

By: Richardson, Plesa

H.B. No. 3305

A BILL TO BE ENTITLED

AN ACT

relating to the creation and operations of a health care provider participation program 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 292F to read as follows:

CHAPTER 292F. COUNTY HEALTH CARE PROVIDER PARTICIPATION PROGRAM IN CERTAIN COUNTIES

SUBCHAPTER A. GENERAL PROVISIONS

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

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

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

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

Sec. 292F.002. APPLICABILITY. This chapter applies only to a county that:

(1) is not served by a hospital district; and

(2) is either:

(A) a county that:

(i) has a population of one million or more;

(ii) contains all or part of a municipality

1 with a population of one million or more; and

2 (iii) is adjacent to a county with a
3 population of 2.5 million or more; or

4 (B) a county that:

5 (i) has a population of 900,000 or more; and

6 (ii) borders two counties, each of which
7 has a population of two million or more.

8 Sec. 292F.003. COUNTY HEALTH CARE PROVIDER PARTICIPATION
9 PROGRAM; PARTICIPATION IN PROGRAM. (a) A county health care
10 provider participation program authorizes a county to collect a
11 mandatory payment from each institutional health care provider
12 located in the county to be deposited in a local provider
13 participation fund established by the county. Money in the fund may
14 be used by the county as provided by Section 292F.103(c).

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

18 Sec. 292F.004. EXPIRATION. (a) Subject to Section
19 292F.153(c), the authority of the county to administer and operate
20 a program under this chapter expires December 31, 2030.

21 (b) This chapter expires December 31, 2030.

22 SUBCHAPTER B. POWERS AND DUTIES OF COMMISSIONERS COURT

23 Sec. 292F.051. LIMITATION ON AUTHORITY TO REQUIRE MANDATORY
24 PAYMENTS. The commissioners court of a county may require a
25 mandatory payment under this chapter by an institutional health
26 care provider in the county only in the manner provided by this
27 chapter.

1 Sec. 292F.052. MAJORITY VOTE REQUIRED. The commissioners
2 court of a county may not authorize the county to collect a
3 mandatory payment under this chapter without an affirmative vote of
4 a majority of the members of the commissioners court.

5 Sec. 292F.053. RULES AND PROCEDURES. After the
6 commissioners court of a county has voted to require a mandatory
7 payment authorized under this chapter, the commissioners court may
8 adopt rules relating to the administration of the program,
9 including the collection of a mandatory payment, expenditures, an
10 audit, and any other administrative aspect of the program.

11 Sec. 292F.054. INSTITUTIONAL HEALTH CARE PROVIDER
12 REPORTING. If the commissioners court of a county authorizes the
13 county to participate in a program under this chapter, the
14 commissioners court shall require each institutional health care
15 provider to submit to the county a copy of any financial and
16 utilization data required by and reported to the Department of
17 State Health Services under Sections [311.032](#) and [311.033](#) and any
18 rules adopted by the executive commissioner of the Health and Human
19 Services Commission to implement those sections.

20 SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

21 Sec. 292F.101. HEARING. (a) In each year that the
22 commissioners court of a county authorizes a mandatory payment
23 under this chapter, the commissioners court shall hold a public
24 hearing on the amounts of any mandatory payments that the county
25 intends to require during the year and how the revenue derived from
26 those payments is to be spent.

27 (b) Not later than the fifth day before the date of the

1 hearing required under Subsection (a), the commissioners court
2 shall publish notice of the hearing in a newspaper of general
3 circulation in the county and provide written notice of the hearing
4 to each institutional health care provider located in the county.

5 (c) A representative of a paying provider is entitled to
6 appear at the public hearing and be heard regarding any matter
7 related to the mandatory payments authorized under this chapter.

8 Sec. 292F.102. DEPOSITORY. (a) The commissioners court of
9 a county that requires a mandatory payment under this chapter shall
10 designate one or more banks as the depository for the county's local
11 provider participation fund.

12 (b) All income received by a county under this chapter shall
13 be deposited with the depository designated under Subsection (a) in
14 the county's local provider participation fund and may be withdrawn
15 only as provided by this chapter.

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

18 Sec. 292F.103. LOCAL PROVIDER PARTICIPATION FUND;
19 AUTHORIZED USES OF MONEY. (a) A county that requires a mandatory
20 payment under this chapter shall create a local provider
21 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;

26 (2) money received from the Health and Human Services
27 Commission as a refund of an intergovernmental transfer from the

county to the state for the purpose of providing the nonfederal share of Medicaid supplemental payment program payments, provided that the intergovernmental transfer does not receive a federal matching payment; and

(3) the earnings of the fund.

(c) Money deposited to a county's local provider participation fund may be used only to:

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

(A) uncompensated care payments to nonpublic hospitals 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), or a successor waiver program authorizing similar Medicaid supplemental payment programs;

(B) uniform rate enhancements or other directed payment programs for nonpublic hospitals;

(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 292F.151(e), pay the administrative expenses of the county in administering the program, including collateralization of deposits;

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

3 (4) refund to paying providers a proportionate share
4 of the money that the county:

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

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

11 (5) transfer funds to the Health and Human Services
12 Commission if the county is legally required to transfer the funds
13 to address a disallowance of federal matching funds with respect to
14 any intergovernmental transfers described by Subdivision (1).

