

Regular Session, 2013

SENATE BILL NO. 76

BY SENATOR BUFFINGTON

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

FUNDS/FUNDING. Provides for use of monies in the Louisiana Medical Assistance Trust Fund. (gov sig)

AN ACT

To amend and reenact R.S. 46:2623 and 2625, relative to the Louisiana Medical Assistance Trust Fund; to provide for sub-accounts within the fund; to provide for the use of the fund; to provide for the disposition of health care provider fees; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 46:2623 and 2625 are hereby amended and reenacted to read as follows:

§2623. Louisiana Medical Assistance Trust Fund

A. There is hereby established as a special fund in the state treasury the Louisiana Medical Assistance Trust Fund, hereinafter referred to as the "fund", which shall consist of monies generated by the fees on providers of health care services collected under the authority of R.S. 46:2625. The monies in the fund shall be available for appropriation by the legislature to the Medicaid program solely in order to accomplish the purposes of this Chapter **as provided for in Subsection C of this Section**. The monies in the fund shall be invested by the state treasurer in the same manner as monies in the state general fund. All interest earned from the

1 investment of monies in the fund shall be deposited in and remain to the credit of the
2 fund. All unexpended and unencumbered monies remaining in the fund at the close
3 of each fiscal year shall remain in the fund.

4 B. ~~The monies from the fund as appropriated by the legislature shall be used~~
5 ~~and expended under the supervision of the secretary of the Department of Health and~~
6 ~~Hospitals for the Medicaid program.~~ **(1) Within the fund there shall be segregated**
7 **sub-accounts, one for each health care provider group that pays fees pursuant**
8 **to R.S. 46:2625. Monies collected from each health care provider group shall**
9 **accrue to the sub-account of that health care provider group.**

10 **(2) Monies shall be allocated, with accompanying federal matching**
11 **money, to each of the health care provider groups in proportion to the amount**
12 **of fees collected in each sub-account, based upon fees established by the**
13 **Department of Health and Hospitals pursuant to R.S. 46:2625. Such allocation**
14 **shall be calculated using collections data from the most recent four quarters**
15 **where data is available prior to the state fiscal year for which the allocation will**
16 **be made.**

17 **C. Notwithstanding any other provisions of this Chapter, the legislature**
18 **shall be authorized to appropriate as state funds to the department for use in**
19 **any fiscal year, all revenues dedicated and deposited into each segregated sub-**
20 **account. Such appropriations shall be made for the sole purpose to obtain**
21 **federal financial participation in the provision of support to health care**
22 **provider groups listed in R.S. 46:2625. Any appropriation from the segregated**
23 **sub-account for any purpose other than medical assistance payments to health**
24 **care provider groups listed in R.S. 46:2625 shall be void. Appropriations from**
25 **monies generated by health care provider group fees, including federal financial**
26 **participation on those fees, shall be expended as follows:**

27 **(1) For the fiscal year commencing July 1, 2014, at least one-third of such**
28 **appropriations in each sub-account shall be used solely for the purpose of**
29 **Medicaid reimbursement payments to the health care provider group**

1 generating the fees listed in R.S. 46:2625.

2 (2) For the fiscal year commencing July 1, 2015, at least two-thirds of
3 such appropriations in each sub-account shall be used for the purpose of
4 Medicaid reimbursement payments to the health care provider group
5 generating those fees listed in R.S. 46:2625.

6 (3) For the fiscal year commencing July 1, 2016, and fiscal years
7 thereafter, all of such appropriations in each sub-account shall be used for the
8 purpose of Medicaid reimbursement payments to the health care provider
9 groups generating those fees listed in R.S. 46:2625.

10 ~~€.~~ D. The monies in the fund shall not be used to displace, replace, or
11 supplant appropriations from the state general fund for the Medicaid program below
12 the amount of state general fund appropriations to the agency for the ~~1992-1993~~
13 2013-2014 Fiscal Year.

14 ~~Đ.~~ E. The state treasurer shall report the status of the fund and its sub-
15 accounts at least quarterly to the secretary of the Department of Health and
16 Hospitals and the Joint Legislative Committee on the Budget.

17 ~~E. Use of the monies in the fund shall be limited to those programs for which~~
18 ~~federal financial participation under Title XIX of the Social Security Act is available.~~

19 * * *

20 §2625. Fees on health care providers; disposition of fees

21 A.(1) The Department of Health and Hospitals is hereby authorized to adopt
22 and impose fees for health care services provided by the Medicaid program on every
23 nursing facility, every intermediate care facility for people with developmental
24 disabilities, every pharmacy in the state of Louisiana and certain out-of-state
25 pharmacies, dispensing physicians, and medical transportation providers. The
26 amount of any fee shall not exceed the total cost to the state of providing the health
27 care service subject to such fee. In addition, the amount of the fees imposed under
28 the rules and regulations adopted shall not exceed the following: maximum allowed
29 by federal law and regulations.

