

HOUSE BILL NO. 425

INTRODUCED BY M. CAFERRO

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4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO HEALTH CARE;
5 REMOVING THE TERMINATION DATE FOR THE MONTANA HEALTH AND ECONOMIC LIVELIHOOD
6 PARTNERSHIP ACT; MAKING USE OF A THIRD-PARTY ADMINISTRATOR OPTIONAL; INCREASING THE
7 HOSPITAL UTILIZATION FEE; ESTABLISHING A UTILIZATION FEE ON HOSPITAL OUTPATIENT REVENUE;
8 PROVIDING FOR DISPOSITION OF REVENUE FROM HOSPITAL UTILIZATION FEES; PROVIDING
9 STATUTORY APPROPRIATIONS FOR THE COST OF PROVIDING HEALTH CARE SERVICES; PROVIDING
10 AN APPROPRIATION FOR THE MONTANA HELP ACT WORKFORCE DEVELOPMENT PROGRAM;
11 AMENDING SECTIONS 15-66-101, 15-66-102, 15-66-103, 15-66-201, 15-66-202, 15-66-203, 15-66-204,
12 15-66-205, 17-1-508, 53-6-149, 53-6-1304, AND 53-6-1305, MCA; REPEALING SECTION 26, CHAPTER 368,
13 LAWS OF 2015, AND SECTION 28, CHAPTER 368, LAWS OF 2015; AND PROVIDING AN IMMEDIATE
14 EFFECTIVE DATE."

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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18 **Section 1.** Section 15-66-101, MCA, is amended to read:

19 **"15-66-101. (Temporary) Definitions.** For purposes of this chapter, the following definitions apply:

20 (1) (a) "Hospital" ~~means a facility licensed as a hospital pursuant to Title 50, chapter 5, has the meaning~~
21 provided in 50-5-101 and includes a critical access hospital as defined in 50-5-101.

22 (b) The term does not include the Montana state hospital or government hospitals not owned by the
23 state.

24 (2) (a) "Hospital outpatient revenue" means the gross revenue from a hospital's charges for services
25 provided on an outpatient basis.

26 (b) The term does not include charges for professional services provided as part of the outpatient
27 treatment.

28 ~~(2)~~(3) (a) "Inpatient bed day" means a day of inpatient care provided to a patient in a hospital. A day
29 begins at midnight and ends 24 hours later. A part of a day, including the day of admission, counts as a full day.

1 The day of discharge or death is not counted as a day. If admission and discharge or death occur on the same
 2 day, the day is considered a day of admission and is counted as one inpatient bed day. Inpatient bed days include
 3 all inpatient hospital benefit days as defined for medicare reporting purposes in section 20.1 of chapter 3 of the
 4 centers for medicare and medicaid services publication 100-02, the Medicare Benefit Policy Manual. Inpatient
 5 bed days also include all nursery days during which a newborn infant receives care in a nursery.

6 (b) The term does not include observation days or days of care in a swing bed, as defined in 50-5-101.

7 ~~(3)~~(4) "Patient" means an individual obtaining skilled medical and nursing services in a hospital. The term
 8 includes newborn infants.

9 ~~(4)~~(5) "Report" means the report of inpatient bed days and hospital outpatient revenue required in
 10 15-66-201.

11 ~~(5)~~(6) "Utilization fee" or "fee" means the fee fees required to be paid ~~for each inpatient bed day~~, as
 12 provided in 15-66-102. (Void on occurrence of contingency--sec. 18, Ch. 390, L. 2003--see chapter compiler's
 13 comment.)"

14

15 **Section 2.** Section 15-66-102, MCA, is amended to read:

16 **"15-66-102. (Temporary) Utilization fee ~~for fees~~ -- inpatient bed days -- hospital outpatient**
 17 **revenue.** (1) Each hospital in the state shall pay to the department a utilization fee in the amount of ~~\$50~~ \$70
 18 each inpatient bed day.

19 (2) Each hospital receiving medicaid reimbursement for outpatient services shall pay to the department
 20 a utilization fee in the amount of 0.95% of hospital outpatient revenue.

21 ~~(2)~~(3) (a) ~~All~~ Except as provided in subsection (3)(b), all proceeds from the collection of utilization fees,
 22 including penalties and interest, must, in accordance with the provisions of 17-2-124, be deposited to the credit
 23 of the department of public health and human services in a the state special revenue account ~~as~~ provided for in
 24 53-6-149.

