

SENATE BILL NO. 382—COMMITTEE ON HEALTH AND EDUCATION

MARCH 23, 2009

Referred to Committee on Health and Education

SUMMARY—Revises provisions relating to disproportionate share payments to certain hospitals. (BDR 38-1105)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes.

CONTAINS UNFUNDED MANDATE (§§ 3, 5) (NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted material] is material to be omitted.

AN ACT relating to public welfare; revising provisions relating to the disproportionate share payments made to certain hospitals; establishing provisions relating to audits of and prescribing other requirements for certain hospitals; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing federal law requires each state to adopt a state plan for Medicaid and
2 requires that the plan include a description of the methodology used by the state to
3 identify certain hospitals which serve a disproportionate number of low-income
4 patients and to pay those hospitals for their uncompensated costs associated with
5 providing services to those patients. These hospitals are known as disproportionate
6 share hospitals. (42 U.S.C. § 1396r-4) The Centers for Medicare and Medicaid
7 Services of the United States Department of Health and Human Services issued a
8 final rule amending regulations which govern the disproportionate share hospitals,
9 payments to those hospitals and audits of those hospitals. This rule became
10 effective on January 19, 2009. The State Plan for Medicaid for Nevada provides for
11 payments to disproportionate share hospitals and requires the Division of Health
12 Care Financing and Policy of the Department of Health and Human Services to
13 calculate the uncompensated care percentage of each hospital for purposes of
14 making those payments. (NRS 422.380-422.390) This bill amends existing laws
15 relating to disproportionate share hospitals and payments to those hospitals to
16 comply with the final rule adopted by the Centers for Medicare and Medicaid
17 Services.

18 **Section 2** of this bill revises the information which must be considered by the
19 Division of Health Care Financing and Policy of the Department of Health and
20 Human Services to determine the disproportionate share payment authorized for
21 each hospital. (NRS 422.3807) **Section 3** of this bill eliminates the specific amount



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22 which must be paid to the Division by counties whose population is more than
23 100,000 to assist with disproportionate share payments and requires the Division to
24 enter into cooperative agreements with counties to determine the amount which a
25 county must pay. (NRS 422.382) **Section 5** of this bill eliminates the specific
26 amounts which must be paid to certain hospitals in this State and requires the State
27 Plan for Medicaid and the Division to establish the methodologies for determining
28 the disproportionate share payments which must be paid to hospitals, which must
29 be in accordance with federal law and regulations. (NRS 422.387) **Section 6** of this
30 bill requires the Division to adopt regulations to carry out the provisions relating to
31 audits, the recovery of overpayments of disproportionate share payments and the
32 redistribution of the money recovered in accordance with federal law and federal
33 regulations. (NRS 422.390)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** NRS 422.380 is hereby amended to read as follows:
2 422.380 As used in NRS 422.380 to 422.390, inclusive, unless
3 the context otherwise requires:
4 1. “Disproportionate share payment” means a payment made
5 pursuant to 42 U.S.C. § 1396r-4.
6 2. “Hospital” has the meaning ascribed to it in NRS 439B.110
7 and includes public and private hospitals.
8 3. *“Medicaid inpatient utilization rate” has the meaning*
9 *ascribed to it in 42 U.S.C. § 1396r-4(b)(2).*
10 4. “Public hospital” means:
11 (a) A hospital owned by a state or local government, including,
12 without limitation, a hospital district; or
13 (b) A hospital that is supported in whole or in part by tax
14 revenue, other than tax revenue received for medical care which is
15 provided to Medicaid patients, indigent patients or other low-income
16 patients.
17 5. *“Uncompensated care costs” means the total costs of a*
18 *hospital incurred in providing care to uninsured patients,*
19 *including, without limitation, patients covered by Medicaid less*
20 *any payments received by the hospital for that care.*
21 **Sec. 2.** NRS 422.3807 is hereby amended to read as follows:
22 422.3807 1. The Division shall determine for each hospital
23 that is located in a county whose population is 100,000 or more the
24 uncompensated care ~~{percentage}~~ *costs of the hospital, the*
25 *Medicaid inpatient utilization rate* of the hospital *and the profit*
26 *and loss margin of the hospital, as reported to the Centers for*
27 *Medicare and Medicaid Services of the United States Department*
28 *of Health and Human Services,* for the preceding fiscal year.
29 2. Based on the determinations made pursuant to subsection 1,
30 the Division shall determine for each county whose population is



1 100,000 or more the arithmetic mean of the percentages determined
2 pursuant to subsection 1 of all hospitals in the county.

