



**S2552 (3R)**

<b>INTRODUCED BILL:</b> (Includes sponsor(s) statement)	Yes	
<b>REPRINT(S):</b>	Yes	SHH 2/22/24 1R Senate 5/20/24 2R SHH 6/6/24 3R
<b>TECHNICAL REVIEW:</b>	No	
<b>COMMITTEE STATEMENT:</b>	<b>ASSEMBLY:</b>	No
	<b>SENATE:</b>	Yes Health, Human Services & Sr. Citizens 2/22/24 Health, Human Services & Sr. Citizens 06/06/24 Budget & Appropriations

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at [www.njleg.state.nj.us](http://www.njleg.state.nj.us))

<b>FLOOR AMENDMENT STATEMENT:</b>	Yes	
<b>LEGISLATIVE FISCAL ESTIMATE:</b>	Yes	04/12/2024 07/03/2024
<b>VETO MESSAGE:</b>	No	
<b>GOVERNOR'S PRESS RELEASE ON SIGNING:</b>	Yes	

**FOLLOWING WERE PRINTED:**

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<b>REPORTS:</b>	No
<b>HEARINGS:</b>	No
<b>NEWSPAPER ARTICLES:</b>	No

CL/MM

P.L. 2024, CHAPTER 47, *approved July 22, 2024*  
Assembly, No. 3364 (*Third Reprint*)

1 AN ACT concerning the “County Option Hospital Fee Program Act”  
2 and amending P.L.2018, c.136.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 <sup>3</sup>1. Section 2 of P.L.2018, c.136 (C.30:4D-7s) is amended to read  
8 as follows:

9 2. As used in this act:

10 "Commissioner" means the Commissioner of Human Services.

11 "Department" means the Department of Human Services.

12 "Fee" means the local healthcare-related fee authorized pursuant to  
13 this act.

14 "Hospital" means a hospital that is licensed pursuant to P.L.1971,  
15 c.136 (C.26:2H-1 et seq.) and is located within the borders of a  
16 participating county.

17 "Medicaid program" means the "New Jersey Medical Assistance  
18 and Health Services Program" established pursuant to P.L.1968, c.413  
19 (C.30:4D-1 et seq.).

20 "Participating county" means, notwithstanding the provisions of  
21 any other law or regulation to the contrary, a county that chooses to  
22 participate in the program, has a population greater than 250,000,  
23 according to the federal decennial census immediately preceding the  
24 effective date of P.L.2018, c.136 (C.30:4D-7r et seq.), and contains a  
25 municipality which: (1) is classified, pursuant to N.J.S.40A:6-4, as a  
26 First or Second Class municipality, or a Fourth Class municipality  
27 whose population exceeds 20,000, and (2) has a Municipal  
28 Revitalization Index Distress score, as last calculated by the New  
29 Jersey Department of Community Affairs prior to the effective date of  
30 P.L.2018, c.136 (C.30:4D-7r et seq.), that exceeds **[60]** 55; or, based  
31 on the 2019 ACS 5 Year Survey Data, a county that chooses to  
32 participate in the program and contains a municipality with a  
33 population greater than 30,000 whose 2020 Municipal Revitalization  
34 Index Distress score is greater than or equal to 33 (1) excluding  
35 counties with a municipality with a population greater than 125,000,  
36 (2) excluding counties with a population less than 150,000, and (3)  
37 excluding counties with a median household income greater than  
38 \$110,000.

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly AHE committee amendments adopted February 22, 2024.

<sup>2</sup>Assembly AAP committee amendments adopted April 11, 2024.

<sup>3</sup>Assembly AAP committee amendments adopted June 24, 2024.

1 "Program" means "The County Option Hospital Fee Program"  
2 established pursuant to this act.

3 "Proposed fee and expenditure report" means a written report by a  
4 participating county that describes how the fee will be imposed in the  
5 participating county; how the funds collected from the fee will be used  
6 by the participating county, including the amount and services the  
7 participating county plans to provide with the funds; and how the plan  
8 satisfies paragraph (1) of subsection b. of section 3 of this act.<sup>3</sup>  
9 (cf: P.L.2023, c.337, s.1)

10

11 <sup>3</sup>[1.] 2.<sup>3</sup> Section 3 of P.L.2018, c.136 (C.30:4D-7t) is amended to  
12 read as follows:

13 3. a. There is established "The County Option Hospital Fee  
14 Program" in the Department of Human Services.

15 b. The purpose of the program is:

16 (1) to increase financial resources through the Medicaid program  
17 to support local hospitals and to ensure that they continue to provide  
18 necessary services to low-income citizens; and

19 (2) to provide participating counties with new fiscal resources.

20 c. Each participating county shall be authorized by the  
21 commissioner to impose a local healthcare-related fee on hospitals  
22 within its borders.

23 d. A participating county shall submit a proposed fee and  
24 expenditure report to the commissioner to ensure that the proposed fee  
25 and expenditure plan satisfies paragraph (1) of subsection b. of this  
26 section and subsection e. of this section, and does not create a direct or  
27 indirect guarantee to hold harmless, as those terms are used in 42  
28 C.F.R. s.433.68(f). The commissioner shall further review the  
29 proposed fee and expenditure report to determine whether it complies  
30 with relevant rules and regulations. Each participating county shall  
31 consult with affected hospitals within its jurisdiction to prepare the  
32 proposed fee and expenditure report before the report is submitted to  
33 the commissioner. The commissioner shall make the proposed fee and  
34 expenditure report available to the affected hospitals for review and  
35 the hospitals shall be permitted to provide comments to the  
36 commissioner regarding the report for a period of 21 calendar days  
37 from the date the proposed report is made available for review. <sup>2</sup>If a  
38 participating county submits a proposed fee and expenditure report  
39 that includes plans to increase Medicaid or NJ FamilyCare payments  
40 for any hospital within its jurisdiction that exceeds the calculated value  
41 of its hospital-specific disproportionate share limit, as outlined in 42  
42 U.S.C. s.1396r-4 and calculated by the State, the proposed fee and  
43 expenditure report shall include an attestation from the chief executive  
44 officer of any such hospital confirming that the hospital is subject to a  
45 reduction in <sup>3</sup>[Medicaid]<sup>3</sup> disproportionate share hospital payments,  
46 including Charity Care payments, at the commissioner's <sup>3</sup>[sole]<sup>3</sup>  
47 discretion <sup>3</sup>and upon notice to the hospital<sup>3</sup> and to the extent necessary

1 to comply with payment limits outlined in section 1923(g) of the  
2 federal Social Security Act. The Department of Human Services shall  
3 take all appropriate action to comply with section 1923(g) of the  
4 federal Social Security Act.<sup>2</sup>

5 e. The board of County commissioners of a participating county,  
6 following the approval of the participating county's proposed fee and  
7 expenditure plan by the commissioner, may adopt an ordinance  
8 providing for the imposition of a fee on hospitals located within its  
9 borders and for appropriate administrative provisions, including, but  
10 not limited to, provisions for the collection of interest <sup>3</sup>**[and]** , the  
11 collection of<sup>3</sup> penalties <sup>3</sup>, and the application of liens<sup>3</sup>.

12 The fee shall be implemented in accordance with the provisions of  
13 42 U.S.C. s.1396b(w)(3)(A), and shall be subject to the maximum  
14 aggregate amount that may be assessed pursuant to 42 C.F.R.  
15 s.433.68(f)(3), or any subsequent maximum amount as may be  
16 established by federal law, and shall be subject to **[a cap as**  
17 **determined]** review and approval by the commissioner. The fee shall  
18 not exceed the aggregate amount specified in 42 C.F.R. s.433.68(f)(3)  
19 minus one percent of total net patient revenues. The participating  
20 county may exempt a hospital within its jurisdiction from the fee,  
21 provided that the exemption complies with the requirements of 42  
22 C.F.R. s.433.68.

23 The fee authorized pursuant to this act may be collected only to the  
24 extent that the commissioner determines that the revenues generated  
25 qualify as the State share of Medicaid program expenditures eligible  
26 for federal financial participation pursuant to 42 C.F.R. s.433.68.

27 f. Any subsequent alterations to the fee are subject to the approval  
28 of the commissioner prior to implementation. Upon approval, the  
29 commissioner shall apply for such State plan amendments or waivers  
30 as may be necessary to implement the changes and to secure federal  
31 financial participation for State Medicaid expenditures under the  
32 federal Medicaid program.

33 g. <sup>1</sup>(1)<sup>1</sup> Neither the State nor a participating county shall be liable  
34 for any amount of a local healthcare-related fee imposed on a hospital  
35 pursuant to this act that the hospital fails to pay or does not pay in a  
36 timely manner to the assessing county.

37 <sup>1</sup>(2) With the exception of the period of time during which a  
38 participating county or Medicaid Managed Care Organization is in  
39 possession of payments prior to disbursement, neither a participating  
40 county nor Medicaid Managed Care Organization shall be liable for  
41 any amount related to an approved expenditure plan determined to be  
42 impermissible by a federal agency. The Department of Human  
43 Services shall amend related managed care contracts to include this  
44 provision.<sup>1</sup>

45 <sup>2</sup>h. <sup>3</sup>(1) The proposed report submitted by a participating county  
46 pursuant to subsection d. of section 3 of P.L.2018, c.136 (C.30:4D-7t)  
47 shall demonstrate that all good faith efforts shall be made by the

1 county to ensure that payments to be made under its proposal shall not  
2 result in any hospital in the county exceeding its hospital-specific  
3 disproportionate share limit as outlined in 42 U.S.C. s.1396r-4.

4 (2)]<sup>3</sup> Any hospital that exceeds its hospital-specific  
5 disproportionate share limit pursuant to 42 U.S.C. s.1396r-4 as a result  
6 of payments received pursuant to the County Option Hospital Fee  
7 Program or pursuant to other State or federal funding mechanisms or  
8 pools <sup>3</sup>[, thereby requiring] shall be liable to<sup>3</sup> the State <sup>3</sup>for any  
9 funds the State may be required<sup>3</sup> to reimburse the federal government  
10 for any such excess <sup>3</sup>[funds, shall be required to pay the State an  
11 amount equal to the amount that the hospital exceeds its hospital-  
12 specific]<sup>3</sup> disproportionate share <sup>3</sup>[limit] hospital funds attributable to  
13 the hospital]<sup>3 2</sup>

14 (cf: P.L.2022, c.61, s.3)

15

16 <sup>3</sup>[2.] 3.<sup>3</sup> This act shall take effect immediately.

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19

20

21 Clarifies cap on fees imposed, and modifies definition of  
22 participating county, under “County Option Hospital Fee Program  
23 Act.”

## CHAPTER 47

AN ACT concerning the "County Option Hospital Fee Program Act" and amending P.L.2018, c.136.

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

1. Section 2 of P.L.2018, c.136 (C.30:4D-7s) is amended to read as follows:

C.30:4D-7s Definitions relative to "The County Option Hospital Fee Pilot Program Act."

2. As used in this act:

"Commissioner" means the Commissioner of Human Services.

"Department" means the Department of Human Services.

"Fee" means the local healthcare-related fee authorized pursuant to this act.

"Hospital" means a hospital that is licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) and is located within the borders of a participating county.

"Medicaid program" means the "New Jersey Medical Assistance and Health Services Program" established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

"Participating county" means, notwithstanding the provisions of any other law or regulation to the contrary, a county that chooses to participate in the program, has a population greater than 250,000, according to the federal decennial census immediately preceding the effective date of P.L.2018, c.136 (C.30:4D-7r et seq.), and contains a municipality which: (1) is classified, pursuant to N.J.S.40A:6-4, as a First or Second Class municipality, or a Fourth Class municipality whose population exceeds 20,000, and (2) has a Municipal Revitalization Index Distress score, as last calculated by the New Jersey Department of Community Affairs prior to the effective date of P.L.2018, c.136 (C.30:4D-7r et seq.), that exceeds 55; or, based on the 2019 ACS 5 Year Survey Data, a county that chooses to participate in the program and contains a municipality with a population greater than 30,000 whose 2020 Municipal Revitalization Index Distress score is greater than or equal to 33 (1) excluding counties with a municipality with a population greater than 125,000, (2) excluding counties with a population less than 150,000, and (3) excluding counties with a median household income greater than \$110,000.

"Program" means "The County Option Hospital Fee Program" established pursuant to this act.

"Proposed fee and expenditure report" means a written report by a participating county that describes how the fee will be imposed in the participating county; how the funds collected from the fee will be used by the participating county, including the amount and services the participating county plans to provide with the funds; and how the plan satisfies paragraph (1) of subsection b. of section 3 of this act.

2. Section 3 of P.L.2018, c.136 (C.30:4D-7t) is amended to read as follows:

C.30:4D-7t "County Option Hospital Fee Program."

3. a. There is established "The County Option Hospital Fee Program" in the Department of Human Services.

- b. The purpose of the program is:

- (1) to increase financial resources through the Medicaid program to support local hospitals and to ensure that they continue to provide necessary services to low-income citizens; and

- (2) to provide participating counties with new fiscal resources.