1 (a) ~~Ten dollars per occupied bed per day for nursing facilities.~~

2 (b) ~~Thirty dollars per occupied bed per day for intermediate care facilities for~~
3 ~~people with developmental disabilities.~~

4 (c) ~~Ten cents per out-patient prescription.~~

5 (d) ~~Ten cents per out-patient out-of-state prescription.~~

6 (e) ~~Ten cents per out-patient prescription dispensed by dispensing physicians.~~

7 (f) ~~Seven dollars and fifty cents per medical service trip for medical~~
8 ~~transportation providers.~~

9 (2) Any fee authorized by and imposed pursuant to this Section shall be
10 considered an allowable cost for purposes of insurance or other third party
11 reimbursements and shall be included in the establishment of reimbursement rates.

12 (3) Subject to the exceptions contained in Article VII, Section 9(A) of the
13 Constitution of Louisiana, all fees collected pursuant to the authority granted in this
14 Section shall be paid into the state treasury and shall be credited to the Bond Security
15 and Redemption Fund. Out of the funds remaining in the Bond Security and
16 Redemption Fund after a sufficient amount is allocated from that fund to pay all
17 obligations secured by the full faith and credit of the state which become due and
18 payable within any fiscal year, the treasurer shall, prior to placing such remaining
19 funds in the state general fund, pay into the Louisiana Medical Assistance Trust Fund
20 an amount equal to the total amount of such fees collected.

21 ~~B. Notwithstanding any other provision of law to the contrary, except the~~
22 ~~maximum fee of ten dollars as provided in R.S. 46:2625(A)(1)(a), the Department~~
23 ~~of Health and Hospitals shall not impose any new fee or increase any fee on any~~
24 ~~nursing home on or after April 1, 1992, without prior approval of the specific fee~~
25 ~~amount by record vote of a majority of the elected members of each house of the~~
26 ~~legislature while in session. Any such fee imposed or increased by the department~~
27 ~~on or after such date shall be null and of no effect.~~

28 ~~C.~~ B.(1) The department is hereby authorized and directed to adopt and
29 promulgate, pursuant to the Administrative Procedure Act, such rules and regulations

1 as are necessary to administer the fees imposed herein, including but not limited to
2 rules and regulations regarding the collection and payment of the fees and the
3 records necessary to be maintained and made available by the providers on whom
4 the fees are imposed. Any such information, other than the amount of fees collected
5 from each provider and the total amount of revenues generated by the fees authorized
6 herein, which is received by any department or agency of the state pursuant to this
7 Chapter shall be held confidential.

8 (2) The department is authorized and directed to adopt and promulgate,
9 pursuant to the Administrative Procedure Act, rules and regulations governing the
10 rights and obligations of those on whom said fees will be imposed. Such rules and
11 regulations shall include the administrative appeal rights and procedures governing
12 disputes arising out of the collection or administration of the fees authorized herein,
13 subject to the provisions of Subsection ~~E~~ **D** of this Section.

14 ~~D~~: **C**. The governor, by executive order, may designate any agency,
15 department, or division of state government to collect the fees authorized herein.

16 ~~E~~: **D**.(1) All disputes arising from submission of reports and fees due from
17 a pharmacy which are deemed untimely as described herein or disputes regarding the
18 amount of fees due from a pharmacy pursuant to Paragraph A(1) of this Section shall
19 be handled as provided in this Subsection. All other disputes regarding pharmacy
20 fees pursuant to this Section which are not related to timeliness and accuracy of
21 reports or fees due the department, or which involve fees due from a dispensing
22 physician under this Section, shall be handled as provided for in rules promulgated
23 pursuant to Paragraph ~~E~~ **B**(2) of this Section.

24 (2) Beginning January 1, 2000, the Louisiana Board of Pharmacy, hereinafter
25 "the board", shall take necessary action to suspend the registration and permit of any
26 registered in-state or out-of-state pharmacy which fails to timely submit a quarterly
27 statement with the Department of Health and Hospitals containing the number of
28 prescriptions filled, compounded, or dispensed, and delivered in or into the state of
29 Louisiana during the previous three-month period, or for failure to timely submit the

1 appropriate prescription fees due pursuant to this Section. A report or fee shall be
2 considered untimely if it is received by the department thirty days after the close of
3 the most recent quarter. Each report of the quarterly statement shall be signed and
4 verified as to accuracy of information contained therein by the preparer of the
5 statement on a form provided by the department.

