

ASSEMBLY, No. 4091

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED MAY 26, 2022

Sponsored by:

Assemblywoman LISA SWAIN

District 38 (Bergen and Passaic)

Assemblyman HERB CONAWAY, JR.

District 7 (Burlington)

SYNOPSIS

Makes County Option Hospital Fee Pilot Program permanent and expands definition of “participating county” under program.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/26/2022)

1 AN ACT concerning the County Option Hospital Fee Pilot Program
2 and amending P.L.2018, c.136.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 1 of P.L.2018, c.136 (C.30:4D-7r) is amended to read
8 as follows:

9 1. This act shall be known and may be cited as "The County
10 Option Hospital Fee **【Pilot】** Program Act."

11 (cf: P.L.2018, c.136, s.1)

12

13 2. Section 2 of P.L.2018, c.136 (C.30:4D-7s) is amended to read
14 as follows:

15 2. As used in this act:

16 "Commissioner" means the Commissioner of Human Services.

17 "Department" means the Department of Human Services.

18 "Fee" means the local health care-related fee authorized pursuant
19 to this act.

20 "Hospital" means a hospital that is licensed pursuant to P.L.1971,
21 c.136 (C.26:2H-1 et seq.) and is located within the borders of a
22 participating county.

23 "Medicaid program" means the "New Jersey Medical Assistance
24 and Health Services Program" established pursuant to P.L.1968,
25 c.413 (C.30:4D-1 et seq.).

26 "Participating county" means a county **【with】** that chooses to
27 participate in the program, has a population greater than 250,000,
28 according to the federal decennial census immediately preceding the
29 effective date of **【this act; that】** P.L.2018, c.136 (C.30:4D-7r et seq.),
30 and contains a municipality which: (1) is classified, pursuant to
31 N.J.S.40A:6-4, as a First or Second Class municipality, or a Fourth
32 Class municipality whose population exceeds 20,000, and (2) has a
33 Municipal Revitalization Index Distress score, as last calculated by
34 the New Jersey Department of Community Affairs prior to the
35 effective date of **【this act】** P.L.2018, c.136 (C.30:4D-7r et seq.), that
36 exceeds 60【; and which chooses to participate in the pilot program】.
37 A "participating county" also means, based on the 2019 ACS 5 Year
38 Survey Data, (1) excluding counties with a municipality with a
39 population greater than 125,000, and (2) excluding counties with a
40 population less than 150,000, and (3) excluding counties with a
41 median household income greater than \$110,000, and (4) counties
42 must have a municipality with a population greater than 30,000
43 whose 2020 Municipal Revitalization Index Distress score is greater
44 than or equal to 35; and which chooses to participate in the program.

EXPLANATION – Matter enclosed in bold-faced brackets **【thus】 in the above bill is not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

1 **["Pilot program"]** "Program" means "The County Option Hospital
2 Fee **[Pilot] Program**" established pursuant to this act.

3 "Proposed fee and expenditure report" means a written report by a
4 participating county that describes how the fee will be imposed in the
5 participating county; how the funds collected from the fee will be
6 used by the participating county, including the amount and services
7 the participating county plans to provide with the funds; and how the
8 plan satisfies paragraph (1) of subsection b. of section 3 of this act.
9 (cf: P.L.2018, c.136, s.2)

10
11 3. Section 3 of P.L.2018, c.136 (C.30:4D-7t) is amended to read
12 as follows:

13 3. a. There is established "The County Option Hospital Fee
14 **[Pilot] Program**" in the Department of Human Services. **[The**
15 program shall commence on the 180th day after the effective date of
16 P.L.2018, c.136 (C.30:4D-7r et seq.) and shall expire five years after
17 each participating county has collected a local health care-related fee,
18 authorized pursuant to subsection c. of this section. **]**

19 b. The purpose of the **[pilot]** program is:

20 (1) to increase financial resources through the Medicaid program
21 to support local hospitals and to ensure that they continue to provide
22 necessary services to low-income citizens; and

23 (2) to provide participating counties with new fiscal resources.