- c. Each participating county shall be authorized by the commissioner to impose a local healthcare-related fee on hospitals within its borders.

d. A participating county shall submit a proposed fee and expenditure report to the commissioner to ensure that the proposed fee and expenditure plan satisfies paragraph (1) of subsection b. of this section and subsection e. of this section, and does not create a direct or indirect guarantee to hold harmless, as those terms are used in 42 C.F.R. s.433.68(f). The commissioner shall further review the proposed fee and expenditure report to determine whether it complies with relevant rules and regulations. Each participating county shall consult with affected hospitals within its jurisdiction to prepare the proposed fee and expenditure report before the report is submitted to the commissioner. The commissioner shall make the proposed fee and expenditure report available to the affected hospitals for review and the hospitals shall be permitted to provide comments to the commissioner regarding the report for a period of 21 calendar days from the date the proposed report is made available for review. If a participating county submits a proposed fee and expenditure report that includes plans to increase Medicaid or NJ FamilyCare payments for any hospital within its jurisdiction that exceeds the calculated value of its hospital-specific disproportionate share limit, as outlined in 42 U.S.C. s.1396r-4 and calculated by the State, the proposed fee and expenditure report shall include an attestation from the chief executive officer of any such hospital confirming that the hospital is subject to a reduction in disproportionate share hospital payments, including Charity Care payments, at the commissioner's discretion and upon notice to the hospital and to the extent necessary to comply with payment limits outlined in section 1923(g) of the federal Social Security Act. The Department of Human Services shall take all appropriate action to comply with section 1923(g) of the federal Social Security Act.

e. The board of County commissioners of a participating county, following the approval of the participating county's proposed fee and expenditure plan by the commissioner, may adopt an ordinance providing for the imposition of a fee on hospitals located within its borders and for appropriate administrative provisions, including, but not limited to, provisions for the collection of interest, the collection of penalties, and the application of liens.

The fee shall be implemented in accordance with the provisions of 42 U.S.C. s.1396b(w)(3)(A), and shall be subject to the maximum aggregate amount that may be assessed pursuant to 42 C.F.R. s.433.68(f)(3), or any subsequent maximum amount as may be established by federal law, and shall be subject to review and approval by the commissioner. The fee shall not exceed the aggregate amount specified in 42 C.F.R. s.433.68(f)(3) minus one percent of total net patient revenues. The participating county may exempt a hospital within its jurisdiction from the fee, provided that the exemption complies with the requirements of 42 C.F.R. s.433.68.

The fee authorized pursuant to this act may be collected only to the extent that the commissioner determines that the revenues generated qualify as the State share of Medicaid program expenditures eligible for federal financial participation pursuant to 42 C.F.R. s.433.68.

f. Any subsequent alterations to the fee are subject to the approval of the commissioner prior to implementation. Upon approval, the commissioner shall apply for such State plan amendments or waivers as may be necessary to implement the changes and to secure federal financial participation for State Medicaid expenditures under the federal Medicaid program.

g. (1) Neither the State nor a participating county shall be liable for any amount of a local healthcare-related fee imposed on a hospital pursuant to this act that the hospital fails to pay or does not pay in a timely manner to the assessing county.

(2) With the exception of the period of time during which a participating county or Medicaid Managed Care Organization is in possession of payments prior to disbursement, neither a participating county nor Medicaid Managed Care Organization shall be liable for any

amount related to an approved expenditure plan determined to be impermissible by a federal agency. The Department of Human Services shall amend related managed care contracts to include this provision.

h. Any hospital that exceeds its hospital-specific disproportionate share limit pursuant to 42 U.S.C. s.1396r-4 as a result of payments received pursuant to the County Option Hospital Fee Program or pursuant to other State or federal funding mechanisms or pools shall be liable to the State for any funds the State may be required to reimburse the federal government for any such excess disproportionate share hospital funds attributable to the hospital.

3. This act shall take effect immediately.

Approved July 22, 2024.

# ASSEMBLY, No. 3364

## STATE OF NEW JERSEY 221st LEGISLATURE

INTRODUCED JANUARY 29, 2024

**Sponsored by:**

**Assemblyman HERB CONAWAY, JR.**

**District 7 (Burlington)**

**Assemblywoman SHANIQUE SPEIGHT**

**District 29 (Essex and Hudson)**

**SYNOPSIS**

Clarifies cap on fees imposed under “County Option Hospital Fee Program Act.”

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 2/22/2024)

1 AN ACT concerning the “County Option Hospital Fee Program Act”  
2 and amending P.L.2018, c.136.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. Section 3 of P.L.2018, c.136 (C.30:4D-7t) is amended to read  
8 as follows:

9 3. a. There is established “The County Option Hospital Fee  
10 Program” in the Department of Human Services.

11 b. The purpose of the program is:

12 (1) to increase financial resources through the Medicaid program  
13 to support local hospitals and to ensure that they continue to provide  
14 necessary services to low-income citizens; and

15 (2) to provide participating counties with new fiscal resources.

16 c. Each participating county shall be authorized by the  
17 commissioner to impose a local healthcare-related fee on hospitals  
18 within its borders.

19 d. A participating county shall submit a proposed fee and  
20 expenditure report to the commissioner to ensure that the proposed  
21 fee and expenditure plan satisfies paragraph (1) of subsection b. of  
22 this section and subsection e. of this section, and does not create a  
23 direct or indirect guarantee to hold harmless, as those terms are used  
24 in 42 C.F.R. s.433.68(f). The commissioner shall further review the  
25 proposed fee and expenditure report to determine whether it complies  
26 with relevant rules and regulations. Each participating county shall  
27 consult with affected hospitals within its jurisdiction to prepare the  
28 proposed fee and expenditure report before the report is submitted to  
29 the commissioner. The commissioner shall make the proposed fee  
30 and expenditure report available to the affected hospitals for review  
31 and the hospitals shall be permitted to provide comments to the  
32 commissioner regarding the report for a period of 21 calendar days  
33 from the date the proposed report is made available for review.

34 e. The board of County commissioners of a participating county,  
35 following the approval of the participating county's proposed fee and  
36 expenditure plan by the commissioner, may adopt an ordinance  
37 providing for the imposition of a fee on hospitals located within its  
38 borders and for appropriate administrative provisions, including, but  
39 not limited to, provisions for the collection of interest and penalties.

40 The fee shall be implemented in accordance with the provisions of  
41 42 U.S.C. s.1396b(w)(3)(A), and shall be subject to the maximum  
42 aggregate amount that may be assessed pursuant to 42 C.F.R.  
43 s.433.68(f)(3), or any subsequent maximum amount as may be  
44 established by federal law, and shall be subject to **[a cap as**  
45 **determined]** review and approval by the commissioner. The fee shall

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 not exceed the aggregate amount specified in 42 C.F.R.  
2 s.433.68(f)(3) minus one percent of total net patient revenues. The  
3 participating county may exempt a hospital within its jurisdiction  
4 from the fee, provided that the exemption complies with the  
5 requirements of 42 C.F.R. s.433.68.

6 The fee authorized pursuant to this act may be collected only to  
7 the extent that the commissioner determines that the revenues  
8 generated qualify as the State share of Medicaid program  
9 expenditures eligible for federal financial participation pursuant to  
10 42 C.F.R. s.433.68.

11 f. Any subsequent alterations to the fee are subject to the approval  
12 of the commissioner prior to implementation. Upon approval, the  
13 commissioner shall apply for such State plan amendments or waivers  
14 as may be necessary to implement the changes and to secure federal  
15 financial participation for State Medicaid expenditures under the  
16 federal Medicaid program.

17 g. Neither the State nor a participating county shall be liable for  
18 any amount of a local healthcare-related fee imposed on a hospital  
19 pursuant to this act that the hospital fails to pay or does not pay in a  
20 timely manner to the assessing county.

21 (cf: P.L. 2022, c.61, s.3)

22

23 2. This act shall take effect immediately.

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25

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#### STATEMENT

27

28 This bill amends the “County Option Hospital Fee Program Act,”  
29 P.L.2018, c.136 (C.30:4D-7r et seq.). Specifically, the bill removes  
30 the requirement that the fee implemented under the program be  
31 subject to a cap as determined by the Commissioner of Human  
32 Services, as currently provided under the law, and instead stipulates  
33 that the fee be subject to review and approval by the commissioner.  
34 The provisions of the bill do not impact the commissioner’s authority  
35 to annually review and approve county option programs.

36 The bill also specifies that the fee is not to exceed the aggregate  
37 amount specified in 42 C.F.R. s.433.68(f)(3) minus one percent of  
38 total net patient revenues. Current law requires that the fee is to be  
39 implemented in accordance with federal law but does not mandate  
40 that the fee not exceed the aggregate amount specified in 42 C.F.R.  
41 s.433.68(f)(3) minus one percent of total net patient revenues.

[First Reprint]

**ASSEMBLY, No. 3364**

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**STATE OF NEW JERSEY**  
**221st LEGISLATURE**

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INTRODUCED JANUARY 29, 2024

**Sponsored by:**

**Assemblyman HERB CONAWAY, JR.**

**District 7 (Burlington)**

**Assemblywoman SHANIQUE SPEIGHT**

**District 29 (Essex and Hudson)**

**SYNOPSIS**

Clarifies cap on fees imposed under “County Option Hospital Fee Program Act.”

**CURRENT VERSION OF TEXT**

As reported by the Assembly Health Committee on February 22, 2024, with amendments.



**(Sponsorship Updated As Of: 2/22/2024)**

1 AN ACT concerning the “County Option Hospital Fee Program Act”  
2 and amending P.L.2018, c.136.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. Section 3 of P.L.2018, c.136 (C.30:4D-7t) is amended to read as  
8 follows:

9 3. a. There is established “The County Option Hospital Fee  
10 Program” in the Department of Human Services.

11 b. The purpose of the program is:

12 (1) to increase financial resources through the Medicaid program  
13 to support local hospitals and to ensure that they continue to provide  
14 necessary services to low-income citizens; and

15 (2) to provide participating counties with new fiscal resources.

16 c. Each participating county shall be authorized by the  
17 commissioner to impose a local healthcare-related fee on hospitals  
18 within its borders.

19 d. A participating county shall submit a proposed fee and  
20 expenditure report to the commissioner to ensure that the proposed fee  
21 and expenditure plan satisfies paragraph (1) of subsection b. of this  
22 section and subsection e. of this section, and does not create a direct or  
23 indirect guarantee to hold harmless, as those terms are used in 42  
24 C.F.R. s.433.68(f). The commissioner shall further review the  
25 proposed fee and expenditure report to determine whether it complies  
26 with relevant rules and regulations. Each participating county shall  
27 consult with affected hospitals within its jurisdiction to prepare the  
28 proposed fee and expenditure report before the report is submitted to  
29 the commissioner. The commissioner shall make the proposed fee and  
30 expenditure report available to the affected hospitals for review and  
31 the hospitals shall be permitted to provide comments to the  
32 commissioner regarding the report for a period of 21 calendar days  
33 from the date the proposed report is made available for review.

34 e. The board of County commissioners of a participating county,  
35 following the approval of the participating county's proposed fee and  
36 expenditure plan by the commissioner, may adopt an ordinance  
37 providing for the imposition of a fee on hospitals located within its  
38 borders and for appropriate administrative provisions, including, but  
39 not limited to, provisions for the collection of interest and penalties.

40 The fee shall be implemented in accordance with the provisions of  
41 42 U.S.C. s.1396b(w)(3)(A), and shall be subject to the maximum  
42 aggregate amount that may be assessed pursuant to 42 C.F.R.  
43 s.433.68(f)(3), or any subsequent maximum amount as may be  
44 established by federal law, and shall be subject to **[a cap as**  
45 **determined]** review and approval by the commissioner. The fee shall

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly AHE committee amendments adopted February 22, 2024.

1 not exceed the aggregate amount specified in 42 C.F.R. s.433.68(f)(3)  
2 minus one percent of total net patient revenues. The participating  
3 county may exempt a hospital within its jurisdiction from the fee,  
4 provided that the exemption complies with the requirements of 42  
5 C.F.R. s.433.68.

6 The fee authorized pursuant to this act may be collected only to the  
7 extent that the commissioner determines that the revenues generated  
8 qualify as the State share of Medicaid program expenditures eligible  
9 for federal financial participation pursuant to 42 C.F.R. s.433.68.

10 f. Any subsequent alterations to the fee are subject to the approval  
11 of the commissioner prior to implementation. Upon approval, the  
12 commissioner shall apply for such State plan amendments or waivers  
13 as may be necessary to implement the changes and to secure federal  
14 financial participation for State Medicaid expenditures under the  
15 federal Medicaid program.

16 g. <sup>1</sup>(1)<sup>1</sup> Neither the State nor a participating county shall be liable  
17 for any amount of a local healthcare-related fee imposed on a hospital  
18 pursuant to this act that the hospital fails to pay or does not pay in a  
19 timely manner to the assessing county.

20 <sup>1</sup>(2) With the exception of the period of time during which a  
21 participating county or Medicaid Managed Care Organization is in  
22 possession of payments prior to disbursement, neither a participating  
23 county nor Medicaid Managed Care Organization shall be liable for  
24 any amount related to an approved expenditure plan determined to be  
25 impermissible by a federal agency. The Department of Human  
26 Services shall amend related managed care contracts to include this  
27 provision.<sup>1</sup>

28 (cf: P.L.2022, c.61, s.3)

29

30 2. This act shall take effect immediately.

[Second Reprint]

**ASSEMBLY, No. 3364**

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**STATE OF NEW JERSEY**

**221st LEGISLATURE**

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INTRODUCED JANUARY 29, 2024

**Sponsored by:**

**Assemblyman HERB CONAWAY, JR.**

**District 7 (Burlington)**

**Assemblywoman SHANIQUE SPEIGHT**

**District 29 (Essex and Hudson)**

**SYNOPSIS**

Clarifies cap on fees imposed under “County Option Hospital Fee Program Act.”

**CURRENT VERSION OF TEXT**

As reported by the Assembly Appropriations Committee on April 11, 2024, with amendments.



**(Sponsorship Updated As Of: 2/22/2024)**

1 AN ACT concerning the “County Option Hospital Fee Program Act”  
2 and amending P.L.2018, c.136.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. Section 3 of P.L.2018, c.136 (C.30:4D-7t) is amended to read as  
8 follows:

9 3. a. There is established “The County Option Hospital Fee  
10 Program” in the Department of Human Services.

