

By: Fallon

S.B. No. 2286

A BILL TO BE ENTITLED

AN ACT

relating to the creation and operations of health care provider participation programs in certain counties.

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 292C to read as follows:

CHAPTER 292C. COUNTY HEALTH CARE PROVIDER PARTICIPATION PROGRAM IN CERTAIN COUNTIES WITH HOSPITAL DISTRICT BORDERING OKLAHOMA

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 292C.001. DEFINITIONS. In this chapter:

(1) "Institutional health care provider" means a nonpublic hospital that provides inpatient hospital services and that is not located within the boundaries of a hospital district.

(2) "Paying hospital" means an institutional health care provider required to make a mandatory payment under this chapter.

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

Sec. 292C.002. APPLICABILITY. (a) Subject to Subsection (b), this chapter applies only to a county that:

(1) has a population of more than 125,000; and

(2) borders Oklahoma.

(b) If the county contains a hospital district that is not countywide, this chapter applies only with respect to the portion

1 of the county that is not within the boundaries of the hospital
2 district.

3 Sec. 292C.003. COUNTY HEALTH CARE PROVIDER PARTICIPATION
4 PROGRAM; PARTICIPATION IN PROGRAM. (a) A county health care
5 provider participation program authorizes a county to collect a
6 mandatory payment from each institutional health care provider
7 located in the county to be deposited in a local provider
8 participation fund established by the county. Money in the fund may
9 be used by the county to fund certain intergovernmental transfers
10 as provided by this chapter in connection with the portion of the
11 county that is not within the boundaries of the hospital district.

12 (b) The commissioners court of a county may adopt an order
13 authorizing the county to participate in the program, subject to
14 the limitations provided by this chapter.

15 SUBCHAPTER B. POWERS AND DUTIES OF COMMISSIONERS COURT

16 Sec. 292C.051. LIMITATION ON AUTHORITY TO REQUIRE MANDATORY
17 PAYMENT. The commissioners court of a county may require a
18 mandatory payment authorized under this chapter by an institutional
19 health care provider in the county only in the manner provided by
20 this chapter.

21 Sec. 292C.052. MAJORITY VOTE REQUIRED. The commissioners
22 court of a county may not authorize the county to collect a
23 mandatory payment authorized under this chapter without an
24 affirmative vote of a majority of the members of the commissioners
25 court.

26 Sec. 292C.053. RULES AND PROCEDURES. After the
27 commissioners court of a county has voted to require a mandatory

1 payment authorized under this chapter, the commissioners court may
2 adopt rules relating to the administration of the mandatory
3 payment.

4 Sec. 292C.054. INSTITUTIONAL HEALTH CARE PROVIDER
5 REPORTING; INSPECTION OF RECORDS. (a) The commissioners court of
6 a county that collects a mandatory payment authorized under this
7 chapter shall require each institutional health care provider
8 located in the county to submit to the county a copy of any
9 financial and utilization data required by and reported to the
10 Department of State Health Services under Sections 311.032 and
11 311.033 and any rules adopted by the executive commissioner of the
12 Health and Human Services Commission to implement those sections.

13 (b) The commissioners court of a county that collects a
14 mandatory payment authorized under this chapter may inspect the
15 records of an institutional health care provider to the extent
16 necessary to ensure compliance with the requirements of Subsection
17 (a).

18 SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

19 Sec. 292C.101. HEARING. (a) Each year, the commissioners
20 court of a county that collects a mandatory payment authorized
21 under this chapter shall hold a public hearing on the amounts of any
22 mandatory payments that the commissioners court intends to require
23 during the year.

24 (b) Not later than the fifth day before the date of the
25 hearing required under Subsection (a), the commissioners court of
26 the county shall publish notice of the hearing in a newspaper of
27 general circulation in the county.

1 (c) A representative of a paying hospital is entitled to
2 appear at the time and place designated in the public notice and to
3 be heard regarding any matter related to the mandatory payments
4 authorized under this chapter.

5 Sec. 292C.102. DEPOSITORY. (a) The commissioners court of
6 each county that collects a mandatory payment authorized under this
7 chapter by resolution shall designate one or more banks located in
8 the county as the depository for mandatory payments received by the
9 county.

10 (b) All income received by a county under this chapter,
11 including the revenue from mandatory payments remaining after
12 discounts and fees for assessing and collecting the payments are
13 deducted, shall be deposited with the county depository in the
14 county's local provider participation fund and may be withdrawn
15 only as provided by this chapter.

16 (c) All funds under this chapter shall be secured in the
17 manner provided for securing county funds.

18 Sec. 292C.103. LOCAL PROVIDER PARTICIPATION FUND;
19 AUTHORIZED USES OF MONEY. (a) Each county that collects a
20 mandatory payment authorized under this chapter shall create a
21 local provider participation fund.

22 (b) The local provider participation fund of a county
23 consists of:

24 (1) all revenue received by the county attributable to
25 mandatory payments authorized under this chapter, including any
26 penalties and interest attributable to delinquent payments;

27 (2) money received from the Health and Human Services

1 Commission as a refund of an intergovernmental transfer from the
2 county to the state for the purpose of providing the nonfederal
3 share of Medicaid supplemental payment program payments, provided
4 that the intergovernmental transfer does not receive a federal
5 matching payment; and

6 (3) the earnings of the fund.

