

2020 Regular Session

HOUSE BILL NO. 835

BY REPRESENTATIVE MCMAHEN

MEDICAID: Authorizes local hospital assessments in certain parishes to fund the nonfederal share of Medicaid costs of health care provided in those parishes

1 AN ACT

2 To enact Subpart D-1 of Part I of Chapter 5-E of Title 40 of the Louisiana Revised Statutes

3 of 1950, to be comprised of R.S. 40:1248.1 through 1248.11, relative to financing

4 by the state Medicaid program of health services in certain parishes; to create and

5 provide for a local healthcare provider participation program; to designate the

6 parishes in which the program may be operated; to authorize local hospital

7 assessment payments to be made to those parishes; to authorize the establishment of

8 special provider participation funds by those parishes; to provide requirements for

9 the uses of monies in such special funds; to require public hearings concerning local

10 hospital assessment payments and uses of monies derived from such payments; to

11 authorize a rural institutional provider payment methodology contingent upon federal

12 approval; to provide for administrative rulemaking by the Louisiana Department of

13 Health; and to provide for related matters.

14 Be it enacted by the Legislature of Louisiana:

15 Section 1. Subpart D-1 of Part I of Chapter 5-E of Title 40 of the Louisiana Revised

16 Statutes of 1950, comprised of R.S. 40:1248.1 through 1248.11, is hereby enacted to read

17 as follows:

1 SUBPART D-1. LOCAL HEALTHCARE2 PROVIDER PARTICIPATION PROGRAM3 §1248.1. Definitions

4 As used in this Subpart, the following terms have the meaning ascribed to
5 them in this Section:

6 (1) "Department" means the Louisiana Department of Health.

7 (2) "Institutional provider" means a nongovernmental hospital licensed in
8 accordance with the Hospital Licensing Law, R.S. 40:2100 et seq.

9 (3) "Paying hospital" means an institutional provider required by the
10 provisions of this Subpart to make a local hospital assessment payment.

11 (4) "Program" means the local healthcare provider participation program
12 authorized by this Subpart.

13 (5) "Rural institutional provider" means a hospital, other than one defined
14 in R.S. 40:1189.3, that is licensed by the department, has no more than sixty hospital
15 beds on November 1, 2020, and meets any of the following criteria:

16 (a) Is located in a municipality with a population of not less than seven
17 thousand persons and not more than seven thousand five hundred persons according
18 to the most recent federal decennial census and in a parish with a population of not
19 less than thirty thousand persons and not more than thirty-five thousand persons
20 according to the most recent federal decennial census.

21 (b) Is located in a municipality with a population of not less than ten
22 thousand persons and not more than ten thousand five hundred persons according to
23 the most recent federal decennial census and in a parish with a population of not less
24 than eighty thousand persons and not more than ninety thousand persons according
25 to the most recent federal decennial census.

26 (c) Is located in a municipality with a population of not less than three
27 thousand persons and not more than three thousand five hundred persons according
28 to the most recent federal decennial census and in a parish with a population of not

1 less than thirty thousand persons and not more than thirty-five thousand persons
2 according to the most recent federal decennial census.

3 §1248.2. Purpose

4 The purpose of this Subpart is to generate revenue by collecting from certain
5 institutional providers a local hospital assessment payment to be used to provide the
6 nonfederal share of a Medicaid payment program directly benefitting the residents
7 of a parish.

8 §1248.3. Applicability

9 The provisions of this Subpart shall apply exclusively to the following
10 parishes:

11 (1) Any parish with a population of not less than forty thousand persons and
12 not more than forty-two thousand persons according to the most recent federal
13 decennial census.

14 (2) Any parish with a population of not less than forty-six thousand persons
15 and not more than forty-seven thousand persons according to the most recent federal
16 decennial census.

17 (3) Any parish in which a rural institutional provider is located.

18 §1248.4. Parish healthcare provider participation program

19 A. The legislature hereby creates a local healthcare provider participation
20 program through which a parish may deposit in a local provider participation fund
21 established by the parish all of the following monies:

22 (1) Any local hospital assessment payment from an institutional provider
23 located in the parish.

24 (2) Such other sums as the parish deems appropriate.