11 b. The purpose of the program is:

12 (1) to increase financial resources through the Medicaid program  
13 to support local hospitals and to ensure that they continue to provide  
14 necessary services to low-income citizens; and

15 (2) to provide participating counties with new fiscal resources.

16 c. Each participating county shall be authorized by the  
17 commissioner to impose a local healthcare-related fee on hospitals  
18 within its borders.

19 d. A participating county shall submit a proposed fee and  
20 expenditure report to the commissioner to ensure that the proposed fee  
21 and expenditure plan satisfies paragraph (1) of subsection b. of this  
22 section and subsection e. of this section, and does not create a direct or  
23 indirect guarantee to hold harmless, as those terms are used in 42  
24 C.F.R. s.433.68(f). The commissioner shall further review the  
25 proposed fee and expenditure report to determine whether it complies  
26 with relevant rules and regulations. Each participating county shall  
27 consult with affected hospitals within its jurisdiction to prepare the  
28 proposed fee and expenditure report before the report is submitted to  
29 the commissioner. The commissioner shall make the proposed fee and  
30 expenditure report available to the affected hospitals for review and  
31 the hospitals shall be permitted to provide comments to the  
32 commissioner regarding the report for a period of 21 calendar days  
33 from the date the proposed report is made available for review. <sup>2</sup>If a  
34 participating county submits a proposed fee and expenditure report  
35 that includes plans to increase Medicaid or NJ FamilyCare payments  
36 for any hospital within its jurisdiction that exceeds the calculated value  
37 of its hospital-specific disproportionate share limit, as outlined in 42  
38 U.S.C. s.1396r-4 and calculated by the State, the proposed fee and  
39 expenditure report shall include an attestation from the chief executive  
40 officer of any such hospital confirming that the hospital is subject to a  
41 reduction in Medicaid disproportionate share hospital payments,  
42 including Charity Care payments, at the commissioner’s sole  
43 discretion and to the extent necessary to comply with payment limits  
44 outlined in section 1923(g) of the federal Social Security Act. The

EXPLANATION – Matter enclosed in bold-faced brackets **[ thus ]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly AHE committee amendments adopted February 22, 2024.

<sup>2</sup>Assembly AAP committee amendments adopted April 11, 2024.

1 Department of Human Services shall take all appropriate action to  
2 comply with section 1923(g) of the federal Social Security Act.<sup>2</sup>

3 e. The board of County commissioners of a participating county,  
4 following the approval of the participating county's proposed fee and  
5 expenditure plan by the commissioner, may adopt an ordinance  
6 providing for the imposition of a fee on hospitals located within its  
7 borders and for appropriate administrative provisions, including, but  
8 not limited to, provisions for the collection of interest and penalties.

9 The fee shall be implemented in accordance with the provisions of  
10 42 U.S.C. s.1396b(w)(3)(A), and shall be subject to the maximum  
11 aggregate amount that may be assessed pursuant to 42 C.F.R.  
12 s.433.68(f)(3), or any subsequent maximum amount as may be  
13 established by federal law, and shall be subject to **【a cap as**  
14 **determined】** review and approval by the commissioner. The fee shall  
15 not exceed the aggregate amount specified in 42 C.F.R. s.433.68(f)(3)  
16 minus one percent of total net patient revenues. The participating  
17 county may exempt a hospital within its jurisdiction from the fee,  
18 provided that the exemption complies with the requirements of 42  
19 C.F.R. s.433.68.

20 The fee authorized pursuant to this act may be collected only to the  
21 extent that the commissioner determines that the revenues generated  
22 qualify as the State share of Medicaid program expenditures eligible  
23 for federal financial participation pursuant to 42 C.F.R. s.433.68.

24 f. Any subsequent alterations to the fee are subject to the approval  
25 of the commissioner prior to implementation. Upon approval, the  
26 commissioner shall apply for such State plan amendments or waivers  
27 as may be necessary to implement the changes and to secure federal  
28 financial participation for State Medicaid expenditures under the  
29 federal Medicaid program.

30 g. <sup>1</sup>(1)<sup>1</sup> Neither the State nor a participating county shall be liable  
31 for any amount of a local healthcare-related fee imposed on a hospital  
32 pursuant to this act that the hospital fails to pay or does not pay in a  
33 timely manner to the assessing county.

34 <sup>1</sup>(2) With the exception of the period of time during which a  
35 participating county or Medicaid Managed Care Organization is in  
36 possession of payments prior to disbursement, neither a participating  
37 county nor Medicaid Managed Care Organization shall be liable for  
38 any amount related to an approved expenditure plan determined to be  
39 impermissible by a federal agency. The Department of Human  
40 Services shall amend related managed care contracts to include this  
41 provision.<sup>1</sup>

42 <sup>2</sup>h. (1) The proposed report submitted by a participating county  
43 pursuant to subsection d. of section 3 of P.L.2018, c.136 (C.30:4D-7t)  
44 shall demonstrate that all good faith efforts shall be made by the  
45 county to ensure that payments to be made under its proposal shall not  
46 result in any hospital in the county exceeding its hospital-specific  
47 disproportionate share limit as outlined in 42 U.S.C. s.1396r-4.

1       (2) Any hospital that exceeds its hospital-specific disproportionate  
2 share limit pursuant to 42 U.S.C. s.1396r-4 as a result of payments  
3 received pursuant to the County Option Hospital Fee Program or  
4 pursuant to other State or federal funding mechanisms or pools,  
5 thereby requiring the State to reimburse the federal government for  
6 any such excess funds, shall be required to pay the State an amount  
7 equal to the amount that the hospital exceeds its hospital-specific  
8 disproportionate share limit.<sup>2</sup>

9       (cf: P.L.2022, c.61, s.3)

10

11       2. This act shall take effect immediately.

[Third Reprint]

**ASSEMBLY, No. 3364**

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**STATE OF NEW JERSEY**  
**221st LEGISLATURE**

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INTRODUCED JANUARY 29, 2024

**Sponsored by:**

**Assemblyman HERB CONAWAY, JR.**

**District 7 (Burlington)**

**Assemblywoman SHANIQUE SPEIGHT**

**District 29 (Essex and Hudson)**

**Senator JOSEPH F. VITALE**

**District 19 (Middlesex)**

**SYNOPSIS**

Clarifies cap on fees imposed, and modifies definition of participating county, under “County Option Hospital Fee Program Act.”

**CURRENT VERSION OF TEXT**

As reported by the Assembly Appropriations Committee on June 24, 2024, with amendments.



**(Sponsorship Updated As Of: 6/28/2024)**

1 AN ACT concerning the “County Option Hospital Fee Program Act”  
2 and amending P.L.2018, c.136.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 <sup>3</sup>1. Section 2 of P.L.2018, c.136 (C.30:4D-7s) is amended to read  
8 as follows:

9 2. As used in this act:

10 "Commissioner" means the Commissioner of Human Services.

11 "Department" means the Department of Human Services.

12 "Fee" means the local healthcare-related fee authorized pursuant to  
13 this act.

14 "Hospital" means a hospital that is licensed pursuant to P.L.1971,  
15 c.136 (C.26:2H-1 et seq.) and is located within the borders of a  
16 participating county.

17 "Medicaid program" means the "New Jersey Medical Assistance  
18 and Health Services Program" established pursuant to P.L.1968, c.413  
19 (C.30:4D-1 et seq.).

20 "Participating county" means, notwithstanding the provisions of  
21 any other law or regulation to the contrary, a county that chooses to  
22 participate in the program, has a population greater than 250,000,  
23 according to the federal decennial census immediately preceding the  
24 effective date of P.L.2018, c.136 (C.30:4D-7r et seq.), and contains a  
25 municipality which: (1) is classified, pursuant to N.J.S.40A:6-4, as a  
26 First or Second Class municipality, or a Fourth Class municipality  
27 whose population exceeds 20,000, and (2) has a Municipal  
28 Revitalization Index Distress score, as last calculated by the New  
29 Jersey Department of Community Affairs prior to the effective date of  
30 P.L.2018, c.136 (C.30:4D-7r et seq.), that exceeds **[60]** 55; or, based  
31 on the 2019 ACS 5 Year Survey Data, a county that chooses to  
32 participate in the program and contains a municipality with a  
33 population greater than 30,000 whose 2020 Municipal Revitalization  
34 Index Distress score is greater than or equal to 33 (1) excluding  
35 counties with a municipality with a population greater than 125,000,  
36 (2) excluding counties with a population less than 150,000, and (3)  
37 excluding counties with a median household income greater than  
38 \$110,000.

39 "Program" means "The County Option Hospital Fee Program"  
40 established pursuant to this act.

41 "Proposed fee and expenditure report" means a written report by a  
42 participating county that describes how the fee will be imposed in the  
43 participating county; how the funds collected from the fee will be used

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly AHE committee amendments adopted February 22, 2024.

<sup>2</sup>Assembly AAP committee amendments adopted April 11, 2024.

<sup>3</sup>Assembly AAP committee amendments adopted June 24, 2024.

1 by the participating county, including the amount and services the  
2 participating county plans to provide with the funds; and how the plan  
3 satisfies paragraph (1) of subsection b. of section 3 of this act.<sup>3</sup>  
4 (cf: P.L.2023, c.337, s.1)  
5

6 <sup>3</sup>[1.] 2.<sup>3</sup> Section 3 of P.L.2018, c.136 (C.30:4D-7t) is amended to  
7 read as follows:

8 3. a. There is established “The County Option Hospital Fee  
9 Program” in the Department of Human Services.

10 b. The purpose of the program is:

11 (1) to increase financial resources through the Medicaid program  
12 to support local hospitals and to ensure that they continue to provide  
13 necessary services to low-income citizens; and

14 (2) to provide participating counties with new fiscal resources.

15 c. Each participating county shall be authorized by the  
16 commissioner to impose a local healthcare-related fee on hospitals  
17 within its borders.

18 d. A participating county shall submit a proposed fee and  
19 expenditure report to the commissioner to ensure that the proposed fee  
20 and expenditure plan satisfies paragraph (1) of subsection b. of this  
21 section and subsection e. of this section, and does not create a direct or  
22 indirect guarantee to hold harmless, as those terms are used in 42  
23 C.F.R. s.433.68(f). The commissioner shall further review the  
24 proposed fee and expenditure report to determine whether it complies  
25 with relevant rules and regulations. Each participating county shall  
26 consult with affected hospitals within its jurisdiction to prepare the  
27 proposed fee and expenditure report before the report is submitted to  
28 the commissioner. The commissioner shall make the proposed fee and  
29 expenditure report available to the affected hospitals for review and  
30 the hospitals shall be permitted to provide comments to the  
31 commissioner regarding the report for a period of 21 calendar days  
32 from the date the proposed report is made available for review. <sup>2</sup>If a  
33 participating county submits a proposed fee and expenditure report  
34 that includes plans to increase Medicaid or NJ FamilyCare payments  
35 for any hospital within its jurisdiction that exceeds the calculated value  
36 of its hospital-specific disproportionate share limit, as outlined in 42  
37 U.S.C. s.1396r-4 and calculated by the State, the proposed fee and  
38 expenditure report shall include an attestation from the chief executive  
39 officer of any such hospital confirming that the hospital is subject to a  
40 reduction in <sup>3</sup>[Medicaid]<sup>3</sup> disproportionate share hospital payments,  
41 including Charity Care payments, at the commissioner’s <sup>3</sup>[sole]<sup>3</sup>  
42 discretion <sup>3</sup>and upon notice to the hospital<sup>3</sup> and to the extent necessary  
43 to comply with payment limits outlined in section 1923(g) of the  
44 federal Social Security Act. The Department of Human Services shall  
45 take all appropriate action to comply with section 1923(g) of the  
46 federal Social Security Act.<sup>2</sup>

1 e. The board of County commissioners of a participating county,  
2 following the approval of the participating county's proposed fee and  
3 expenditure plan by the commissioner, may adopt an ordinance  
4 providing for the imposition of a fee on hospitals located within its  
5 borders and for appropriate administrative provisions, including, but  
6 not limited to, provisions for the collection of interest <sup>3</sup>**【and】** , the  
7 collection of<sup>3</sup> penalties <sup>3</sup>, and the application of liens<sup>3</sup>.

8 The fee shall be implemented in accordance with the provisions of  
9 42 U.S.C. s.1396b(w)(3)(A), and shall be subject to the maximum  
10 aggregate amount that may be assessed pursuant to 42 C.F.R.  
11 s.433.68(f)(3), or any subsequent maximum amount as may be  
12 established by federal law, and shall be subject to **【a cap as**  
13 **determined】** review and approval by the commissioner. The fee shall  
14 not exceed the aggregate amount specified in 42 C.F.R. s.433.68(f)(3)  
15 minus one percent of total net patient revenues. The participating  
16 county may exempt a hospital within its jurisdiction from the fee,  
17 provided that the exemption complies with the requirements of 42  
18 C.F.R. s.433.68.

19 The fee authorized pursuant to this act may be collected only to the  
20 extent that the commissioner determines that the revenues generated  
21 qualify as the State share of Medicaid program expenditures eligible  
22 for federal financial participation pursuant to 42 C.F.R. s.433.68.

23 f. Any subsequent alterations to the fee are subject to the approval  
24 of the commissioner prior to implementation. Upon approval, the  
25 commissioner shall apply for such State plan amendments or waivers  
26 as may be necessary to implement the changes and to secure federal  
27 financial participation for State Medicaid expenditures under the  
28 federal Medicaid program.

29 g. <sup>1</sup>(1)<sup>1</sup> Neither the State nor a participating county shall be liable  
30 for any amount of a local healthcare-related fee imposed on a hospital  
31 pursuant to this act that the hospital fails to pay or does not pay in a  
32 timely manner to the assessing county.

