

HB 1613 – AS AMENDED BY THE SENATE

6Feb2014... 0224h
05/15/14 1711s

2014 SESSION

14-2837
10/03

HOUSE BILL **1613**

AN ACT relative to the Medicaid enhancement tax.

SPONSORS: Rep. Wallner, Merr 10; Rep. Almy, Graf 13; Rep. Major, Rock 14; Sen. Morse, Dist 22; Sen. Odell, Dist 8; Sen. D'Allesandro, Dist 20

COMMITTEE: Ways and Means

AMENDED ANALYSIS

This bill revises services taxable under the Medicaid enhancement tax and changes the rate of the tax over a 5-year period. This bill removes the application of the Medicaid enhancement tax to special hospitals for rehabilitation contingent on approval of a waiver and provides an exception for the waiver process. The bill also changes payment of the tax to 4 times per year.

Explanation: Matter added to current law appears in **bold italics**.
Matter removed from current law appears [~~in brackets and struck through~~].
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Fourteen

AN ACT relative to the Medicaid enhancement tax.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Medicaid Enhancement Tax; Definition; Hospital. Amend RSA 84-A:1, III to read as follows:

2 III. "Hospital" means general hospitals [~~and special hospitals for rehabilitation~~] required to
3 be licensed under RSA 151 that provide inpatient and outpatient hospital services, but not including
4 government facilities.

5 2 New Paragraph; Medicaid Enhancement Tax; Definition of Outpatient Hospital Services.

6 Amend RSA 84-A:1 by inserting after paragraph IV-a the following new paragraph:

7 IV-b. "Outpatient hospital services" means the following when provided as an outpatient
8 service:

9 (a) Adult day care.

10 (b) Ambulance.

11 (c) Ambulatory surgical centers.

12 (d) Dental.

13 (e) Diabetes education.

14 (f) Durable medical equipment.

15 (g) Emergency advanced life support (ALS) training programs.

16 (h) Laboratory, excluding outpatient laboratory services when that is the only service
17 provided.

18 (i) Nutrition consultations.

19 (j) Physician services.

20 (k) Podiatry.

21 (l) Psychiatric distinct part unit (DPU).

22 (m) Retail pharmacy.

23 (n) Rural health clinic.

24 (o) Senior center clinic.

25 (p) Wound care clinic.

26 3 Imposition of Tax. Amend RSA 84-A:2 to read as follows:

27 84-A:2 Imposition of Tax.

28 ***I. For the taxable period beginning July 1, 2014 and ending June 30, 2015, a tax is***

1 imposed at a rate of 5.5 percent upon the net patient services revenue of every hospital for the
2 hospital's fiscal year ending during the first full calendar year preceding the taxable period.

3 **II. For the taxable period beginning July 1, 2015 and ending June 30, 2016, a tax is**
4 **imposed at a rate of 5.25 percent upon the net patient services revenue of every hospital for**
5 **the hospital's fiscal year ending during the first full calendar year preceding the taxable**
6 **period.**

7 **III. For the taxable period beginning July 1, 2016 and ending June 30 2017, a tax is**
8 **imposed at a rate of 5.0 percent upon the net patient services revenue of every hospital for**
9 **the hospital's fiscal year ending during the first full calendar year preceding the taxable**
10 **period.**

11 **IV. For the taxable period beginning July 1, 2017 and ending June 30, 2018, a tax is**
12 **imposed at a rate of 4.75 percent upon the net patient services revenue of every hospital for**
13 **the hospital's fiscal year ending during the first full calendar year preceding the taxable**
14 **period.**

15 **V. For the taxable period beginning July 1, 2018 and ending June 30, 2019, a tax is**
16 **imposed at a rate of 4.50 percent upon the net patient services revenue of every hospital for**
17 **the hospital's fiscal year ending during the first full calendar year preceding the taxable**
18 **period.**

19 4 Tax Due. RSA 84-A:3 is repealed and reenacted to read as follows:

20 84-A:3 Tax Due.

21 I. For the taxable period beginning July 1, 2014, and for every taxable period thereafter,
22 each hospital shall pay 25 percent of its Medicaid enhancement tax due and payable for the taxable
23 period no later than the fifteenth day of October, January, March, and June of the taxable period.
24 Notwithstanding any provision of this chapter or any other law, no penalty or interest shall be
25 imposed for failure to make payment of tax when due if such payment is made on or before the last
26 day of the month in which such payment is due.