25 B. Monies in the provider participation fund may be used by the parish to
26 fund certain intergovernmental transfers and indigent care programs as provided by
27 this Subpart.

28 C. A parish may adopt an ordinance authorizing it to participate in the
29 program, subject to the limitations provided in this Subpart.

1 D. Any parishes authorized by R.S. 40:1248.3 to establish a local provider
 2 participation fund may, upon agreement of the governing authorities of each parish,
 3 establish a single fund for the benefit of those parishes and a local hospital
 4 assessment applicable to the institutional providers in those parishes.

5 §1248.5. Powers and duties of parishes; limitations; inspection of provider records

6 A. The governing body of a parish may require a local hospital assessment
 7 payment authorized by this Subpart from an institutional provider in the parish. The
 8 requirement for payment shall be implemented in the manner provided for in this
 9 Section.

10 B. A parish may authorize the collection of a local hospital assessment
 11 payment authorized by this Subpart only with an affirmative vote of a majority of the
 12 members of the governing body of the parish made at a regular or special meeting
 13 held no less than thirty days following publication of a notice in the official journal
 14 of the parish of intention to authorize the collection of such payment.

15 C.(1) A parish that collects a local hospital assessment payment authorized
 16 by this Subpart shall require each institutional provider to submit to the parish a copy
 17 of any financial and utilization data required by and reported to the department.

18 (2) A parish that collects a local hospital assessment payment authorized by
 19 this Subpart may inspect the records of an institutional provider to the extent
 20 necessary to ensure compliance with the requirements of Paragraph (1) of this
 21 Subsection.

22 §1248.6. Public hearings

23 A. Any parish that collects a local hospital assessment payment authorized
 24 by this Subpart shall hold an annual public hearing on the amounts of any local
 25 hospital assessment payments that the parish intends to require during the year and
 26 how the revenue derived from those payments is to be spent.

27 B. Not later than the tenth day before the date of the hearing required by
 28 Subsection A of this Section, the parish governing authority shall publish notice of
 29 the hearing in the official journal of the parish. A representative of a paying hospital

1 shall be entitled to appear at the time and place designated in the public notice and
2 to be heard regarding any matter related to the local hospital assessment payments
3 authorized by this Subpart.

4 §1248.7. Local provider participation fund; authorized uses

5 A. Each parish that collects a local hospital assessment payment authorized
6 by this Subpart or in which a rural institutional provider is located shall create a local
7 provider participation fund. All income received by a parish pursuant to the
8 provisions of this Subpart, including the revenue from local hospital assessment
9 payments remaining after discounts and fees for assessing and collecting the
10 payments are deducted, shall be deposited in the local provider participation fund of
11 the parish. Monies in the fund may be withdrawn only in accordance with and for
12 purposes specified in the provisions of this Section.

13 B. The local provider participation fund of a parish shall consist of the
14 following monies:

15 (1) All revenue received by the parish attributable to local hospital
16 assessment payments authorized by this Subpart, including any penalties and interest
17 attributable to delinquent payments.

18 (2) Monies received from the department as a refund of an intergovernmental
19 transfer from the parish to the state for the purpose of providing the nonfederal share
20 of Medicaid supplemental payment program payments, provided that the
21 intergovernmental transfer does not receive a federal matching payment.

22 (3) Sums which the parish elects to deposit.

23 (4) The earnings of the fund.

24 C. Monies in the local provider participation fund may be used only for one
25 or more of the following purposes:

26 (1) To fund intergovernmental transfers from a parish to the state to provide
27 the nonfederal share of a program of Medicaid payments for the benefit of rural
28 institutional providers or other hospitals in the parish authorized under the Medicaid
29 state plan.

1 (2) To pay the administrative expenses of a parish associated exclusively
2 with activities authorized by this Subpart in an amount not to exceed five percent of
3 the local hospital assessment payment.

4 (3) To refund a portion of a local hospital assessment payment collected in
5 error from a paying hospital.

6 (4) To refund to paying hospitals the proportionate share of money received
7 by a parish from the department that is not used to fund the nonfederal share of
8 Medicaid payment program payments described in Paragraph (1) of this Subsection.

