

[First Reprint]

ASSEMBLY, No. 4091

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED MAY 26, 2022

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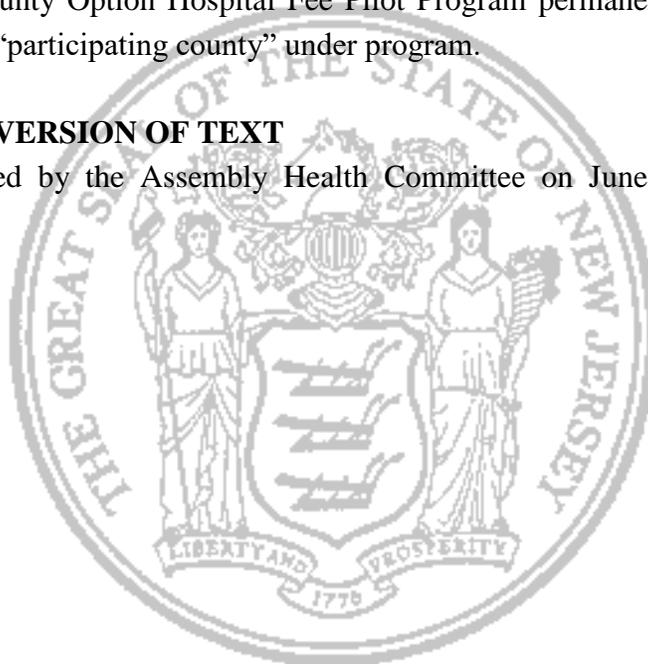
Assemblywomen Murphy, McKnight and Senator Gopal

SYNOPSIS

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

CURRENT VERSION OF TEXT

As reported by the Assembly Health Committee on June 2, 2022, with amendments.



(Sponsorship Updated As Of: 6/29/2022)

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
8 read 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
14 read 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
21 P.L.1971, c.136 (C.26:2H-1 et seq.) and is located within the
22 borders of a 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 ¹, notwithstanding the provisions
27 of any other law or regulation to the contrary,¹ a county **[with]** that
28 chooses to participate in the program, has a population greater than
29 250,000, according to the federal decennial census immediately
30 preceding the effective date of **[this act; that]** P.L.2018, c.136
31 (C.30:4D-7r et seq.), and contains a municipality which: (1) is
32 classified, pursuant to N.J.S.40A:6-4, as a First or Second Class
33 municipality, or a Fourth Class municipality whose population
34 exceeds 20,000, and (2) has a Municipal Revitalization Index
35 Distress score, as last calculated by the New Jersey Department of
36 Community Affairs prior to the effective date of **[this act]**
37 P.L.2018, c.136 (C.30:4D-7r et seq.), that exceeds 60**[;** and which
38 chooses to participate in the pilot program] ¹**[.A "participating**
39 **county" also means]** ; or¹ , based on the 2019 ACS 5 Year Survey
40 Data, ¹a county that chooses to participate in the program and
41 contains a municipality with a population greater than 30,000 whose
42 2020 Municipal Revitalization Index Distress score is greater than
43 or equal to 35¹ (1) excluding counties with a municipality with a
44 population greater than 125,000, ¹**[and]**¹ (2) excluding counties

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AHE committee amendments adopted June 2, 2022.

1 with a population less than 150,000, and (3) excluding counties
2 with a median household income greater than \$110,000 ¹**], and (4)**
3 counties must have a municipality with a population greater than
4 30,000 whose 2020 Municipal Revitalization Index Distress score is
5 greater than or equal to 35; and which chooses to participate in the
6 program]¹ .

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

9 "Proposed fee and expenditure report" means a written report by
10 a participating county that describes how the fee will be imposed in
11 the participating county; how the funds collected from the fee will
12 be used by the participating county, including the amount and
13 services the participating county plans to provide with the funds;
14 and how the plan satisfies paragraph (1) of subsection b. of section
15 3 of this act.

16 (cf: P.L.2018, c.136, s.2)

17

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

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

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

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

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

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

37 d. A participating county shall submit a proposed fee and
38 expenditure report to the commissioner to ensure that the proposed
39 fee and expenditure plan satisfies paragraph (1) of subsection b. of
40 this section and subsection e. of this section, and does not create a
41 direct or indirect guarantee to hold harmless, as those terms are
42 used in 42 C.F.R. s.433.68(f). The commissioner shall further
43 review the proposed fee and expenditure report to determine
44 whether it complies with relevant rules and regulations. Each
45 participating county shall consult with affected hospitals within its
46 jurisdiction to prepare the proposed fee and expenditure report
47 before the report is submitted to the commissioner. The

1 commissioner shall make the proposed fee and expenditure report
2 available to the affected hospitals for review and the hospitals shall
3 be permitted to provide comments to the commissioner regarding
4 the report for a period of 21 calendar days from the date the
5 proposed report is made available for review.

