

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1087

Introduced by Jacobson, 42; Armendariz, 18; Ballard, 21; Blood, 3; Bosn, 25; Brewer, 43; Cavanaugh, J., 9; Clements, 2; Conrad, 46; DeKay, 40; Dorn, 30; Dover, 19; Fredrickson, 20; Holdcroft, 36; Ibach, 44; Lippincott, 34; McDonnell, 5; Meyer, 41; Walz, 15; Wishart, 27.

Read first time January 09, 2024

Committee: Health and Human Services

- 1 A BILL FOR AN ACT relating to hospitals; to adopt the Hospital Quality
- 2 Assurance and Access Assessment Act; and to declare an emergency.
- 3 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 9 of this act shall be known and may be
2 cited as the Hospital Quality Assurance and Access Assessment Act.

3 Sec. 2. For purposes of the Hospital Quality Assurance and Access
4 Assessment Act:

5 (1) Assessment means a quality assurance and access assessment
6 imposed on hospitals pursuant to section 3 of this act;

7 (2) Department means the Division of Medicaid and Long-Term Care
8 Services of the Department of Health and Human Services;

9 (3) Hospital means a hospital as defined in section 71-419 or a
10 rural emergency hospital as defined in section 71-477;

11 (4) Medical assistance program means the medical assistance program
12 established pursuant to the Medical Assistance Act; and

13 (5) Net patient revenue means the revenue paid to a hospital for
14 patient care, room, board, and services less contractual adjustments, bad
15 debt, and revenue from sources other than operations, including, but not
16 limited to, interest, guest meals, gifts, and grants.

17 Sec. 3. (1) The department shall amend the medicaid state plan or
18 file other federal authorizing documents to establish assessments and
19 directed payment programs for hospital inpatient and outpatient services.

20 (2) Upon approval by the federal Centers for Medicare and Medicaid
21 Services of a hospital assessment and a directed payment program, the
22 department shall impose an assessment on hospitals to assure quality and
23 access in the medical assistance program.

24 (3) The department may establish different assessment rates based on
25 categories of hospital or hospital services as allowed by federal law.

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

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

1 aggregate inpatient, outpatient, and clinic claims data in order to
2 establish medicaid quality improvement metrics and track progress on
3 identified metrics.

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

7 Sec. 4. (1) The department shall collect assessments directly from
8 hospitals or contract with other parties for this purpose.

9 (2) The department or contracted parties, if applicable, shall
10 collect assessments and remit the assessments to the State Treasurer for
11 credit to the Hospital Quality Assurance and Access Assessment Fund. It
12 is the intent of the Legislature that no proceeds from the fund,
13 including the federal match, shall be placed in the General Fund.

14 Sec. 5. (1) Each hospital shall pay an assessment based on net
15 patient revenue for the purpose of improving the quality of, and access
16 to, hospital care in the state. The statewide aggregate assessment shall
17 equal the state share of the payments authorized by the federal Centers
18 for Medicare and Medicaid Services plus an administrative fee. The
19 administrative fee shall be no more than two percent of the assessment
20 required to fund the directed payment program. The assessment total shall
21 not exceed six percent of the net patient revenue of all assessed
22 hospitals.

23 (2)(a) A hospital shall pay its quarterly assessment within thirty
24 days of receipt of its quarterly directed payments. Failure of a hospital
25 to remit the assessments may result in penalties, interest, or legal
26 action.

27 (b) A new hospital shall begin paying an assessment and receiving
28 directed payments at the start of the first full fiscal year after the
29 hospital is eligible for medicaid reimbursement for inpatient or
30 outpatient services. A hospital that has merged with another hospital
31 shall have its assessment and directed payments revised at the start of

1 the first full fiscal year after the merger is recognized by the
2 department. A closed hospital shall be retroactively responsible for
3 assessments owed and shall receive directed payments for services
4 provided.

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

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

14 (2) The department shall use the Hospital Quality Assurance and
15 Access Assessment Fund, including the matching federal financial
16 participation, for the purpose of enhancing rates paid to hospitals under
17 the medical assistance program. Money in the fund shall not be used to
18 replace or offset existing state funds paid to hospitals for providing
19 services under the medical assistance program.

20 (3) The Hospital Quality Assurance and Access Assessment Fund shall
21 also be used to (a) pay the department or contracted parties a reasonable
22 administrative fee, not to exceed two percent of the assessment, to
23 enforce and collect assessments and administer directed payment programs
24 established by the Hospital Quality Assurance and Access Assessment Act
25 and (b) pay for programs established by a statewide association
26 representing a majority of hospitals and health care systems in Nebraska,
27 as described in section 3 of this act, in partnership with the
28 department, not to exceed one percent of the assessment, to improve
29 quality measures in the medical assistance program.

30 (4) In calculating rates, the proceeds from assessments and federal
31 match not utilized under subdivisions (3)(a) and (b) of this section

1 shall be used to enhance rates for hospital inpatient and outpatient
2 services in addition to any funds appropriated by the Legislature.

3 (5) The department shall collect data for revenue, discharge, and
4 inpatient days from any hospital that does not file an annual medicare
5 cost report. At the request of the department, any hospital that does not
6 file an annual medicare cost report shall submit such requested data to
7 the department.

8 (6) The department shall prohibit a medicaid managed care
9 organization from setting, establishing, or negotiating reimbursement
10 rates with a hospital in a manner that takes into account, directly or
11 indirectly, a directed payment program that a hospital receives under the
12 Hospital Quality Assurance and Access Assessment Act.

13 (7) A hospital shall not pass on the cost of an assessment to
14 patients or non-medicaid payors, including as a fee or rate increase. A
15 hospital that violates this subsection shall not receive a directed
16 payment program for the remainder of the rate year.

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

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

29 Sec. 9. (1) The department shall discontinue the collection of
30 assessments when (a) the authorizing documents reflecting the payment
31 rates established in section 3 of this act are given final disapproval by

1 the federal Centers for Medicare and Medicaid Services, (b) money in the
2 Hospital Quality Assurance and Access Assessment Fund is appropriated,
3 transferred, or otherwise expended for any use other than uses permitted
4 pursuant to the Hospital Quality Assurance and Access Assessment Act, and
5 (c) federal financial participation to match the assessments made under
6 the act become unavailable under federal law. In such case, the
7 department shall terminate the collection of the assessments beginning on
8 the effective date of the federal statutory, regulatory, or interpretive
9 change.

10 (2) If collection of assessments is discontinued as provided in this
11 section, the money in the Hospital Quality Assurance and Access
12 Assessment Fund shall be returned to the hospitals from which the
13 assessments were collected on the same proportional basis as the
14 assessments were assessed.

15 Sec. 10. Since an emergency exists, this act takes effect when
16 passed and approved according to law.