9 D. Money in the local provider participation fund shall not be commingled
10 with other parish funds.

11 §1248.8. Local hospital assessment payments; basis; calculation

12 A. Except as provided in Subsection E of this Section, a parish that collects
13 a local hospital assessment payment authorized by this Subpart may require an
14 annual local hospital assessment payment to be assessed quarterly on the net patient
15 revenue of each institutional provider located in the parish. In the first year in which
16 the local hospital assessment payment is required, the local hospital assessment
17 payment shall be assessed on the net patient revenue of an institutional provider as
18 determined by the most recently filed Medicaid cost report. The parish shall update
19 the amount of the local hospital assessment payment on an annual basis.

20 B. The amount of a local hospital assessment payment authorized by this
21 Subpart shall be uniformly proportionate with the amount of net patient revenue
22 generated by each paying hospital in the parish. In accordance with 42 U.S.C.
23 1396b(w), a local hospital assessment payment authorized by this Subpart shall not
24 hold harmless any institutional provider.

25 C. A parish that collects a local hospital assessment payment authorized by
26 this Subpart shall set the amount of the local hospital assessment payment. The
27 amount of the local hospital assessment payment required of each paying hospital
28 may not exceed an amount that, when added to the amount of the local hospital
29 assessment payments required from all other paying hospitals in the parish, and the

1 amount of any assessment, local hospital assessment payment, or tax imposed by the
2 state, equals an amount of revenue that exceeds six percent of the aggregate net
3 patient revenue of all paying hospitals in the parish.

4 D. Subject to the maximum payment amount prescribed in Subsection C of
5 this Section, a parish that collects a local hospital assessment payment authorized by
6 this Subpart shall set local hospital assessment payments in amounts that in the
7 aggregate will generate sufficient revenue to cover the administrative expenses of the
8 parish for activities provided for in this Subpart and to fund the nonfederal share of
9 a Medicaid supplemental payment program; except that the amount of revenue from
10 local hospital assessment payments used for administrative expenses of the parish
11 for activities provided for in this Subpart in a year may not exceed five percent of the
12 total revenue generated from the local hospital assessment payment or twenty
13 thousand dollars, whichever is greater.

14 E. A paying hospital may not add a local hospital assessment payment
15 required by this Section as a surcharge to a patient.

16 §1248.9. Local hospital assessment payments; collection

17 The sheriff of a parish shall collect the local hospital assessment payment
18 authorized by this Subpart. The sheriff shall charge and deduct from local hospital
19 assessment payments collected for the parish a fee for collecting those payments in
20 an amount determined by the parish. The fee shall not exceed the usual and
21 customary charges imposed by the sheriff.

22 §1248.10. Eligibility of funds for federal match; conformance with requirements of
23 federal Medicaid agency

24 To the extent that any provision of this Subpart or procedure established in
25 accordance with this Subpart causes a local hospital assessment payment authorized
26 by this Subpart to be ineligible for federal matching funds, the parish may provide
27 by rule for an alternative provision or procedure that conforms to the requirements
28 of the Centers for Medicare and Medicaid Services.

1 §1248.11. Rural institutional providers; enhanced reimbursement

2 A. Upon request from a parish in which a rural institutional provider is
3 located, the department shall attempt in good faith to execute a cooperative endeavor
4 agreement for the use of local provider participation fund proceeds. Notwithstanding
5 any law to the contrary, by September 1, 2020, or as soon thereafter as such a
6 cooperative endeavor agreement is effective, the department shall file a Medicaid
7 state plan amendment with the Centers for Medicare and Medicaid Services, referred
8 to hereafter in this Section as "CMS", amending the Medicaid state plan provisions
9 governing hospital reimbursement to provide that a rural institutional provider, as
10 defined in R.S. 40:1248.1, shall be reimbursed at a rate which equals or
11 approximates one hundred ten percent, or, if a reduction is required by CMS, the
12 maximum amount acceptable to CMS, but in no case less than one hundred percent,
13 of the appropriate reasonable cost of providing hospital inpatient and outpatient
14 services, including but not limited to services provided in a rural health clinic
15 licensed as part of a rural hospital. The new rural hospital payment methodology
16 shall utilize prospective rates approximating costs at the time of service for inpatient
17 acute care and psychiatric services. To ensure that rural hospital outpatient services,
18 including those reimbursed on a cost basis and those reimbursed on a fee schedule,
19 are reimbursed in the aggregate at one hundred ten percent of the reasonable costs
20 or such lesser amounts as approved by CMS, but in no case less than one hundred
21 percent of their reasonable costs, the department shall pay an interim rate for
22 cost-based outpatient services at one hundred ten percent of reasonable cost during
23 the year and for fee-based services paid on a claim-by-claim basis, and the
24 department shall make quarterly estimates of a supplemental payment required to
25 bring reimbursement to the hospital for such services up to one hundred percent of
26 reasonable costs and immediately remit such payments to the hospital, and at final
27 settlement pay such amounts as are necessary to ensure that all outpatient services
28 in the aggregate, both cost-based and fee schedule, are paid at one hundred ten
29 percent of reasonable costs.

