11 and 13 of 2004 Senate Substitute for House Bill No. 2912 are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.

Approved May 13, 2004.
