

AMENDMENTS TO LB1087

(Amendments to Standing Committee amendments, AM2404)

Introduced by Jacobson, 42.

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

3 Section 1. Sections 1 to 10 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

1 categories of hospital or hospital services as allowed by federal law.

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

6 (5) The department shall partner with a statewide association
7 representing a majority of hospitals and health systems in Nebraska to:

8 (a) Aggregate inpatient, outpatient, and clinic claims data in order
9 to establish quality improvement metrics and track progress on identified
10 metrics;

11 (b) Design and implement initiatives to improve children's mental
12 health, adult mental health, maternity care, and senior care; and

13 (c) Increase the workforce development of nurses and other health
14 professionals by hospitals and health systems providing at least fifty
15 million dollars per year in private investments in statewide health care
16 workforce development.

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

20 Sec. 4. Except as provided in section 6 of this act, the department
21 shall collect assessments from hospitals and remit the assessments to the
22 State Treasurer for credit to the Hospital Quality Assurance and Access
23 Assessment Fund. It is the intent of the Legislature that no proceeds
24 from the fund, including the federal match, shall be placed in the
25 General Fund.

26 Sec. 5. (1) Each hospital shall pay an assessment based on net
27 patient revenue for the purpose of improving the quality of, and access
28 to, hospital care in the state. The statewide aggregate assessment shall
29 equal (a) the state share of the payments authorized by the federal
30 Centers for Medicare and Medicaid Services and (b) funds for expenditures
31 as provided in subsection (3) of section 6 of this act. The statewide

1 aggregate assessment total shall not exceed six percent of the net
2 patient revenue of all assessed hospitals.

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

7 (b) A new hospital shall begin paying an assessment and receiving
8 directed payments at the start of the first full fiscal year after the
9 hospital is eligible for medicaid reimbursement for inpatient or
10 outpatient services. A hospital that has merged with another hospital
11 shall have its assessment and directed payments revised at the start of
12 the first full fiscal year after the merger is recognized by the
13 department. A closed hospital shall be retroactively responsible for
14 assessments owed and shall receive directed payments for services
15 provided.

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

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

25 (2) The department shall use the Hospital Quality Assurance and
26 Access Assessment Fund, including the matching federal financial
27 participation, for the purpose of enhancing rates paid to hospitals under
28 the medical assistance program except as allowed by subsection (3) of
29 this section. Money in the fund shall not be used to replace or offset
30 existing state funds paid to hospitals for providing services under the
31 medical assistance program.

1 (3) The Hospital Quality Assurance and Access Assessment Fund shall
2 also be used to:

3 (a) Recover funds used to process directed payments to hospitals;

4 (b) Reimburse the department an administrative fee of three percent
5 of the assessment, not to exceed fifteen million dollars per year, to
6 collect assessments and administer directed-payment programs established
7 by the Hospital Quality Assurance and Access Assessment Act;

8 (c) Provide the Nebraska Center for Nursing Board one-half of one
9 percent of the assessment, not to exceed two million five hundred
10 thousand dollars per year, for the expansion of clinical nursing training
11 sites as authorized in subsection (3) of section 71-1798; and

12 (d) Provide funding of three and one-half of one percent of the
13 assessment, not to exceed seventeen million five hundred thousand dollars
14 per year, for rates for nonhospital providers in the medical assistance
15 program, continuous eligibility for children, or the designated health
16 information exchange authorized in section 81-6,125.

17 (4) In calculating rates, the proceeds from assessments and federal
18 match not utilized under subsection (3) of this section shall be used to
19 enhance rates for hospital inpatient and outpatient services in addition
20 to any funds appropriated by the Legislature.

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

26 (6) The department shall prohibit a medicaid managed care
27 organization from (a) setting, establishing, or negotiating reimbursement
28 rates with a hospital in a manner that takes into account, directly or
29 indirectly, a directed payment that a hospital receives under the
30 Hospital Quality Assurance and Access Assessment Act, (b) unnecessarily
31 delaying a directed payment to a hospital, or (c) recouping or offsetting

1 a directed payment for any reason.

2 (7)(a) A hospital shall not:

3 (i) Set, establish, or negotiate reimbursement rates with a managed
4 care organization in a manner that directly or indirectly takes into
5 account a directed payment that a hospital receives under the Hospital
6 Quality Assurance and Access Assessment Act; or

7 (ii) Directly pass on the cost of an assessment to patients or
8 nonmedicaid payors, including as a fee or rate increase.

9 (b) A hospital that violates this subsection shall not receive a
10 directed payment for the remainder of the rate year. This subsection
11 shall not be construed to prohibit a hospital from negotiating with a
12 payor for a rate increase.

13 Sec. 7. It is the intent of the Legislature that medicaid rates
14 paid for hospital inpatient and outpatient services and the General Fund
15 appropriations for hospital inpatient and outpatient services in the
16 medical assistance program shall not be reduced to an amount below the
17 rates paid and General Fund appropriations for these services in fiscal
18 year 2023-24.

19 Sec. 8. Assessments and directed-payment programs shall be treated
20 as a separate component in developing rates paid to hospitals and shall
21 not be included with existing rate components. The assessments and
22 directed-payment programs shall be retroactive to July 1, 2024, or the
23 effective date approved by the federal Centers for Medicare and Medicaid
24 Services.

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

29 (2) If collection of assessments is discontinued as provided in this
30 section, the money in the Hospital Quality Assurance and Access
31 Assessment Fund shall be returned to the hospitals from which the

1 assessments were collected on the same proportional basis as the
2 assessments were assessed for the quarter in which the assessment was
3 terminated.

4 Sec. 10. The Hospital Quality Assurance and Access Assessment Act
5 shall terminate effective January 1, 2027.

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