24 c. **[To effectuate the purposes of this program, the**
25 commissioner shall authorize no more than seven participating
26 counties in the State for participation in the program.**]** Each
27 participating county shall be authorized by the commissioner to
28 impose a local health care-related fee on hospitals within its borders.

29 d. A participating county shall submit a proposed fee and
30 expenditure report to the commissioner to ensure that the proposed
31 fee and expenditure plan satisfies paragraph (1) of subsection b. of
32 this section and subsection e. of this section, and does not create a
33 direct or indirect guarantee to hold harmless, as those terms are used
34 in 42 C.F.R. s.433.68(f). The commissioner shall further review the
35 proposed fee and expenditure report to determine whether it complies
36 with relevant rules and regulations. Each participating county shall
37 consult with affected hospitals within its jurisdiction to prepare the
38 proposed fee and expenditure report before the report is submitted to
39 the commissioner. The commissioner shall make the proposed fee
40 and expenditure report available to the affected hospitals for review
41 and the hospitals shall be permitted to provide comments to the
42 commissioner regarding the report for a period of 21 calendar days
43 from the date the proposed report is made available for review.

44 e. The board of **[chosen freeholders]** County commissioners of
45 a participating county, following the approval of the participating
46 county's proposed fee and expenditure plan by the commissioner,
47 may adopt an ordinance providing for the imposition of a fee on

1 hospitals located within its borders and for appropriate administrative
2 provisions, including, but not limited to, provisions for the collection
3 of interest and penalties.

4 The fee shall be implemented in accordance with the provisions of
5 42 U.S.C. s.1396b(w)(3)(A), and shall be subject to the maximum
6 aggregate amount that may be assessed pursuant to 42 C.F.R.
7 s.433.68(f)(3), or any subsequent maximum amount as may be
8 established by federal law, and shall be subject to a cap as determined
9 by the commissioner. The participating county may exempt a
10 hospital within its jurisdiction from the fee, provided that the
11 exemption complies with the requirements of 42 C.F.R. s.433.68.

12 The fee authorized pursuant to this act may be collected only to
13 the extent~~], and for the period,~~ that the commissioner determines
14 that the revenues generated qualify as the State share of Medicaid
15 program expenditures eligible for federal financial participation
16 pursuant to 42 C.F.R. s.433.68.

17 f. Any subsequent alterations to the fee are subject to the
18 approval of the commissioner prior to implementation. Upon
19 approval, the commissioner shall apply for such State plan
20 amendments or waivers as may be necessary to implement the
21 changes and to secure federal financial participation for State
22 Medicaid expenditures under the federal Medicaid program.

23 g. Neither the State nor a participating county shall be liable for
24 any amount of a local health care-related fee imposed on a hospital
25 pursuant to this act that the hospital fails to pay or does not pay in a
26 timely manner to the assessing county.

27 (cf: P.L.2021, c.41, s.1)

28

29 4. Section 4 of P.L.2018, c.136 (C.30:4D-7u) is amended to read
30 as follows:

31 4. a. A participating county may transfer funds collected from
32 the fee imposed pursuant to subsection c. of section 3 of this act to
33 the commissioner. The commissioner shall use funds transferred
34 from a participating county, and any matching amount of federal
35 Medicaid funds or other federal funds generated therefrom, for the
36 following purposes: to increase Medicaid payments to hospitals in
37 the jurisdiction from which the funds are received; for payments to
38 managed care organizations that have contracted with Medicaid
39 serving the jurisdiction from which the funds are received for
40 increased hospital or hospital-related payments; and for direct costs
41 related to administrative purposes to implement the **[pilot]** program.

42 The commissioner shall seek to minimize the length of time
43 between the collection of the fee by the participating county and the
44 distribution of payments pursuant to this subsection.

45 Notwithstanding any other law to the contrary, the commissioner
46 and a participating county are authorized to enter into an
47 intergovernmental transfer agreement as may be necessary to transfer

1 funds under this subsection or to otherwise satisfy the requirements
2 of this act.

