

By: Seliger

S.B. No. 2117

A BILL TO BE ENTITLED

AN ACT

relating to the creation and operations of a health care provider participation program by the City of Amarillo Hospital District.

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

SECTION 1. Subtitle D, Title 4, Health and Safety Code, is amended by adding Chapter 295A to read as follows:

CHAPTER 295A. CITY OF AMARILLO HOSPITAL DISTRICT HEALTH CARE PROVIDER PARTICIPATION PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 295A.001. PURPOSE. The purpose of this chapter is to authorize the district to administer a health care provider participation program to provide additional compensation to hospitals in the district by collecting mandatory payments from each hospital in the district to be used to provide the nonfederal share of a Medicaid supplemental payment program and for other purposes as authorized under this chapter.

Sec. 295A.002. DEFINITIONS. In this chapter:

(1) "Board" means the board of hospital managers of the district.

(2) "District" means the City of Amarillo Hospital District.

(3) "Institutional health care provider" means a nonpublic hospital that provides inpatient hospital services.

(4) "Paying hospital" means an institutional health

1 care provider required to make a mandatory payment under this
2 chapter.

3 (5) "Program" means the health care provider
4 participation program authorized by this chapter.

5 Sec. 295A.003. APPLICABILITY. This chapter applies only to
6 the City of Amarillo Hospital District.

7 Sec. 295A.004. HEALTH CARE PROVIDER PARTICIPATION PROGRAM;
8 PARTICIPATION IN PROGRAM. The board may authorize the district to
9 participate in a health care provider participation program on the
10 affirmative vote of a majority of the board, subject to the
11 provisions of this chapter.

12 SUBCHAPTER B. POWERS AND DUTIES OF BOARD

13 Sec. 295A.051. LIMITATION ON AUTHORITY TO REQUIRE MANDATORY
14 PAYMENT. The board may require a mandatory payment authorized
15 under this chapter by an institutional health care provider in the
16 district only in the manner provided by this chapter.

17 Sec. 295A.052. RULES AND PROCEDURES. The board may adopt
18 rules relating to the administration of the health care provider
19 participation program, including collection of the mandatory
20 payments, expenditures, audits, and any other administrative
21 aspects of the program.

22 Sec. 295A.053. INSTITUTIONAL HEALTH CARE PROVIDER
23 REPORTING. If the board authorizes the district to participate in a
24 health care provider participation program under this chapter, the
25 board shall require each institutional health care provider to
26 submit to the district a copy of any financial and utilization data
27 required by and reported to the Department of State Health Services

1 under Sections 311.032 and 311.033 and any rules adopted by the
2 executive commissioner of the Health and Human Services Commission
3 to implement those sections.

4 SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

5 Sec. 295A.101. HEARING. (a) In each year that the board
6 authorizes a health care provider participation program under this
7 chapter, the board shall hold a public hearing on the amounts of any
8 mandatory payments that the board intends to require during the
9 year and how the revenue derived from those payments is to be spent.

10 (b) Not later than the fifth day before the date of the
11 hearing required under Subsection (a), the board shall publish
12 notice of the hearing in a newspaper of general circulation in the
13 district and provide written notice of the hearing to the chief
14 operating officer of each institutional health care provider in the
15 district.

16 Sec. 295A.102. LOCAL PROVIDER PARTICIPATION FUND;
17 DEPOSITORY. (a) If the board collects a mandatory payment
18 authorized under this chapter, the board shall create a local
19 provider participation fund in one or more banks designated by the
20 district as a depository for public funds.

21 (b) The board may withdraw or use money in the fund only for
22 a purpose authorized under this chapter.

23 (c) All funds collected under this chapter shall be secured
24 in the manner provided by Chapter 1001, Special District Local Laws
25 Code, for securing other public funds of the district.

26 Sec. 295A.103. DEPOSITS TO FUND; AUTHORIZED USES OF MONEY.

27 (a) The local provider participation fund established under

1 Section 295A.102 consists of:

2 (1) all mandatory payments authorized under this
3 chapter and received by the district;

4 (2) money received from the Health and Human Services
5 Commission as a refund of an intergovernmental transfer from the
6 district to the state as the nonfederal share of Medicaid
7 supplemental payment program payments, provided that the
8 intergovernmental transfer does not receive a federal matching
9 payment; and

10 (3) the earnings of the fund.

11 (b) Money deposited to the local provider participation
12 fund may be used only to:

13 (1) fund intergovernmental transfers from the
14 district to the state to provide:

15 (A) the nonfederal share of a Medicaid
16 supplemental payment program authorized under the state Medicaid
17 plan, the Texas Healthcare Transformation and Quality Improvement
18 Program waiver issued under Section 1115 of the federal Social
19 Security Act (42 U.S.C. Section 1315), or a successor waiver
20 program authorizing similar Medicaid supplemental payment
21 programs; or

22 (B) payments to Medicaid managed care
23 organizations that are dedicated for payment to hospitals;

24 (2) pay costs associated with indigent care provided
25 by institutional health care providers in the district;

26 (3) pay the administrative expenses of the district in
27 administering the program, including collateralization of

1 deposits;

2 (4) refund a portion of a mandatory payment collected
3 in error from a paying hospital; and

4 (5) refund to paying hospitals a proportionate share
5 of the money that the district:

6 (A) receives from the Health and Human Services
7 Commission that is not used to fund the nonfederal share of Medicaid
8 supplemental payment program payments; or

9 (B) determines cannot be used to fund the
10 nonfederal share of Medicaid supplemental payment program
11 payments.

