

AN ACT

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

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 292D to read as follows:

CHAPTER 292D. COUNTY HEALTH CARE PROVIDER PARTICIPATION PROGRAM IN CERTAIN COUNTIES BORDERING NECHES RIVER

SUBCHAPTER A. GENERAL PROVISIONS

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

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

(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. 292D.002. APPLICABILITY. This chapter applies only to a county that:

(1) is not served by a hospital district;

(2) has a population of more than 250,000; and

(3) borders the Neches River.

Sec. 292D.003. COUNTY HEALTH CARE PROVIDER PARTICIPATION PROGRAM; PARTICIPATION IN PROGRAM. (a) A county health care

1 provider participation program authorizes a county to collect a
2 mandatory payment from each institutional health care provider
3 located in the county to be deposited in a local provider
4 participation fund established by the county. Money in the fund may
5 be used by the county as provided by Section 292D.103(c).

6 (b) The commissioners court may adopt an order authorizing a
7 county to participate in the program, subject to the limitations
8 provided by this chapter.

9 SUBCHAPTER B. POWERS AND DUTIES OF COMMISSIONERS COURT

10 Sec. 292D.051. LIMITATION ON AUTHORITY TO REQUIRE MANDATORY
11 PAYMENTS. The commissioners court of a county may require a
12 mandatory payment authorized under this chapter by an institutional
13 health care provider in the county only in the manner provided by
14 this chapter.

15 Sec. 292D.052. MAJORITY VOTE REQUIRED. The commissioners
16 court of a county may not authorize the county to collect a
17 mandatory payment authorized under this chapter without an
18 affirmative vote of a majority of the members of the commissioners
19 court.

20 Sec. 292D.053. RULES AND PROCEDURES. The commissioners
21 court may adopt rules relating to the administration of the
22 program, including the collection of a mandatory payment,
23 expenditures, an audit, and any other administrative aspect of the
24 program.

25 Sec. 292D.054. INSTITUTIONAL HEALTH CARE PROVIDER
26 REPORTING; INSPECTION OF RECORDS. (a) If the commissioners court
27 of a county authorizes the county to participate in a program under

1 this chapter, the commissioners court shall require each
2 institutional health care provider to submit to the county a copy of
3 any financial and utilization data required by and reported to the
4 Department of State Health Services under Sections 311.032 and
5 311.033 and any rules adopted by the executive commissioner of the
6 Health and Human Services Commission to implement those sections.

7 (b) The commissioners court of a county that collects a
8 mandatory payment authorized under this chapter may inspect the
9 records of an institutional health care provider to the extent
10 necessary to ensure compliance with the requirements of Subsection
11 (a).

12 SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

13 Sec. 292D.101. HEARING. (a) In each year that the
14 commissioners court of a county authorizes a program under this
15 chapter, the commissioners court shall hold a public hearing on the
16 amounts of any mandatory payments that the commissioners court
17 intends to require during the year and how the revenue derived from
18 those payments is to be spent.

19 (b) Not later than the fifth day before the date of the
20 hearing required under Subsection (a), the commissioners court of
21 the county shall publish notice of the hearing in a newspaper of
22 general circulation in the county and provide written notice of the
23 hearing to each institutional health care provider located in the
24 county.

25 (c) A representative of a paying hospital is entitled to
26 appear at the public hearing and be heard regarding any matter
27 related to the mandatory payments authorized under this chapter.

1 Sec. 292D.102. DEPOSITORY. (a) The commissioners court of
2 each county that collects a mandatory payment authorized under this
3 chapter by resolution shall designate one or more banks located in
4 the county as the depository for mandatory payments received by the
5 county.

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

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

14 Sec. 292D.103. LOCAL PROVIDER PARTICIPATION FUND;
15 AUTHORIZED USES OF MONEY. (a) Each county that collects a
16 mandatory payment authorized under this chapter shall create a
17 local provider participation fund.

18 (b) The local provider participation fund of a county
19 consists of:

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

23 (2) money received from the Health and Human Services
24 Commission as a refund of an intergovernmental transfer from the
25 county to the state for the purpose of providing the nonfederal
26 share of Medicaid supplemental payment program payments, provided
27 that the intergovernmental transfer does not receive a federal

1 matching payment; and

2 (3) the earnings of the fund.

