

ORIGINAL HOUSE  
BILL NO. HB0057

ENROLLED ACT NO. 24, HOUSE OF REPRESENTATIVES

SIXTY-THIRD LEGISLATURE OF THE STATE OF WYOMING  
2016 BUDGET SESSION

AN ACT relating to public welfare; establishing a private hospital assessment as specified; providing for the use of assessments to obtain federal matching funds; providing for payments to private hospitals as specified; establishing an account; providing definitions; providing regulatory authority; providing penalties; and providing for an effective date.

*Be It Enacted by the Legislature of the State of Wyoming:*

**Section 1.** W.S. 42-9-101 through 42-9-109 are created to read:

CHAPTER 9  
PRIVATE HOSPITAL ASSESSMENT ACT

**42-9-101. Short title.**

This chapter shall be known and may be cited as the "Wyoming Private Hospital Assessment Act."

**42-9-102. Definitions.**

(a) As used in this chapter:

(i) "Account" means the private hospital assessment account created by W.S. 42-9-103;

(ii) "Department" means the department of health;

(iii) "Fiscal year" means the twelve (12) month period beginning October 1 and ending September 30;

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(iv) "Medicaid" means the medical assistance program established by title XIX of the federal Social Security Act and administered in this state by the department pursuant to the Wyoming Medical Assistance and Services Act;

(v) "Medicare cost report" means the annual hospital cost report as determined by the centers for medicare and medicaid services and as reported to the health care cost report information system;

(vi) "Net hospital patient revenue" means gross hospital revenue as reported on the most recently filed medicare cost report, excluding estimated nonhospital ancillary revenue, multiplied by the hospital's ratio of total net to gross revenue. The department shall establish a procedure to reconcile filed cost report information with information from the settled cost report. If a hospital does not file a medicaid cost report, the department shall establish a procedure to determine what the hospital would have reported as net patient hospital revenue if the hospital had filed a medicaid cost report;

(vii) "Private hospital" means those institutions licensed by the department as hospitals which are not owned or operated by the state or any city, town, county, special district or other political subdivision of the state or local government;

(viii) "Quarterly adjustment payment" means the payment made to private hospitals pursuant to W.S. 42-9-106;

(ix) "Upper payment limit" means the applicable limitation established pursuant to 42 C.F.R. 447.272, 42 C.F.R. 447.321 or as otherwise established by the centers for medicare and medicaid services;

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(x) "Upper payment limit gap" means the amount calculated annually by the department constituting the difference between the applicable upper payment limit and medicaid payments made subject to that limit in a fiscal year, excluding any quarterly adjustment payments authorized by this chapter.

**42-9-103. Private hospital assessment account.**

(a) The private hospital assessment account is created.

(b) The state treasurer shall invest amounts deposited within the account in accordance with law and all investment earnings shall be credited back to the account. Funds in the account are continuously appropriated to the department for the purposes specified in this section.

(c) The account shall consist of:

(i) Amounts collected or received by the department from private hospital assessments under this chapter;

(ii) All federal matching funds received by the department as a result of expenditures made by the department pursuant to this chapter.

(d) The account shall be used exclusively for the following purposes:

(i) To pay administrative expenses incurred by the department or its agent in performing the activities authorized by this chapter, provided that these expenses shall not exceed a total of one percent (1%) of the aggregate assessment funds collected in the fiscal year;

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(ii) To secure federal matching funds available through the state medicaid plan as approved pursuant to W.S. 42-9-108, which shall be used to make quarterly adjustment payments as provided by this chapter;

(iii) To repay to the federal government any excess payments received or made to private hospitals if the state plan, after approval by the centers for medicare and medicaid services, is subsequently disapproved for any reason and after the state has exhausted all appeals. Private hospitals shall refund any excess payments to the assessment account. If a private hospital is unable to refund payments as provided in this paragraph, the department shall develop a payment plan to recoup deficient payments and accordingly deduct amounts from future medicaid payments. The department shall refund the federal government for the federal portion of those overpayments;

(iv) To refund assessments paid by private hospitals for quarterly adjustment payments which were earned but not paid by the department, but only after the payments authorized by paragraphs (i) and (iii) of this section have been made.

**42-9-104. Assessments.**

(a) Each private hospital shall pay a private hospital assessment to the department in accordance with this section. Hospitals owned or operated by the state or any city, town, county, special district or other political subdivision of the state or local government shall not be required to pay the assessment required by this section.

(b) The assessment due under this section shall be imposed each fiscal year in an amount calculated as a uniform percentage of each hospital's net patient revenue.