12 (c) Money in the local provider participation fund may not
13 be commingled with other district funds.

14 (d) An intergovernmental transfer of funds described by
15 Subsection (b)(1) and any funds received by the district as a result
16 of an intergovernmental transfer described by that subsection may
17 not be used by the district or any other entity to expand Medicaid
18 eligibility under the Patient Protection and Affordable Care Act
19 (Pub. L. No. 111-148) as amended by the Health Care and Education
20 Reconciliation Act of 2010 (Pub. L. No. 111-152).

21 SUBCHAPTER D. MANDATORY PAYMENTS

22 Sec. 295A.151. MANDATORY PAYMENTS. (a) Except as provided
23 by Subsection (e), if the board authorizes a health care provider
24 participation program under this chapter, the board shall require
25 an annual mandatory payment to be assessed on the net patient
26 revenue of each institutional health care provider located in the
27 district. The board shall provide that the mandatory payment is to

1 be collected at least annually, but not more often than quarterly.
2 In the first year in which the mandatory payment is required, the
3 mandatory payment is assessed on the net patient revenue of an
4 institutional health care provider as determined by the data
5 reported to the Department of State Health Services under Sections
6 311.032 and 311.033 in the most recent fiscal year for which that
7 data was reported. If the institutional health care provider did
8 not report any data under those sections, the provider's net
9 patient revenue is the amount of that revenue as contained in the
10 provider's Medicare cost report submitted for the previous fiscal
11 year or for the closest subsequent fiscal year for which the
12 provider submitted the Medicare cost report. The district shall
13 update the amount of the mandatory payment on an annual basis.

14 (b) The amount of a mandatory payment authorized under this
15 chapter must be a uniform percentage of the amount of net patient
16 revenue generated by each paying hospital in the district. A
17 mandatory payment authorized under this chapter may not hold
18 harmless any institutional health care provider, as required under
19 42 U.S.C. Section 1396b(w).

20 (c) The aggregate amount of the mandatory payments required
21 of all paying hospitals in the district may not exceed six percent
22 of the aggregate net patient revenue of all paying hospitals in the
23 district.

24 (d) Subject to the maximum amount prescribed by Subsection
25 (c), the board shall set the mandatory payments in amounts that in
26 the aggregate will generate sufficient revenue to cover the
27 administrative expenses of the district for activities under this

1 chapter, fund an intergovernmental transfer described by Section
2 295A.103(b)(1), or make other payments authorized under this
3 chapter. The amount of revenue from mandatory payments that may be
4 used for administrative expenses by the district in a year may not
5 exceed \$25,000, plus the cost of collateralization of deposits. If
6 the board demonstrates to the paying hospitals that the costs of
7 administering the health care provider participation program under
8 this chapter, excluding those costs associated with the
9 collateralization of deposits, exceed \$25,000 in any year, on
10 consent of all of the paying hospitals, the district may use
11 additional revenue from mandatory payments received under this
12 chapter to compensate the district for its administrative expenses.
13 A paying hospital may not unreasonably withhold consent to
14 compensate the district for administrative expenses.

15 (e) A paying hospital may not add a mandatory payment
16 required under this section as a surcharge to a patient or insurer.

17 (f) A mandatory payment under this chapter is not a tax for
18 purposes of Section 5(a), Article IX, Texas Constitution, or
19 Chapter 1001, Special District Local Laws Code.

20 Sec. 295A.152. ASSESSMENT AND COLLECTION OF MANDATORY
21 PAYMENTS. The district may collect or contract for the assessment
22 and collection of mandatory payments authorized under this chapter.

23 Sec. 295A.153. CORRECTION OF INVALID PROVISION OR
24 PROCEDURE. To the extent any provision or procedure under this
25 chapter causes a mandatory payment authorized under this chapter to
26 be ineligible for federal matching funds, the board may provide by
27 rule for an alternative provision or procedure that conforms to the

1 requirements of the federal Centers for Medicare and Medicaid
2 Services. A rule adopted under this section may not create, impose,
3 or materially expand the legal or financial liability or
4 responsibility of the district or an institutional health care
5 provider in the district beyond the provisions of this chapter.
6 This section does not require the board to adopt a rule.

7 SECTION 2. If before implementing any provision of this Act
8 a state agency determines that a waiver or authorization from a
9 federal agency is necessary for implementation of that provision,
10 the agency affected by the provision shall request the waiver or
11 authorization and may delay implementing that provision until the
12 waiver or authorization is granted.

13 SECTION 3. This Act takes effect immediately if it receives
14 a vote of two-thirds of all the members elected to each house, as
15 provided by Section 39, Article III, Texas Constitution. If this
16 Act does not receive the vote necessary for immediate effect, this
17 Act takes effect September 1, 2017.