

2022 Regular Session

HOUSE CONCURRENT RESOLUTION NO. 8

BY REPRESENTATIVE SCHEXNAYDER

A CONCURRENT RESOLUTION

To provide for a hospital stabilization formula pursuant to Article VII, Section 10.13 of the Constitution of Louisiana; to establish the level and basis of hospital assessments; to establish certain reimbursement enhancements for inpatient and outpatient hospital services; to establish certain criteria for the implementation of the formula; and to provide for related matters.

WHEREAS, through the adoption of this Resolution, the Legislature of Louisiana hereby seeks to:

- (1) Preserve and enhance the availability of inpatient and outpatient hospital services for the citizens of Louisiana.
- (2) Preserve and protect rural hospitals as provided in the Rural Hospital Preservation Act, pursuant to R.S. 40:1189.1 et seq.
- (3) Enhance the stability of hospital funding by utilizing a fiscally prudent healthcare driven solution that does not rely on the use of state general funds and provides a reliable and recurring source of funding for healthcare services.
- (4) Minimize the effects of shifting the cost of caring for those Louisiana residents who are uninsured to those who are able to obtain health insurance.
- (5) Create flexibility to design a plan to provide for more efficient and effective ways to maximize the state's use of monies currently expended for the provision of healthcare services to the state's low income and uninsured residents.

- (6) Enhance the financial sustainability of the Medicaid hospital program by pursuing the recommendations of the Louisiana Department of Health resulting from Senate Concurrent Resolution No. 27 of the 2020 First Extraordinary Session of the Louisiana Legislature.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby enact the annual hospital stabilization formula pursuant to Article VII, Section 10.13 of the Constitution of Louisiana:

I. Hospital Stabilization Assessment.

A.(1) Upon approval by the Centers for Medicare and Medicaid Services of a directed payment arrangement pursuant to 42 C.F.R. 438.6, the Louisiana Department of Health shall be authorized to levy and collect an assessment upon those hospitals subject to the approved directed payment arrangement that is in accordance with the provisions of this Subsection.

(2) Any hospital assessment levied and collected pursuant to this Resolution shall be levied and collected on a quarterly basis. Prior to the levy of any assessment pursuant to the provisions of this Resolution, the Louisiana Department of Health shall submit a Medicaid assessment report to the Joint Legislative Committee on the Budget. The Medicaid assessment report shall include a description of the proposed assessment, the basis for the calculation of the assessment, and a listing of each hospital included in the proposed assessment.

B. (1) The hospital assessment for state Fiscal Year 2022-2023 shall be calculated as the product of the rates set forth as follows and the respective hospitals' inpatient net patient revenue and outpatient net patient revenue as reported in the Medicare cost report ending in state fiscal year 2019:

(a) Long-term acute care, psychiatric and rehabilitation hospitals: 1.13% of inpatient net patient revenue, and 1.13% of outpatient net patient revenue.

(b) Hospital Service Districts not included in R.S. 40:1189.1 et seq: 2.03% of inpatient net patient revenue up to one hundred twenty-five million dollars, and 2.03% of outpatient net patient revenue up to one hundred twenty-five million dollars.

(c) All other acute care hospitals: 2.64% of inpatient net patient revenue up to one hundred twenty-five million dollars, and 2.74% of outpatient net patient revenue up to one hundred twenty-five million dollars.

(d) Hospital Service Districts not included in R.S. 40:1189.1 et seq, and all other acute care hospitals: 1.13% of inpatient net patient revenue exceeding one hundred twenty-five million dollars, and 1.13% of outpatient net patient revenue exceeding one hundred twenty-five million dollars.

(2) Non-rural, small urban private acute hospitals with forty licensed beds or less, either as reported in the Medicare cost report ending in state fiscal year 2019 or as licensed by the Louisiana Department of Health, freestanding psychiatric Medicaid disproportionate share hospitals, and rural hospitals as defined in R.S.40:1189.1, et seq., shall be exempt and excluded from the levy of any assessment implemented pursuant to this Subsection.