15 (d) Money in the local provider participation fund may not
16 be commingled with other county money.

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

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

26 (2) fund the nonfederal share of payments to nonpublic
27 hospitals available through the Medicaid disproportionate share

1 hospital program.

2 SUBCHAPTER D. MANDATORY PAYMENTS

3 Sec. 292F.151. MANDATORY PAYMENTS BASED ON PAYING PROVIDER
4 NET PATIENT REVENUE. (a) Except as provided by Subsection (f), if
5 the commissioners court of a county authorizes a program under this
6 chapter, the commissioners court may require an annual mandatory
7 payment to be assessed on the net patient revenue of each
8 institutional health care provider located in the county. The
9 commissioners court may provide for the mandatory payment to be
10 assessed quarterly. In the first year in which the mandatory
11 payment is required, the mandatory payment is assessed on the net
12 patient revenue of an institutional health care provider as
13 determined by the data reported to the Department of State Health
14 Services under Sections [311.032](#) and [311.033](#) in the most recent
15 fiscal year for which that data was reported. If the institutional
16 health care provider did not report any data under those sections,
17 the provider's net patient revenue is the amount of that revenue as
18 contained in the provider's Medicare cost report submitted for the
19 most recent fiscal year for which the provider submitted the
20 Medicare cost report. If the mandatory payment is required, the
21 commissioners court shall update the amount of the mandatory
22 payment on an annual basis.

23 (b) The commissioners court of a county that requires a
24 mandatory payment under this chapter shall provide each
25 institutional health care provider on which the payment will be
26 assessed written notice of an assessment under this chapter. The
27 institutional health care provider must pay the assessment not

1 later than the 30th day after the date the provider receives the
2 written notice.

3 (c) The amount of a mandatory payment authorized under this
4 chapter must be uniformly proportionate with the amount of net
5 patient revenue generated by each paying provider in the county. A
6 mandatory payment authorized under this chapter may not hold
7 harmless any institutional health care provider, as required under
8 42 U.S.C. Section 1396b(w) and 42 C.F.R. Section 433.68.

9 (d) The commissioners court of a county that requires a
10 mandatory payment under this chapter shall set the amount of the
11 mandatory payment. The aggregate amount of the mandatory payment
12 required of all paying providers may not exceed six percent of the
13 aggregate net patient revenue from hospital services provided by
14 all paying providers in the county.

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

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

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

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

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

14 Sec. 292F.153. PURPOSE; CORRECTION OF INVALID PROVISION OR
15 PROCEDURE; LIMITATION OF AUTHORITY. (a) The purpose of this
16 chapter is to authorize a county to establish a program to enable
17 the county to collect mandatory payments from institutional health
18 care providers to fund the nonfederal share of certain Medicaid
19 programs as described by Section 292F.103(c)(1).

20 (b) To the extent any provision or procedure under this
21 chapter causes a mandatory payment authorized under this chapter to
22 be ineligible for federal matching funds, the commissioners court
23 of the county administering the program may provide by rule for an
24 alternative provision or procedure that conforms to the
25 requirements of the federal Centers for Medicare and Medicaid
26 Services. A rule adopted under this section may not create, impose,
27 or materially expand the legal or financial liability or

1 responsibility of the county or an institutional health care
2 provider located in the county beyond the provisions of this
3 chapter. This section does not require the commissioners court of a
4 county to adopt a rule.

5 (c) A county administering a program may only assess and
6 collect a mandatory payment authorized under this chapter if a
7 waiver program, uniform rate enhancement, or reimbursement
8 described by Section 292F.103(c)(1) is available to the county.

9 (d) This chapter does not authorize a county administering a
10 program to collect mandatory payments for the purpose of raising
11 general revenue or any amount in excess of the amount reasonably
12 necessary to fund the nonfederal share of a Medicaid supplemental
13 payment program or Medicaid managed care rate enhancements for
14 nonpublic hospitals and to cover the administrative expenses of the
15 county associated with activities under this chapter.

16 SECTION 2. As soon as practicable after the expiration of
17 the authority of a county to administer and operate a health care
18 provider participation program under Chapter 292F, Health and
19 Safety Code, as added by this Act, the commissioners court of the
20 county shall transfer to each institutional health care provider in
21 the county that provider's proportionate share of any remaining
22 funds in any local provider participation fund created by the
23 county under Section 292F.103, Health and Safety Code, as added by
24 this Act.

25 SECTION 3. 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 4. This Act takes effect immediately if it receives
5 a vote of two-thirds of all the members elected to each house, as
6 provided by Section 39, Article III, Texas Constitution. If this
7 Act does not receive the vote necessary for immediate effect, this
8 Act takes effect September 1, 2025.