



SYNOPSIS:

Currently, privately operated hospitals in this state provide funding for the Medicaid Agency through a provider privilege tax. This tax will end on September 30, 2028.

This bill would remove the sunset clause and make the hospital provider privilege tax permanent.

A BILL
TO BE ENTITLED
AN ACT

Relating to the hospital provider privilege tax; to amend Sections 40-26B-71, 40-26B-73, 40-26B-77.1, 40-26B-79, 40-26B-80, 40-26B-81, 40-26B-82, 40-26B-84, and 40-26B-88, Code of Alabama 1975, as last amended by Act 2025-371, 2025 Regular Session; to make the hospital provider privilege tax permanent.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 40-26B-71, 40-26B-73, 40-26B-77.1, 40-26B-79, 40-26B-80, 40-26B-81, 40-26B-82, 40-26B-84, and 40-26B-88, Code of Alabama 1975, as last amended by Act 2025-371, 2025 Regular Session, are amended as follows:

"§40-26B-71



(a) ~~For state fiscal years 2026, 2027, and 2028, an~~An assessment is imposed on each privately operated hospital in the amount of 6.00 percent of net patient revenue. For state fiscal year 2026, the determination of net patient revenue shall be based on the cost report for~~in~~ fiscal year 2023, ~~which shall be reviewed~~ and hospital cost reports shall be reviewed and updated annually, subject to limitations in this article on the use of funds in the Hospital Assessment Account. The assessment is a cost of doing business as a privately operated hospital in the State of Alabama. Annually, the Medicaid Agency shall make a determination of whether changes in federal law or regulation have adversely affected hospital Medicaid reimbursement during the most recently completed fiscal year, or a reduction in payment rates has occurred. If the agency determines that adverse impact to hospital Medicaid reimbursement has occurred, or will occur, the agency shall report its findings to the Chair of the House Ways and Means General Fund Committee who shall propose an amendment to this article during any legislative session prior to the start of the upcoming fiscal year from the year the report was made, to address the adverse impact. The assessment imposed on each private hospital under this section shall be reduced pro rata, if the total disproportionate share allotment for all hospitals is reduced before or during the ~~2028~~current fiscal year, as a result of any action by the Medicaid Agency or the Centers for Medicare and Medicaid Services, and only to the extent that the Hospital Assessment Account is more than necessary to fund some or all hospital



57 payments under this article.

58 (b) (1) ~~For state fiscal years 2026, 2027, and 2028,~~
59 ~~net~~Net patient revenue shall be determined using the data from
60 each private hospital's ~~fiscal year ending 2023, 2024, or 2025~~
61 Medicare Cost Report contained in the Centers for Medicare and
62 Medicaid Services' Healthcare Cost Report Information System,
63 which shall be reviewed and the hospital cost reports updated
64 annually subject to limitations in this article on the use of
65 funds in the Hospital Assessment Account. The Medicare Cost
66 Report for 2023, 2024, and 2025 for each private hospital,
67 ~~which shall be reviewed and updated annually,~~ shall be used
68 for fiscal years 2026, 2027, and 2028, respectively, and this
69 schedule shall be carried forward in like manner for future
70 years. If the Medicare Cost Report is not available in the
71 Centers for Medicare and Medicaid Services' Healthcare Cost
72 Report Information System, the hospital shall submit a copy to
73 the department to determine the hospital's net patient revenue
74 for the most recent fiscal year.

75 (2) If a privately operated hospital commenced
76 operations after the due date for a ~~2023~~ Medicare Cost Report
77 as provided in subsection (b) (1), the hospital shall submit
78 its most recent Medicare Cost Report to the department in
79 order to allow the department to determine the hospital's net
80 patient revenue.

81 (c) This article does not authorize a unit of county or
82 local government to license for revenue or impose a tax or
83 assessment upon hospitals or a tax or assessment measured by
84 the income or earnings of a hospital."



"§40-26B-73

(a) (1) There is created within the Health Care Trust Fund referenced in Article 3 of Chapter 6 of Title 22 a designated account known as the Hospital Assessment Account.

(2) The hospital assessments imposed under this article shall be deposited into the Hospital Assessment Account.

(b) Monies in the Hospital Assessment Account shall consist of:

(1) All monies collected or received by the department from privately operated hospital assessments imposed under this article;

(2) Any interest or penalties levied in conjunction with the administration of this article; and

(3) Any appropriations, transfers, donations, gifts, or monies from other sources, as applicable.

(c) The Hospital Assessment Account shall be separate and distinct from the State General Fund and shall be supplementary to the Health Care Trust Fund.