33 <sup>1</sup>(2) With the exception of the period of time during which a  
34 participating county or Medicaid Managed Care Organization is in  
35 possession of payments prior to disbursement, neither a participating  
36 county nor Medicaid Managed Care Organization shall be liable for  
37 any amount related to an approved expenditure plan determined to be  
38 impermissible by a federal agency. The Department of Human  
39 Services shall amend related managed care contracts to include this  
40 provision.<sup>1</sup>

41 <sup>2</sup>h. <sup>3</sup>**【(1)** The proposed report submitted by a participating county  
42 pursuant to subsection d. of section 3 of P.L.2018, c.136 (C.30:4D-7t)  
43 shall demonstrate that all good faith efforts shall be made by the  
44 county to ensure that payments to be made under its proposal shall not  
45 result in any hospital in the county exceeding its hospital-specific  
46 disproportionate share limit as outlined in 42 U.S.C. s.1396r-4.

1       (2)]<sup>3</sup>     Any hospital that exceeds its hospital-specific  
2 disproportionate share limit pursuant to 42 U.S.C. s.1396r-4 as a result  
3 of payments received pursuant to the County Option Hospital Fee  
4 Program or pursuant to other State or federal funding mechanisms or  
5 pools <sup>3</sup>[, thereby requiring] shall be liable to<sup>3</sup> the State <sup>3</sup>for any  
6 funds the State may be required<sup>3</sup> to reimburse the federal government  
7 for any such excess <sup>3</sup>[funds, shall be required to pay the State an  
8 amount equal to the amount that the hospital exceeds its hospital-  
9 specific]<sup>3</sup> disproportionate share <sup>3</sup>[limit] hospital funds attributable to  
10 the hospital<sup>3 2</sup>.

11 (cf: P.L.2022, c.61, s.3)

12

13       <sup>3</sup>[2.] 3.<sup>3</sup> This act shall take effect immediately.

# ASSEMBLY HEALTH COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 3364**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: FEBRUARY 22, 2024

The Assembly Health Committee reports favorably and with committee amendments Assembly Bill No. 3364.

As amended by the committee, this bill amends the “County Option Hospital Fee Program Act,” P.L.2018, c.136 (C.30:4D-7r et seq.). Specifically, the bill removes the requirement that the fee implemented under the program be subject to a cap as determined by the Commissioner of Human Services, as currently provided under the law, and instead stipulates that the fee be subject to review and approval by the commissioner. The provisions of the bill do not impact the commissioner’s authority to annually review and approve county option programs.

The bill also specifies that the fee is not to exceed the aggregate amount specified in 42 C.F.R. s.433.68(f)(3) minus one percent of total net patient revenues. Current law requires that the fee is to be implemented in accordance with federal law but does not mandate that the fee not exceed the aggregate amount specified in 42 C.F.R. s.433.68(f)(3) minus one percent of total net patient revenues.

Under the bill, with the exception of the period of time during which a participating county or Medicaid Managed Care Organization is in possession of payments prior to disbursement, neither a participating county nor Medicaid Managed Care Organization is to be liable for any amount related to an approved expenditure plan determined to be impermissible by a federal agency. The Department of Human Services is to amend related managed care contracts to include this provision.

#### COMMITTEE AMENDMENTS:

The committee amendments provide that, with the exception of the period of time during which a participating county or Medicaid Managed Care Organization is in possession of payments prior to disbursement, neither a participating county nor Medicaid Managed Care Organization is to be liable for any amount related to an approved expenditure plan determined to be impermissible by a federal agency. The Department of Human Services is to amend related managed care contracts to include this provision.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

## ASSEMBLY, No. 3364

with committee amendments

# STATE OF NEW JERSEY

DATED: APRIL 11, 2024

The Assembly Appropriations Committee reports favorably and with committee amendments Assembly Bill No. 3364 (1R).

As amended by the committee, this bill amends the “County Option Hospital Fee Program Act,” P.L.2018, c.136 (C.30:4D-7r et seq.). Specifically, the bill removes the requirement that the fee implemented under the program be subject to a cap as determined by the Commissioner of Human Services, as currently provided under the law, and instead stipulates that the fee be subject to review and approval by the commissioner. The provisions of the bill do not impact the commissioner’s authority to annually review and approve county option programs.

The bill also specifies that the fee is not to exceed the aggregate amount specified in 42 C.F.R. s.433.68(f)(3) minus one percent of total net patient revenues. Current law requires that the fee is to be implemented in accordance with federal law but does not mandate that the fee not exceed the aggregate amount specified in 42 C.F.R. s.433.68(f)(3) minus one percent of total net patient revenues.

Under the bill, with the exception of the period of time during which a participating county or Medicaid Managed Care Organization is in possession of payments prior to disbursement, neither a participating county nor Medicaid Managed Care Organization is to be liable for any amount related to an approved expenditure plan determined to be impermissible by a federal agency. The Department of Human Services is to amend related managed care contracts to include this provision.

The bill provides that if a participating county submits a proposed fee and expenditure report that includes plans to increase Medicaid or NJ FamilyCare payments for any hospital within its jurisdiction that exceeds the calculated value of its hospital-specific disproportionate share limit, as outlined in 42 U.S.C. s.1396r-4 and calculated by the State, the proposed fee and expenditure report are to include an attestation from the chief executive officer of any such hospital confirming that the hospital is subject to a reduction in Medicaid disproportionate share hospital payments, including Charity Care

payments, at the commissioner's sole discretion and to the extent necessary to comply with payment limits outlined in section 1923(g) of the federal Social Security Act. The Department of Human Services is to take all appropriate action to comply with section 1923(g) of the federal Social Security Act.

Under the bill, the proposed report submitted by a participating county is to demonstrate that all good faith efforts are to be made by the county to ensure that payments to be made under its proposal will not result in any hospital in the county exceeding its hospital-specific disproportionate share limit as outlined in 42 U.S.C. s.1396r-4.

Finally, the bill provides that any hospital that exceeds its hospital-specific disproportionate share limit pursuant to 42 U.S.C. s.1396r-4 as a result of payments received pursuant to the County Option Hospital Fee Program or pursuant to other State or federal funding mechanisms or pools, thereby requiring the State to reimburse the federal government for any such excess funds, is to be required to pay the State an amount equal to the amount that the hospital exceeds its hospital-specific disproportionate share limit.

#### COMMITTEE AMENDMENTS:

The committee amendments provide that if a participating county submits a proposed fee and expenditure report that includes plans to increase Medicaid or NJ FamilyCare payments for any hospital within its jurisdiction that exceeds the calculated value of its hospital-specific disproportionate share limit, as outlined in 42 U.S.C. s.1396r-4 and calculated by the State, the proposed fee and expenditure report are to include an attestation from the chief executive officer of any such hospital confirming that the hospital is subject to a reduction in Medicaid disproportionate share hospital payments, including Charity Care payments, at the commissioner's sole discretion and to the extent necessary to comply with payment limits outlined in section 1923(g) of the federal Social Security Act. The Department of Human Services is to take all appropriate action to comply with section 1923(g) of the federal Social Security Act.

The amendments provide that the proposed report submitted by a participating county is to demonstrate that all good faith efforts are to be made by the county to ensure that payments to be made under its proposal will not result in any hospital in the county exceeding its hospital-specific disproportionate share limit as outlined in 42 U.S.C. s.1396r-4.

The amendments provide that any hospital that exceeds its hospital-specific disproportionate share limit pursuant to 42 U.S.C. s.1396r-4 as a result of payments received pursuant to the County Option Hospital Fee Program or pursuant to other State or federal funding mechanisms or pools, thereby requiring the State to reimburse the federal government for any such excess funds, is to be required to

pay the State an amount equal to the amount that the hospital exceeds its hospital-specific disproportionate share limit.

FISCAL IMPACT:

The Office of Legislative Services (OLS) concludes that this bill will produce an annual net revenue gain for the State and certain county governments as a result of increasing the existing cap on the fee a participating county can impose on a hospital from 2.5 percent to five percent of a hospital's total net patient revenues under the County Option Hospital Fee Program. Increasing the cap will result in an additional \$667.3 million in hospital fees collected under the program.

The OLS estimates that the \$667.3 million in fee collections will generate \$1.24 billion in federal Medicaid cost reimbursements, for an estimated \$1.91 billion in program revenues, of which \$1.17 billion will accrue to hospitals. In their role as conduits, the State and participating counties will experience annual revenue and expenditure increases. These impacts will largely offset one another, although participating counties will realize increased revenue of \$60.1 million under this bill, while the State will realize \$6.7 million, from fees retained to cover their administrative costs.

The OLS notes that this fiscal estimate assumes that any increase in NJ FamilyCare payments to a hospital under the bill will not exceed the hospital's hospital-specific disproportionate share limit pursuant to 42 U.S.C. s.1396r-4.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

### [Second Reprint] **ASSEMBLY, No. 3364**

with committee amendments

# STATE OF NEW JERSEY

DATED: JUNE 24, 2024

The Assembly Appropriations Committee reports favorably and with committee amendments Assembly Bill No. 3364 (2R).

This bill amends the “County Option Hospital Fee Program Act,” P.L.2018, c.136 (C.30:4D-7r et seq.). The County Option Hospital Fee Program was established in November 2018 to support local hospitals in designated high-need areas to ensure continued access to critical healthcare services for vulnerable populations. To effectuate this goal, the program authorizes participating counties, and hospitals within those counties, to partner with the State through a provider fee mechanism that enhances financial support through the Medicaid program.

As amended, the bill removes the existing requirement that the fee implemented under the program be subject to a cap as determined by the Commissioner of Human Services, and instead stipulates that the fee be subject to review and approval by the commissioner. The bill also specifies that the fee is not to exceed the aggregate amount specified in 42 C.F.R. s.433.68(f)(3) minus one percent of total net patient revenues. Current law requires that the fee is to be implemented in accordance with federal law.

The amended bill provides that, if a participating county submits a proposed fee and expenditure report that includes plans to increase Medicaid or NJ FamilyCare payments for any hospital within its jurisdiction that exceeds the calculated value of its hospital-specific disproportionate share limit, the report is to include an attestation from that hospital’s chief executive officer confirming that the hospital is subject to a reduction in disproportionate share hospital payments. The bill provides that any hospital that exceeds its hospital-specific disproportionate share limit as a result of payments received under the program or any other State or federal funding mechanisms or pools will be liable to the State for any funds the State may be required to reimburse the federal government.

Under the bill, as amended, with the exception of the period of time during which a participating county or Medicaid Managed Care Organization is in possession of payments prior to disbursement,

neither a participating county nor Medicaid Managed Care Organization is to be liable for any amount related to an approved expenditure plan determined to be impermissible by a federal agency.

The amended bill provides that the administrative provisions established by a board of County commissioners regarding the imposition of a hospital fee under the program may include the application of liens.

As amended, the bill modifies the definition of a “participating county” under the program. Under existing law, a county is deemed a “participating county” via two pathways. This bill modifies a single component of one of these pathways, providing that a “participating county” means a county that contains a municipality with a population greater than 20,000, and with a Municipal Revitalization Index Distress score, as last calculated by the New Jersey Department of Community Affairs prior to the effective date of P.L.2018, c.136 (C.30:4D-7r et seq.), that exceeds 55. Under the current law, the Municipal Revitalization Index Distress score must exceed 60.

#### COMMITTEE AMENDMENTS:

The committee amendments:

- 1) revise the definition of “participating county”;
- 2) revise requirements for a participating county submitting a proposed fee and expenditure report;
- 3) remove paragraph (1) of subsection h. in section 2 of the amended bill;
- 4) revise the provision concerning a hospital that exceeds its hospital-specific disproportionate share limit; and
- 5) make various technical changes involving usage, numbering, and a revision of the synopsis to reflect the amendments.

#### FISCAL IMPACT:

The Office of Legislative Services (OLS) concludes that this bill will produce an annual net revenue gain for the State and certain county governments as a result of increasing the existing cap on the fee a participating county can impose on a hospital from 2.5 percent to five percent of a hospital’s total net patient revenues under the County Option Hospital Fee Program. Increasing the cap will result in an additional \$667.3 million in hospital fees collected under the program. The OLS estimates that the \$667.3 million in fee collections will generate \$1.24 billion in federal Medicaid cost reimbursements, for an estimated \$1.91 billion in program revenues. The revenue would be allocated as detailed in the table below.

Estimated FY 2025 Collections and Net Resource Allocation of Increasing Cap on Hospital Fee: County Option Hospital Fee Program					
Revenue			Net Allocation		
Federal Medical					
Fee Payments by Hospitals	Cost Reimbursements	Total Program Revenue	Hospitals *	Counties	State
\$667,285,269	\$1,239,244,071	\$1,906,529,340	\$1,172,515,544	\$60,055,674	\$6,772,853
			* Net of \$667.3 million in fee payments		

Additionally, the OLS finds that, in revising the definition of “participating county,” the bill will expand eligibility under the County Option Hospital Fee Program thereby producing an indeterminate annual net revenue gain to the program in the form of additional county hospital fees and the federal Medicaid cost reimbursements received by the State due to those additional fees. The net gain will primarily accrue to hospitals in counties newly eligible to participate in the program under the bill. For reference, according to the most recent program county cost reports, annual hospital fees collected under the program at the current 2.5 percent cap ranged from a low of \$13.0 million in Cumberland County to a high of \$109.0 million in Bergen County. Generally, under the bill, in their role as conduits, the State and participating counties, including any newly eligible counties, will experience annual revenue and expenditure increases. These impacts will largely offset one another, although the State and participating counties will realize some net revenue gains from fees retained to cover their administrative costs.

# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

## ASSEMBLY, No. 3364

### STATE OF NEW JERSEY 221st LEGISLATURE

DATED: APRIL 12, 2024

#### SUMMARY

- Synopsis:** Clarifies cap on fees imposed under "County Option Hospital Fee Program Act."
- Type of Impact:** Annual expenditure and revenue increases to the State and certain counties.
- Agencies Affected:** Department of Human Services, certain county governments.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Annual</u></b>
<b>State Revenue Increases – County Option Hospital Fee</b>	\$607.2 million
<b>State Revenue Increases – Federal Medicaid Reimbursements</b>	\$1.24 billion
<b>State Expenditure Increases</b>	\$1.84 billion
<b>County Revenue Increases</b>	\$667.3 million
<b>County Expenditure Increases</b>	\$607.2 million

- The Office of Legislative Services (OLS) concludes that this bill will produce an annual net revenue gain for the State and certain county governments as a result of increasing the existing cap on the fee a participating county can impose on a hospital from 2.5 percent to five percent of a hospital's total net patient revenues under the County Option Hospital Fee Program. Increasing the cap will result in an additional \$667.3 million in hospital fees collected under the program.
- The OLS estimates that the \$667.3 million in fee collections will generate \$1.24 billion in federal Medicaid cost reimbursements, for an estimated \$1.91 billion in program revenues. The revenue would be allocated as detailed in the table below.

- In their role as conduits, the State and participating counties will experience annual revenue and expenditure increases. These impacts will largely offset one another, although the State and participating counties will realize some net revenue gains from fees retained to cover their administrative costs.

**BILL DESCRIPTION**

This bill removes an existing requirement that the fee implemented under the County Option Hospital Fee Program Act and imposed on applicable hospitals under the program be subject to a cap as determined by the Department of Human Services. Rather, the bill mandates that the fee is not to exceed the aggregate amount specified in 42 C.F.R. s.433.68(f)(3), which states that the aggregate fee amount for health-care related taxes cannot exceed six percent of the provider’s total net patient revenues, minus one percent of total net patient revenues. In doing so, the bill increases the cap on this fee from 2.5 percent of a hospital’s total net patient revenues to five percent of a hospital’s total net patient revenues.

**FISCAL ANALYSIS**

***EXECUTIVE BRANCH***

None received.

***OFFICE OF LEGISLATIVE SERVICES***

The OLS concludes that this bill will produce an annual net revenue gain for the State and certain county governments as a result of increasing the existing cap on the fee a participating county can impose on a hospital from 2.5 percent to five percent of a hospital’s total net patient revenues under the County Option Hospital Fee Program. The OLS estimates that increasing the cap will result in an additional \$667.3 million in hospital fees paid to participating counties under the program. The OLS estimates that the \$667.3 million in fee collections will generate \$1.24 billion in federal Medicaid cost reimbursements, for an estimated \$1.91 billion in program revenues. The revenue would be allocated as indicated in the table below.

Estimated FY 2025 Collections and Net Resource Allocation: County Option Hospital Fee Pilot Program						
Revenue			Net Allocation			
Fee Payments by Hospitals	Federal Medicaid Cost Reimbursements	Total Program Revenue	Hospitals*	Counties	State	Federal
\$667,285,269	\$1,239,244,071	\$1,906,529,340	\$1,172,515,544	\$60,055,674	\$6,672,853	\$1,239,244,071
*Net of \$667.3 million in fee payments.						

The County Option Hospital Fee Program is a federal revenue maximization initiative that provides support to local hospitals in designated high-need areas in order to ensure continued access to critical healthcare services for vulnerable populations. To this end, the program authorizes participating counties, and hospitals within those counties, to partner with the State

through a provider assessment fee imposed on hospitals that generates revenue used to enhance financial support for the hospitals through increased federal Medicaid matching reimbursements. All participating counties, except Ocean County, currently impose a fee that meets the current cap of 2.5 percent of a hospital's total net patient revenues.

As a function of the program, the net funding gain under the bill will primarily accrue to hospitals. In their role as conduits, however, the State and participating counties will experience annual revenue and expenditure increases. These impacts will largely offset one another, although the State and participating counties will realize some net gains in the form of fees retained to cover administrative costs. Specifically, under the law, at least 90 percent of the fees collected must be used to benefit hospitals, with a county required to transfer one percent of the fees to the State for administrative costs. Under this provision, in practice and assumed under this estimate, a county retains nine percent and the State retains one percent of the fees collected under the program to cover administrative costs. For the purposes of this estimate, participating counties will realize increased revenue of \$60.1 million under this bill, while the State will realize \$6.7 million.

The County Option Hospital Fee Program was established in November 2018. Current participating counties are: Atlantic, Bergen, Burlington, Camden, Cumberland, Essex, Hudson, Mercer, Middlesex, Monmouth, Ocean, and Passaic.

*Section: Human Services*

*Analyst: Sarah Schmidt  
Lead Research Analyst*

*Approved: Thomas Koenig  
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

## ASSEMBLY, No. 3364

### STATE OF NEW JERSEY 221st LEGISLATURE

DATED: APRIL 18, 2024

#### SUMMARY

- Synopsis:** Clarifies cap on fees imposed under "County Option Hospital Fee Program Act."
- Type of Impact:** Annual expenditure and revenue increases to the State and certain counties.
- Agencies Affected:** Department of Human Services, certain county governments.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Annual</u></b>
<b>State Revenue Increases – County Option Hospital Fee</b>	\$607.2 million
<b>State Revenue Increases – Federal Medicaid Reimbursements</b>	\$1.24 billion
<b>State Expenditure Increases</b>	\$1.84 billion
<b>County Revenue Increases</b>	\$667.3 million
<b>County Expenditure Increases</b>	\$607.2 million

- The Office of Legislative Services (OLS) concludes that this bill will produce an annual net revenue gain for the State and certain county governments as a result of increasing the existing cap on the fee a participating county can impose on a hospital from 2.5 percent to five percent of a hospital's total net patient revenues under the County Option Hospital Fee Program. Increasing the cap will result in an additional \$667.3 million in hospital fees collected under the program.
- The OLS estimates that the \$667.3 million in fee collections will generate \$1.24 billion in federal Medicaid cost reimbursements, for an estimated \$1.91 billion in program revenues. The revenue would be allocated as detailed in the table below.
- In their role as conduits, the State and participating counties will experience annual revenue and expenditure increases. These impacts will largely offset one another, although the State

and participating counties will realize some net revenue gains from fees retained to cover their administrative costs.

**BILL DESCRIPTION**

This bill removes an existing requirement that the fee implemented under the County Option Hospital Fee Program Act and imposed on applicable hospitals under the program be subject to a cap as determined by the Department of Human Services. Rather, the bill mandates that the fee is not to exceed the aggregate amount specified in 42 C.F.R. s.433.68(f)(3), which states that the aggregate fee amount for health-care related taxes cannot exceed six percent of the provider’s total net patient revenues, minus one percent of total net patient revenues. In doing so, the bill increases the cap on this fee from 2.5 percent of a hospital’s total net patient revenues to five percent of a hospital’s total net patient revenues. The bill also provides that the proposed fee and expenditure report submitted by a participating county to the department under the existing law governing the program is to demonstrate that all good faith efforts have been made to ensure that payments to be made under its proposal will not result in any hospital in the county exceeding its hospital-specific disproportionate share limit as outlined in 42 U.S.C. s.1396r-4. Any hospital that exceeds this limit as a result of payments received under the County Option Hospital Fee Program, or any other State or federal funding mechanisms or pools, will be required to pay the State an amount equal to the amount that the hospital exceeds its hospital-specific disproportionate share limit.

**FISCAL ANALYSIS**

***EXECUTIVE BRANCH***

None received.

***OFFICE OF LEGISLATIVE SERVICES***

The OLS concludes that this bill will produce an annual net revenue gain for the State and certain county governments as a result of increasing the existing cap on the fee a participating county can impose on a hospital from 2.5 percent to five percent of a hospital’s total net patient revenues under the County Option Hospital Fee Program. The OLS estimates that increasing the cap will result in an additional \$667.3 million in hospital fees paid to participating counties under the program. The OLS estimates that the \$667.3 million in fee collections will generate \$1.24 billion in federal Medicaid cost reimbursements, for an estimated \$1.91 billion in program revenues. The revenue would be allocated as indicated in the table below.

Estimated FY 2025 Collections and Net Resource Allocation: County Option Hospital Fee Pilot Program						
Revenue			Net Allocation			
Fee Payments by Hospitals	Federal Medicaid Cost Reimbursements	Total Program Revenue	Hospitals*	Counties	State	Federal
\$667,285,269	\$1,239,244,071	\$1,906,529,340	\$1,172,515,544	\$60,055,674	\$6,672,853	\$1,239,244,071
*Net of \$667.3 million in fee payments.						

This estimate assumes that participating counties will impose the maximum fee of five percent of a hospital's total net patient revenues under the bill. To the extent that any county does not impose a five percent fee, the revenues and allocations noted in the table above would decrease.

The County Option Hospital Fee Program is a federal revenue maximization initiative that provides support to local hospitals in designated high-need areas in order to ensure continued access to critical healthcare services for vulnerable populations. To this end, the program authorizes participating counties, and hospitals within those counties, to partner with the State through a provider assessment fee imposed on hospitals that generates revenue used to enhance financial support for the hospitals through increased federal Medicaid matching reimbursements. All participating counties, except Ocean County, currently impose a fee that meets the current cap of 2.5 percent of a hospital's total net patient revenues.

As a function of the program, the net funding gain under the bill will primarily accrue to hospitals. In their role as conduits, however, the State and participating counties will experience annual revenue and expenditure increases. These impacts will largely offset one another, although the State and participating counties will realize some net gains in the form of fees retained to cover administrative costs. Specifically, under the law, at least 90 percent of the fees collected must be used to benefit hospitals, with a county required to transfer one percent of the fees to the State for administrative costs. Under this provision, in practice and assumed under this estimate, a county retains nine percent and the State retains one percent of the fees collected under the program to cover administrative costs. For the purposes of this estimate, participating counties will realize increased revenue of \$60.1 million under this bill, while the State will realize \$6.7 million.

The County Option Hospital Fee Program was established in November 2018. Current participating counties are: Atlantic, Bergen, Burlington, Camden, Cumberland, Essex, Hudson, Mercer, Middlesex, Monmouth, Ocean, and Passaic.

*Section: Human Services*

*Analyst: Sarah Schmidt  
Lead Research Analyst*

*Approved: Thomas Koenig  
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# LEGISLATIVE FISCAL ESTIMATE

[Third Reprint]

## ASSEMBLY, No. 3364

### STATE OF NEW JERSEY 221st LEGISLATURE

DATED: JULY 1, 2024

#### SUMMARY

- Synopsis:** Clarifies cap on fees imposed, and modifies definition of participating county, under "County Option Hospital Fee Program Act."
- Type of Impact:** Annual expenditure and revenue increases to the State and certain counties.
- Agencies Affected:** Department of Human Services, certain county governments.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Annual</u></b>
<b>State Revenue Increases – County Option Hospital Fee</b>	At least \$607.2 million
<b>State Revenue Increases – Federal Medicaid Reimbursements</b>	At least \$1.24 billion
<b>State Expenditure Increases</b>	At least \$1.84 billion
<b>County Revenue Increases</b>	At least \$667.3 million
<b>County Expenditure Increases</b>	At least \$607.2 million

- The Office of Legislative Services (OLS) concludes that this bill will produce an annual net revenue gain for the State and certain county governments as a result of increasing the existing cap on the fee a participating county can impose on a hospital from 2.5 percent to five percent of a hospital's total net patient revenues under the County Option Hospital Fee Program. Increasing the cap will result in an additional \$667.3 million in hospital fees collected under the program.
- The OLS estimates that the \$667.3 million in fee collections will generate \$1.24 billion in federal Medicaid cost reimbursements, for an estimated \$1.91 billion in program revenues. The revenue would be allocated as detailed in the table below.
- Additionally, the OLS finds that, in revising the definition of "participating county," the bill will expand eligibility under the County Option Hospital Fee Program thereby producing an indeterminate annual net revenue gain to the program in the form of additional county hospital

fees and the federal Medicaid cost reimbursements received by the State due to those additional fees. The net gain will primarily accrue to hospitals in counties newly eligible to participate in the program under the bill.

- In their role as conduits, the State and participating counties, which included newly eligible counties under the bill, will experience annual revenue and expenditure increases. These impacts will largely offset one another, although the State and participating counties will realize some net revenue gains from fees retained to cover their administrative costs.

## **BILL DESCRIPTION**

This bill removes an existing requirement that the fee implemented under the County Option Hospital Fee Program Act and imposed on applicable hospitals under the program be subject to a cap as determined by the Department of Human Services. Rather, the bill mandates that the fee is not to exceed the aggregate amount specified in 42 C.F.R. s.433.68(f)(3), which states that the aggregate fee amount for health-care related taxes cannot exceed six percent of the provider's total net patient revenues, minus one percent of total net patient revenues. In doing so, the bill increases the cap on this fee from 2.5 percent of a hospital's total net patient revenues to five percent of a hospital's total net patient revenues.

