

1 A bill to be entitled
2 An act relating to Medicaid; amending s. 409.285,
3 F.S.; providing procedures for appeals by applicants
4 for public assistance based on the agency
5 administering the Medicaid program; providing
6 responsibilities of the Agency for Health Care
7 Administration as the hearing authority for certain
8 appeals; authorizing the agency to adopt rules;
9 exempting the rules from certain time requirements
10 under certain conditions; exempting certain agency
11 hearings relating to the Medicaid program from uniform
12 rules of procedure that require such hearings to be
13 conducted by an administrative law judge; amending s.
14 409.905, F.S.; revising the methodology for
15 establishing reimbursement rates for outpatient
16 hospital services; amending s. 409.909, F.S.; revising
17 the definition of the term "Medicaid payments" to
18 include payments for certain outpatient services;
19 amending chapter 2012-33, Laws of Florida; requiring a
20 Program of All-Inclusive Care for the Elderly (PACE)
21 organization in Broward County to serve frail elders
22 in Miami-Dade County; repealing ss. 409.911, 409.9113,
23 409.9118, and 409.9119, F.S., relating to the
24 disproportionate share program; amending ss. 409.908,
25 409.9115, 409.9116, 1009.66, and 1009.67, F.S.;
26 conforming references and cross-references to changes

27 | made by the act; providing an effective date.

28 |

29 | Be It Enacted by the Legislature of the State of Florida:

30 |

31 | Section 1. Section 409.285, Florida Statutes, is amended
32 | to read:

33 | 409.285 Opportunity for hearing and appeal.—

34 | (1) If an application for public assistance is not acted
35 | upon within a reasonable time after the filing of the
36 | application, or is denied in whole or in part, or if an
37 | assistance payment is modified or canceled, the applicant or
38 | recipient may appeal the decision to the Department of Children
39 | and Families in the manner and form prescribed by the
40 | department.

41 | (a) Appeals related to Medicaid programs directly
42 | administered by the Agency for Health Care Administration,
43 | including appeals related to the Statewide Medicaid Managed Care
44 | program and associated federal waivers, shall be appealed to the
45 | Agency for Health Care Administration in the manner and form
46 | prescribed by the agency.

47 | (b) Medicaid eligibility decisions made by the department
48 | shall be appealed to the department.

49 | (c) Appeals related to Medicaid programs administered by
50 | the Agency for Persons with Disabilities are subject to s.
51 | 393.125.

52 | (2) The hearing authority for appeals heard by the

53 department may be the Secretary of Children and Families, a
54 panel of department officials, or a hearing officer appointed
55 for that purpose. The hearing authority is responsible for a
56 final administrative decision in the name of the department on
57 all issues that have been the subject of a hearing. With regard
58 to the department, the decision of the hearing authority is
59 final and binding. The department is responsible for seeing that
60 the decision is carried out promptly. The hearing authority for
61 appeals heard by the Agency for Health Care Administration may
62 be the Secretary of Health Care Administration, a panel of
63 agency officials, or a hearing officer appointed for that
64 purpose. The hearing authority is responsible for a final
65 administrative decision in the name of the agency on all issues
66 that have been the subject of a hearing. With regard to the
67 agency, the decision of the hearing authority is final and
68 binding. The agency is responsible for seeing that the decision
69 is carried out promptly.

70 (3) The department may adopt rules to administer this
71 section. Rules for the Temporary Assistance for Needy Families
72 block grant programs must be similar to the federal requirements
73 for Medicaid programs. The Agency for Health Care Administration
74 shall seek all federal approvals necessary to implement this
75 section. The agency may adopt rules to administer this section
76 and, notwithstanding s. 120.54(1)(b), has 180 days after final
77 federal approval to provide notice of the proposed rules
78 pursuant to s. 120.54(3).

79 (4) Notwithstanding ss. 120.569 and 120.57, fair hearings
 80 conducted by the Agency for Health Care Administration relating
 81 to the Medicaid program are exempt from the uniform rules of
 82 procedure and need not be conducted by an administrative law
 83 judge assigned by the Division of Administrative Hearings.

84 Section 2. Paragraph (b) of subsection (6) of section
 85 409.905, Florida Statutes, is amended to read:

86 409.905 Mandatory Medicaid services.—The agency may make
 87 payments for the following services, which are required of the
 88 state by Title XIX of the Social Security Act, furnished by
 89 Medicaid providers to recipients who are determined to be
 90 eligible on the dates on which the services were provided. Any
 91 service under this section shall be provided only when medically
 92 necessary and in accordance with state and federal law.