6 (3) The board in consultation with the department shall promulgate rules, in
7 accordance with the Administrative Procedure Act, as necessary to comply with the
8 requirements of the board herein, including rules to strictly define criteria for
9 exceptions to the suspension requirements herein, and to provide rules for
10 reinstatement procedures. Any revocation action taken pursuant to this Subsection
11 shall proceed in accordance with laws and rules applicable to suspension of
12 pharmacy permits in general, including the hearing and appeal rights provided
13 pursuant to R.S. 37:1200 and 1201.

14 (4) The department shall promptly notify the board by certified mail of any
15 reports or fees as described herein which are untimely as described herein, or fees
16 in which the department considers the amount due from the pharmacy to be in
17 dispute thirty calendar days after the date such fees are due to be received by the
18 department. A copy of such notification shall also be sent by certified mail to the
19 pharmacy which is the subject of the untimely reports or fees. The department shall
20 promulgate rules, in accordance with the Administrative Procedure Act, as necessary
21 to comply with the requirements of this Subsection, including rules to continuously
22 apprise the board of fees and reports received by the department from any pharmacy
23 which has been referred to the board for suspension proceedings.

24 (5) Nothing in this Subsection shall be construed to prevent the department
25 from enforcing existing rules which assess monetary penalties against a pharmacy
26 for late filing of reports or fees, which are not otherwise in conflict with the
27 provisions herein.

28 Section 2. This Act shall become effective upon signature by the governor or, if not
29 signed by the governor, upon expiration of the time for bills to become law without signature

1 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
2 vetoed by the governor and subsequently approved by the legislature, this Act shall become
3 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Christopher D. Adams.

DIGEST

Present law provides for the Louisiana Medical Assistance Trust Fund and how monies from the fund as appropriated by the legislature shall be used and expended under the supervision of the secretary of the Department of Health and Hospitals (DHH) for the Medicaid program.

Proposed law amends present law to provide for within the fund there shall be segregated sub-accounts, one for each health care provider group that pays fees pursuant to present law. Proposed law provides monies collected from each health care provider group shall accrue to the sub-account of that health care provider group. Proposed law provides monies shall be allocated, with accompanying federal matching money, to each of the health care provider groups in proportion to the amount of fees collected in each sub-account, based upon fees established by DHH pursuant to present law, and such allocation shall be calculated using collections data from the most recent four quarters where data is available prior to the state fiscal year for which the allocation will be made.

Proposed law provides the legislature shall be authorized to appropriate as state funds to the department for use in any fiscal year, all revenues dedicated and deposited into each segregated sub-account. Proposed law provides such appropriations shall be made for the sole purpose to obtain federal financial participation in the provision of support to health care provider groups listed in present law. Proposed law provides any appropriation from the segregated sub-account for any purpose other than medical assistance payments to health care provider groups listed in present law shall be void. Proposed law provides appropriations from monies generated by health care provider group fees, including federal financial participation on those fees, shall be expended as follows:

- (1) For the fiscal year commencing July 1, 2014, at least one-third of such appropriations in each sub-account shall be used solely for the purpose of Medicaid reimbursement payments to the health care provider group generating the fees listed in present law.
- (2) For the fiscal year commencing July 1, 2015, at least two-thirds of such appropriations in each sub-account shall be used for the purpose of Medicaid reimbursement payments to the health care provider group generating those fees listed in present law.
- (3) For the fiscal year commencing July 1, 2016, and fiscal years thereafter, all of such appropriations in each sub-account shall be used for the purpose of Medicaid reimbursement payments to the health care provider groups generating those fees listed in present law.

Proposed law amends present law to provide the monies in the fund shall not be used to displace, replace, or supplant appropriations from the state general fund for the Medicaid program below the amount of state general fund appropriations to the agency for the 2013-2014 Fiscal Year.

Proposed law amends present law to provide the state treasurer shall report the status of the fund and its sub-accounts at least quarterly to the secretary of DHH and the Joint Legislative

Committee on the Budget.

Proposed law amends present law to remove the requirement that use of the monies in the fund shall be limited to those programs for which federal financial participation under Title XIX of the Social Security Act is available.

Present law provides DHH is hereby authorized to adopt and impose fees for health care services provided by the Medicaid program on every nursing facility, every intermediate care facility for people with developmental disabilities, every pharmacy in the state of Louisiana and certain out-of-state pharmacies, dispensing physicians, and medical transportation providers.

Proposed law amends present law to provide the amount of the fees imposed under the rules and regulations adopted shall not exceed the maximum allowed by federal law and regulations.

Proposed law amends present law and removes the requirement that notwithstanding any other provision of law to the contrary, except the maximum fee of ten dollars as provided in present law, DHH shall not impose any new fee or increase any fee on any nursing home on or after April 1, 1992, without prior approval of the specific fee amount by record vote of a majority of the elected members of each house of the legislature while in session. Any such fee imposed or increased by DHH on or after such date shall be null and of no effect.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 46:2623 and 2625)