C. In the event the Centers for Medicare and Medicaid Services approves an assessment that is different from the provisions set forth in this Section, the Louisiana Department of Health shall seek ratification of such changes from the Joint Legislative Committee on the Budget prior to the levy of an approved assessment.

D. An assessment levied pursuant to Subsection B or C of this Section shall be levied only for the quarters that directed payments are actually paid to hospitals pursuant to 42 C.F.R. 438.6 directed payment arrangements as approved by the Centers for Medicare and Medicaid Services.

E. Until such time that an assessment is levied in accordance with Subsection B or C of this Section, the Louisiana Department of Health shall continue the hospital assessment in the same manner as set forth in House Concurrent Resolution No. 2 of the 2021 Regular Session of the Louisiana Legislature.

II. Reimbursement Enhancements.

A. Upon the implementation of an assessment pursuant to Subsection A of Section I of this Resolution, the Louisiana Department of Health shall provide for reimbursement enhancements as follows:

(1) Implementation of directed payments pursuant to 42 C.F.R. 438.6 utilizing a uniform percentage increase methodology for both acute and post-acute hospitals.

(a) For acute care hospitals, the methodology shall be implemented in the manner set forth in the directed payment arrangement submitted to the Centers for Medicaid and Medicare Services on March 31, 2022.

(b) For post-acute care hospitals, the methodology shall be implemented in the manner set forth in the directed payment arrangement submitted to the Centers for Medicaid and Medicare Services on May 13, 2022.

(2) Payment for healthcare services through the implementation of a health coverage expansion of the Louisiana medical assistance program that meets all the requirements necessary for the state to maximize federal matching funds as set forth in 42 U.S.C. 1396d(y) of Title XIX of the Social Security Act.

(3) For any hospital subject to the assessment levied pursuant to this Resolution, the payment of hospital reimbursement rates in an amount no less than the reimbursement rates in effect for dates of service on or after January 1, 2022.

B. The Louisiana Department of Health shall publish, on a publicly accessible website of the department, the approved Centers for Medicare and Medicaid Services directed payment arrangements within ten days of receiving approval. In the event the Centers for Medicare and Medicaid Services approves the acute care hospital preprint in a manner that is different from the provisions contained in the initial 42 C.F.R. 438.6 preprint submitted on March 31, 2022, or approves a post-acute preprint with uniform percentages that are different from those contained in this Resolution, the department shall seek ratification of the changes from the Joint Legislative Committee on the Budget prior to implementation.

C. Until such time that the reimbursement enhancements set forth in Subsection A of this Section are implemented, the Louisiana Department of Health shall continue the reimbursement enhancements set forth in House Concurrent Resolution 2 of the 2021 Regular Session of the Louisiana Legislature.

D. The Louisiana Department of Health shall publish on a quarterly basis, no later than thirty days after the end of each quarter, a report containing data directly

related to the reimbursement enhancements provided for in this Resolution. The report shall include the following:

(1) Total Medicaid enrollment on a monthly basis.

(2) The average monthly premium paid to managed care organizations providing benefits and services to eligible Medicaid enrollees and the portion of premium related to hospital payments included in this assessment.

(3) The aggregate Medicaid claims payment by provider type.

(4) The total amount of inpatient and outpatient Medicaid claims paid to hospitals delineated by each individual hospital Medicaid provider number.

(5) The amount of directed payments received by each hospital.

(6) Other supplemental payments received by each hospital.

III. Administration

The Louisiana Department of Health shall submit any necessary state plan amendment that may be required in order to implement the provisions of this Resolution to the Centers for Medicare and Medicaid Services no later than one hundred and twenty days from the date this Resolution is adopted. In addition, the Louisiana Department of Health may promulgate any rules and regulations that are necessary and proper to implement the provisions of this Resolution; however, the final adoption thereof shall not be required in order to implement and carry out the provisions of this Resolution.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE