

2023 Regular Session

HOUSE CONCURRENT RESOLUTION NO. 2

BY REPRESENTATIVE SCHEXNAYDER

HOSPITALS: Provides for a hospital stabilization formula

1 A CONCURRENT RESOLUTION

2 To provide for a hospital stabilization formula pursuant to Article VII, Section 10.13 of the
3 Constitution of Louisiana; to establish the level and basis of hospital assessments;
4 to establish certain reimbursement enhancements for inpatient and outpatient hospital
5 services; to establish certain criteria for the implementation of the formula; and to
6 provide for related matters.

7 WHEREAS, through the adoption of this Resolution, the Legislature of Louisiana
8 hereby seeks to:

9 (1) Preserve and enhance the availability of inpatient and outpatient hospital services
10 for the citizens of Louisiana.

11 (2) Preserve and protect rural hospitals as provided in the Rural Hospital
12 Preservation Act, pursuant to R.S. 40:1189.1 et seq.

13 (3) Enhance the stability of hospital funding by utilizing a fiscally prudent healthcare
14 driven solution that does not rely on the use of state general funds and provides a reliable
15 and recurring source of funding for healthcare services.

16 (4) Minimize the effects of shifting the cost of caring for those Louisiana residents
17 who are uninsured to those who are able to obtain health insurance.

18 (5) Create flexibility to design a plan to provide for more efficient and effective
19 ways to maximize the state's use of monies currently expended for the provision of
20 healthcare services to the state's low income and uninsured residents.

1 (6) Enhance the financial sustainability of the Medicaid hospital program by
2 pursuing a hospital directed payment model that is in conformance with the
3 recommendations contained in Senate Concurrent Resolution No. 27 of the 2020 First
4 Extraordinary Session of the Louisiana Legislature and the federal rules and regulations
5 promulgated by the Centers for Medicaid and Medicare Services.

6 THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby
7 enact the annual hospital stabilization formula pursuant to Article VII, Section 10.13 of the
8 Constitution of Louisiana:

9 1. Hospital Stabilization Assessment.

10 A.(1) Upon approval by the Centers for Medicare and Medicaid Services of
11 a directed payment arrangement pursuant to 42 C.F.R. 438.6, the Louisiana
12 Department of Health shall be authorized to levy and collect an assessment upon
13 those hospitals subject to the approved directed payment arrangement that is in
14 accordance with the provisions of this Subsection.

15 (2) Any hospital assessment levied and collected pursuant to this Resolution
16 shall be levied and collected on a quarterly basis. Prior to the levy of any assessment
17 pursuant to the provisions of this Resolution, the Louisiana Department of Health
18 shall submit a Medicaid assessment report to the Joint Legislative Committee on the
19 Budget. The Medicaid assessment report shall include a description of the proposed
20 assessment, the basis for the calculation of the assessment, and a listing of each
21 hospital included in the proposed assessment.

22 B.(1) The hospital assessment for state Fiscal Year 2023-2024 shall be
23 calculated as the product of the rates set forth as follows and the respective hospitals'
24 inpatient net patient revenue and outpatient net patient revenue as reported in the
25 Medicare cost report ending in state fiscal year 2019:

26 (a) Long-term acute care, psychiatric and rehabilitation hospitals: 1.38% of
27 inpatient net patient revenue, and 1.38% of outpatient net patient revenue.

28 (b) Hospital Service Districts not included in R.S. 40:1189.1 et seq: 2.48%
29 of inpatient net patient revenue up to one hundred twenty-five million dollars, and

1 2.48% of outpatient net patient revenue up to one hundred twenty-five million
2 dollars.

3 (c) All other acute care hospitals: 3.23% of inpatient net patient revenue up
4 to one hundred twenty-five million dollars, and 3.35% of outpatient net patient
5 revenue up to one hundred twenty-five million dollars.