93 Mandatory services rendered by providers in mobile units to
 94 Medicaid recipients may be restricted by the agency. Nothing in
 95 this section shall be construed to prevent or limit the agency
 96 from adjusting fees, reimbursement rates, lengths of stay,
 97 number of visits, number of services, or any other adjustments
 98 necessary to comply with the availability of moneys and any
 99 limitations or directions provided for in the General
 100 Appropriations Act or chapter 216.

101 (6) HOSPITAL OUTPATIENT SERVICES.—

102 (b) The agency shall implement a prospective payment
 103 methodology for establishing ~~base~~ reimbursement rates for
 104 outpatient hospital services ~~for each hospital based on~~

105 ~~allowable costs, as defined by the agency.~~ Rates shall be
106 calculated annually and take effect October 1, 2016, and July 1
107 of each year thereafter. The methodology shall categorize the
108 amount and type of services used in various ambulatory visits
109 which group together procedures and medical visits that share
110 similar characteristics and resource utilization ~~based on the~~
111 ~~most recent complete and accurate cost report submitted by each~~
112 ~~hospital.~~

113 1. Adjustments may not be made to the rates after October
114 31, 2016, or after July 31 of each ~~the~~ state fiscal year
115 thereafter in which the rates are in ~~take effect,~~ ~~except for~~
116 ~~cases of insufficient collections of intergovernmental transfers~~
117 ~~authorized under s. 409.908(1) or the General Appropriations~~
118 ~~Act. In such cases, the agency shall submit a budget amendment~~
119 ~~or amendments under chapter 216 requesting approval of rate~~
120 ~~reductions by amounts necessary for the aggregate reduction to~~
121 ~~equal the dollar amount of intergovernmental transfers not~~
122 ~~collected and the corresponding federal match. Notwithstanding~~
123 ~~the \$1 million limitation on increases to an approved operating~~
124 ~~budget under ss. 216.181(11) and 216.292(3), a budget amendment~~
125 ~~exceeding that dollar amount is subject to notice and objection~~
126 ~~procedures set forth in s. 216.177.~~

127 2. Errors in source data or calculations discovered after
128 October 31, 2016, or after July 31 of each state fiscal year
129 thereafter must be reconciled in a subsequent rate period.
130 However, the agency may not make any adjustment to a hospital's

131 reimbursement more than 5 years after a hospital is notified of
 132 an audited rate established by the agency. The prohibition
 133 against adjustments more than 5 years after notification is
 134 remedial and applies to actions by providers involving Medicaid
 135 claims for hospital services. Hospital reimbursement is subject
 136 to such limits or ceilings as may be established in law or
 137 described in the agency's hospital reimbursement plan. Specific
 138 exemptions to the limits or ceilings may be provided in the
 139 General Appropriations Act.

140 Section 3. Paragraph (b) of subsection (2) of section
 141 409.909, Florida Statutes, is amended to read:

142 409.909 Statewide Medicaid Residency Program.—

143 (2) On or before September 15 of each year, the agency
 144 shall calculate an allocation fraction to be used for
 145 distributing funds to participating hospitals. On or before the
 146 final business day of each quarter of a state fiscal year, the
 147 agency shall distribute to each participating hospital one-
 148 fourth of that hospital's annual allocation calculated under
 149 subsection (4). The allocation fraction for each participating
 150 hospital is based on the hospital's number of full-time
 151 equivalent residents and the amount of its Medicaid payments. As
 152 used in this section, the term:

153 (b) "Medicaid payments" means the estimated total payments
 154 for reimbursing a hospital for direct inpatient and outpatient
 155 services for the fiscal year in which the allocation fraction is
 156 calculated based on the hospital inpatient appropriation and

157 outpatient appropriation and the parameters for the inpatient
 158 diagnosis-related group base rate, including applicable
 159 intergovernmental transfers, specified in the General
 160 Appropriations Act, as determined by the agency.

161 Section 4. Section 409.9115, Florida Statutes, is amended
 162 to read:

163 409.9115 Disproportionate share program for mental health
 164 hospitals.—The Agency for Health Care Administration shall
 165 design and implement a system of making mental health
 166 disproportionate share payments to hospitals that qualify for
 167 disproportionate share payments ~~under s. 409.911~~. This system of
 168 payments shall conform with federal requirements and shall
 169 distribute funds in each fiscal year for which an appropriation
 170 is made by making quarterly Medicaid payments. Notwithstanding
 171 s. 409.915, counties are exempt from contributing toward the
 172 cost of this special reimbursement for patients.