3 b. A participating county may retain the funds collected from the
4 imposition of the fee, in which case the participating county shall
5 generate the same level of funding, in addition to the funds collected
6 from the imposition of the fee, that would be generated by the
7 department through any matching amount of federal Medicaid funds
8 or other federal funds, and use the total funding amount to satisfy
9 paragraph (1) of subsection b. of section 3 of this act.

10 c. At least 90 percent of the funds collected from imposition of
11 the fee shall be used by a participating county or the department for
12 the benefit of local hospitals within the participating county's borders
13 to ensure that the hospitals continue to provide necessary services to
14 low-income citizens. The participating counties shall transfer at least
15 one percent of funds collected from the imposition of the fee to the
16 department for administration of the program.

17 (cf: P.L.2018, c.136, s.4)

18

19 5. Section 5 of P.L.2018, c.136 (C.30:4D-7v) is amended to read
20 as follows:

21 5. a. The fee imposed pursuant to subsection c. of section 3 of
22 this act shall be imposed in relation to health care items or services
23 provided only during the effective period of this act, and shall not be
24 collected until the commissioner notifies the appropriate
25 governmental entities that any State plan amendment or waivers
26 submitted pursuant to section 6 of this act have been approved.

27 b. No hospital subject to the fee shall pass on the cost of the fee
28 to any patient, insurer, self-insured employer program, or other
29 responsible party, nor list it separately on any invoice or statement
30 sent to a patient, insurer, self-insured employer program, or other
31 responsible party.

32 c. Unless otherwise prohibited by the federal government, no
33 managed care organization operating in the State that has contracted
34 with Medicaid shall retain any funds generated by the fee, other than
35 to offset any increased administrative costs incurred as a result of the
36 **【pilot】** program.

37 d. Funds generated by the fee shall not supplant or offset any
38 current or future State funds allocated to a county participating in the
39 **【pilot】** program.

40 e. Payments distributed to hospitals pursuant to this act shall not
41 supplant or offset any current or future funds paid to hospitals
42 through other State or federal funding mechanisms or pools.

43 (cf: P.L.2018, c.136, s.5)

44

45 6. Section 8 of P.L.2018, c.136 is amended to read as follows:

46 8. This act shall take effect on the 180th day after the date of
47 enactment**【**, and shall expire five years after each participating county
48 has collected a local health care-related fee, authorized pursuant to

1 subsection c. of section 3 of P.L.2018, c.136 (C. 30:4D-7t)]. All
2 proposed fee and expenditure plans are subject to both approval of the
3 commissioner and such actions by the federal government as are
4 necessary to effectuate the purposes of this act.
5 (cf: P.L.2021, c.41, s.2)

6

7 7. This act shall take effect immediately.

8

9

10 STATEMENT

11

12 This bill makes the County Option Hospital Fee Pilot Program
13 permanent and expands the definition of “participating county” under
14 the program. The County Option Hospital Fee Program was
15 established in November 2018 to support local hospitals in
16 designated high-need areas to ensure continued access to critical
17 healthcare services for vulnerable populations. To effectuate this
18 goal, the program authorizes participating counties, and hospitals
19 within those counties, to partner with the State through a provider
20 assessment mechanism that enhances financial support through the
21 Medicaid program.

22 Under existing law, the program is to be pilot program, expiring
23 five years after each participating county has collected a local health
24 care-related fee, or Fall of 2026. Under the bill, the program becomes
25 permanent.

26 The bill, while maintaining the existing statutory definition of
27 "participating county," also expands the definition of "participating
28 county" to mean, based on the 2019 ACS 5 Year Survey Data, (1)
29 excluding counties with a municipality with a population greater than
30 125,000, and (2) excluding counties with a population less than
31 150,000, and (3) excluding counties with a median income greater
32 than \$110,000, and (4) counties must have a municipality with a
33 population greater than 30,000 whose 2020 Municipal Revitalization
34 Index Distress score is greater than or equal to 35; and which chooses
35 to participate in the program. Currently the following counties
36 participate in the program: Atlantic, Camden, Essex, Hudson,
37 Mercer, Middlesex, and Passaic. Existing law limits the program to
38 seven counties, a provision that is removed under this bill.