6 (d) Hospital Service Districts not included in R.S. 40:1189.1 et seq, and all
7 other acute care hospitals: 1.38% of inpatient net patient revenue exceeding one
8 hundred twenty-five million dollars, and 1.38% of outpatient net patient revenue
9 exceeding one hundred twenty-five million dollars.

10 (2) Non-rural, small urban private acute hospitals with forty licensed beds or
11 less, either as reported in the Medicare cost report ending in state fiscal year 2019
12 or as licensed by the Louisiana Department of Health, freestanding psychiatric
13 Medicaid disproportionate share hospitals, and rural hospitals as defined in
14 R.S.40:1189.1, et seq., shall be exempt and excluded from the levy of any
15 assessment implemented pursuant to this Subsection.

16 C. In the event the Centers for Medicare and Medicaid Services approves an
17 assessment that is different from the provisions set forth in this Section, the
18 Louisiana Department of Health shall seek ratification of such changes from the Joint
19 Legislative Committee on the Budget prior to the levy of an approved assessment.

20 D. An assessment levied pursuant to Subsection B or C of this Section shall
21 be levied only for the quarters that directed payments are actually paid to hospitals
22 pursuant to 42 C.F.R. 438.6 directed payment arrangements as approved by the
23 Centers for Medicare and Medicaid Services.

24 II. Reimbursement Enhancements.

25 A. Upon the implementation of an assessment pursuant to Subsection A of
26 Section I of this Resolution, the Louisiana Department of Health shall provide for
27 reimbursement enhancements as follows:

28 (1) Implementation of directed payments pursuant to 42 C.F.R. 438.6
29 utilizing a uniform percentage increase methodology for both acute and post-acute
30 hospitals.

1 (a) For acute care hospitals, the methodology shall be implemented in the
2 manner set forth in the directed payment arrangement submitted to the Centers for
3 Medicaid and Medicare Services on or before April 30, 2023.

4 (b) For post-acute care hospitals, the methodology shall be implemented in
5 the manner set forth in the directed payment arrangement submitted to the Centers
6 for Medicaid and Medicare Services on or before April 30, 2023.

7 (2) Payment for healthcare services through the implementation of a health
8 coverage expansion of the Louisiana medical assistance program that meets all the
9 requirements necessary for the state to maximize federal matching funds as set forth
10 in 42 U.S.C. 1396d(y) of Title XIX of the Social Security Act.

11 (3) For any hospital subject to the assessment levied pursuant to this
12 Resolution, the payment of hospital reimbursement rates in an amount no less than
13 the reimbursement rates in effect for dates of service on or after January 1, 2023.

14 B. The Louisiana Department of Health shall publish, on a publicly
15 accessible website of the department, the approved Centers for Medicare and
16 Medicaid Services directed payment arrangements within ten days of receiving
17 approval. In the event the Centers for Medicare and Medicaid Services approves
18 either the acute care hospital or the post-acute care hospital preprint in a manner that
19 is different from the provisions contained in the initial 42 C.F.R. 438.6 preprint
20 submitted on or before April, 30, 2023, the department shall seek ratification of the
21 changes from the Joint Legislative Committee on the Budget prior to
22 implementation.

23 C. The Louisiana Department of Health shall publish on a quarterly basis, no
24 later than thirty days after the end of each quarter, a report containing data directly
25 related to the reimbursement enhancements provided for in this Resolution. The
26 report shall include the following:

27 (1) The total amount of inpatient and outpatient Medicaid claims paid to
28 hospitals delineated by each individual hospital Medicaid provider number.

29 (2) The amount of directed payments received by each hospital.

30 (3) Other supplemental payments received by each hospital.

1 III. Administration

2 The Louisiana Department of Health shall submit any necessary state plan
3 amendment that may be required in order to implement the provisions of this Resolution to
4 the Centers for Medicare and Medicaid Services no later than one hundred and twenty days
5 from the date this Resolution is adopted. In addition, the Louisiana Department of Health
6 may promulgate any rules and regulations that are necessary and proper to implement the
7 provisions of this Resolution; however, the final adoption thereof shall not be required in
8 order to implement and carry out the provisions of this Resolution.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HCR 2 Original

2023 Regular Session

Schexnayder

Provides for a hospital stabilization formula pursuant to Art. VII, §10.13 of the Constitution of La., including assessments and reimbursement enhancements.