The bill also revises the definition of "participating county" under the program. Under existing law, a county is deemed a "participating county" via two pathways. This bill modifies a single component of one of these pathways, providing that a "participating county" means a county that contains a municipality with a population greater than 20,000, and with a Municipal Revitalization Index Distress score, as last calculated by the New Jersey Department of Community Affairs prior to the effective date of P.L.2018, c.136 (C.30:4D-7r et seq.), that exceeds 55. Under the current law, the Municipal Revitalization Index Distress score must exceed 60.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS concludes that this bill will produce an annual net revenue gain for the State and certain county governments as a result of increasing the existing cap on the fee a participating county can impose on a hospital from 2.5 percent to five percent of a hospital's total net patient revenues under the County Option Hospital Fee Program. The OLS estimates that increasing the cap will result in an additional \$667.3 million in hospital fees paid to participating counties under the program. The OLS estimates that the \$667.3 million in fee collections will generate \$1.24 billion in federal Medicaid cost reimbursements, for an estimated \$1.91 billion in program revenues. The revenue would be allocated as indicated in the table below.

Estimated FY 2025 Collections and Net Resource Allocation of Increasing Cap on Hospital Fee: County Option Hospital Fee Program					
Revenue			Net Allocation		
Fee Payments by	Federal Medical	Total Program	Hospitals *	Counties	State
Hospitals	Cost Reimbursements	Revenue			
\$667,285,269	\$1,239,244,071	\$1,906,529,340	\$1,172,515,544	\$60,055,674	\$6,772,853
* Net of \$667.3 million in fee payments					

Additionally, the OLS finds that, in revising the definition of “participating county,” the bill will expand eligibility under the County Option Hospital Fee Program thereby producing an indeterminate annual net revenue gain to the program in the form of additional county hospital fees and the federal Medicaid cost reimbursements received by the State due to those additional fees. The net gain will primarily accrue to hospitals in counties newly eligible to participate in the program under the bill. For reference, according to the most recent program county cost reports, annual hospital fees collected under the program at the current 2.5 percent cap ranged from a low of \$13.0 million in Cumberland County to a high of \$109.0 million in Bergen County.

The County Option Hospital Fee Program is a federal revenue maximization initiative that provides support to local hospitals in designated high-need areas in order to ensure continued access to critical healthcare services for vulnerable populations. To this end, the program authorizes participating counties, and hospitals within those counties, to partner with the State through a provider assessment fee imposed on hospitals that generates revenue used to enhance financial support for the hospitals through increased federal Medicaid matching reimbursements. All participating counties, except Ocean County, currently impose a fee that meets the current cap of 2.5 percent of a hospital’s total net patient revenues.

As a function of the program, the net funding gain under the bill will primarily accrue to hospitals. In their role as conduits, however, the State and participating counties, which includes newly eligible counties under the bill, will experience annual revenue and expenditure increases. These impacts will largely offset one another, although the State and participating counties will realize some net gains in the form of fees retained to cover administrative costs. Specifically, under the law, at least 90 percent of the fees collected must be used to benefit hospitals, with a county required to transfer one percent of the fees to the State for administrative costs. Under this provision, in practice and assumed under this estimate, a county retains nine percent and the State retains one percent of the fees collected under the program to cover administrative costs.

For the purposes of this estimate, participating counties will realize increased revenue of \$60.1 million under this bill, while the State will realize \$6.8 million due to the provisions of the bill that increase the cap a county can impose on hospitals from 2.5 percent to five percent of a hospital’s total net patient revenues. Additional indeterminate program revenues will accrue due to the provisions of the bill that expand the counties which can participate in the program. The County Option Hospital Fee Program was established in November 2018. Current participating counties are: Atlantic, Bergen, Burlington, Camden, Cumberland, Essex, Hudson, Mercer, Middlesex, Monmouth, Ocean, and Passaic.

*Section: Human Services*

*Analyst: Sarah Schmidt  
Lead Research Analyst*

*Approved: Thomas Koenig  
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

**SENATE, No. 2552**

**STATE OF NEW JERSEY**

**221st LEGISLATURE**

INTRODUCED FEBRUARY 8, 2024

**Sponsored by:**

**Senator JOSEPH F. VITALE**

**District 19 (Middlesex)**

**SYNOPSIS**

Clarifies cap on fees imposed under “County Option Hospital Fee Program Act.”

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning the “County Option Hospital Fee Program Act”  
2 and amending P.L.2018, c.136.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. Section 3 of P.L.2018, c.136 (C.30:4D-7t) is amended to read  
8 as follows:

9 3. a. There is established “The County Option Hospital Fee  
10 Program” in the Department of Human Services.

11 b. The purpose of the program is:

12 (1) to increase financial resources through the Medicaid program  
13 to support local hospitals and to ensure that they continue to provide  
14 necessary services to low-income citizens; and

15 (2) to provide participating counties with new fiscal resources.

16 c. Each participating county shall be authorized by the  
17 commissioner to impose a local healthcare-related fee on hospitals  
18 within its borders.

19 d. A participating county shall submit a proposed fee and  
20 expenditure report to the commissioner to ensure that the proposed  
21 fee and expenditure plan satisfies paragraph (1) of subsection b. of  
22 this section and subsection e. of this section, and does not create a  
23 direct or indirect guarantee to hold harmless, as those terms are used  
24 in 42 C.F.R. s.433.68(f). The commissioner shall further review the  
25 proposed fee and expenditure report to determine whether it complies  
26 with relevant rules and regulations. Each participating county shall  
27 consult with affected hospitals within its jurisdiction to prepare the  
28 proposed fee and expenditure report before the report is submitted to  
29 the commissioner. The commissioner shall make the proposed fee  
30 and expenditure report available to the affected hospitals for review  
31 and the hospitals shall be permitted to provide comments to the  
32 commissioner regarding the report for a period of 21 calendar days  
33 from the date the proposed report is made available for review.

34 e. The board of County commissioners of a participating county,  
35 following the approval of the participating county's proposed fee and  
36 expenditure plan by the commissioner, may adopt an ordinance  
37 providing for the imposition of a fee on hospitals located within its  
38 borders and for appropriate administrative provisions, including, but  
39 not limited to, provisions for the collection of interest and penalties.

40 The fee shall be implemented in accordance with the provisions of  
41 42 U.S.C. s.1396b(w)(3)(A), and shall be subject to the maximum  
42 aggregate amount that may be assessed pursuant to 42 C.F.R.  
43 s.433.68(f)(3), or any subsequent maximum amount as may be  
44 established by federal law, and shall be subject to **[a cap as**  
45 **determined]** review and approval by the commissioner. The fee shall

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 not exceed the aggregate amount specified in 42 C.F.R.  
2 s.433.68(f)(3) minus one percent of total net patient revenues. The  
3 participating county may exempt a hospital within its jurisdiction  
4 from the fee, provided that the exemption complies with the  
5 requirements of 42 C.F.R. s.433.68.

6 The fee authorized pursuant to this act may be collected only to  
7 the extent that the commissioner determines that the revenues  
8 generated qualify as the State share of Medicaid program  
9 expenditures eligible for federal financial participation pursuant to  
10 42 C.F.R. s.433.68.

11 f. Any subsequent alterations to the fee are subject to the approval  
12 of the commissioner prior to implementation. Upon approval, the  
13 commissioner shall apply for such State plan amendments or waivers  
14 as may be necessary to implement the changes and to secure federal  
15 financial participation for State Medicaid expenditures under the  
16 federal Medicaid program.

17 g. Neither the State nor a participating county shall be liable for  
18 any amount of a local healthcare-related fee imposed on a hospital  
19 pursuant to this act that the hospital fails to pay or does not pay in a  
20 timely manner to the assessing county.

21 (cf: P.L.2022, c.61, s.3)

22

23 2. This act shall take effect immediately.

24

25

26

STATEMENT

27

28 This bill amends the “County Option Hospital Fee Program Act,”  
29 P.L.2018, c.136 (C.30:4D-7r et seq.). Specifically, the bill removes  
30 the requirement that the fee implemented under the program be  
31 subject to a cap as determined by the Commissioner of Human  
32 Services, as currently provided under the law, and instead stipulates  
33 that the fee be subject to review and approval by the commissioner.  
34 The provisions of the bill do not impact the commissioner’s authority  
35 to annually review and approve county option programs.

36 The bill also specifies that the fee is not to exceed the aggregate  
37 amount specified in 42 C.F.R. s.433.68(f)(3) minus one percent of  
38 total net patient revenues. Current law requires that the fee is to be  
39 implemented in accordance with federal law but does not mandate  
40 that the fee not exceed the aggregate amount specified in 42 C.F.R.  
41 s.433.68(f)(3) minus one percent of total net patient revenues.

[First Reprint]

**SENATE, No. 2552**

**STATE OF NEW JERSEY**

**221st LEGISLATURE**

INTRODUCED FEBRUARY 8, 2024

**Sponsored by:**

**Senator JOSEPH F. VITALE**

**District 19 (Middlesex)**

**SYNOPSIS**

Clarifies cap on fees imposed under “County Option Hospital Fee Program Act.”

**CURRENT VERSION OF TEXT**

As reported by the Senate Health, Human Services and Senior Citizens Committee on February 22, 2024, with amendments.



1 AN ACT concerning the “County Option Hospital Fee Program Act”  
2 and amending P.L.2018, c.136.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. Section 3 of P.L.2018, c.136 (C.30:4D-7t) is amended to read as  
8 follows:

9 3. a. There is established “The County Option Hospital Fee  
10 Program” in the Department of Human Services.

11 b. The purpose of the program is:

12 (1) to increase financial resources through the Medicaid program  
13 to support local hospitals and to ensure that they continue to provide  
14 necessary services to low-income citizens; and

15 (2) to provide participating counties with new fiscal resources.

16 c. Each participating county shall be authorized by the  
17 commissioner to impose a local healthcare-related fee on hospitals  
18 within its borders.

19 d. A participating county shall submit a proposed fee and  
20 expenditure report to the commissioner to ensure that the proposed fee  
21 and expenditure plan satisfies paragraph (1) of subsection b. of this  
22 section and subsection e. of this section, and does not create a direct or  
23 indirect guarantee to hold harmless, as those terms are used in 42  
24 C.F.R. s.433.68(f). The commissioner shall further review the  
25 proposed fee and expenditure report to determine whether it complies  
26 with relevant rules and regulations. Each participating county shall  
27 consult with affected hospitals within its jurisdiction to prepare the  
28 proposed fee and expenditure report before the report is submitted to  
29 the commissioner. The commissioner shall make the proposed fee and  
30 expenditure report available to the affected hospitals for review and  
31 the hospitals shall be permitted to provide comments to the  
32 commissioner regarding the report for a period of 21 calendar days  
33 from the date the proposed report is made available for review.

34 e. The board of County commissioners of a participating county,  
35 following the approval of the participating county's proposed fee and  
36 expenditure plan by the commissioner, may adopt an ordinance  
37 providing for the imposition of a fee on hospitals located within its  
38 borders and for appropriate administrative provisions, including, but  
39 not limited to, provisions for the collection of interest and penalties.

40 The fee shall be implemented in accordance with the provisions of  
41 42 U.S.C. s.1396b(w)(3)(A), and shall be subject to the maximum  
42 aggregate amount that may be assessed pursuant to 42 C.F.R.  
43 s.433.68(f)(3), or any subsequent maximum amount as may be  
44 established by federal law, and shall be subject to **[a cap as  
45 determined]** review and approval by the commissioner. The fee shall

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SHH committee amendments adopted February 22, 2024.

1 not exceed the aggregate amount specified in 42 C.F.R. s.433.68(f)(3)  
2 minus one percent of total net patient revenues. The participating  
3 county may exempt a hospital within its jurisdiction from the fee,  
4 provided that the exemption complies with the requirements of 42  
5 C.F.R. s.433.68.

6 The fee authorized pursuant to this act may be collected only to the  
7 extent that the commissioner determines that the revenues generated  
8 qualify as the State share of Medicaid program expenditures eligible  
9 for federal financial participation pursuant to 42 C.F.R. s.433.68.

10 f. Any subsequent alterations to the fee are subject to the approval  
11 of the commissioner prior to implementation. Upon approval, the  
12 commissioner shall apply for such State plan amendments or waivers  
13 as may be necessary to implement the changes and to secure federal  
14 financial participation for State Medicaid expenditures under the  
15 federal Medicaid program.

16 g. <sup>1</sup>(1)<sup>1</sup> Neither the State nor a participating county shall be liable  
17 for any amount of a local healthcare-related fee imposed on a hospital  
18 pursuant to this act that the hospital fails to pay or does not pay in a  
19 timely manner to the assessing county.

20 <sup>1</sup>(2) With the exception of the period of time during which a  
21 participating county or Medicaid Managed Care Organization is in  
22 possession of payments prior to disbursement, neither a participating  
23 county nor Medicaid Managed Care Organization shall be liable for  
24 any amount related to an approved expenditure plan determined to be  
25 impermissible by a federal agency. The Department of Human  
26 Services shall amend related managed care contracts to include this  
27 provision.<sup>1</sup>

28 (cf: P.L.2022, c.61, s.3)

29

30 2. This act shall take effect immediately.

[Second Reprint]

**SENATE, No. 2552**

**STATE OF NEW JERSEY**

**221st LEGISLATURE**

INTRODUCED FEBRUARY 8, 2024

**Sponsored by:**

**Senator JOSEPH F. VITALE**

**District 19 (Middlesex)**

**SYNOPSIS**

Clarifies cap on fees imposed under “County Option Hospital Fee Program Act.”

**CURRENT VERSION OF TEXT**

As amended by the Senate on May 20, 2024.



1 AN ACT concerning the “County Option Hospital Fee Program Act”  
2 and amending P.L.2018, c.136.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. Section 3 of P.L.2018, c.136 (C.30:4D-7t) is amended to read as  
8 follows:

9 3. a. There is established “The County Option Hospital Fee  
10 Program” in the Department of Human Services.

11 b. The purpose of the program is:

12 (1) to increase financial resources through the Medicaid program  
13 to support local hospitals and to ensure that they continue to provide  
14 necessary services to low-income citizens; and

15 (2) to provide participating counties with new fiscal resources.