(d) Monies in the Hospital Assessment Account shall not be used to replace other general revenues appropriated and funded by the Legislature or other revenues used to support Medicaid.

(e) The Hospital Assessment Account shall be exempt from budgetary cuts, reductions, or eliminations caused by a deficiency of State General Fund revenues to the extent permissible under Section 213 of the Constitution of Alabama of 2022.

(f) (1) Except as necessary to reimburse any funds



borrowed to supplement funds in the Hospital Assessment Account, the monies in the Hospital Assessment Account shall be used only as follows:

a. To make public, private, and state inpatient and outpatient hospital payments.

b. To reimburse monies collected by the department from hospitals through error or mistake or under this article.

(2)a. The Hospital Assessment Account shall retain account balances remaining each fiscal year.

b. On September 30, 2014, and each year thereafter, any positive balance remaining in the Hospital Assessment Account which was not used by the Medicaid Agency to obtain federal matching funds and paid out for hospital payments, shall be factored into the calculation of any new assessment rate by reducing the amount of hospital assessment funds that must be generated during the next fiscal year. The Medicaid Agency may carry over a balance of unspent assessment funds not considered in the previous sentence and not to exceed one-third of the total current year's assessment, ~~through fiscal year 2028~~ to account for future variations in hospital expenses and federal match rates in the upcoming fiscal year. If there is no ~~new~~ assessment ~~beginning October 1, 2028~~, the funds remaining shall be refunded to the hospital that paid the assessment or made an intergovernmental transfer in proportion to the amount remaining.

(3) A privately operated hospital shall not be guaranteed that its inpatient and outpatient hospital payments will equal or exceed the amount of its hospital assessment."



"§40-26B-77.1

(a) ~~Beginning on October 1, 2016, and ending on September 30, 2028, publicly~~Publicly owned and state-owned hospitals shall ~~begin making~~make intergovernmental transfers to the Alabama Medicaid Agency. Total IGTs for the total intergovernmental transfers shall equal the amount of state funds necessary for the agency to obtain only those federal matching funds necessary to pay publicly owned and state-owned hospitals for hospital payments.

(b) These intergovernmental transfers shall be made in compliance with 42 U.S.C. § 1396b(w).

(c) If a publicly or state-owned hospital commences operations after October 1, 2013, the hospital shall commence making intergovernmental transfers to the Alabama Medicaid Agency in the first full month of operation of the hospital after October 1, 2013."

"§40-26B-79

The agency shall pay hospitals, as a base amount~~for~~ ~~fiscal years 2026, 2027, and 2028~~, the greater of a hospital's current per diem as published for fiscal year 2022 or 68 percent of total inpatient payments made by the agency during state fiscal year 2019, divided by the total patient days paid in state fiscal year 2019, multiplied by patient days paid during the current fiscal year~~fiscal years 2026, 2027, and 2028~~. A hospital may request to have their per diem reviewed and revised at the sole discretion of the Medicaid Agency. This payment to be paid using the agency's published check write table is in addition to any hospital access payments the



agency may elect to pay hospitals as inpatient payments other than per diems and access payments, if the agency does not make payments pursuant to Article 9 of Chapter 6 of Title 22 in fiscal year 2019, or fiscal years 2026, ~~2027, and 2028~~ and thereafter, only if the Hospital Services and Reimbursement Panel approves the change in hospital payments."

"§40-26B-80

If the Alabama Medicaid Agency implements OPPS, the total amount budgeted (total base rate) for OPPS shall not be less than the total outpatient UPL.

The agency shall pay hospitals as a base amount ~~for fiscal years 2026, 2027, and 2028~~ for outpatient services, based upon an outpatient fee schedule in existence on September 30, 2018. Medicaid may update the outpatient fee schedule with approval of the Hospital Services and Reimbursement Panel. Hospital outpatient base payments shall be in addition to any hospital access payments or other payments described in this article."

"§40-26B-81

(a) The agency shall consider the published inpatient and outpatient rates as defined in Sections 40-26B-79 and 40-26B-80 as the minimum payment allowed.

(b) The aggregate hospital access payment amount is an amount equal to the upper payment limit, less total hospital base payments determined under this article. All publicly, state-owned, and privately operated hospitals shall be eligible for inpatient and outpatient hospital access payments ~~for fiscal years 2026, 2027, and 2028,~~ as set forth in this



197 article.