Authorizes the La. Dept. of Health (LDH) to levy and collect an assessment upon certain hospitals in accordance with the approved arrangement once the Centers for Medicare and Medicaid Services (CMS) approves the state's proposed directed payment arrangement. Requires any such assessment to be collected on a quarterly basis.

Requires LDH to calculate, collect, and levy an assessment from hospitals to be calculated as the product of the rates set forth below and the respective hospitals' inpatient net patient revenue and outpatient net patient revenue as reported in the Medicare cost report ending in state Fiscal Year 2019:

- (1) Long-term acute care, psychiatric and rehabilitation hospitals: 1.38% of inpatient net patient revenue, and 1.38% of outpatient net patient revenue.
- (2) Hospital Service Districts not classified as rural hospitals pursuant to present law (R.S. 40:1189.1 et seq.): 2.48% of inpatient net patient revenue and outpatient net patient revenue up to \$125 M, and 1.38% of inpatient net patient revenue and outpatient net patient revenue over \$125 M.
- (3) All other acute care hospitals: 3.23% of inpatient net patient revenue up to \$125 M and 3.35% of outpatient net patient revenue up to \$125 M.

Exempts the following hospitals from the assessment:

- (1) Non-rural, small urban private acute hospitals with 40 licensed beds or less, either as reported in the Medicare cost report ending in state fiscal year 2019 or as licensed by LDH.
- (2) Freestanding psychiatric Medicaid disproportionate share hospitals.
- (3) Rural hospitals as defined in present law (R.S. 40:1189.1 et seq.).

Restricts the levy of the assessment to only the quarters in which directed payments are made to hospitals.

Requires LDH to submit a report to the Joint Legislative Committee on the Budget (JLCB) prior to any levy providing details on the calculation of the proposed assessment and a listing of each hospital included in the proposed assessment.

Requires ratification by JLCB of any changes made by CMS in the approved directed payments pre-print that results in alterations to the assessment as established in this Resolution prior to any levy of such assessment.

Provides for reimbursement enhancements as follows:

- (1) Implementation of directed payments pursuant to 42 CFR 438.6 utilizing a uniform percentage increase methodology for both acute and post-acute hospitals.
 - (a) For acute care hospitals, the methodology is implemented in the manner set forth in the directed payment arrangement submitted to CMS on or before April 30, 2023.
 - (b) For post-acute care hospitals, the methodology is implemented in the manner set forth in the directed payment arrangement submitted to the CMS on or before April 30, 2023.
- (2) Payment for healthcare services through the implementation of Medicaid expansion.
- (3) Payment of hospital reimbursement rates in an amount no less than the reimbursement rates in effect for dates of service on or after Jan. 1, 2023.

Requires LDH to submit any state plan amendment necessary in order to implement the provisions of the assessment within 120 days of the adoption of this Resolution. Further requires LDH to promulgate any rules and regulations necessary to implement the provisions of the assessment. Further provides that final adoption of such rules is not required in order to implement and carry out the provisions of the assessment.

Requires LDH to publish on the department's website the approved CMS directed payment arrangements within 10 days of receiving approval. If CMS approves a preprint such that the content differs from this Resolution, LDH must seek JLCB ratification of such changes prior to implementation.

Requires LDH to publish no later than 30 days after the end of each quarter a report on the reimbursement enhancements provided in the assessment containing data on the following:

- (1) The total amount of inpatient and outpatient Medicaid claims paid to hospitals broken out by each individual hospital Medicaid provider number.
- (2) The amount of directed payments received by each hospital.
- (3) Other supplemental payments received by each hospital.