3 3. Each hospital shall provide to the Division any information
4 requested by the Division that the Division determines is necessary
5 to make a determination pursuant to this section.

6 4. The Division shall at least once each year prepare and
7 submit a report concerning the determinations it makes pursuant to
8 this section to:

- 9 (a) The Legislative Commission;
- 10 (b) The Interim Finance Committee; and
- 11 (c) The Legislative Committee on Health Care.

12 ~~[5.—As used in this section, “uncompensated care percentage”~~
13 ~~has the meaning ascribed to it in NRS 422.387.]~~

14 **Sec. 3.** NRS 422.382 is hereby amended to read as follows:

15 422.382 1. ~~[In a county whose population is 100,000 or more~~
16 ~~within which:~~

17 ~~—(a) A public hospital is located, the state or local government or~~
18 ~~other entity responsible for the public hospital shall transfer an~~
19 ~~amount equal to:~~

20 ~~——(1) Seventy percent of the total amount of disproportionate~~
21 ~~share payments distributed to all hospitals pursuant to NRS 422.387~~
22 ~~for a fiscal year, less \$1,050,000; or~~

23 ~~——(2) Sixty eight and fifty four one hundredths percent of the~~
24 ~~total amount of disproportionate share payments distributed to all~~
25 ~~hospitals pursuant to NRS 422.387 for a fiscal year;~~

26 ~~↪ whichever is less, to the Division.~~

27 ~~—(b) A private hospital which receives a disproportionate share~~
28 ~~payment pursuant to paragraph (c) of subsection 2 of NRS 422.387~~
29 ~~is located, the county shall transfer 1.95 percent of the total amount~~
30 ~~of disproportionate share payments distributed to all hospitals~~
31 ~~pursuant to NRS 422.387 for a fiscal year, but not more than~~
32 ~~\$1,500,000, to the Division.] *The Department shall enter into*~~
33 ~~*cooperative agreements with counties in this State to ensure*~~
34 ~~*intergovernmental transfers of money to the Division for the*~~
35 ~~*purposes of carrying out the provisions of NRS 422.380 to*~~
36 ~~*422.390, inclusive, in accordance with the State Plan for*~~
37 ~~*Medicaid.*~~

38 2. A county that transfers the amount required pursuant to
39 ~~[paragraph (b) of]~~ *a cooperative agreement entered into pursuant*
40 *to* subsection 1 to the Division is discharged of the duty and is
41 released from liability for providing medical treatment for indigent
42 inpatients who are treated in the hospital in the county that
43 receives a payment pursuant to ~~[paragraph (e) of subsection 2 of]~~
44 NRS 422.387.



1 3. The money transferred to the Division pursuant to
2 subsection 1 must not come from any source of funding that could
3 result in any reduction in revenue to the State pursuant to 42 U.S.C.
4 § 1396b(w).

5 4. Any money collected pursuant to subsection 1, including
6 any interest or penalties imposed for a delinquent payment, must be
7 deposited in the State Treasury for credit to the Intergovernmental
8 Transfer Account in the State General Fund to be administered by
9 the Division.

10 5. The interest and income earned on money in the
11 Intergovernmental Transfer Account, after deducting any applicable
12 charges, must be credited to the Account.

13 **Sec. 4.** NRS 422.385 is hereby amended to read as follows:

14 422.385 1. The allocations and payments required pursuant
15 to ~~[subsections 1 to 5, inclusive, of]~~ NRS 422.387 must be made, to
16 the extent allowed by the State Plan for Medicaid, from the
17 Medicaid Budget Account.

18 2. Except as otherwise provided in ~~[subsection 3 and]~~
19 subsection 6 of NRS 422.387, the money in the Intergovernmental
20 Transfer Account must be transferred from that Account to the
21 Medicaid Budget Account to the extent that money is available from
22 the Federal Government for proposed expenditures, including
23 expenditures for administrative costs. If the amount in the Account
24 exceeds the amount authorized for expenditure by the Division for
25 the purposes specified in NRS 422.387, the Division is authorized to
26 expend the additional revenue in accordance with the provisions of
27 the State Plan for Medicaid.