27 II. If the return required by RSA 84-A:4 shows an additional amount of tax to be due, such
28 additional amount is due and payable at the time the return is due.

29 5 Returns. Amend RSA 84-A:4 to read as follows:

30 84-A:4 Returns. Every hospital shall on or before the ~~[tenth]~~ **fifteenth** day of ~~[the month~~
31 ~~following the expiration of]~~ **June in** the taxable period make a return to the commissioner. The
32 commissioner shall adopt rules, pursuant to RSA 541-A, relative to the form of such return and the
33 data which it must contain for the correct computation of net patient services revenue and the tax
34 assessed upon such amount. All returns shall be signed by the taxpayer or by its authorized
35 representative, subject to the pains and penalties of perjury. If such return shows an overpayment
36 of the tax due, the commissioner shall refund or credit the overpayment to the hospital in accordance
37 with RSA 21-J:28-a.

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1 6 Method of Payment; Reference Corrected. Amend RSA 84-A:5, I to read as follows:

2 I. The payments required by RSA 84-A:3~~[–H–a]~~ shall be made by electronic transfer of
3 moneys to the state treasurer and deposited to the uncompensated care fund established by RSA
4 167:64.

5 7 Confidentiality of Records; Exception. Amend RSA 84-A:10 to read as follows:

6 84-A:10 Confidentiality of Records.

7 ***I.*** Notwithstanding the provisions of RSA 21-J:14, the commissioner shall not be prohibited
8 from providing tax information to the commissioner of health and human services with respect to the
9 tax imposed by this chapter, provided that the commissioner of health and human services and his
10 agents and employees shall be subject to the provisions of RSA 21-J:14 with respect to any tax
11 information provided by the commissioner.

12 ***II.*** *Notwithstanding paragraph I and the provisions of RSA 21-J:14, the*
13 *commissioner of health and human services shall not be prohibited from providing tax*
14 *information in accordance with department of revenue administration compacts for the*
15 *exchange of information between the department of health and human services and the*
16 *United States Department of Health and Human Services' Centers for Medicare and*
17 *Medicaid Services, but only for the purpose of, and to the extent necessary for, the*
18 *calculations of the federal waiver process under 42 C.F.R. section 433.68.*

19 8 Uncompensated Care Fund; Definition; Hospital. Amend RSA 167:63, IV to read as follows:

20 IV. "Hospital" means general hospitals ~~[and special hospitals for rehabilitation]~~ required to
21 be licensed under RSA 151, but not including government facilities.

22 9 Uncompensated Care Fund. RSA 167:64 is repealed and reenacted to read as follows:

23 167:64 Uncompensated Care Fund.

24 I. For purposes of this section, "uncompensated care costs" shall include: any charity care cost, and
25 any portion of Medicaid-covered patient care costs unreimbursed by Medicaid payments, that the
26 commissioner determines meet the criteria under 42 U.S.C. section 1396r-4(g) governing hospital-specific
27 limits on disproportionate share hospital payments under Title XIX of the Social Security Act and the
28 provisions of all federal regulations promulgated thereunder.

29 II. There is hereby established in the state treasury an uncompensated care fund which shall be
30 accounted for distinctly and separately from all other funds and shall consist of the moneys collected
31 pursuant to RSA 84-A. Moneys in the uncompensated care fund shall be continually appropriated to the
32 department for the purposes of this subdivision. Investment earnings of the fund shall be credited to the
33 fund. Moneys paid into the fund shall be exempt from any state budget reductions, and, except as provided
34 in paragraph III, the commissioner is authorized to expend these funds, together with matching federal
35 funds, only as follows:

36 (a) The commissioner may provide reimbursement for uncompensated care costs in accordance
37 with the approved schedule of payments through either Medicaid rate adjustments or disproportionate

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1 share hospital payment adjustments, or a combination thereof, provided however that no hospital shall
2 receive any such reimbursement for uncompensated care costs unless it is a qualified hospital as defined in
3 subparagraph (b)(1). Funds available under this section shall also be used to make medical provider
4 payments. Expenditure of revenues deposited to the uncompensated care fund shall be made for the
5 following purposes in the following order of priority:

6 (1) To support medical provider payments as budgeted in each year of the biennium. To
7 reduce hospital losses associated with providing services to Medicaid recipients the commissioner shall
8 make Medicaid rate adjustments such that for the fiscal year ending June 30, 2016, not less than
9 \$83,460,000 shall be appropriated for hospital provider payments.