25 (b) The department shall deposit 50% of the amount paid in accordance with subsection (2) into the state
 26 special revenue account provided for in 53-6-1304. (Void on occurrence of contingency--sec. 18, Ch. 390, L.
 27 2003--see chapter compiler's comment.)"

28

29 **Section 3.** Section 15-66-103, MCA, is amended to read:

1 **"15-66-103. (Temporary) Relation to other taxes and fees.** The utilization ~~fee~~ fees imposed under
2 15-66-102 ~~is~~ are in addition to any other taxes and fees required to be paid by hospitals. (Void on occurrence of
3 contingency--sec. 18, Ch. 390, L. 2003--see chapter compiler's comment.)"

4
5 **Section 4.** Section 15-66-201, MCA, is amended to read:

6 **"15-66-201. (Temporary) Reporting and collection of ~~fee~~ fees.** (1) On or before ~~January~~ March 31
7 of each year, a hospital shall file with the department an annual report of the number of inpatient bed days and
8 for hospitals receiving medicaid reimbursement for outpatient services, hospital outpatient revenue during the
9 preceding year beginning January 1 and ending December 31. The report must be in the form prescribed by the
10 department. The report must be accompanied by a payment in an amount equal to the ~~fee~~ fees required to be
11 paid under 15-66-102.

12 (2) On or before January 31 of each year, the department of public health and human services shall
13 provide the department with a list of hospitals licensed and operating in the state during the preceding year
14 beginning January 1 and ending December 31. The list must indicate which hospitals receive medicaid
15 reimbursement for outpatient services. (Void on occurrence of contingency--sec. 18, Ch. 390, L. 2003--see
16 chapter compiler's comment.)"

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18 **Section 5.** Section 15-66-202, MCA, is amended to read:

19 **"15-66-202. (Temporary) Audit -- records.** (1) The department may audit the records and other
20 documents of any hospital to ensure that the proper utilization ~~fee~~ fees ~~has~~ have been collected.

21 (2) The department may require the hospital to provide records and other documentation, including
22 books, ledgers, and registers, necessary for the department to verify the proper amount of the utilization ~~fee~~ fees
23 paid.

24 (3) A hospital shall maintain and make available for inspection by the department sufficient records and
25 other documentation to demonstrate the number of inpatient bed days in the facility and the hospital outpatient
26 revenue subject to the utilization ~~fee~~ fees. The facility shall maintain these records for a period of at least 5 years
27 from the date the report is due. (Void on occurrence of contingency--sec. 18, Ch. 390, L. 2003--see chapter
28 compiler's comment.)"

1 **Section 6.** Section 15-66-203, MCA, is amended to read:

2 **"15-66-203. (Temporary) Periods of limitation.** (1) Except as otherwise provided in this section, a
3 deficiency may not be assessed or collected with respect to the year for which a report is filed unless the notice
4 of additional fees proposed to be assessed is mailed within 5 years from the date the report was filed. For the
5 purposes of this section, a report filed before the last day prescribed for filing is considered filed on the last day.
6 If, before the expiration of the period prescribed for assessment of the ~~fee~~ fees, the hospital consents in writing
7 to an assessment after the 5-year period, the ~~fee~~ fees may be assessed at any time prior to the expiration of the
8 period agreed upon.

9 (2) A refund or credit may not be paid or allowed with respect to the year for which a report is filed after
10 5 years from the last day prescribed for filing the report or after 1 year from the date of the overpayment,
11 whichever period expires later, unless before the expiration of the period, the hospital files a claim or the
12 department has determined the existence of the overpayment and has approved the refund or credit. If the
13 hospital has agreed in writing under the provisions of subsection (1) to extend the time within which the
14 department may propose an additional assessment, the period within which a claim for refund or credit is filed
15 or a credit or refund is allowed if a claim is not filed is automatically extended. (Void on occurrence of
16 contingency--sec. 18, Ch. 390, L. 2003--see chapter compiler's comment.)"

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18 **Section 7.** Section 15-66-204, MCA, is amended to read:

19 **"15-66-204. (Temporary) Penalty and interest for delinquent fees -- waiver.** If the ~~fee~~ fees for any
20 hospital ~~is~~ are not paid on or before the due date of the report as provided in 15-66-201, penalty and interest, as
21 provided in 15-1-216, must be added to the ~~fee~~ fees. (Void on occurrence of contingency--sec. 18, Ch. 390, L.
22 2003--see chapter compiler's comment.)"

