

By: Metcalf

H.B. No. 4835

A BILL TO BE ENTITLED

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

(2) borders the Neches River.

Sec. 292D.003. COUNTY HEALTH CARE PROVIDER PARTICIPATION PROGRAM; PARTICIPATION IN PROGRAM. (a) A county health care provider participation program authorizes a county to collect a

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

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

8 SUBCHAPTER B. POWERS AND DUTIES OF COMMISSIONERS COURT

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

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

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

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

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

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

11 SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

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

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

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

27 Sec. 292D.102. DEPOSITORY. (a) The commissioners court of

1 each county that collects a mandatory payment authorized under this
2 chapter by resolution shall designate one or more banks located in
3 the county as the depository for mandatory payments received by the
4 county.

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

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

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

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

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

22 (2) money received from the Health and Human Services
23 Commission as a refund of an intergovernmental transfer from the
24 county to the state, provided that the intergovernmental transfer
25 does not receive a federal matching payment; and

26 (3) the earnings of the fund.

27 (c) Money deposited to the local provider participation

1 fund may be used only to:

2 (1) fund intergovernmental transfers from the county
3 to the state to provide the nonfederal share of Medicaid payments
4 for:

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

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

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

18 (D) any reimbursement to nonpublic hospitals for
19 which federal matching funds are available;

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

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

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

1 (A) receives from the Health and Human Services
2 Commission that is not used to fund a program for which the county
3 made intergovernmental transfers described by Subdivision (1); or

4 (B) determines cannot be used to fund a program
5 for which the county made intergovernmental transfers described by
6 Subdivision (1);

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

12 (6) reimburse the county if the county is required by
13 the rules governing the uniform rate enhancement program described
14 by Subdivision (1)(C) to incur an expense or forego Medicaid
15 reimbursements from the state because the balance of the local
16 provider participation fund is not sufficient to fund that rate
17 enhancement program.

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

20 (e) Notwithstanding any other provision of this chapter,
21 with respect to an intergovernmental transfer of funds described by
22 Subsection (c)(1) made by the county, any funds received by the
23 state or county as a result of the transfer may not be used by the
24 state, county, or any other entity to:

25 (1) expand Medicaid eligibility under the Patient
26 Protection and Affordable Care Act (Pub. L. No. 111-148) as amended
27 by the Health Care and Education Reconciliation Act of 2010 (Pub. L.

1 No. 111-152); or

2 (2) fund the nonfederal share of payments to nonpublic
3 hospitals available through the Medicaid disproportionate share
4 hospital program or the delivery system reform incentive payment
5 program.

6 SUBCHAPTER D. MANDATORY PAYMENTS

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

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

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

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

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

26 Sec. 292D.152. ASSESSMENT AND COLLECTION OF MANDATORY
27 PAYMENTS. (a) The county may collect or, using a competitive

1 bidding process, contract for the assessment and collection of
2 mandatory payments authorized under this chapter.

3 (b) The person charged by the county with the assessment and
4 collection of mandatory payments shall charge and deduct from the
5 mandatory payments collected for the county a collection fee in an
6 amount not to exceed the person's usual and customary charges for
7 like services.

8 (c) If the person charged with the assessment and collection
9 of mandatory payments is an official of the county, any revenue from
10 a collection fee charged under Subsection (b) shall be deposited in
11 the county general fund and, if appropriate, shall be reported as
12 fees of the county.

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

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

22 (b) To the extent any provision or procedure under this
23 chapter causes a mandatory payment authorized under this chapter to
24 be ineligible for federal matching funds, the commissioners court
25 of the county administering the program may provide by rule for an
26 alternative provision or procedure that conforms to the
27 requirements of the federal Centers for Medicare and Medicaid

1 Services. A rule adopted under this section may not create, impose,
2 or materially expand the legal or financial liability or
3 responsibility of the county or an institutional health care
4 provider located in the county beyond the provisions of this
5 chapter. This section does not require the commissioners court of a
6 county to adopt a rule.

7 (c) The county may only assess and collect a mandatory
8 payment authorized under this chapter if a waiver program, uniform
9 rate enhancement, or reimbursement described by Section
10 299.103(c)(1) is available to the county.

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

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

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

18 (2) a county or municipality that:

19 (A) is not participating in a health care
20 provider participation program authorized by another chapter of
21 this subtitle; and

22 (B) is not served by a hospital district or a
23 public hospital.

24 (b) This chapter does not apply to a municipality that:

25 (1) is located in a county described by Section
26 292D.002; and

27 (2) has a population of more than 100,000.

1 SECTION 3. Section 300A.0003, Health and Safety Code, is
2 amended to read as follows:

3 Sec. 300A.0003. APPLICABILITY. (a) Except as provided by
4 Subsection (b), this [~~This~~] chapter applies only to:

5 (1) a hospital district that:

6 (A) is not participating in a health care
7 provider participation program authorized by another chapter of
8 this subtitle; and

9 (B) has only one institutional health care
10 provider located in the district; and

11 (2) a county or municipality that:

12 (A) is not participating in a health care
13 provider participation program authorized by another chapter of
14 this subtitle;

15 (B) is not served by a hospital district or a
16 public hospital; and

17 (C) has only one institutional health care
18 provider located in the county or municipality.

19 (b) This chapter does not apply to a municipality that:

20 (1) is located in a county described by Section
21 292D.002; and

22 (2) has a population of more than 100,000.

23 SECTION 4. Chapter 295, Health and Safety Code, is
24 repealed.

25 SECTION 5. If before implementing any provision of this Act
26 a state agency determines that a waiver or authorization from a
27 federal agency is necessary for implementation of that provision,

1 the agency affected by the provision shall request the waiver or
2 authorization and may delay implementing that provision until the
3 waiver or authorization is granted.

4 SECTION 6. (a) Except as provided by Subsection (b) of this
5 section, this Act takes effect September 1, 2023.

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