10 (2) To support the state's Medicaid enhancement tax unrestricted revenue account as
11 budgeted in each year of the biennium.

12 (3) To make disproportionate share hospital payments to support up to 75 percent of the
13 uncompensated care costs of New Hampshire's hospitals with critical access designation as available
14 funding allows, to be shared among such hospitals in proportion to the amount of uncompensated care
15 provided.

16 (4) To make a disproportionate share hospital payment to each hospital that meets
17 the criteria set forth for "deemed disproportionate share hospitals" as that term is defined under 42
18 U.S.C. section 1396r-4 in an amount as budgeted in each year of the biennium.

19 (5) To support the uncompensated care costs of New Hampshire's hospitals without
20 critical access designation in proportion to the amount of uncompensated care provided by each
21 hospital consistent with the requirements of 42 U.S.C. section 1396r-4(g) and any relevant federal
22 regulations promulgated under this section.

23 (b)(1) The commissioner is hereby authorized and directed to develop and implement a
24 schedule of payments for reimbursement of the uncompensated care costs consistent with the level of
25 funding made available for such payments in each year of the biennium, incurred by those hospitals
26 that are qualified as follows:

27 (A) The hospital is a "deemed disproportionate share hospital" as defined by
28 criteria set forth under 42 U.S.C. section 1396r-4 and is not otherwise receiving a disproportionate
29 share hospital payment; or

30 (B) The hospital participates in the provider network of the state Medicaid care
31 management program which shall be evidenced by written proof of an agreement in principle by July
32 1, 2015 with a final agreement by August 1, 2015.

33 (2) The reimbursement of uncompensated care costs paid in state fiscal year 2016
34 and state fiscal year 2017 shall be in accordance with the schedule of payments to hospitals that
35 takes effect on or after July 1, 2015, subject to the prior review and approval of the federal Centers
36 for Medicare and Medicaid Services, and shall be structured in a manner that is consistent with all
37 federal laws and regulations governing:

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1 (A) Title XIX disproportionate share hospital payment adjustments and other
2 rate payments;

3 (B) Conditions for receiving federal financial participation; and

4 (C) Permissible sources of state financial participation as provided for under 42
5 C.F.R. part 433 and all other applicable federal regulations.

6 III. One percent of the funds made available for uncompensated care payments, shall be
7 placed in a separate class line reserved for the expenses of the department in administering this
8 subdivision.

9 IV. The balance of the moneys remaining in the fund at the end of each fiscal year shall
10 lapse into the general fund.

11 10 New Paragraph; Uncompensated Care Fund; Waiver Request. Amend RSA 167:65 by
12 inserting after paragraph IV the following new paragraph:

13 V.(a) Submit a waiver request pursuant to the process outlined in 42 C.F.R. section 433.68
14 for the purpose of waiving RSA 84-A, Medicaid enhancement tax liability for HealthSouth
15 Rehabilitation Hospital and Northeast Rehabilitation Hospital, and such waiver request to be
16 submitted the United States Department of Health and Human Services no later than October 1,
17 2014; and

18 (b) Provide a complete copy of such waiver request to HealthSouth Rehabilitation
19 Hospital and Northeast Rehabilitation Hospital simultaneously with its submission to the
20 United States Department of Health and Human Services.

21 11 Contingency; Medicaid Enhancement Tax; Uncompensated Care Fund; Definition of
22 Hospital. Sections 1 and 8 of this act, deleting special hospitals for rehabilitation from the definition
23 of “hospital” under the Medicaid enhancement tax and the uncompensated care fund, shall take
24 effect on the approval date of the waiver request required in section 10 of this act, and shall apply to
25 the taxable period ending June 30, 2014 and to every taxable period thereafter. The commissioner of
26 health and human services shall certify the effective date to the secretary of state and the director of
27 legislative services upon receipt of such approval.

28 12 Effective Date.

29 I. Sections 1 and 8 of this act shall take effect as provided in section 11 of this act.

30 II. Sections 3-7 of this act shall take effect July 1, 2014.

31 III. Section 9 of this act shall take effect July 1, 2015.

32 IV. The remainder of this act shall take effect upon its passage.