

By: Darby

H.B. No. 4775

A BILL TO BE ENTITLED

AN ACT

relating to the operations of certain local health care provider participation programs.

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

SECTION 1. Section 293A.001, Health and Safety Code, is amended by adding Subdivision (4) to read as follows:

(4) "Qualifying assessment basis" means the health care-related basis consistent with 42 U.S.C. Section 1396b(w) on which the commissioners court of a county requires mandatory payments to be assessed under this chapter.

SECTION 2. Section 293A.054(a), Health and Safety Code, is amended to read as follows:

(a) The commissioners court of a county that collects a mandatory payment authorized under this chapter may ~~shall~~ require each institutional health care provider located in the county to submit to the county a copy of any financial and utilization data as reported in:

(1) reporting required by ~~[and reported to]~~ the Department of State Health Services under Sections 311.032 and 311.033 and any rules adopted by the executive commissioner of the Health and Human Services Commission to implement those sections;

(2) the provider's Medicare cost report for the most recent fiscal year for which the provider submitted the Medicare cost report; or

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

5           SECTION 3. Subchapter B, Chapter 293A, Health and Safety  
6 Code, is amended by adding Section 293A.055 to read as follows:

7           Sec. 293A.055. REQUEST FOR CERTAIN RELIEF. (a) The  
8 commissioners court of a county may request that the Health and  
9 Human Services Commission submit a request to the Centers for  
10 Medicare and Medicaid Services for relief under 42 C.F.R. Section  
11 433.72 for purposes of assuring the program is administered  
12 efficiently, transparently, and in a manner that complies with  
13 federal law.

14           (b) If the request for relief under Subsection (a) is  
15 granted, the commissioners court of a county may act in compliance  
16 with the terms of the relief. To the extent of a conflict between  
17 the terms of the relief and any law, including a provision of this  
18 subtitle, requiring mandatory payments be assessed in a uniform or  
19 broad-based manner, the terms of the relief prevail.

20           SECTION 4. The heading to Section 293A.151, Health and  
21 Safety Code, is amended to read as follows:

22           Sec. 293A.151. MANDATORY PAYMENTS [~~BASED ON PAYING HOSPITAL~~  
23 ~~NET PATIENT REVENUE~~].

24           SECTION 5. Section 293A.151, Health and Safety Code, is  
25 amended by amending Subsections (a) and (b) and adding Subsections  
26 (a-1), (a-2), and (f) to read as follows:

27           (a) Except as provided by Subsection (e), the commissioners

1 court of a county that collects a mandatory payment authorized  
2 under this chapter may require an annual mandatory payment to be  
3 assessed against each institutional health care provider located in  
4 the county on a qualifying assessment basis [~~the net patient~~  
5 ~~revenue of each institutional health care provider located in the~~  
6 ~~county~~]. The qualifying assessment basis must be the same for each  
7 institutional health care provider located in the county. The  
8 commissioners court may provide for the mandatory payment to be  
9 assessed quarterly.

10 (a-1) Except as otherwise provided by this subsection, the  
11 qualifying assessment basis must be determined by the commissioners  
12 court using data reported to the Department of State Health  
13 Services under Sections 311.032 and 311.033 by an institutional  
14 health care provider for the most recent fiscal year the provider  
15 reported the data or, if the provider did not report any data under  
16 those sections, the provider's Medicare cost report for the most  
17 recent fiscal year for which the provider submitted the report. If  
18 neither the data reported under Sections 311.032 and 311.033 nor  
19 the Medicare cost report contains information necessary to  
20 determine the qualifying assessment basis, the qualifying  
21 assessment basis may be determined by the commissioners court using  
22 information contained in another report the commissioners court  
23 considers reliable that is submitted by or to the provider for the  
24 most recent fiscal year. To the extent practicable, the  
25 commissioners court shall use the same type of report to determine  
26 the qualifying assessment basis for each paying hospital in the  
27 county.

1           (a-2) [~~In the first year in which the mandatory payment is~~  
2 ~~required, the mandatory payment is assessed on the net patient~~  
3 ~~revenue of an institutional health care provider as determined by~~  
4 ~~the data reported to the Department of State Health Services under~~  
5 ~~Sections 311.032 and 311.033 in the fiscal year ending in 2015 or,~~  
6 ~~if the institutional health care provider did not report any data~~  
7 ~~under those sections in that fiscal year, as determined by the~~  
8 ~~institutional health care provider's Medicare cost report~~  
9 ~~submitted for the 2015 fiscal year or for the closest subsequent~~  
10 ~~fiscal year for which the provider submitted the Medicare cost~~  
11 ~~report.] The county shall update the amount of the mandatory~~  
12 payment on an annual basis.

13           (b) The amount of a mandatory payment authorized under this  
14 chapter must be determined in a manner that ensures the revenue  
15 generated qualifies for federal matching funds under federal law,  
16 consistent with [~~uniformly proportionate with the amount of net~~  
17 ~~patient revenue generated by each paying hospital in the county. A~~  
18 ~~mandatory payment authorized under this chapter may not hold~~  
19 ~~harmless any institutional health care provider, as required under]~~  
20 42 U.S.C. Section 1396b(w).

21           (f) This section does not authorize the commissioners court  
22 of a county to assess a mandatory payment that would qualify as a  
23 bed tax or any other tax under the laws of this state.

24           SECTION 6. This Act takes effect immediately if it receives  
25 a vote of two-thirds of all the members elected to each house, as  
26 provided by Section 39, Article III, Texas Constitution. If this  
27 Act does not receive the vote necessary for immediate effect, this

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1 Act takes effect September 1, 2023.