



Substitute House Bill No. 5440

Public Act No. 14-160

**AN ACT CONCERNING MEDICAID REIMBURSEMENT FOR
EMERGENCY DEPARTMENT PHYSICIANS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 17b-239 of the 2014 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2014*):

(a) (1) Until the time subdivision (2) of this subsection is effective, the rate to be paid by the state to hospitals receiving appropriations granted by the General Assembly and to freestanding chronic disease hospitals providing services to persons aided or cared for by the state for routine services furnished to state patients, shall be based upon reasonable cost to such hospital, or the charge to the general public for ward services or the lowest charge for semiprivate services if the hospital has no ward facilities, imposed by such hospital, whichever is lowest, except to the extent, if any, that the commissioner determines that a greater amount is appropriate in the case of hospitals serving a disproportionate share of indigent patients. Such rate shall be promulgated annually by the Commissioner of Social Services.

(2) On or after July 1, 2013, Medicaid rates paid to acute care and children's hospitals shall be based on diagnosis-related groups

Substitute House Bill No. 5440

established and periodically rebased by the Commissioner of Social Services, provided the Department of Social Services completes a fiscal analysis of the impact of such rate payment system on each hospital. The Commissioner of Social Services shall, in accordance with the provisions of section 11-4a, file a report on the results of the fiscal analysis not later than six months after implementing the rate payment system with the joint standing committees of the General Assembly having cognizance of matters relating to human services and appropriations and the budgets of state agencies. The Commissioner of Social Services shall annually determine in-patient rates for each hospital by multiplying diagnostic-related group relative weights by a base rate. Within available appropriations, the commissioner may, in his or her discretion, make additional payments to hospitals based on criteria to be determined by the commissioner. Nothing contained in this section shall authorize Medicaid payment by the state to any such hospital in excess of the charges made by such hospital for comparable services to the general public.

(b) Effective October 1, 1991, the rate to be paid by the state for the cost of special services rendered by such hospitals shall be established annually by the commissioner for each such hospital based on the reasonable cost to each hospital of such services furnished to state patients. Nothing contained in this subsection shall authorize a payment by the state for such services to any such hospital in excess of the charges made by such hospital for comparable services to the general public.

(c) The term "reasonable cost" as used in this section means the cost of care furnished such patients by an efficient and economically operated facility, computed in accordance with accepted principles of hospital cost reimbursement. The commissioner may adjust the rate of payment established under the provisions of this section for the year during which services are furnished to reflect fluctuations in hospital

Substitute House Bill No. 5440

costs. Such adjustment may be made prospectively to cover anticipated fluctuations or may be made retroactive to any date subsequent to the date of the initial rate determination for such year or in such other manner as may be determined by the commissioner. In determining "reasonable cost" the commissioner may give due consideration to allowances for fully or partially unpaid bills, reasonable costs mandated by collective bargaining agreements with certified collective bargaining agents or other agreements between the employer and employees, provided "employees" shall not include persons employed as managers or chief administrators, requirements for working capital and cost of development of new services, including additions to and replacement of facilities and equipment. The commissioner shall not give consideration to amounts paid by the facilities to employees as salary, or to attorneys or consultants as fees, where the responsibility of the employees, attorneys or consultants is to persuade or seek to persuade the other employees of the facility to support or oppose unionization. Nothing in this subsection shall prohibit the commissioner from considering amounts paid for legal counsel related to the negotiation of collective bargaining agreements, the settlement of grievances or normal administration of labor relations.

(d) (1) Until such time as subdivision (2) of this subsection is effective, the state shall also pay to such hospitals for each outpatient clinic and emergency room visit a reasonable rate to be established annually by the commissioner for each hospital, such rate to be determined by the reasonable cost of such services.

(2) On or after July 1, 2013, hospitals shall be paid for outpatient and emergency room episodes of care based on prospective rates established by the commissioner in accordance with the Medicare Ambulatory Payment Classification system in conjunction with a state conversion factor, provided the Department of Social Services completes a fiscal analysis of the impact of such rate payment system

Substitute House Bill No. 5440

on each hospital. The Commissioner of Social Services shall, in accordance with the provisions of section 11-4a, file a report on the results of the fiscal analysis not later than six months after implementing the rate payment system with the joint standing committees of the General Assembly having cognizance of matters relating to human services and appropriations and the budgets of state agencies. The Medicare Ambulatory Payment Classification system shall be modified to provide payment for services not generally covered by Medicare, including, but not limited to, pediatric, obstetric, neonatal and perinatal services. Nothing contained in this subsection shall authorize a payment by the state for such episodes of care to any hospital in excess of the charges made by such hospital for comparable services to the general public. Those outpatient hospital services that do not have an established Medicare Ambulatory Payment Classification code shall be paid on the basis of a ratio of cost to charges, or the fixed fee in effect as of January 1, 2013. The Commissioner of Social Services shall establish a fee schedule for outpatient hospital services to be effective on and after January 1, 1995, and may annually modify such fee schedule if such modification is needed to ensure that the conversion to an administrative services organization is cost neutral to hospitals in the aggregate and ensures patient access. Utilization may be a factor in determining cost neutrality.

(e) On and after January 1, 2015, and concurrent with the implementation of the diagnosis-related group methodology of payment to hospitals, an emergency department physician may enroll separately as a Medicaid provider and qualify for direct reimbursement for professional services provided in the emergency department of a hospital to a Medicaid recipient, including services provided on the same day the Medicaid recipient is admitted to the hospital. The commissioner shall pay to any such emergency department physician the Medicaid rate for physicians in accordance

Substitute House Bill No. 5440

with the physician fee schedule in effect at that time. If the commissioner determines that payment to an emergency department physician pursuant to this subsection results in an additional cost to the state, the commissioner shall adjust such rate in consultation with the Connecticut Hospital Association and the Connecticut College of Emergency Physicians to ensure budget neutrality.

[(e)] (f) The commissioner shall adopt regulations, in accordance with the provisions of chapter 54, establishing criteria for defining emergency and nonemergency visits to hospital emergency rooms. All nonemergency visits to hospital emergency rooms shall be paid at the hospital's outpatient clinic services rate. Nothing contained in this subsection or the regulations adopted under this section shall authorize a payment by the state for such services to any hospital in excess of the charges made by such hospital for comparable services to the general public. To the extent permitted by federal law, the Commissioner of Social Services shall impose cost-sharing requirements under the medical assistance program for nonemergency use of hospital emergency room services.

[(f)] (g) On and after July 1, 1995, no payment shall be made by the state to an acute care general hospital for the inpatient care of a patient who no longer requires acute care and is eligible for Medicare unless the hospital does not obtain reimbursement from Medicare for that stay.

[(g)] (h) The commissioner shall establish rates to be paid to freestanding chronic disease hospitals.

[(h)] (i) The Commissioner of Social Services may implement policies and procedures as necessary to carry out the provisions of this section while in the process of adopting the policies and procedures as regulations, provided notice of intent to adopt the regulations is published in [the Connecticut Law Journal] accordance with the

Substitute House Bill No. 5440

provisions of section 17b-10 not later than twenty days after the date of implementation.

(j) In the event the commissioner is unable to implement the provisions of subsection (e) of this section by January 1, 2015, the commissioner shall submit written notice, not later than thirty-five days prior to January 1, 2015, to the joint standing committees of the General Assembly having cognizance of matters relating to human services and appropriations and the budgets of state agencies indicating that the department will not be able to implement such provisions on or before such date. The commissioner shall include in such notice (1) the reasons why the department will not be able to implement such provisions by such date, and (2) the date by which the department will be able to implement such provisions.

Approved June 11, 2014