28 3. If enough money is available to support Medicaid and to
29 make the payments required by subsection 6 of NRS 422.387,
30 money in the Intergovernmental Transfer Account may be
31 transferred:

32 (a) To an account established for the provision of health care
33 services to uninsured children pursuant to a federal program in
34 which at least 50 percent of the cost of such services is paid for by
35 the Federal Government, including, without limitation, the
36 Children's Health Insurance Program; or

37 (b) To carry out the provisions of NRS 439B.350 and 439B.360.

38 **Sec. 5.** NRS 422.387 is hereby amended to read as follows:

39 422.387 1. Before making the payments required or
40 authorized by this section, the Division shall allocate money for the
41 administrative costs necessary to carry out the provisions of NRS
42 422.380 to 422.390, inclusive. The amount allocated for
43 administrative costs must not exceed the amount authorized for
44 expenditure by the Legislature for this purpose in a fiscal year. The



1 Interim Finance Committee may adjust the amount allowed for
2 administrative costs.

3 2. The State Plan for Medicaid must provide for the payment of
4 the maximum amount of disproportionate share payments allowable
5 under federal law and regulations. The State Plan for Medicaid must
6 provide that ~~for:~~

7 ~~—(a) All public hospitals in counties whose population is 400,000~~
8 ~~or more, the total annual disproportionate share payments are~~
9 ~~\$66,650,000 plus 90 percent of the total amount of disproportionate~~
10 ~~share payments distributed by the State in that fiscal year that~~
11 ~~exceeds \$76,000,000;~~

12 ~~—(b) All private hospitals in counties whose population is 400,000~~
13 ~~or more, the total annual disproportionate share payments are~~
14 ~~\$1,200,000 plus 2.5 percent of the total amount of disproportionate~~
15 ~~share payments distributed by the State in that fiscal year that~~
16 ~~exceeds \$76,000,000;~~

17 ~~—(c) All private hospitals in counties whose population is 100,000~~
18 ~~or more but less than 400,000, the total annual disproportionate~~
19 ~~share payments are \$4,800,000 plus 2.5 percent of the total amount~~
20 ~~of disproportionate share payments distributed by the State in that~~
21 ~~fiscal year that exceeds \$76,000,000;~~

22 ~~—(d) All public hospitals in counties whose population is less than~~
23 ~~100,000, the total annual disproportionate share payments are~~
24 ~~\$900,000 plus 2.5 percent of the total amount of disproportionate~~
25 ~~share payments distributed by the State in that fiscal year that~~
26 ~~exceeds \$76,000,000; and~~

27 ~~—(e) All private hospitals in counties whose population is less~~
28 ~~than 100,000, the total annual disproportionate share payments are~~
29 ~~\$2,450,000 plus 2.5 percent of the total amount of disproportionate~~
30 ~~share payments distributed by the State in that fiscal year that~~
31 ~~exceeds \$76,000,000.]~~

32 *money available for the purposes of*
33 *carrying out the provisions of NRS 422.380 to 422.390, inclusive,*
34 *for each fiscal year is allocated among each hospital that is*
35 *eligible for a disproportionate share payment based on the*
36 *percentage of uncompensated care costs of each hospital as*
37 *compared to other hospitals that are eligible for a disproportionate*
38 *share payment. The State Plan for Medicaid must provide the*
39 *process for allocating money proportionately in accordance with*
40 *the provisions of this subsection.*

41 3. The State Plan for Medicaid must provide ~~for a base~~
42 ~~payment in an amount determined pursuant to subsections 4 and 5.~~
43 ~~Any amount set forth in each paragraph of subsection 2 that remains~~
44 ~~after all base payments have been distributed must be distributed to~~
45 ~~the hospital within that paragraph with the highest uncompensated~~
~~care percentage in an amount equal to either the amount remaining~~



1 ~~after all base payments have been distributed or the amount~~
2 ~~necessary to reduce the uncompensated care percentage of that~~
3 ~~hospital to the uncompensated care percentage of the hospital in that~~
4 ~~paragraph with the second highest uncompensated care percentage;~~
5 ~~whichever is less. Any amount set forth in subsection 2 that remains~~
6 ~~after the uncompensated care percentage of the hospital with the~~
7 ~~highest uncompensated care percentage in a paragraph has been~~
8 ~~reduced to equal the uncompensated care percentage of the hospital~~
9 ~~in that paragraph with the second highest uncompensated care~~
10 ~~percentage must be distributed equally to the two hospitals with the~~
11 ~~highest uncompensated care percentage in that paragraph until their~~
12 ~~uncompensated care percentages are equal to the uncompensated~~
13 ~~care percentage of the hospital with the third highest uncompensated~~
14 ~~care percentage in that paragraph. This process must be repeated~~
15 ~~until all available funds set forth in a paragraph of subsection 2 have~~
16 ~~been distributed.~~

17 ~~4. Except as otherwise provided in subsection 5, the base~~
18 ~~payments for the purposes of subsection 3 are:~~

19 ~~(a) For the University Medical Center of Southern Nevada,~~
20 ~~\$66,531,729;~~

21 ~~(b) For Washoe Medical Center, \$4,800,000;~~

22 ~~(c) For Carson Tahoe Hospital, \$1,000,000;~~

23 ~~(d) For Northeastern Nevada Regional Hospital, \$500,000;~~

24 ~~(e) For Churchill Community Hospital, \$500,000;~~

25 ~~(f) For Humboldt General Hospital, \$215,109;~~

26 ~~(g) For William Bee Ririe Hospital, \$204,001;~~

27 ~~(h) For Mt. Grant General Hospital, \$195,838;~~

28 ~~(i) For South Lyon Medical Center, \$174,417; and~~

29 ~~(j) For Nye Regional Medical Center, \$115,000;~~

30 ~~or the successors in interest to such hospitals.]~~ *the methodology*
31 *for:*

32 *(a) Calculating the initial distribution of the disproportionate*
33 *share payments pursuant to this section;*

34 *(b) Adjusting the disproportionate share payment to a hospital*
35 *if the annual audit of the hospital demonstrates that the*
36 *disproportionate share payment made to the hospital was greater*
37 *than the amount of money which the hospital was eligible to*
38 *receive; and*

39 *(c) Redistributing any amount of disproportionate share*
40 *payments which are returned to the Division as a result of the*
41 *adjustments made in accordance with paragraph (b).*

42 *4. The State Plan for Medicaid or, if the Division deems*
43 *necessary, the Division may require a hospital to submit any*
44 *documentation or other information to verify eligibility for a*
45 *disproportionate share payment or compliance with the*



1 *requirements of NRS 422.380 to 422.390, inclusive. A*
2 *disproportionate share payment may not be calculated for or made*
3 *to a hospital which fails to provide the Division with*
4 *documentation or other information that is required by the State*
5 *Plan for Medicaid or the Division.*

6 5. The *State Plan for Medicaid* must be consistent with the
7 provisions of NRS 422.380 to 422.390, inclusive, and Title XIX of
8 the Social Security Act, 42 U.S.C. §§ 1396 et seq., and the
9 regulations adopted pursuant to those provisions. ~~If the total~~
10 ~~amount available to the State for making disproportionate share~~
11 ~~payments is less than \$76,000,000, the Administrator:~~

12 ~~—(a) Shall adjust the amounts for each group of hospitals~~
13 ~~described in a paragraph of subsection 2 proportionally in~~
14 ~~accordance with the limits of federal law. If the amount available to~~
15 ~~hospitals in a group described in a paragraph of subsection 2 is less~~
16 ~~than the total amount of base payments specified in subsection 4, the~~
17 ~~Administrator shall reduce the base payments proportionally in~~
18 ~~accordance with the limits of federal law.~~

19 ~~—(b) Shall adopt a regulation specifying the amount of the~~
20 ~~reductions required by paragraph (a).]~~

21 6. To the extent that money is available in the
22 Intergovernmental Transfer Account, the Division shall distribute
23 \$50,000 from that Account each fiscal year to each public hospital
24 which:

25 (a) Is located in a county that does not have any other hospitals;
26 and

27 (b) Is not *otherwise* eligible for a payment pursuant to
28 ~~subsections 2, 3 and 4.~~

29 ~~—7. As used in this section:~~

30 ~~—(a) “Total revenue” is the amount of revenue a hospital receives~~
31 ~~for patient care and other services, net of any contractual allowances~~
32 ~~or bad debts.~~

33 ~~—(b) “Uncompensated care costs” means the total costs of a~~
34 ~~hospital incurred in providing care to uninsured patients, including,~~
35 ~~without limitation, patients covered by Medicaid or another~~
36 ~~governmental program for indigent patients, less any payments~~
37 ~~received by the hospital for that care.~~

38 ~~—(c) “Uncompensated care percentage” means the uncompensated~~
39 ~~care costs of a hospital divided by the total revenue for the hospital.]~~
40 *this section.*

41 **Sec. 6.** NRS 422.390 is hereby amended to read as follows:

42 422.390 1. The Division shall adopt regulations concerning:

43 (a) Procedures for the transfer to the Division of the amount
44 required pursuant to *cooperative agreements entered into pursuant*
45 *to NRS 422.382.*



1 (b) Provisions for the payment of a penalty and interest for a
2 delinquent transfer.

3 (c) Provisions for the payment of interest by the Division for
4 late reimbursements to hospitals or other providers of medical care.

5 (d) Provisions for the calculation of the uncompensated care
6 ~~[percentage]~~ costs and Medicaid inpatient utilization rate for
7 hospitals, including, without limitation, the procedures and
8 methodology required to be used in calculating the ~~[percentage, and~~
9 ~~any]~~ costs and rate.

10 (e) Any required documentation of and reporting by a hospital
11 relating to the calculation ~~[]~~ of the disproportionate share payment
12 for the hospital and the verification of the disproportionate share
13 payment that has been received by the hospital.

14 (f) Procedures and requirements for conducting independent
15 and certified audits of hospitals and the disproportionate share
16 payments made to hospitals as required pursuant to Title XIX of
17 the Social Security Act, 42 U.S.C. §§ 1396 et seq., and the
18 regulations adopted pursuant to those provisions.

19 (g) Procedures for adjusting a disproportionate share payment
20 in accordance with Title XIX of the Social Security Act, 42 U.S.C.
21 §§ 1396, et seq., and the regulations adopted pursuant to those
22 provisions, if the audit of a hospital demonstrates that a
23 disproportionate share payment made to the hospital was greater
24 than the amount of money the hospital was eligible to receive.

25 (h) Procedures for redistributing any disproportionate share
26 payment returned to the Division by a hospital in accordance with
27 Title XIX of the Social Security Act, 42 U.S.C. §§ 1396 et seq., and
28 the regulations adopted pursuant to those provisions.

29 2. The Division shall report to the Interim Finance Committee
30 quarterly concerning the provisions of NRS 422.380 to 422.390,
31 inclusive.

32 **Sec. 7.** NRS 450.750 is hereby amended to read as follows:

33 450.750 For the purposes of NRS 422.382, if a hospital district
34 created pursuant to NRS 450.550 to 450.750, inclusive, includes
35 territory within more than one county, the board of county
36 commissioners of the county in which the hospital is located shall be
37 deemed to be the local government ~~[responsible]~~ required to enter
38 into an agreement with the Department of Health and Human
39 Services for transferring payments of money to the Department ~~[of~~
40 ~~Health and Human Services]~~ for treatment of ~~[medically indigent]~~
41 patients pursuant to the provisions of that section.

42 **Sec. 8.** The Department of Health and Human Services may
43 conduct audits pursuant to NRS 422.390, as amended by section 6
44 of this act, for any previous fiscal year as required pursuant to



1 Title XIX of the Social Security Act, 42 U.S.C. §§ 1396 et seq., and
2 the regulations adopted pursuant to those provisions.

3 **Sec. 9.** The provisions of NRS 354.599 do not apply to any
4 additional expenses of a local government that are related to the
5 provisions of this act.

6 **Sec. 10.** This act becomes effective upon passage and approval
7 for purposes of adopting regulations and amending the State Plan
8 for Medicaid and on July 1, 2009, for all other purposes.