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

5 (1) fund intergovernmental transfers from the county
6 to the state to provide the nonfederal share of Medicaid payments
7 for:

8 (A) uncompensated care payments to nonpublic
9 hospitals, if those payments are authorized under the Texas
10 Healthcare Transformation and Quality Improvement Program waiver
11 issued under Section 1115 of the federal Social Security Act (42
12 U.S.C. Section 1315), or a successor waiver program authorizing
13 similar Medicaid supplemental payment programs;

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

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

21 (D) payments to Medicaid managed care
22 organizations that are dedicated for payment to hospitals; or

23 (E) any reimbursement to nonpublic hospitals for
24 which federal matching funds are available;

25 (2) subject to Section 292D.151(d), pay the
26 administrative expenses of the county in administering the program,
27 including collateralization of deposits;

1 (3) refund all or a portion of a mandatory payment
2 collected in error from a paying hospital;

3 (4) refund to paying hospitals a proportionate share
4 of the money attributable to mandatory payments collected under
5 this chapter that the county:

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 (5) transfer funds to the Health and Human Services
13 Commission if the county is legally required to transfer the funds
14 to address a disallowance of federal matching funds with respect to
15 payments, rate enhancements, and reimbursements for which the
16 county made intergovernmental transfers described by Subdivision
17 (1); and

18 (6) reimburse the county if the county is required by
19 the rules governing the uniform rate enhancement program described
20 by Subdivision (1)(B) to incur an expense or forego Medicaid
21 reimbursements from the state because the balance of the local
22 provider participation fund is not sufficient to fund that rate
23 enhancement program.

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

26 (e) Notwithstanding any other provision of this chapter,
27 with respect to an intergovernmental transfer of funds described by

1 Subsection (c)(1) made by the county, any funds received by the
2 state or county as a result of the transfer may not be used by the
3 state, county, or any other entity to:

4 (1) expand Medicaid eligibility under the Patient
5 Protection and Affordable Care Act (Pub. L. No. 111-148) as amended
6 by the Health Care and Education Reconciliation Act of 2010 (Pub. L.
7 No. 111-152); or

8 (2) fund the nonfederal share of payments to nonpublic
9 hospitals available through the Medicaid disproportionate share
10 hospital program.

11 SUBCHAPTER D. MANDATORY PAYMENTS

12 Sec. 292D.151. MANDATORY PAYMENTS BASED ON PAYING HOSPITAL
13 NET PATIENT REVENUE. (a) Except as provided by Subsection (e), if
14 the commissioners court of a county authorizes a program under this
15 chapter, the commissioners court may require an annual mandatory
16 payment to be assessed on the net patient revenue of each
17 institutional health care provider located in the county. The
18 commissioners court shall provide that the mandatory payment is to
19 be assessed at least annually, but not more often than
20 quarterly. In the first year in which the mandatory payment is
21 required, the mandatory payment is assessed on the net patient
22 revenue of an institutional health care provider as determined by
23 the data reported to the Department of State Health Services under
24 Sections 311.032 and 311.033 in the most recent fiscal year for
25 which that data was reported. If the institutional health care
26 provider did not report any data under those sections, the
27 provider's net patient revenue is the amount of that revenue as

1 contained in the provider's Medicare cost report submitted for the
2 previous fiscal year or for the closest subsequent fiscal year for
3 which the provider submitted the Medicare cost report. The
4 commissioners court shall update the amount of the mandatory
5 payment on an annual basis.

6 (b) The amount of a mandatory payment authorized under this
7 chapter must be uniformly proportionate with the amount of net
8 patient revenue generated by each paying hospital in the county. A
9 mandatory payment authorized under this chapter may not hold
10 harmless any institutional health care provider, as required under
11 42 U.S.C. Section 1396b(w).

12 (c) The commissioners court of a county that collects a
13 mandatory payment authorized under this chapter shall set the
14 amount of the mandatory payment. The aggregate amount of the
15 mandatory payment required of all paying hospitals may not exceed
16 six percent of the aggregate net patient revenue from hospital
17 services provided by all paying hospitals in the county.