7 (c) Money deposited to the local provider participation
8 fund may be used only to:

9 (1) fund intergovernmental transfers from the county
10 to the state to provide:

11 (A) the nonfederal share of a Medicaid
12 supplemental payment program authorized under the state Medicaid
13 plan, the Texas Healthcare Transformation and Quality Improvement
14 Program waiver issued under Section 1115 of the federal Social
15 Security Act (42 U.S.C. Section 1315), or a successor waiver
16 program authorizing similar Medicaid supplemental payment programs
17 in connection with the portion of the county that is not within the
18 boundaries of the hospital district; or

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

21 (2) pay the administrative expenses of the county
22 solely for activities under this chapter;

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

25 (4) refund to paying hospitals the proportionate share
26 of money received by the county that is not used to fund the
27 nonfederal share of Medicaid supplemental payment program payments

1 as provided by Subdivision (1).

2 (d) Money in the local provider participation fund may not
3 be commingled with other county funds.

4 (e) An intergovernmental transfer of funds described by
5 Subsection (c)(1) and any funds received by the county as a result
6 of an intergovernmental transfer described by that subsection may
7 not be used by the county or any other entity to expand Medicaid
8 eligibility under the Patient Protection and Affordable Care Act
9 (Pub. L. No. 111-148) as amended by the Health Care and Education
10 Reconciliation Act of 2010 (Pub. L. No. 111-152).

11 SUBCHAPTER D. MANDATORY PAYMENTS

12 Sec. 292C.151. MANDATORY PAYMENTS BASED ON PAYING HOSPITAL
13 NET PATIENT REVENUE. (a) Except as provided by Subsection (e),
14 the commissioners court of a county that collects a mandatory
15 payment authorized under this chapter may require an annual
16 mandatory payment to be assessed on the net patient revenue of each
17 institutional health care provider located in the county. The
18 commissioners court may provide for the mandatory payment to be
19 assessed quarterly. In the first year in which the mandatory
20 payment is required, the mandatory payment is assessed on the net
21 patient revenue of an institutional health care provider as
22 determined by the data reported to the Department of State Health
23 Services under Sections 311.032 and 311.033 in the fiscal year
24 ending in 2017 or, if the institutional health care provider did not
25 report any data under those sections in that fiscal year, as
26 determined by the institutional health care provider's Medicare
27 cost report submitted for the 2017 fiscal year or for the closest

1 subsequent fiscal year for which the provider submitted the
2 Medicare cost report. The county shall update the amount of the
3 mandatory payment on an annual basis.

4 (b) The amount of a mandatory payment authorized under this
5 chapter must be uniformly proportionate with the amount of net
6 patient revenue generated by each paying hospital in the county. A
7 mandatory payment authorized under this chapter may not hold
8 harmless any institutional health care provider, as required under
9 42 U.S.C. Section 1396b(w).

10 (c) The commissioners court of a county that collects a
11 mandatory payment authorized under this chapter shall set the
12 amount of the mandatory payment. The amount of the mandatory
13 payment required of each paying hospital may not exceed six percent
14 of the paying hospital's net patient revenue.

15 (d) Subject to the maximum amount prescribed by Subsection
16 (c), the commissioners court of a county that collects a mandatory
17 payment authorized under this chapter shall set the mandatory
18 payments in amounts that in the aggregate will generate sufficient
19 revenue to cover the administrative expenses of the county for
20 activities under this chapter and to fund an intergovernmental
21 transfer described by Section 292C.103(c)(1), except that the
22 amount of revenue from mandatory payments used for administrative
23 expenses of the county for activities under this chapter in a year
24 may not exceed the lesser of four percent of the total revenue
25 generated from the mandatory payment or \$20,000.

26 (e) A paying hospital may not add a mandatory payment
27 required under this section as a surcharge to a patient.

1 Sec. 292C.152. ASSESSMENT AND COLLECTION OF MANDATORY
2 PAYMENTS. The county may collect or contract for the assessment and
3 collection of mandatory payments authorized under this chapter.

4 Sec. 292C.153. INTEREST, PENALTIES, AND DISCOUNTS.
5 Interest, penalties, and discounts on mandatory payments required
6 under this chapter are governed by the law applicable to county ad
7 valorem taxes.

8 Sec. 292C.154. PURPOSE; CORRECTION OF INVALID PROVISION OR
9 PROCEDURE. (a) The purpose of this chapter is to generate revenue
10 by collecting from institutional health care providers a mandatory
11 payment to be used to provide the nonfederal share of a Medicaid
12 supplemental payment program.

13 (b) To the extent any provision or procedure under this
14 chapter causes a mandatory payment authorized under this chapter to
15 be ineligible for federal matching funds, the county may provide by
16 rule for an alternative provision or procedure that conforms to the
17 requirements of the federal Centers for Medicare and Medicaid
18 Services.

19 SECTION 2. If before implementing any provision of this Act
20 a state agency determines that a waiver or authorization from a
21 federal agency is necessary for implementation of that provision,
22 the agency affected by the provision shall request the waiver or
23 authorization and may delay implementing that provision until the
24 waiver or authorization is granted.

25 SECTION 3. This Act takes effect immediately if it receives
26 a vote of two-thirds of all the members elected to each house, as
27 provided by Section 39, Article III, Texas Constitution. If this

S.B. No. 2286

1 Act does not receive the vote necessary for immediate effect, this
2 Act takes effect September 1, 2019.