6 e. The board of **【chosen freeholders】** County commissioners of
7 a participating county, following the approval of the participating
8 county's proposed fee and expenditure plan by the commissioner,
9 may adopt an ordinance providing for the imposition of a fee on
10 hospitals located within its borders and for appropriate
11 administrative provisions, including, but not limited to, provisions
12 for the collection of interest and penalties.

13 The fee shall be implemented in accordance with the provisions
14 of 42 U.S.C. s.1396b(w)(3)(A), and shall be subject to the
15 maximum aggregate amount that may be assessed pursuant to 42
16 C.F.R. s.433.68(f)(3), or any subsequent maximum amount as may
17 be established by federal law, and shall be subject to a cap as
18 determined by the commissioner. The participating county may
19 exempt a hospital within its jurisdiction from the fee, provided that
20 the exemption complies with the requirements of 42 C.F.R.
21 s.433.68.

22 The fee authorized pursuant to this act may be collected only to
23 the extent**【, and for the period,】** that the commissioner determines
24 that the revenues generated qualify as the State share of Medicaid
25 program expenditures eligible for federal financial participation
26 pursuant to 42 C.F.R. s.433.68.

27 f. Any subsequent alterations to the fee are subject to the
28 approval of the commissioner prior to implementation. Upon
29 approval, the commissioner shall apply for such State plan
30 amendments or waivers as may be necessary to implement the
31 changes and to secure federal financial participation for State
32 Medicaid expenditures under the federal Medicaid program.

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

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

38

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

41 4. a. A participating county may transfer funds collected from
42 the fee imposed pursuant to subsection c. of section 3 of this act to
43 the commissioner. The commissioner shall use funds transferred
44 from a participating county, and any matching amount of federal
45 Medicaid funds or other federal funds generated therefrom, for the
46 following purposes: to increase Medicaid payments to hospitals in
47 the jurisdiction from which the funds are received; for payments to
48 managed care organizations that have contracted with Medicaid

1 serving the jurisdiction from which the funds are received for
2 increased hospital or hospital-related payments; and for direct costs
3 related to administrative purposes to implement the **[pilot]**
4 program.

5 The commissioner shall seek to minimize the length of time
6 between the collection of the fee by the participating county and the
7 distribution of payments pursuant to this subsection.

8 Notwithstanding any other law to the contrary, the commissioner
9 and a participating county are authorized to enter into an
10 intergovernmental transfer agreement as may be necessary to
11 transfer funds under this subsection or to otherwise satisfy the
12 requirements of this act.

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

20 c. At least 90 percent of the funds collected from imposition of
21 the fee shall be used by a participating county or the department for
22 the benefit of local hospitals within the participating county's
23 borders to ensure that the hospitals continue to provide necessary
24 services to low-income citizens. The participating counties shall
25 transfer at least one percent of funds collected from the imposition
26 of the fee to the department for administration of the program.

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

28

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

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

37 b. No hospital subject to the fee shall pass on the cost of the fee
38 to any patient, insurer, self-insured employer program, or other
39 responsible party, nor list it separately on any invoice or statement
40 sent to a patient, insurer, self-insured employer program, or other
41 responsible party.

42 c. Unless otherwise prohibited by the federal government, no
43 managed care organization operating in the State that has contracted
44 with Medicaid shall retain any funds generated by the fee, other
45 than to offset any increased administrative costs incurred as a result
46 of the **[pilot]** program.

1 d. Funds generated by the fee shall not supplant or offset any
2 current or future State funds allocated to a county participating in
3 the **[pilot]** program.

4 e. Payments distributed to hospitals pursuant to this act shall
5 not supplant or offset any current or future funds paid to hospitals
6 through other State or federal funding mechanisms or pools.
7 (cf: P.L.2018, c.136, s.5)

8

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

10 8. **1**~~["This act shall take effect on the 180th day after the date of~~
11 ~~enactment"]~~ **1** ~~], and shall expire five years after each participating~~
12 ~~county has collected a local health care-related fee, authorized~~
13 ~~pursuant to subsection c. of section 3 of P.L.2018, c.136 (C. 30:4D-~~
14 ~~7t)]~~ **1**~~[".~~ **1** All proposed fee and expenditure plans are subject to
15 both approval of the commissioner and such actions by the federal
16 government as are necessary to effectuate the purposes of this act.
17 (cf: P.L.2021, c.41, s.2)

18

19 7. This act shall take effect immediately.