18 (d) Subject to Subsection (c), the commissioners court of a
19 county that collects a mandatory payment authorized under this
20 chapter shall set the mandatory payments in amounts that in the
21 aggregate will generate sufficient revenue to cover the
22 administrative expenses of the county for activities under this
23 chapter and to fund an intergovernmental transfer described by
24 Section 292D.103(c)(1). The annual amount of revenue from mandatory
25 payments that may be used to pay the administrative expenses of the
26 county for activities under this chapter may not exceed \$150,000,
27 plus the cost of collateralization of deposits, regardless of

1 actual expenses.

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

4 Sec. 292D.152. ASSESSMENT AND COLLECTION OF MANDATORY
5 PAYMENTS. (a) The county may collect or, using a competitive
6 bidding process, contract for the assessment and collection of
7 mandatory payments authorized under this chapter.

8 (b) The person charged by the county with the assessment and
9 collection of mandatory payments shall charge and deduct from the
10 mandatory payments collected for the county a collection fee in an
11 amount not to exceed the person's usual and customary charges for
12 like services.

13 (c) If the person charged with the assessment and collection
14 of mandatory payments is an official of the county, any revenue from
15 a collection fee charged under Subsection (b) shall be deposited in
16 the county general fund and, if appropriate, shall be reported as
17 fees of the county.

18 Sec. 292D.153. INTEREST, PENALTIES, AND
19 DISCOUNTS. Interest, penalties, and discounts on mandatory
20 payments required under this chapter are governed by the law
21 applicable to county ad valorem taxes.

22 Sec. 292D.154. PURPOSE; CORRECTION OF INVALID PROVISION OR
23 PROCEDURE. (a) The purpose of this chapter is to generate revenue
24 by collecting from institutional health care providers a mandatory
25 payment to be used to provide the nonfederal share of certain
26 Medicaid programs as described by Section 292D.103(c)(1).

27 (b) To the extent any provision or procedure under this

1 chapter causes a mandatory payment authorized under this chapter to
2 be ineligible for federal matching funds, the commissioners court
3 of the county administering the program may provide by rule for an
4 alternative provision or procedure that conforms to the
5 requirements of the federal Centers for Medicare and Medicaid
6 Services. A rule adopted under this section may not create, impose,
7 or materially expand the legal or financial liability or
8 responsibility of the county or an institutional health care
9 provider located in the county beyond the provisions of this
10 chapter. This section does not require the commissioners court of a
11 county to adopt a rule.

12 (c) The county may only assess and collect a mandatory
13 payment authorized under this chapter if a waiver program, uniform
14 rate enhancement, or reimbursement described by Section
15 292D.103(c)(1) is available to the county.

16 SECTION 2. Section 300.0003, Health and Safety Code, is
17 amended to read as follows:

18 Sec. 300.0003. APPLICABILITY. (a) Except as provided by
19 Subsection (b), this [This] chapter applies only to:

20 (1) a hospital district that is not participating in a
21 health care provider participation program authorized by another
22 chapter of this subtitle; and

23 (2) a county or municipality that:

24 (A) is not participating in a health care
25 provider participation program authorized by another chapter of
26 this subtitle; and

27 (B) is not served by a hospital district or a

1 public hospital.

2 (b) This chapter does not apply to a municipality that is
3 located in a county described by Section 292D.002.

4 SECTION 3. Chapter 295, Health and Safety Code, is
5 repealed.

6 SECTION 4. (a) In this section, "paying hospital" has the
7 meaning assigned by Section 295.001, Health and Safety Code.

8 (b) If on the date Chapter 295, Health and Safety Code, is
9 repealed by this Act a municipality to which that chapter applies
10 has not transferred any remaining amount of mandatory payments
11 assessed and collected by the municipality under that chapter
12 before its repeal to the Health and Human Services Commission, the
13 municipality shall refund to each paying hospital in the
14 municipality that hospital's proportionate share of the remaining
15 amount of mandatory payments.

16 (c) This section expires September 1, 2025.

17 SECTION 5. (a) Except as provided by Subsection (b) of this
18 section, this Act takes effect September 1, 2023.

19 (b) The section of this Act adding Chapter 292D, Health and
20 Safety Code, takes effect September 1, 2025.

President of the Senate

Speaker of the House

I certify that H.B. No. 4835 was passed by the House on May 2, 2023, by the following vote: Yeas 141, Nays 4, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 4835 was passed by the Senate on May 23, 2023, by the following vote: Yeas 30, Nays 1.

Secretary of the Senate

APPROVED: _____

Date

Governor