16 c. Each participating county shall be authorized by the  
17 commissioner to impose a local healthcare-related fee on hospitals  
18 within its borders.

19 d. A participating county shall submit a proposed fee and  
20 expenditure report to the commissioner to ensure that the proposed fee  
21 and expenditure plan satisfies paragraph (1) of subsection b. of this  
22 section and subsection e. of this section, and does not create a direct or  
23 indirect guarantee to hold harmless, as those terms are used in 42  
24 C.F.R. s.433.68(f). The commissioner shall further review the  
25 proposed fee and expenditure report to determine whether it complies  
26 with relevant rules and regulations. Each participating county shall  
27 consult with affected hospitals within its jurisdiction to prepare the  
28 proposed fee and expenditure report before the report is submitted to  
29 the commissioner. The commissioner shall make the proposed fee and  
30 expenditure report available to the affected hospitals for review and  
31 the hospitals shall be permitted to provide comments to the  
32 commissioner regarding the report for a period of 21 calendar days  
33 from the date the proposed report is made available for review. <sup>2</sup>If a  
34 participating county submits a proposed fee and expenditure report  
35 that includes plans to increase Medicaid or NJ FamilyCare payments  
36 for any hospital within its jurisdiction that exceeds the calculated value  
37 of its hospital-specific disproportionate share limit, as outlined in 42  
38 U.S.C. s.1396r-4 and calculated by the State, the proposed fee and  
39 expenditure report shall include an attestation from the chief executive  
40 officer of any such hospital confirming that the hospital is subject to a  
41 reduction in disproportionate share hospital payments, including  
42 Charity Care payments, at the commissioner’s discretion and upon  
43 notice to the hospital and to the extent necessary to comply with  
44 payment limits outlined in section 1923(g) of the federal Social

EXPLANATION – Matter enclosed in bold-faced brackets **[ thus ]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SHH committee amendments adopted February 22, 2024.

<sup>2</sup>Senate floor amendments adopted May 20, 2024.

1 Security Act. The Department of Human Services shall take all  
2 appropriate action to comply with section 1923(g) of the federal Social  
3 Security Act.<sup>2</sup>

4 e. The board of County commissioners of a participating county,  
5 following the approval of the participating county's proposed fee and  
6 expenditure plan by the commissioner, may adopt an ordinance  
7 providing for the imposition of a fee on hospitals located within its  
8 borders and for appropriate administrative provisions, including, but  
9 not limited to, provisions for the collection of interest <sup>2</sup>**[and]** the  
10 collection of<sup>2</sup> penalties <sup>2</sup>, and the application of liens<sup>2</sup>.

11 The fee shall be implemented in accordance with the provisions of  
12 42 U.S.C. s.1396b(w)(3)(A), and shall be subject to the maximum  
13 aggregate amount that may be assessed pursuant to 42 C.F.R.  
14 s.433.68(f)(3), or any subsequent maximum amount as may be  
15 established by federal law, and shall be subject to **[a cap as**  
16 **determined]** review and approval by the commissioner. The fee shall  
17 not exceed the aggregate amount specified in 42 C.F.R. s.433.68(f)(3)  
18 minus one percent of total net patient revenues. The participating  
19 county may exempt a hospital within its jurisdiction from the fee,  
20 provided that the exemption complies with the requirements of 42  
21 C.F.R. s.433.68.

22 The fee authorized pursuant to this act may be collected only to the  
23 extent that the commissioner determines that the revenues generated  
24 qualify as the State share of Medicaid program expenditures eligible  
25 for federal financial participation pursuant to 42 C.F.R. s.433.68.

26 f. Any subsequent alterations to the fee are subject to the approval  
27 of the commissioner prior to implementation. Upon approval, the  
28 commissioner shall apply for such State plan amendments or waivers  
29 as may be necessary to implement the changes and to secure federal  
30 financial participation for State Medicaid expenditures under the  
31 federal Medicaid program.

32 g. <sup>1</sup>(1)<sup>1</sup> Neither the State nor a participating county shall be liable  
33 for any amount of a local healthcare-related fee imposed on a hospital  
34 pursuant to this act that the hospital fails to pay or does not pay in a  
35 timely manner to the assessing county.

36 <sup>1</sup>(2) With the exception of the period of time during which a  
37 participating county or Medicaid Managed Care Organization is in  
38 possession of payments prior to disbursement, neither a participating  
39 county nor Medicaid Managed Care Organization shall be liable for  
40 any amount related to an approved expenditure plan determined to be  
41 impermissible by a federal agency. The Department of Human  
42 Services shall amend related managed care contracts to include this  
43 provision.<sup>1</sup>

44 <sup>2</sup>h. Any hospital that exceeds its hospital-specific disproportionate  
45 share limit pursuant to 42 U.S.C. s.1396r-4 as a result of payments  
46 received pursuant to the County Option Hospital Fee Program or  
47 pursuant to other State or federal funding mechanisms or pools shall

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4

1 be liable to the State for any funds the State may be required to  
2 reimburse the federal government for any such excess disproportionate  
3 share hospital funds attributable to the hospital.<sup>2</sup>

4 (cf: P.L.2022, c.61, s.3)

5

6 2. This act shall take effect immediately.

[Third Reprint]

**SENATE, No. 2552**

**STATE OF NEW JERSEY**

**221st LEGISLATURE**

INTRODUCED FEBRUARY 8, 2024

**Sponsored by:**

**Senator JOSEPH F. VITALE**

**District 19 (Middlesex)**

**SYNOPSIS**

Clarifies cap on fees imposed, and modifies definition of participating county, under “County Option Hospital Fee Program Act.”

**CURRENT VERSION OF TEXT**

As reported by the Senate Health, Human Services and Senior Citizens Committee on June 6, 2024, with amendments.



1 AN ACT concerning the “County Option Hospital Fee Program Act”  
2 and amending P.L.2018, c.136.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 <sup>3</sup>1. Section 2 of P.L.2018, c.136 (C.30:4D-7s) is amended to  
8 read as follows:

9 2. As used in this act:

10 "Commissioner" means the Commissioner of Human Services.

11 "Department" means the Department of Human Services.

12 "Fee" means the local healthcare-related fee authorized pursuant  
13 to this act.

14 "Hospital" means a hospital that is licensed pursuant to  
15 P.L.1971, c.136 (C.26:2H-1 et seq.) and is located within the  
16 borders of a participating county.

17 "Medicaid program" means the "New Jersey Medical Assistance  
18 and Health Services Program" established pursuant to P.L.1968,  
19 c.413 (C.30:4D-1 et seq.).

20 "Participating county" means, notwithstanding the provisions of  
21 any other law or regulation to the contrary, a county that chooses to  
22 participate in the program, has a population greater than 250,000,  
23 according to the federal decennial census immediately preceding the  
24 effective date of P.L.2018, c.136 (C.30:4D-7r et seq.), and contains  
25 a municipality which: (1) is classified, pursuant to N.J.S.40A:6-4,  
26 as a First or Second Class municipality, or a Fourth Class  
27 municipality whose population exceeds 20,000, and (2) has a  
28 Municipal Revitalization Index Distress score, as last calculated by  
29 the New Jersey Department of Community Affairs prior to the  
30 effective date of P.L.2018, c.136 (C.30:4D-7r et seq.), that exceeds  
31 **[60] 55**; or, based on the 2019 ACS 5 Year Survey Data, a county  
32 that chooses to participate in the program and contains a  
33 municipality with a population greater than 30,000 whose 2020  
34 Municipal Revitalization Index Distress score is greater than or  
35 equal to 33 (1) excluding counties with a municipality with a  
36 population greater than 125,000, (2) excluding counties with a  
37 population less than 150,000, and (3) excluding counties with a  
38 median household income greater than \$110,000.

39 "Program" means "The County Option Hospital Fee Program"  
40 established pursuant to this act.

41 "Proposed fee and expenditure report" means a written report by  
42 a participating county that describes how the fee will be imposed in  
43 the participating county; how the funds collected from the fee will  
44 be used by the participating county, including the amount and

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup>**Senate SHH committee amendments adopted February 22, 2024.**

<sup>2</sup>**Senate floor amendments adopted May 20, 2024.**

<sup>3</sup>**Senate SHH committee amendments adopted June 6, 2024.**

1 services the participating county plans to provide with the funds;  
2 and how the plan satisfies paragraph (1) of subsection b. of section  
3 3 of this act.<sup>3</sup>

4 (cf: P.L.2023, c.337, s.1)

5

6 <sup>3</sup>[1.] 2.<sup>3</sup> Section 3 of P.L.2018, c.136 (C.30:4D-7t) is amended to  
7 read as follows:

8 3. a. There is established “The County Option Hospital Fee  
9 Program” in the Department of Human Services.

10 b. The purpose of the program is:

11 (1) to increase financial resources through the Medicaid program  
12 to support local hospitals and to ensure that they continue to provide  
13 necessary services to low-income citizens; and

14 (2) to provide participating counties with new fiscal resources.

15 c. Each participating county shall be authorized by the  
16 commissioner to impose a local healthcare-related fee on hospitals  
17 within its borders.

18 d. A participating county shall submit a proposed fee and  
19 expenditure report to the commissioner to ensure that the proposed fee  
20 and expenditure plan satisfies paragraph (1) of subsection b. of this  
21 section and subsection e. of this section, and does not create a direct or  
22 indirect guarantee to hold harmless, as those terms are used in 42  
23 C.F.R. s.433.68(f). The commissioner shall further review the  
24 proposed fee and expenditure report to determine whether it complies  
25 with relevant rules and regulations. Each participating county shall  
26 consult with affected hospitals within its jurisdiction to prepare the  
27 proposed fee and expenditure report before the report is submitted to  
28 the commissioner. The commissioner shall make the proposed fee and  
29 expenditure report available to the affected hospitals for review and  
30 the hospitals shall be permitted to provide comments to the  
31 commissioner regarding the report for a period of 21 calendar days  
32 from the date the proposed report is made available for review. <sup>2</sup>If a  
33 participating county submits a proposed fee and expenditure report  
34 that includes plans to increase Medicaid or NJ FamilyCare payments  
35 for any hospital within its jurisdiction that exceeds the calculated value  
36 of its hospital-specific disproportionate share limit, as outlined in 42  
37 U.S.C. s.1396r-4 and calculated by the State, the proposed fee and  
38 expenditure report shall include an attestation from the chief executive  
39 officer of any such hospital confirming that the hospital is subject to a  
40 reduction in disproportionate share hospital payments, including  
41 Charity Care payments, at the commissioner’s discretion and upon  
42 notice to the hospital and to the extent necessary to comply with  
43 payment limits outlined in section 1923(g) of the federal Social  
44 Security Act. The Department of Human Services shall take all  
45 appropriate action to comply with section 1923(g) of the federal Social  
46 Security Act.<sup>2</sup>

1 e. The board of County commissioners of a participating county,  
2 following the approval of the participating county's proposed fee and  
3 expenditure plan by the commissioner, may adopt an ordinance  
4 providing for the imposition of a fee on hospitals located within its  
5 borders and for appropriate administrative provisions, including, but  
6 not limited to, provisions for the collection of interest <sup>2</sup>~~and~~ the  
7 collection of<sup>2</sup> penalties <sup>2</sup>, and the application of liens<sup>2</sup>.

8 The fee shall be implemented in accordance with the provisions of  
9 42 U.S.C. s.1396b(w)(3)(A), and shall be subject to the maximum  
10 aggregate amount that may be assessed pursuant to 42 C.F.R.  
11 s.433.68(f)(3), or any subsequent maximum amount as may be  
12 established by federal law, and shall be subject to ~~a cap as~~  
13 ~~determined~~ review and approval by the commissioner. The fee shall  
14 not exceed the aggregate amount specified in 42 C.F.R. s.433.68(f)(3)  
15 minus one percent of total net patient revenues. The participating  
16 county may exempt a hospital within its jurisdiction from the fee,  
17 provided that the exemption complies with the requirements of 42  
18 C.F.R. s.433.68.

19 The fee authorized pursuant to this act may be collected only to the  
20 extent that the commissioner determines that the revenues generated  
21 qualify as the State share of Medicaid program expenditures eligible  
22 for federal financial participation pursuant to 42 C.F.R. s.433.68.

23 f. Any subsequent alterations to the fee are subject to the approval  
24 of the commissioner prior to implementation. Upon approval, the  
25 commissioner shall apply for such State plan amendments or waivers  
26 as may be necessary to implement the changes and to secure federal  
27 financial participation for State Medicaid expenditures under the  
28 federal Medicaid program.

29 g. <sup>1</sup>(1)<sup>1</sup> Neither the State nor a participating county shall be liable  
30 for any amount of a local healthcare-related fee imposed on a hospital  
31 pursuant to this act that the hospital fails to pay or does not pay in a  
32 timely manner to the assessing county.

33 <sup>1</sup>(2) With the exception of the period of time during which a  
34 participating county or Medicaid Managed Care Organization is in  
35 possession of payments prior to disbursement, neither a participating  
36 county nor Medicaid Managed Care Organization shall be liable for  
37 any amount related to an approved expenditure plan determined to be  
38 impermissible by a federal agency. The Department of Human  
39 Services shall amend related managed care contracts to include this  
40 provision.<sup>1</sup>

41 <sup>2</sup>h. Any hospital that exceeds its hospital-specific disproportionate  
42 share limit pursuant to 42 U.S.C. s.1396r-4 as a result of payments  
43 received pursuant to the County Option Hospital Fee Program or  
44 pursuant to other State or federal funding mechanisms or pools shall  
45 be liable to the State for any funds the State may be required to

S2552 [3R] VITALE

5

1 reimburse the federal government for any such excess disproportionate  
2 share hospital funds attributable to the hospital.<sup>2</sup>

3 (cf: P.L.2022, c.61, s.3)

4

5 <sup>3</sup>**[2.]** 3.<sup>3</sup> This act shall take effect immediately.