173 (1) The following formula shall be used by the agency to
 174 calculate the total amount earned for hospitals that participate
 175 in the mental health disproportionate share program:

$$TAP = (DSH/TDSH) \times TA$$

177 Where:

178 TAP = total additional payment for a mental health
 179 hospital.

180 DSH = total amount earned by a mental health hospital under
 181 the General Appropriations Act s. 409.911.

182 TDSH = sum of total amount earned by each hospital that

HB 5101

2016

183 participates in the mental health hospital disproportionate
184 share program.

185 TA = total appropriation for the mental health hospital
186 disproportionate share program.

187 (2) In order to receive payments under this section, a
188 hospital must participate in the Florida Title XIX program and
189 must:

190 (a) Agree to serve all individuals referred by the agency
191 who require inpatient psychiatric services, regardless of
192 ability to pay.

193 (b) Be certified or certifiable to be a provider of Title
194 XVIII services.

195 (c) Receive all of its inpatient clients from admissions
196 governed by the Baker Act as specified in chapter 394.

197 Section 5. Section 409.9116, Florida Statutes, is amended
198 to read:

199 409.9116 Disproportionate share/financial assistance
200 program for rural hospitals. ~~In addition to the payments made~~
201 ~~under s. 409.911,~~ The Agency for Health Care Administration
202 shall administer a federally matched disproportionate share
203 program and a state-funded financial assistance program for
204 statutory rural hospitals. The agency shall make
205 disproportionate share payments to statutory rural hospitals
206 that qualify for such payments and financial assistance payments
207 to statutory rural hospitals that do not qualify for
208 disproportionate share payments. The disproportionate share

209 program payments shall be limited by and conform with federal
 210 requirements. Funds shall be distributed quarterly in each
 211 fiscal year for which an appropriation is made. Notwithstanding
 212 the provisions of s. 409.915, counties are exempt from
 213 contributing toward the cost of this special reimbursement for
 214 hospitals serving a disproportionate share of low-income
 215 patients.

216 (1) The following formula shall be used by the agency to
 217 calculate the total amount earned for hospitals that participate
 218 in the rural hospital disproportionate share program or the
 219 financial assistance program:

220
$$TAERH = (CCD + MDD) / TPD$$

221 Where:

222 CCD = total charity care-other, plus charity care-Hill-
 223 Burton, minus 50 percent of unrestricted tax revenue from local
 224 governments, and restricted funds for indigent care, divided by
 225 gross revenue per adjusted patient day; however, if CCD is less
 226 than zero, then zero shall be used for CCD.

227 MDD = Medicaid inpatient days plus Medicaid HMO inpatient
 228 days.

229 TPD = total inpatient days.

230 TAERH = total amount earned by each rural hospital.

231 In computing the total amount earned by each rural hospital, the
 232 agency must use the average of the 3 most recent years of actual
 233 data reported in accordance with s. 408.061(4). The agency shall
 234 provide a preliminary estimate of the payments under the rural

235 disproportionate share and financial assistance programs to the
236 rural hospitals by August 31 of each state fiscal year for
237 review. Each rural hospital shall have 30 days to review the
238 preliminary estimates of payments and report any errors to the
239 agency. The agency shall make any corrections deemed necessary
240 and compute the rural disproportionate share and financial
241 assistance program payments.

242 (2) The agency shall use the following formula for
243 distribution of funds for the disproportionate share/financial
244 assistance program for rural hospitals.

245 (a) The agency shall first determine a preliminary payment
246 amount for each rural hospital by allocating all available state
247 funds using the following formula:

$$248 \quad \text{PDAER} = (\text{TAERH} \times \text{TARH}) / \text{STAERH}$$

249 Where:

250 PDAER = preliminary distribution amount for each rural
251 hospital.

252 TAERH = total amount earned by each rural hospital.

253 TARH = total amount appropriated or distributed under this
254 section.

255 STAERH = sum of total amount earned by each rural hospital.

256 (b) Federal matching funds for the disproportionate share
257 program shall then be calculated for those hospitals that
258 qualify for disproportionate share in paragraph (a).