1 B. The rural institutional provider payment methodology provided for in this
 2 Subpart shall be implemented as soon as is practicable after such methodology is
 3 authorized by federal law.

4 Section 2. On an expedited basis, the Louisiana Department of Health shall take all
 5 steps necessary and available to obtain approval from the Centers for Medicare and
 6 Medicaid Services for the state plan amendment provided for in R.S. 40:1248.11, as enacted
 7 by Section 1 of this Act, and, immediately upon notification of such approval, promulgate
 8 administrative rules to implement the state plan amendment.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 835 Reengrossed

2020 Regular Session

McMahen

Abstract: Authorizes local hospital assessments in Evangeline, Jefferson Davis, Lincoln, St. Landry, and Webster parishes as part of a healthcare provider participation program for financing the nonfederal share of Medicaid costs of health care provided in those parishes.

Proposed law provides that its purpose is to generate revenue by collecting from certain institutional healthcare providers a local hospital assessment payment to be used to provide the nonfederal share of a Medicaid payment program directly benefitting the residents of a parish.

Proposed law defines "institutional provider" as a nongovernmental hospital licensed in accordance with present law.

Proposed law defines "rural institutional provider" as a hospital, other than one defined in the Rural Hospital Preservation Act (R.S. 40:1189.3 of present law), that is licensed by the Louisiana Department of Health (LDH), has no more than 60 beds on November 1, 2020, and meets any of the following criteria:

- (1) Is located in a municipality with a population of between 7,000 and 7,500 according to the 2010 census and in a parish with a population of between 30,000 and 35,000 according to the 2010 census (Ville Platte in Evangeline Parish.)
- (2) Is located in a municipality with a population of between 10,000 and 10,500 according to the 2010 census and in a parish with a population of between 80,000 and 90,000 according to the 2010 census (Eunice in St. Landry Parish).
- (3) Is located in a municipality with a population of between 3,000 and 3,500 according to the 2010 census and in a parish with a population of between 30,000 and 35,000 according to the 2010 census (Mamou in Evangeline Parish and Welsh in Jefferson Davis Parish).

Proposed law applies exclusively to the following four parishes:

- (1) Any parish with a population of not less than 40,000 persons and not more than 42,000 persons according to the most recent federal decennial census (Webster Parish).
- (2) Any parish with a population of not less than 46,000 persons and not more than 47,000 persons according to the most recent federal decennial census (Lincoln Parish).
- (3) Any parish in which a rural institutional provider, as defined by proposed law, is located (Evangeline, Jefferson Davis, and St. Landry parishes).

Proposed law creates a local healthcare provider participation program through which an eligible parish may deposit in a local provider participation fund established by the parish all of the following:

- (1) Any local hospital assessment payment from an institutional provider located in the parish.
- (2) Such other sums as the parish deems appropriate.

Proposed law provides that an eligible parish may adopt an ordinance authorizing it to participate in the program, subject to the limitations provided in proposed law.

Proposed law provides that any parishes authorized therein to establish a local provider participation fund may, upon agreement of the governing authorities of each parish, establish all of the following:

- (1) A single fund for the benefit of those parishes.
- (2) A local hospital assessment applicable to the institutional providers, as defined in proposed law, in those parishes.