198 (1) In addition to any other funds paid to hospitals
199 for inpatient hospital services to Medicaid patients, each
200 eligible hospital shall receive inpatient hospital access
201 payments each state fiscal year. Publicly and state-owned
202 hospitals shall receive total payments, including hospital
203 base payments, that, in the aggregate, equal the upper payment
204 limit for publicly and state-owned hospitals, until the
205 Hospital Assessment Account is exhausted. Privately operated
206 hospitals shall receive total payments, including hospital
207 base payments that, in the aggregate, equal the upper payment
208 limit for privately operated hospitals, until the Hospital
209 Assessment Account is exhausted. Any intergovernmental
210 transfers and hospital provider taxes shall be used only as
211 monies paid to hospitals.

212 (2) Inpatient hospital access payments shall be made on
213 a quarterly basis.

214 (3) In addition to any other funds paid to hospitals
215 for outpatient hospital services to Medicaid patients, each
216 eligible hospital shall receive outpatient hospital access
217 payments each state fiscal year. Publicly and state-owned
218 hospitals shall receive payments, including hospital base
219 payments, that, in the aggregate, equal the upper payment
220 limit for publicly and state-owned hospitals, until the
221 Hospital Assessment Account is exhausted. Privately operated
222 hospitals shall receive payments, including hospital base
223 payments, that, in the aggregate, equal the upper payment
224 limit for privately operated hospitals, until the Hospital



Assessment Account is exhausted.

(4) Outpatient hospital access payments shall be made on a quarterly basis.

(c) A hospital access payment shall not be used to offset any other payment by the Medicaid Agency for hospital inpatient or outpatient services to Medicaid beneficiaries, including, without limitation, any fee-for-service, per diem, private or public hospital inpatient adjustment, or hospital cost settlement payment.

(d) The specific hospital payments for publicly, state-owned, and privately operated hospitals shall be described in the state plan amendment to be submitted to and approved by the Centers for Medicare and Medicaid Services."

"§40-26B-82

(a) The assessment imposed under this article shall not take effect or shall cease to be imposed and any monies remaining in the Hospital Assessment Account in the Alabama Medicaid Program Trust Fund shall be refunded to hospitals in proportion to the amounts paid by them if any of the following occur:

(1) Expenditures for hospital inpatient and outpatient services paid for by the Alabama Medicaid Program ~~for fiscal years 2026, 2027, and 2028~~ for the current fiscal year are less than the amount paid during fiscal year 2017 or reimbursement rates under this article ~~for fiscal years 2026, 2027, and 2028~~ are less than the rates approved by CMS in Sections 40-26B-79 and 40-26B-80.

(2) The Alabama Medicaid Agency makes changes in rules



that reduce hospital inpatient payment rates, outpatient payment rates, or adjustment payments, including any cost settlement protocol, ~~which were in effect on September 30,~~ 2025.

(3) The inpatient or outpatient hospital access payments required under this article are changed or the assessments imposed or certified public expenditures or intergovernmental transfers recognized under this article are not eligible for federal matching funds under Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq., or 42 U.S.C. § 1397aa et seq.

(4) The Alabama Medicaid Agency contracts with an alternate care provider in a Medicaid region under any terms other than the following:

a. The agency may contract with an alternate care provider only if, in the judgment of the agency, care of Medicaid enrollees would be better, more efficient, and less costly than under the then existing care delivery system. The agency may contract with more than one alternate care provider in a Medicaid region.

b. If the agency were to contract with an alternate care provider under the terms of this subdivision, that provider would have to pay reimbursements for hospital inpatient or outpatient care at rates at least equal to the most recent published rates pursuant to Sections 40-26B-79 and 40-26B-80.

c. If more than a year had elapsed since the agency directly paid reimbursements to hospitals, the minimum



reimbursement rates paid by the alternate care provider would have to be changed to reflect any percentage increase in the national medical consumer price index minus 100 basis points.

(b) (1) The assessment imposed under this article shall not take effect or shall cease to be imposed if the assessment is determined to be an impermissible tax under Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq.

(2) Monies in the Hospital Assessment Account in the Alabama Medicaid Program Trust Fund derived from assessments imposed before the determination described in subdivision (1) shall be disbursed under this article to the extent federal matching is not reduced due to the impermissibility of the assessments, and any remaining monies shall be refunded to hospitals in proportion to the amounts paid by them."

"§40-26B-84

This article shall be of no effect if federal financial participation under Title XIX of the Social Security Act is not available to the Medicaid Agency at the approved federal medical assistance percentage, established under Section 1905 of the Social Security Act, now appearing as [42 U.S.C. § 1369d](#), ~~for the state fiscal years 2026, 2027, and 2028.~~"

Section 2. Section 40-26B-88, Code of Alabama 1975, relating to the termination of the Hospital Provider Privilege Tax, is repealed.

Section 3. This act shall become effective on October 1, 2026.