23

24 **Section 8.** Section 15-66-205, MCA, is amended to read:

25 **"15-66-205. (Temporary) ~~Estimated fee on failure to file~~ Department authority to request**
26 **information.** For the purpose of ascertaining the correctness of any report or for the purpose of making an
27 estimate of inpatient bed day use or hospital outpatient revenue of any hospital for which information has been
28 obtained, the department may:

29 (1) examine or cause to have examined by any designated agent or representative any books, papers,

1 records, or memoranda bearing upon the matters required to be included in the report;

2 (2) require the attendance of any officer or employee of the facility rendering the report or the attendance
3 of any other person in the premises having relevant knowledge; and

4 (3) take testimony and require production of any other material for its information. (Void on occurrence
5 of contingency--sec. 18, Ch. 390, L. 2003--see chapter compiler's comment.)"

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7 **Section 9.** Section 17-1-508, MCA, is amended to read:

8 **"17-1-508. Review of statutory appropriations.** (1) Each biennium, the office of budget and program
9 planning shall, in development of the executive budget, review and identify instances in which statutory
10 appropriations in current law do not appear consistent with the guidelines set forth in subsection (2).

11 (2) The review of statutory appropriations must determine whether a statutory appropriation meets the
12 requirements of 17-7-502. Except as provided in 53-6-1304, [76-17-103,] 76-22-109, and 77-1-108, a statutory
13 appropriation from a continuing and reliable source of revenue may not be used to fund administrative costs. In
14 reviewing and establishing statutory appropriations, the legislature shall consider the following guidelines. A
15 proposed or existing statutory appropriation may not be considered appropriate if:

16 (a) the money is from a continuing, reliable, and estimable source;

17 (b) the use of the appropriation or the expenditure occurrence is predictable and reliable;

18 (c) the authority exists elsewhere;

19 (d) an alternative appropriation method is available, practical, or effective;

20 (e) it appropriates state general fund money for purposes other than paying for emergency services;

21 (f) the money is used for general purposes;

22 (g) the legislature wishes to review expenditure and appropriation levels each biennium; and

23 (h) an expenditure cap and sunset date are excluded.

24 (3) The office of budget and program planning shall prepare a fiscal note for each piece of legislation
25 that proposes to create or amend a statutory appropriation. It shall, consistent with the guidelines in this section,
26 review each of these pieces of legislation. Its findings concerning the statutory appropriation must be contained
27 in the fiscal note accompanying that legislation. (Bracketed language in subsection (2) terminates June 30,
28 2027--sec. 10, Ch. 374, L. 2017.)"

29

1 **Section 10.** Section 53-6-149, MCA, is amended to read:

2 **"53-6-149. State special revenue fund account -- administration.** (1) There is a hospital medicaid
3 reimbursement account in the state special revenue fund provided for in 17-2-102.

4 (2) ~~At~~ Except for the money deposited in the state special revenue account provided for in 53-6-1304
5 as required under 15-66-102(3)(b), all money collected under 15-66-102 must be deposited in the account.

6 (3) Money in the account must be used by the department of public health and human services to provide
7 funding for increases in medicaid payments to hospitals and for the costs of collection of the fee and other
8 administrative activities associated with the implementation of increases in the medicaid payments to hospitals."

9

10 **Section 11.** Section 53-6-1304, MCA, is amended to read:

11 **"53-6-1304. (Temporary) Montana HELP Act program -- eligibility for coverage of health care**
12 **services -- statutory appropriations -- state and federal special revenue.** (1) An individual is eligible for
13 coverage of health care services provided pursuant to this part if the individual meets the requirements of 42
14 U.S.C. 1396a(a)(10)(A)(i)(VIII).

15 (2) Funds necessary to implement this part, including benefits and administrative costs, are statutorily
16 appropriated, as provided in 17-7-502, from the general fund to the department.

17 (3) There is an account in the federal special revenue fund to the credit of the department for the
18 payment of costs, including benefits and administrative costs, of providing health care services to individuals who
19 are eligible for coverage pursuant to subsection (1).

20 (4) The federal medical assistance percentage received pursuant to 42 U.S.C. 1396d(y) must be
21 deposited in the account provided for in subsection (3).