Proposed law authorizes the governing body of an eligible parish to require a local hospital assessment payment authorized by proposed law from an institutional provider in the parish.

Proposed law provides that an eligible parish may authorize the collection of a local hospital assessment payment only with an affirmative vote of a majority of the members of the governing body of the parish made at a regular or special meeting held no less than 30 days following publication of a notice in the official journal of the parish of intention to authorize the collection of such payment.

Proposed law provides that a parish that collects a local hospital assessment payment shall do all of the following:

- (1) Require each institutional provider to submit to the parish a copy of any financial and utilization data required by and reported to LDH.
- (2) Hold an annual public hearing on the amounts of any local hospital assessment payments that the parish intends to require during the year and how the revenue derived from those payments is to be spent. Entitles a representative of a paying hospital to appear at the hearing to be heard regarding any matter related to the assessment payments.

Proposed law requires each parish that collects a local hospital assessment payment or in which a rural institutional provider is located to create a local provider participation fund. Provides that all income received by a parish pursuant to the provisions of proposed law, including the revenue from local hospital assessment payments remaining after discounts and fees for assessing and collecting the payments are deducted, shall be deposited in the

local provider participation fund of the parish. Provides further that each such fund shall consist of the following monies:

- (1) All revenue received by the parish attributable to local hospital assessment payments authorized by proposed law, including any penalties and interest attributable to delinquent payments.
- (2) Monies received from LDH as a refund of an intergovernmental transfer from the parish to the state for the purpose of providing the nonfederal share of Medicaid supplemental payment program payments, provided that the intergovernmental transfer does not receive a federal matching payment.
- (3) Sums which the parish elects to deposit.
- (4) The earnings of the fund.

Proposed law stipulates that monies in a local provider participation fund may only be used for one or more of the following purposes:

- (1) Fund intergovernmental transfers from a parish to the state to provide the nonfederal share of a program of Medicaid payments for the benefit of rural institutional providers or other hospitals in the parish authorized under the state Medicaid plan.
- (2) Pay the administrative expenses of the parish associated exclusively with activities authorized by proposed law in an amount not to exceed 5% of the local hospital assessment payment.
- (3) Refund a portion of a local hospital assessment payment collected in error from a paying hospital.
- (4) Refund to paying hospitals the proportionate share of money received by a parish from the department that is not used to fund the nonfederal share of Medicaid payment program payments described in paragraph (1) above.

Proposed law provides for the basis, calculation, and maximum amounts of local hospital assessment payments.

Proposed law prohibits hospitals that pay local assessments in accordance with proposed law from adding such a payment as a surcharge to a patient.

Proposed law requires parish sheriffs to collect local hospital assessment payments authorized by proposed law. Provides that the sheriff shall charge a fee, in an amount determined by the parish, for collecting those payments and that the fee shall not exceed the usual and customary charges imposed by the sheriff.

Proposed law provides that if any of its provisions cause a local hospital assessment payment to a parish to be ineligible for federal matching funds, then the parish may provide for an alternative provision or procedure that conforms to the requirements of the federal Medicaid agency.

Proposed law provides a methodology for enhanced reimbursement to rural institutional providers as defined in proposed law. Requires that the methodology be implemented as soon as is practicable after it is authorized by federal law.

Proposed law requires LDH, on an expedited basis, to take all steps necessary and available to obtain approval from the federal Medicaid agency for the state plan amendment relative to the methodology for enhanced reimbursement to rural institutional providers provided for

in proposed law. Requires further that LDH, immediately upon notification of such approval, promulgate administrative rules to implement the state plan amendment.

(Adds R.S. 40:1248.1-1248.11)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Health and Welfare to the original bill:

1. Add any parish with a population of not less than 46,000 persons and not more than 47,000 persons according to the most recent federal decennial census (Lincoln Parish) as a parish in which local hospital assessments may be instituted in accordance with proposed law.
2. Provide that any parishes authorized by proposed law to establish a local provider participation fund may, upon agreement of the governing authorities of each parish, establish all of the following:
 - a. A single fund for the benefit of those parishes.
 - b. A local hospital assessment applicable to the institutional providers, as defined in proposed law, in those parishes.
3. Make technical changes.