

By: Blanco

S.B. No. 849

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the continuation and operations of a health care
3 provider participation program by the El Paso County Hospital
4 District.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 298G.001, Health and Safety Code, is
7 amended by adding Subdivision (6) to read as follows:

8 (6) "Qualifying assessment basis" means any basis
9 consistent with 42 U.S.C. Section 1396b(w) on which the board
10 requires mandatory payments to be assessed under this chapter.

11 SECTION 2. Section 298G.004, Health and Safety Code, is
12 amended to read as follows:

13 Sec. 298G.004. EXPIRATION. (a) Subject to Section
14 298G.153(d), the authority of the district to administer and
15 operate a program under this chapter expires December 31, 2027
16 [~~2023~~].

17 (b) This chapter expires December 31, 2027 [~~2023~~].

18 SECTION 3. Section 298G.053, Health and Safety Code, is
19 amended to read as follows:

20 Sec. 298G.053. INSTITUTIONAL HEALTH CARE PROVIDER
21 REPORTING. If the board authorizes the district to participate in a
22 program under this chapter, the board may [~~shall~~] require each
23 institutional health care provider to submit to the district a copy
24 of any financial and utilization data reported in:

1 (1) the provider's Medicare cost report [~~submitted~~
2 for the most recent [~~previous fiscal year or for the closest~~
3 ~~subsequent~~] fiscal year for which the provider submitted the
4 Medicare cost report; or

5 (2) a report other than the report described by
6 Subdivision (1) that the board considers reliable and is submitted
7 by or to the provider for the most recent fiscal year.

8 SECTION 4. Section [298G.103\(c\)](#), Health and Safety Code, is
9 amended to read as follows:

10 (c) Money deposited to the local provider participation
11 fund of the district may be used only to:

12 (1) fund intergovernmental transfers from the
13 district to the state to provide the nonfederal share of:

14 (A) any payment to nonpublic hospitals, if those
15 payments are authorized under the Texas Healthcare Transformation
16 and Quality Improvement Program waiver issued under Section 1115 of
17 the federal Social Security Act (42 U.S.C. Section 1315); or

18 (B) Medicaid payments for:

19 (i) uniform rate enhancements for nonpublic
20 hospitals in the Medicaid managed care service area in which the
21 district is located;

22 (ii) payments available under another
23 waiver program authorizing payments that are substantially similar
24 to Medicaid payments described by Paragraph (A) or Subparagraph (i)
25 to nonpublic hospitals or any payments to Medicaid managed care
26 organizations for the benefit of nonpublic hospitals; or

27 (iii) any reimbursement to nonpublic

1 hospitals located in the district for which federal matching funds
2 are available;

3 (2) subject to Section 298G.151(d), pay the
4 administrative expenses of the district in administering the
5 program, including collateralization of deposits;

6 (3) refund a mandatory payment collected in error from
7 a paying provider;

8 (4) refund to a paying provider, in an amount that is
9 proportionate to the mandatory payments made under this chapter by
10 the provider during the 12 months preceding the date of the refund,
11 ~~[providers a proportionate share of]~~ the money that the district:

12 (A) receives from the Health and Human Services
13 Commission that is not used to fund the nonfederal share of Medicaid
14 payments; or

15 (B) determines cannot be used to fund the
16 nonfederal share of Medicaid supplemental payment program
17 payments; and

18 (5) transfer funds to the Health and Human Services
19 Commission if the district is legally required to transfer the
20 funds to address a disallowance of federal matching funds with
21 respect to programs for which the district made intergovernmental
22 transfers described by Subdivision (1).

23 SECTION 5. The heading to Section 298G.151, Health and
24 Safety Code, is amended to read as follows:

25 Sec. 298G.151. MANDATORY PAYMENTS ~~[BASED ON PAYING PROVIDER~~
26 ~~NET PATIENT REVENUE]~~.

27 SECTION 6. Section 298G.151, Health and Safety Code, is

1 amended by amending Subsections (a), (b), and (c) and adding
2 Subsections (a-1) and (a-2) to read as follows:

3 (a) If the board authorizes a health care provider
4 participation program under this chapter, the board may require a
5 mandatory payment to be assessed against each institutional
6 provider located in the district, either annually or periodically
7 throughout the year at the discretion of the board, on a qualifying
8 assessment basis [~~the net patient revenue of each institutional~~
9 ~~health care provider located in the district~~]. The qualifying
10 assessment basis must be the same for each institutional health
11 care provider in the district. The board shall provide an
12 institutional health care provider written notice of each
13 assessment under this section [~~subsection~~], and the provider has 30
14 calendar days following the date of receipt of the notice to make
15 the assessed mandatory payment.

16 (a-1) Except as otherwise provided by this subsection, the
17 qualifying assessment basis must be determined by the board using
18 information contained in an institutional health care provider's
19 Medicare cost report for the most recent fiscal year for which the
20 provider submitted the report. If the provider is not required to
21 submit a Medicare cost report, or if the Medicare cost report
22 submitted by the provider does not contain information necessary to
23 determine the qualifying assessment basis, the qualifying
24 assessment basis may be determined by the board using information
25 contained in another report the board considers reliable that is
26 submitted by or to the provider for the most recent fiscal year. To
27 the extent practicable, the board shall use the same type of report

1 to determine the qualifying assessment basis for each paying
2 provider in the district.

3 (a-2) [~~In the first year in which the mandatory payment is~~
4 ~~required, the mandatory payment is assessed on the net patient~~
5 ~~revenue of an institutional health care provider, as determined by~~
6 ~~the provider's Medicare cost report submitted for the previous~~
7 ~~fiscal year or for the closest subsequent fiscal year for which the~~
8 ~~provider submitted the Medicare cost report.~~] If a [~~the~~] mandatory
9 payment is required, the district shall periodically update the
10 amount of the mandatory payment [~~on an annual basis~~].

11 (b) The amount of a mandatory payment authorized under this
12 chapter must be determined in a manner that ensures [~~uniformly~~
13 ~~proportionate with~~] the [~~amount of net patient~~] revenue generated
14 qualifies for federal matching funds [~~by each paying provider in~~
15 ~~the district as permitted~~] under federal law, consistent with [~~. A~~
16 ~~health care provider participation program authorized under this~~
17 ~~chapter may not hold harmless any paying provider, as required~~
18 ~~under~~] 42 U.S.C. Section 1396b(w).

19 (c) If the board requires a mandatory payment authorized
20 under this chapter, the board shall set the amount of the mandatory
21 payment, subject to the limitations of this chapter. The aggregate
22 amount of the mandatory payments required of all paying providers
23 in the district may not exceed six percent of the aggregate net
24 patient revenue from hospital services provided [~~by all paying~~
25 ~~providers~~] in the district.

26 SECTION 7. Subchapter D, Chapter 298G, Health and Safety
27 Code, is amended by adding Section 298G.154 to read as follows:

1 Sec. 298G.154. INTEREST AND PENALTIES. The district may
2 impose and collect interest and penalties on delinquent mandatory
3 payments assessed under this chapter in any amount that does not
4 exceed the maximum amount authorized for other delinquent payments
5 owed to the district.

6 SECTION 8. This Act takes effect immediately if it receives
7 a vote of two-thirds of all the members elected to each house, as
8 provided by Section 39, Article III, Texas Constitution. If this
9 Act does not receive the vote necessary for immediate effect, this
10 Act takes effect September 1, 2023.