22 (5) Money in the federal special revenue account is statutorily appropriated, as provided in 17-7-502,
23 to the department for the purpose provided in subsection (3).

24 (6) There is an account in the state special revenue fund to the credit of the department for the payment
25 of costs, including benefits and administrative costs, of providing health care services to individuals who are
26 eligible for coverage pursuant to subsection (1).

27 (7) Money collected pursuant to 15-66-102(3)(b) must be deposited in the state special revenue account
28 provided for in subsection (6).

29 (8) Money in the state special revenue account is statutorily appropriated, as provided in 17-7-502, to

1 the department for the purpose provided in subsection (6). (~~Terminates June 30, 2019--sec. 28, Ch. 368, L.~~
2 ~~2015.~~)"

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4 **Section 12.** Section 53-6-1305, MCA, is amended to read:

5 **"53-6-1305. (~~Temporary~~) Montana HELP Act program -- delivery of health care services --**
6 **third-party administrator -- rulemaking.** (1) The department ~~shall~~ may contract as provided in Title 18, chapter
7 4, with one or more third-party administrators to assist in administering the delivery of health care services to
8 members eligible under 53-6-1304, including but not limited to:

9 (a) establishing networks of health care providers;

10 (b) paying claims submitted by health care providers;

11 (c) collecting the premiums provided for in 53-6-1307;

12 (d) coordinating care;

13 (e) helping to administer the program; and

14 (f) helping to administer the medicaid program reforms as specified in 53-6-1311.

15 (2) ~~The~~ If the department decides to contract with a third-party administrator, the department shall
16 determine the basic health care services to be provided through the arrangement with a third-party administrator.

17 (3) (a) The department may exempt certain individuals who are eligible for medicaid-funded services
18 pursuant to 53-6-1304 from receiving health care services through ~~the~~ an arrangement with a third-party
19 administrator if the individuals would be served more appropriately through the medical assistance program
20 established in Title 53, chapter 6, part 1, because the individuals:

21 (i) have exceptional health care needs, including but not limited to medical, mental health, or
22 developmental conditions;

23 (ii) live in a geographical area, including an Indian reservation, for which the third-party administrator has
24 been unable to make arrangements with sufficient health care providers to offer services to the individuals;

25 (iii) need continuity of care that would not be available or cost-effective through the arrangement with the
26 third-party administrator; or

27 (iv) are otherwise exempt under federal law.

28 (b) ~~The~~ If the department contracts with a third-party administrator, the department shall:

29 (i) adopt rules establishing criteria for determining whether a member is exempt from receiving health

1 care services through an arrangement with a third-party administrator; ~~and~~

2 (ii) provide coverage for exempted individuals through the medical assistance program established in Title
3 53, chapter 6, part 1-; and

4 ~~(4)(iii)~~ For for members participating in ~~the an~~ arrangement with ~~the a~~ third-party administrator, ~~the~~
5 ~~department shall~~ directly cover any service required under federal or state law that is not available through the
6 arrangement with the third-party administrator.

7 ~~(5)(4)~~ The department shall:

8 (a) seek federal authorization from the U.S. department of health and human services through a waiver
9 authorized by 42 U.S.C. 1315 and other waivers or through other means, as may be necessary, to implement
10 all of the provisions of Title 39, chapter 12, and this part; and

11 (b) implement access to the health care services in accordance with the requirements necessary to
12 receive the federal medical assistance percentage provided for by 42 U.S.C. 1396d(y).

13 ~~(6)(5)~~ The department may provide medicaid-funded services to members eligible pursuant to 53-6-1304
14 only upon federal approval of any necessary waivers. (~~Terminates June 30, 2019--sec. 28, Ch. 368, L. 2015.~~)"

16 NEW SECTION. Section 13. Repealer. Section 26, Chapter 368, Laws of 2015, and section 28,
17 Chapter 368, Laws of 2015, are repealed.

19 NEW SECTION. Section 14. Appropriation. There is appropriated \$6 million from the state general
20 fund to the department of labor and industry for the biennium beginning July 1, 2019, for the Montana HELP Act
21 workforce development program provided for in Title 39, chapter 12, part 1.

23 NEW SECTION. Section 15. Severability. If a part of [this act] is invalid, all valid parts that are
24 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
25 the part remains in effect in all valid applications that are severable from the invalid applications.

27 NEW SECTION. Section 16. Effective date. [This act] is effective on passage and approval.

28 - END -