

AMENDMENTS TO LB1087

Introduced by Health and Human Services.

1 1. Strike the original sections and insert the following new
2 sections:

3 Section 1. Sections 1 to 9 of this act shall be known and may be
4 cited as the Hospital Quality Assurance and Access Assessment Act.

5 Sec. 2. For purposes of the Hospital Quality Assurance and Access
6 Assessment Act:

7 (1) Assessment means a quality assurance and access assessment
8 imposed on hospitals pursuant to section 3 of this act;

9 (2) Department means the Division of Medicaid and Long-Term Care
10 Services of the Department of Health and Human Services;

11 (3) Hospital means a hospital as defined in section 71-419 or a
12 rural emergency hospital as defined in section 71-477;

13 (4) Medical assistance program means the medical assistance program
14 established pursuant to the Medical Assistance Act; and

15 (5) Net patient revenue means the revenue paid to a hospital for
16 patient care, room, board, and services less contractual adjustments, bad
17 debt, and revenue from sources other than operations, including, but not
18 limited to, interest, guest meals, gifts, and grants.

19 Sec. 3. (1) The department shall amend the medicaid state plan or
20 file other federal authorizing documents to establish assessments and
21 directed-payment programs for hospital inpatient and outpatient services.

22 (2) Upon approval by the federal Centers for Medicare and Medicaid
23 Services of a hospital assessment and a directed-payment program, the
24 department shall impose an assessment on hospitals to assure quality and
25 access in the medical assistance program.

26 (3) The department may establish different assessment rates based on
27 categories of hospital or hospital services as allowed by federal law.

1 (4) The department shall consult with a statewide association
2 representing a majority of hospitals and health systems in Nebraska
3 regarding the development, implementation, and annual renewal of the
4 assessments and the directed-payment programs.

5 (5) The department shall partner with a statewide association
6 representing a majority of hospitals and health systems in Nebraska to
7 aggregate inpatient, outpatient, and clinic claims data in order to
8 establish medicaid quality improvement metrics and track progress on
9 identified metrics.

10 (6) The department shall adopt and promulgate rules and regulations
11 that are necessary and proper to implement the Hospital Quality Assurance
12 and Access Assessment Act.

13 Sec. 4. The department shall collect assessments from hospitals and
14 remit the assessments to the State Treasurer for credit to the Hospital
15 Quality Assurance and Access Assessment Fund. It is the intent of the
16 Legislature that no proceeds from the fund, including the federal match,
17 shall be placed in the General Fund.

18 Sec. 5. (1) Each hospital shall pay an assessment based on net
19 patient revenue for the purpose of improving the quality of, and access
20 to, hospital care in the state. The statewide aggregate assessment shall
21 equal (a) the state share of the payments authorized by the federal
22 Centers for Medicare and Medicaid Services and (b) an administrative fee
23 retained by the department that shall be no more than two percent of the
24 statewide aggregate assessment required to fund the directed-payment
25 program. The statewide aggregate assessment total shall not exceed six
26 percent of the net patient revenue of all assessed hospitals.

27 (2)(a) A hospital shall pay its quarterly assessment within thirty
28 days after receipt of its quarterly directed payments. Failure of a
29 hospital to remit the assessments may result in penalties, interest, or
30 legal action.

31 (b) A new hospital shall begin paying an assessment and receiving

1 directed payments at the start of the first full fiscal year after the
2 hospital is eligible for medicaid reimbursement for inpatient or
3 outpatient services. A hospital that has merged with another hospital
4 shall have its assessment and directed payments revised at the start of
5 the first full fiscal year after the merger is recognized by the
6 department. A closed hospital shall be retroactively responsible for
7 assessments owed and shall receive directed payments for services
8 provided.

9 (3) If the department determines that a hospital has underpaid or
10 overpaid assessments, the department shall notify the hospital of the
11 unpaid assessments or of any refund due. Such payment or refund shall be
12 due or refunded within thirty days after the date of the notice.

13 Sec. 6. (1) The Hospital Quality Assurance and Access Assessment
14 Fund is created. Interest earned on the fund shall be credited to the
15 fund. Any money in the fund available for investment shall be invested by
16 the state investment officer pursuant to the Nebraska Capital Expansion
17 Act and the Nebraska State Funds Investment Act.

18 (2) The department shall use the Hospital Quality Assurance and
19 Access Assessment Fund, including the matching federal financial
20 participation, for the purpose of enhancing rates paid to hospitals under
21 the medical assistance program. Money in the fund shall not be used to
22 replace or offset existing state funds paid to hospitals for providing
23 services under the medical assistance program.

24 (3) The Hospital Quality Assurance and Access Assessment Fund shall
25 also be used to pay the department the administrative fee described in
26 section 5 of this act, to collect assessments and administer directed-
27 payment programs established by the Hospital Quality Assurance and Access
28 Assessment Act.

29 (4) In calculating rates, the proceeds from assessments and federal
30 match not utilized under subsection (3) of this section shall be used to
31 enhance rates for hospital inpatient and outpatient services in addition

1 to any funds appropriated by the Legislature.

2 (5) The department shall collect data for revenue, discharge, and
3 inpatient days from a hospital that does not file an annual medicare cost
4 report. At the request of the department, a hospital that does not file
5 an annual medicare cost report shall submit such requested data to the
6 department.

7 (6) The department shall prohibit a medicaid managed care
8 organization from (a) setting, establishing, or negotiating reimbursement
9 rates with a hospital in a manner that takes into account, directly or
10 indirectly, a directed payment that a hospital receives under the
11 Hospital Quality Assurance and Access Assessment Act, (b) unnecessarily
12 delaying a directed payment to a hospital, or (c) recouping or offsetting
13 a directed payment for any reason.

14 (7) A hospital shall not directly pass on the cost of an assessment
15 to patients or non-medicaid payors, including as a fee or rate increase.
16 A hospital that violates this subsection shall not receive a directed
17 payment for the remainder of the rate year. This subsection shall not be
18 construed to prohibit a hospital from negotiating with a non-medicaid
19 payor for a rate increase.

20 Sec. 7. It is the intent of the Legislature that medicaid rates
21 paid for hospital inpatient and outpatient services and the General Fund
22 appropriations for hospital inpatient and outpatient services in the
23 medical assistance program shall not be reduced to an amount below the
24 rates paid and General Fund appropriations for these services in fiscal
25 year 2023-24.

26 Sec. 8. Assessments and directed-payment programs shall be treated
27 as a separate component in developing rates paid to hospitals and shall
28 not be included with existing rate components. The assessments and
29 directed-payment programs shall be retroactive to July 1, 2024, or the
30 effective date approved by the federal Centers for Medicare and Medicaid
31 Services.

1 Sec. 9. (1) The department shall discontinue the collection of
2 assessments when federal matching funds are unavailable. In such case,
3 the department shall terminate the collection of the assessments
4 beginning on the date such federal matching funds become unavailable.

5 (2) If collection of assessments is discontinued as provided in this
6 section, the money in the Hospital Quality Assurance and Access
7 Assessment Fund shall be returned to the hospitals from which the
8 assessments were collected on the same proportional basis as the
9 assessments were assessed.

10 Sec. 10. Since an emergency exists, this act takes effect when
11 passed and approved according to law.