259 (c) The state-funds-only payment amount shall then be
260 calculated for each hospital using the formula:

261 SFOER = Maximum value of (1) SFOL - PDAER or (2) 0

262 Where:

263 SFOER = state-funds-only payment amount for each rural
264 hospital.

265 SFOL = state-funds-only payment level, which is set at 4
266 percent of TARH.

267 In calculating the SFOER, PDAER includes federal matching funds
268 from paragraph (b).

269 (d) The adjusted total amount allocated to the rural
270 disproportionate share program shall then be calculated using
271 the following formula:

$$272 \text{ ATARH} = (\text{TARH} - \text{SSFOER})$$

273 Where:

274 ATARH = adjusted total amount appropriated or distributed
275 under this section.

276 SSFOER = sum of the state-funds-only payment amount
277 calculated under paragraph (c) for all rural hospitals.

278 (e) The distribution of the adjusted total amount of rural
279 disproportionate share hospital funds shall then be calculated
280 using the following formula:

$$281 \text{ DAERH} = [(\text{TAERH} \times \text{ATARH}) / \text{STAERH}]$$

282 Where:

283 DAERH = distribution amount for each rural hospital.

284 (f) Federal matching funds for the disproportionate share
285 program shall then be calculated for those hospitals that
286 qualify for disproportionate share in paragraph (e).

287 (g) State-funds-only payment amounts calculated under
288 paragraph (c) and corresponding federal matching funds are then
289 added to the results of paragraph (f) to determine the total
290 distribution amount for each rural hospital.

291 (3) The Agency for Health Care Administration may
292 recommend to the Legislature a formula to be used in subsequent
293 fiscal years to distribute funds appropriated for this section
294 that includes charity care, uncompensated care to medically
295 indigent patients, and Medicaid inpatient days.

296 (4) In the event that federal matching funds for the rural
297 hospital disproportionate share program are not available, state
298 matching funds appropriated for the program may be utilized for
299 the Rural Hospital Financial Assistance Program and shall be
300 allocated to rural hospitals based on the formulas in
301 subsections (1) and (2).

302 (5) In order to receive payments under this section, a
303 hospital must be a rural hospital as defined in s. 395.602 and
304 must meet the following additional requirements:

305 (a) Agree to conform to all agency requirements to ensure
306 high quality in the provision of services, including criteria
307 adopted by agency rule concerning staffing ratios, medical
308 records, standards of care, equipment, space, and such other
309 standards and criteria as the agency deems appropriate as
310 specified by rule.

311 (b) Agree to accept all patients, regardless of ability to
312 pay, on a functional space-available basis.

313 (c) Agree to provide backup and referral services to the
314 county public health departments and other low-income providers
315 within the hospital's service area, including the development of
316 written agreements between these organizations and the hospital.

317 (d) For any hospital owned by a county government which is
318 leased to a management company, agree to submit on a quarterly
319 basis a report to the agency, in a format specified by the
320 agency, which provides a specific accounting of how all funds
321 dispersed under this act are spent.

322 (6) This section applies only to hospitals that were
323 defined as statutory rural hospitals, or their successor-in-
324 interest hospital, prior to January 1, 2001. Any additional
325 hospital that is defined as a statutory rural hospital, or its
326 successor-in-interest hospital, on or after January 1, 2001, is
327 not eligible for programs under this section unless additional
328 funds are appropriated each fiscal year specifically to the
329 rural hospital disproportionate share and financial assistance
330 programs in an amount necessary to prevent any hospital, or its
331 successor-in-interest hospital, eligible for the programs prior
332 to January 1, 2001, from incurring a reduction in payments
333 because of the eligibility of an additional hospital to
334 participate in the programs. A hospital, or its successor-in-
335 interest hospital, which received funds pursuant to this section
336 before January 1, 2001, and which qualifies under s.
337 395.602(2)(e), shall be included in the programs under this
338 section and is not required to seek additional appropriations

339 under this subsection.

340 Section 6. Section 18 of chapter 2012-33, Laws of Florida,
341 is amended to read:

342 Section 18. Notwithstanding s. 430.707, Florida Statutes,
343 and subject to federal approval of an additional site for the
344 Program of All-Inclusive Care for the Elderly (PACE), the Agency
345 for Health Care Administration shall contract with a current
346 PACE organization authorized to provide PACE services in
347 Southeast Florida to develop and operate a PACE program in
348 Broward County to serve frail elders who reside in Broward
349 County or Miami-Dade County. The organization shall be exempt
350 from chapter 641, Florida Statutes. The agency, in consultation
351 with the Department of Elderly Affairs and subject to an
352 appropriation, shall approve up to 150 initial enrollee slots in
353 the Broward program established by the organization.

