By: Coleman H.B. No. 1338

Substitute the following for H.B. No. 1338:

By: Anderson C.S.H.B. No. 1338

A BILL TO BE ENTITLED

AN ACT

relating to the continuation and operations of a health care provider participation program by the Harris County Hospital District.

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

SECTION 1. Section 299.001, Health and Safety Code, is amended by adding Subdivision (6) to read as follows:

(6) "Qualifying assessment basis" means the health care item, health care service, or other health care-related basis consistent with 42 U.S.C. Section 1396b(w) on which the board requires mandatory payments to be assessed under this chapter.

SECTION 2. Section 299.004, Health and Safety Code, is amended to read as follows:

Sec. 299.004. EXPIRATION. (a) Subject to Section 299.153(d), the authority of the district to administer and operate a program under this chapter expires December 31, 2023 [~~2021~~].

(b) This chapter expires December 31, 2023 [~~2021~~].

SECTION 3. Section 299.053, Health and Safety Code, is amended to read as follows:

Sec. 299.053. INSTITUTIONAL HEALTH CARE PROVIDER REPORTING. If the board authorizes the district to participate in a program under this chapter, the board may [~~shall~~] require each institutional health care provider to submit to the district a copy of any financial and utilization data as reported in:

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

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

SECTION 4. Section 299.103(c), Health and Safety Code, is amended to read as follows:

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

(1) fund intergovernmental transfers from the district to the state to provide the nonfederal share of Medicaid payments for:

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

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

(C) payments available under another waiver program authorizing payments that are substantially similar to Medicaid payments to nonpublic hospitals described by Paragraph (A) or (B); or

(D) any reimbursement to nonpublic hospitals for

which federal matching funds are available;

(2) subject to Section 299.151(d), pay the administrative expenses of the district in administering the program, including collateralization of deposits;

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

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

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

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

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

SECTION 5. The heading to Section 299.151, Health and Safety Code, is amended to read as follows:

Sec. 299.151. MANDATORY PAYMENTS [~~BASED ON PAYING PROVIDER NET PATIENT REVENUE~~].

SECTION 6. Section 299.151, Health and Safety Code, is

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

(a) If the board authorizes a health care provider participation program under this chapter, the board may require [~~a~~] mandatory payments [~~payment~~] to be assessed against each institutional health care provider located in the district, either annually or periodically throughout the year at the discretion of the board, on the basis of a health care item, health care service, or other health care-related basis that is consistent with the requirements of 42 U.S.C. Section 1396b(w) [~~the net patient revenue of each institutional health care provider located in the district~~]. The qualifying assessment basis must be the same for each institutional health care provider in the district. The board shall provide an institutional health care provider written notice of each assessment under this section [~~subsection~~], and the provider has 30 calendar days following the date of receipt of the notice to pay the assessment.

(a-1) Except as otherwise provided by this subsection, the qualifying assessment basis must be determined by the board using information contained in an institutional health care provider's Medicare cost report for the most recent fiscal year for which the provider submitted the report. If the provider is not required to submit a Medicare cost report, or if the Medicare cost report submitted by the provider does not contain information necessary to determine the qualifying assessment basis, the qualifying assessment basis may be determined by the board using information contained in another report the board considers reliable that is

submitted by or to the provider for the most recent fiscal year. To the extent practicable, the board shall use the same type of report to determine the qualifying assessment basis for each paying provider in the district.

(a-2) [~~In the first year in which the mandatory payment is required, the mandatory payment is assessed on the net patient revenue of an institutional health care provider, as determined by the provider's Medicare cost report submitted for the previous fiscal year or for the closest subsequent fiscal year for which the provider submitted the Medicare cost report.~~] If [~~the~~] mandatory payments are [~~payment is~~] required, the district shall update the amount of the mandatory payments [~~payment~~] on an annual basis and may update the amount on a more frequent basis.

(b) The amount of a mandatory payment authorized under this chapter must be uniformly proportionate with the qualifying assessment basis for [~~amount of net patient revenue generated by~~] each paying provider in the district as permitted under federal law. A health care provider participation program authorized under this chapter may not hold harmless any institutional health care provider, as required under 42 U.S.C. Section 1396b(w).

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

SECTION 7. Subchapter D, Chapter 299, Health and Safety Code, is amended by adding Section 299.154 to read as follows:

Sec. 299.154. REQUEST FOR CERTAIN RELIEF. If 42 U.S.C. Section 1396b(w) or 42 C.F.R. Part 433 Subpart B is revised or interpreted in a manner that impedes the operations of a program under this chapter, and the operations may be improved by a request for relief under 42 C.F.R. Section 433.72, the board may request the Health and Human Services Commission to submit, and if requested the commission shall submit, a request to the Centers for Medicare and Medicaid Services for relief under 42 C.F.R. Section 433.72.

SECTION 8. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2021.