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The assessment rate shall be determined by the department on a prospective basis and shall be based on the percentage of net hospital patient revenue needed to generate an amount not to exceed the nonfederal portion of the upper payment limit gap plus the fee authorized by W.S. 42-9-103(d)(i). In no event shall the assessment rate:

(i) Exceed the indirect guarantee threshold amount established by 42 C.F.R. 433.68(f)(3)(i) or other federal law;

(ii) Exceed two percent (2%) of a hospital's net patient revenue for the first fiscal year in which the hospital is assessed;

(iii) Increase by more than one-half of one percent (.5%) of a hospital's net patient revenue for each fiscal year following the first fiscal year in which the hospital is assessed without further approval by the legislature.

(c) Unless otherwise determined by the department, the department shall collect and each private hospital shall pay the assessment required by this section on a quarterly basis, each payment constituting twenty-five percent (25%) of the annual assessment determined by the department. The initial payment shall be due not later than forty-five (45) days after the state plan has been approved by the centers for medicare and medicaid services unless a later date is set by the department. Subsequent payments are due not later than forty-five (45) days after the end of each calendar quarter unless a later date is set by the department.

(d) If a private hospital ceases to operate as a hospital or for any reason ceases to be subject to the assessment imposed under this chapter, the assessment for

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the fiscal year in which the cessation occurs shall be adjusted by multiplying the annual assessment by a fraction, the numerator of which is the number of days in the year during which the hospital is subject to the assessment and the denominator of which is three hundred sixty-five (365). Immediately upon ceasing to operate as a hospital, or otherwise ceasing to be subject to this chapter, the hospital shall pay the assessment for each quarter as adjusted, to the extent not previously paid.

**42-9-105. Penalties for failure to pay assessment.**

(a) If a private hospital fails to pay an assessment due under this chapter, there shall be added to the assessment a penalty equal to five percent (5%) of the amount of the assessment that was not paid when due. The penalty under this section may be waived by the department for good cause. Any payments made after a penalty is assessed under this section shall be credited first to unpaid assessment amounts rather than to penalty amounts, beginning with the most delinquent installment.

(b) In addition to the penalty under subsection (a) of this section, the department may implement any of the following remedies for failure of a private hospital to pay its assessment when due under this chapter:

(i) Withhold any medicaid payments, including any quarterly adjustment payments, until the assessment is paid; or

(ii) Develop a plan that requires the private hospital to pay any delinquent assessment in installments.

**42-9-106. Quarterly adjustment payments.**

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(a) To preserve the quality and improve access to hospital services for private hospital inpatient and outpatient services rendered on or after July 1, 2016, the department shall make quarterly adjustment payments as set forth in this section.

(b) Each private hospital that pays assessments under this chapter and is eligible to receive medicaid payments shall be eligible to receive quarterly adjustment payments as provided in this section. The department shall distribute quarterly adjustment payments in an amount up to but not to exceed the applicable upper payment limit gap. The department shall establish a uniform methodology by which to distribute quarterly adjustment payments in compliance with applicable federal and state medicaid laws and regulations.

(c) Quarterly adjustment payments shall not be used to offset any other payment by medicaid for hospital inpatient or outpatient services to medicaid beneficiaries, including without limitation any fee-for-service, per diem, private hospital inpatient adjustment or cost settlement payment.

(d) No private hospital shall be guaranteed, expressly or otherwise, that any quarterly adjustment payment will equal or exceed the amount of the private hospital assessments due under this chapter.

(e) Monies made available by this chapter shall not be used to replace other general revenues appropriated and funded by the legislature or other revenues used to support medicaid.

**42-9-107. Discontinuation of the assessment and quarterly adjustment payments.**

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(a) The assessment imposed by this chapter shall be discontinued if:

(i) The state plan amendment reflecting the quarterly adjustment payments authorized by this chapter is not approved by the centers for medicare and medicaid services. The department may modify the quarterly adjustment payment provisions as necessary to obtain the centers for medicare and medicaid services approval if the changes do not exceed the authority and purposes of this chapter;

(ii) Federal financial participation to match assessments under this chapter becomes unavailable under federal law. In this event, the department shall terminate the imposition of assessments beginning on the date the federal statutory, regulatory or interpretive change takes effect.

(b) If collection of the assessment is discontinued as provided in this section, quarterly adjustment payments shall be discontinued and, after payment of all amounts under W.S. 42-9-103(d)(i) and (iii), any assessments remaining in the account shall be returned to the private hospitals from which the assessments were collected on the same basis as they were collected.

**42-9-108. Approval of state plan; rulemaking.**

(a) The department shall seek necessary federal approval in the form of state plan amendments in order to continue to implement the provisions of this chapter.

(b) The department shall adopt rules and regulations necessary to implement the provisions of this chapter and to obtain approval of the state plan amendments.

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**42-9-109. Multiple facilities.**

If a person conducts, operates or maintains more than one (1) private hospital licensed by the department, the person shall pay the assessment for each private hospital separately.

**Section 2.** This act is effective July 1, 2016.

(END)

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Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Governor

TIME APPROVED: \_\_\_\_\_

DATE APPROVED: \_\_\_\_\_

I hereby certify that this act originated in the House.

\_\_\_\_\_  
Chief Clerk