354 Section 7. Sections 409.911, 409.9113, 409.9118, and
355 409.9119, Florida Statutes, are repealed.

356 Section 8. Paragraph (d) of subsection (1) of section
357 409.908, Florida Statutes, is amended to read:

358 409.908 Reimbursement of Medicaid providers.—Subject to
359 specific appropriations, the agency shall reimburse Medicaid
360 providers, in accordance with state and federal law, according
361 to methodologies set forth in the rules of the agency and in
362 policy manuals and handbooks incorporated by reference therein.
363 These methodologies may include fee schedules, reimbursement
364 methods based on cost reporting, negotiated fees, competitive

365 bidding pursuant to s. 287.057, and other mechanisms the agency
366 considers efficient and effective for purchasing services or
367 goods on behalf of recipients. If a provider is reimbursed based
368 on cost reporting and submits a cost report late and that cost
369 report would have been used to set a lower reimbursement rate
370 for a rate semester, then the provider's rate for that semester
371 shall be retroactively calculated using the new cost report, and
372 full payment at the recalculated rate shall be effected
373 retroactively. Medicare-granted extensions for filing cost
374 reports, if applicable, shall also apply to Medicaid cost
375 reports. Payment for Medicaid compensable services made on
376 behalf of Medicaid eligible persons is subject to the
377 availability of moneys and any limitations or directions
378 provided for in the General Appropriations Act or chapter 216.
379 Further, nothing in this section shall be construed to prevent
380 or limit the agency from adjusting fees, reimbursement rates,
381 lengths of stay, number of visits, or number of services, or
382 making any other adjustments necessary to comply with the
383 availability of moneys and any limitations or directions
384 provided for in the General Appropriations Act, provided the
385 adjustment is consistent with legislative intent.

386 (1) Reimbursement to hospitals licensed under part I of
387 chapter 395 must be made prospectively or on the basis of
388 negotiation.

389 ~~(d) Hospitals that provide services to a disproportionate~~
390 ~~share of low-income Medicaid recipients, or that participate in~~

391 ~~the regional perinatal intensive care center program under~~
392 ~~chapter 383, or that participate in the statutory teaching~~
393 ~~hospital disproportionate share program may receive additional~~
394 ~~reimbursement. The total amount of payment for disproportionate~~
395 ~~share hospitals shall be fixed by the General Appropriations~~
396 ~~Act. The computation of these payments must be made in~~
397 ~~compliance with all federal regulations and the methodologies~~
398 ~~described in ss. 409.911 and 409.9113.~~

399 Section 9. Subsection (7) of section 1009.66, Florida
400 Statutes, is amended to read:

401 1009.66 Nursing Student Loan Forgiveness Program.—

402 (7) Funds contained in the Nursing Student Loan
403 Forgiveness Trust Fund which are to be used for loan forgiveness
404 for those nurses employed by hospitals, birth centers, and
405 nursing homes must be matched on a dollar-for-dollar basis by
406 contributions from the employing institutions, except that this
407 provision shall not apply to state-operated medical and health
408 care facilities, public schools, county health departments,
409 federally sponsored community health centers, teaching hospitals
410 as defined in s. 408.07, or family practice teaching hospitals
411 as defined in s. 395.805, ~~or specialty hospitals for children as~~
412 ~~used in s. 409.9119.~~ An estimate of the annual trust fund
413 dollars shall be made at the beginning of the fiscal year based
414 on historic expenditures from the trust fund. Applicant requests
415 shall be reviewed on a quarterly basis, and applicant awards
416 shall be based on the following priority of employer until all

HB 5101

2016

417 such estimated trust funds are awarded: state-operated medical
418 and health care facilities; public schools; county health
419 departments; federally sponsored community health centers;
420 teaching hospitals as defined in s. 408.07; family practice
421 teaching hospitals as defined in s. 395.805; ~~specialty hospitals~~
422 ~~for children as used in s. 409.9119~~; and other hospitals, birth
423 centers, and nursing homes.

424 Section 10. Paragraph (b) of subsection (4) of section
425 1009.67, Florida Statutes, is amended to read:

426 1009.67 Nursing scholarship program.—

427 (4) Credit for repayment of a scholarship shall be as
428 follows:

429 (b) Eligible health care facilities include nursing homes
430 and hospitals in this state, state-operated medical or health
431 care facilities, public schools, county health departments,
432 federally sponsored community health centers, colleges of
433 nursing in universities in this state, and Florida College
434 System institution nursing programs in this state, or family
435 practice teaching hospitals as defined in s. 395.805, ~~or~~
436 ~~specialty children's hospitals as described in s. 409.9119~~. The
437 recipient shall be encouraged to complete the service obligation
438 at a single employment site. If continuous employment at the
439 same site is not feasible, the recipient may apply to the
440 department for a transfer to another approved health care
441 facility.

442 Section 11. This act shall take effect July 1, 2016.