SENATE HEALTH, HUMAN SERVICES AND SENIOR  
CITIZENS COMMITTEE

STATEMENT TO

**SENATE, No. 2552**

with committee amendments

**STATE OF NEW JERSEY**

DATED: FEBRUARY 22, 2024

The Senate Health, Human Services and Senior Citizens Committee reports favorably and with committee amendments Senate Bill No. 2552.

As amended by the committee, this bill amends the “County Option Hospital Fee Program Act,” P.L.2018, c.136 (C.30:4D-7r et seq.). The County Option Hospital Fee Program was established in November 2018 to support local hospitals in designated high-need areas to ensure continued access to critical healthcare services for vulnerable populations. To effectuate this goal, the program authorizes participating counties, and hospitals within those counties, to partner with the State through a provider fee mechanism that enhances financial support through the Medicaid program.

Specifically, the bill removes the existing requirement that the fee implemented under the program be subject to a cap as determined by the Commissioner of Human Services, and instead stipulates that the fee be subject to review and approval by the commissioner. The provisions of the bill do not impact the commissioner’s authority to annually review and approve county option programs.

The bill also specifies that the fee is not to exceed the aggregate amount specified in 42 C.F.R. s.433.68(f)(3) minus one percent of total net patient revenues. Current law requires that the fee is to be implemented in accordance with federal law but does not mandate that the fee not exceed the aggregate amount specified in 42 C.F.R. s.433.68(f)(3) minus one percent of total net patient revenues.

Under the amended bill, with the exception of the period of time during which a participating county or Medicaid Managed Care Organization is in possession of payments prior to disbursement, neither a participating county nor Medicaid Managed Care Organization is to be liable for any amount related to an approved expenditure plan determined to be impermissible by a federal agency. The Department of Human Services is to amend related managed care contracts to include this provision.

COMMITTEE AMENDMENTS:

The committee amendments provide that, with the exception of the period of time during which a participating county or Medicaid Managed Care Organization is in possession of payments prior to disbursement, neither a participating county nor Medicaid Managed Care Organization is to be liable for any amount related to an approved expenditure plan determined to be impermissible by a federal agency. The Department of Human Services is to amend related managed care contracts to include this provision.

SENATE HEALTH, HUMAN SERVICES AND SENIOR  
CITIZENS COMMITTEE

STATEMENT TO

[Second Reprint]  
**SENATE, No. 2552**

with committee amendments

**STATE OF NEW JERSEY**

DATED: JUNE 6, 2024

The Senate Health, Human Services and Senior Citizens Committee reports favorably and with committee amendments Senate Bill No. 2552 (2R).

This bill amends the “County Option Hospital Fee Program Act,” P.L.2018, c.136 (C.30:4D-7r et seq.). The County Option Hospital Fee Program was established in November 2018 to support local hospitals in designated high-need areas to ensure continued access to critical healthcare services for vulnerable populations. To effectuate this goal, the program authorizes participating counties, and hospitals within those counties, to partner with the State through a provider fee mechanism that enhances financial support through the Medicaid program.

As amended, the bill removes the existing requirement that the fee implemented under the program be subject to a cap as determined by the Commissioner of Human Services, and instead stipulates that the fee be subject to review and approval by the commissioner. The bill also specifies that the fee is not to exceed the aggregate amount specified in 42 C.F.R. s.433.68(f)(3) minus one percent of total net patient revenues. Current law requires that the fee is to be implemented in accordance with federal law.

The amended bill provides that, if a participating county submits a proposed fee and expenditure report that includes plans to increase Medicaid or NJ FamilyCare payments for any hospital within its jurisdiction that exceeds the calculated value of its hospital-specific disproportionate share limit, the report is to include an attestation from that hospital’s chief executive officer confirming that the hospital is subject to a reduction in disproportionate share hospital payments. The bill provides that any hospital that exceeds its hospital-specific disproportionate share limit as a result of payments received under the program or any other State or federal funding mechanisms or pools will be liable to the State for any funds the State may be required to reimburse the federal government.

Under the bill, as amended, with the exception of the period of time during which a participating county or Medicaid Managed Care Organization is in possession of payments prior to disbursement, neither a participating county nor Medicaid Managed Care Organization is to be liable for any amount related to an approved expenditure plan determined to be impermissible by a federal agency.

The amended bill provides that the administrative provisions established by a board of County commissioners regarding the imposition of a hospital fee under the program may include the application of liens.

As amended, the bill modifies the definition of a “participating county” under the program. Under existing law, a county is deemed a “participating county” via two pathways. This bill modifies a single component of one of these pathways, providing that a “participating county” means a county that contains a municipality with a population greater than 20,000, and with a Municipal Revitalization Index Distress score, as last calculated by the New Jersey Department of Community Affairs prior to the effective date of P.L.2018, c.136 (C.30:4D-7r et seq.), that exceeds 55. Under the current law, the Municipal Revitalization Index Distress score must exceed 60.

#### COMMITTEE AMENDMENTS:

The committee amendments modify the definition of “participating county” under the County Option Hospital Fee Program. Under existing law, a county is deemed a “participating county” via two pathways. These amendments modify a single component of one of these pathways, providing that a “participating county” means a county that contains a municipality with a population greater than 20,000, and with a Municipal Revitalization Index Distress score, as last calculated by the New Jersey Department of Community Affairs prior to the effective date of P.L.2018, c.136 (C.30:4D-7r et seq.), that exceeds 55. Under the current law, the Municipal Revitalization Index Distress score must exceed 60.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

**SENATE, No. 2552**

# **STATE OF NEW JERSEY**

DATED: MARCH 11, 2024

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2552 (1R).

This bill amends the “County Option Hospital Fee Program Act,” P.L.2018, c.136 (C.30:4D-7r et seq.). The County Option Hospital Fee Program was established in November 2018 to support local hospitals in designated high-need areas to ensure continued access to critical healthcare services for vulnerable populations. To effectuate this goal, the program authorizes participating counties, and hospitals within those counties, to partner with the State through a provider fee mechanism that enhances financial support through the Medicaid program.

Specifically, the bill removes the existing requirement that the fee implemented under the program be subject to a cap as determined by the Commissioner of Human Services, and instead stipulates that the fee be subject to review and approval by the commissioner. The provisions of the bill do not impact the commissioner’s authority to annually review and approve county option programs.

The bill also specifies that the fee is not to exceed the aggregate amount specified in 42 C.F.R. s.433.68(f)(3) minus one percent of total net patient revenues. Current law requires that the fee is to be implemented in accordance with federal law but does not mandate that the fee not exceed the aggregate amount specified in 42 C.F.R. s.433.68(f)(3) minus one percent of total net patient revenues.

Under the bill, with the exception of the period of time during which a participating county or Medicaid Managed Care Organization is in possession of payments prior to disbursement, neither a participating county nor Medicaid Managed Care Organization is to be liable for any amount related to an approved expenditure plan determined to be impermissible by a federal agency. The Department of Human Services is to amend related managed care contracts to include this provision.

### FISCAL IMPACT:

The Office of Legislative Services estimates that increasing the existing cap on the fee a participating county can impose on a hospital from 2.5 percent to five percent of a hospital’s total net patient

revenues under the County Option Hospital Fee Program will increase program revenues by \$1.85 billion annually, which includes \$627 million in fee revenue collected from hospitals and \$1.23 billion in federal Medicaid matching funds. Hospitals would receive an estimated \$1.16 billion of the total (or \$537.4 million net of fee payments), counties \$56.4 million, and the State \$6.3 million.

STATEMENT TO  
[First Reprint]  
**SENATE, No. 2552**

with Senate Floor Amendments  
(Proposed by Senator VITALE)

ADOPTED: MAY 20, 2024

The Senate floor amendments provide that, if a participating county submits a proposed fee and expenditure report that includes plans to increase Medicaid or NJ FamilyCare payments for any hospital within its jurisdiction that exceeds the calculated value of its hospital-specific disproportionate share limit, the proposed fee and expenditure report submitted by the county is to include an attestation from the chief executive officer of any such hospital confirming that the hospital is subject to a reduction in disproportionate share hospital payments, including Charity Care payments, at the Commissioner's discretion and upon notice to the hospital and to the extent necessary to comply with payment limits outlined in section 1923(g) of the federal Social Security Act.

The Senate floor amendments provide that any hospital that exceeds its hospital-specific disproportionate share limit pursuant to 42 U.S.C. s.1396r-4 as a result of payments received pursuant to the County Option Hospital Fee Program or pursuant to other State or federal funding mechanisms or pools will be liable to the State for any funds the State may be required to reimburse the federal government for any such excess disproportionate share hospital funds attributable to the hospital.

The Senate floor amendments provide that the administrative provisions established by a board of County commissioners regarding the imposition of a hospital fee under the County Option Hospital Fee Program may include the application of liens.

# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

## SENATE, No. 2552

### STATE OF NEW JERSEY 221st LEGISLATURE

DATED: APRIL 12, 2024

#### SUMMARY

- Synopsis:** Clarifies cap on fees imposed under "County Option Hospital Fee Program Act."
- Type of Impact:** Annual expenditure and revenue increases to the State and certain counties.
- Agencies Affected:** Department of Human Services, certain county governments.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Annual</u></b>
<b>State Revenue Increases – County Option Hospital Fee</b>	\$607.2 million
<b>State Revenue Increases – Federal Medicaid Reimbursements</b>	\$1.24 billion
<b>State Expenditure Increases</b>	\$1.84 billion
<b>County Revenue Increases</b>	\$667.3 million
<b>County Expenditure Increases</b>	\$607.2 million

- The Office of Legislative Services (OLS) concludes that this bill will produce an annual net revenue gain for the State and certain county governments as a result of increasing the existing cap on the fee a participating county can impose on a hospital from 2.5 percent to five percent of a hospital's total net patient revenues under the County Option Hospital Fee Program. Increasing the cap will result in an additional \$667.3 million in hospital fees collected under the program.
- The OLS estimates that the \$667.3 million in fee collections will generate \$1.24 billion in federal Medicaid cost reimbursements, for an estimated \$1.91 billion in program revenues. The revenue would be allocated as detailed in the table below.

- In their role as conduits, the State and participating counties will experience annual revenue and expenditure increases. These impacts will largely offset one another, although the State and participating counties will realize some net revenue gains from fees retained to cover their administrative costs.

**BILL DESCRIPTION**

This bill removes an existing requirement that the fee implemented under the County Option Hospital Fee Program Act and imposed on applicable hospitals under the program be subject to a cap as determined by the Department of Human Services. Rather, the bill mandates that the fee is not to exceed the aggregate amount specified in 42 C.F.R. s.433.68(f)(3), which states that the aggregate fee amount for health-care related taxes cannot exceed six percent of the provider’s total net patient revenues, minus one percent of total net patient revenues. In doing so, the bill increases the cap on this fee from 2.5 percent of a hospital’s total net patient revenues to five percent of a hospital’s total net patient revenues.

**FISCAL ANALYSIS**

***EXECUTIVE BRANCH***

None received.

***OFFICE OF LEGISLATIVE SERVICES***

The OLS concludes that this bill will produce an annual net revenue gain for the State and certain county governments as a result of increasing the existing cap on the fee a participating county can impose on a hospital from 2.5 percent to five percent of a hospital’s total net patient revenues under the County Option Hospital Fee Program. The OLS estimates that increasing the cap will result in an additional \$667.3 million in hospital fees paid to participating counties under the program. The OLS estimates that the \$667.3 million in fee collections will generate \$1.24 billion in federal Medicaid cost reimbursements, for an estimated \$1.91 billion in program revenues. The revenue would be allocated as indicated in the table below.

Estimated FY 2025 Collections and Net Resource Allocation: County Option Hospital Fee Pilot Program						
Revenue			Net Allocation			
Fee Payments by Hospitals	Federal Medicaid Cost Reimbursements	Total Program Revenue	Hospitals*	Counties	State	Federal
\$667,285,269	\$1,239,244,071	\$1,906,529,340	\$1,172,515,544	\$60,055,674	\$6,672,853	\$1,239,244,071
*Net of \$667.3 million in fee payments.						

The County Option Hospital Fee Program is a federal revenue maximization initiative that provides support to local hospitals in designated high-need areas in order to ensure continued access to critical healthcare services for vulnerable populations. To this end, the program authorizes participating counties, and hospitals within those counties, to partner with the State

through a provider assessment fee imposed on hospitals that generates revenue used to enhance financial support for the hospitals through increased federal Medicaid matching reimbursements. All participating counties, except Ocean County, currently impose a fee that meets the current cap of 2.5 percent of a hospital's total net patient revenues.

As a function of the program, the net funding gain under the bill will primarily accrue to hospitals. In their role as conduits, however, the State and participating counties will experience annual revenue and expenditure increases. These impacts will largely offset one another, although the State and participating counties will realize some net gains in the form of fees retained to cover administrative costs. Specifically, under the law, at least 90 percent of the fees collected must be used to benefit hospitals, with a county required to transfer one percent of the fees to the State for administrative costs. Under this provision, in practice and assumed under this estimate, a county retains nine percent and the State retains one percent of the fees collected under the program to cover administrative costs. For the purposes of this estimate, participating counties will realize increased revenue of \$60.1 million under this bill, while the State will realize \$6.7 million.

The County Option Hospital Fee Program was established in November 2018. Current participating counties are: Atlantic, Bergen, Burlington, Camden, Cumberland, Essex, Hudson, Mercer, Middlesex, Monmouth, Ocean, and Passaic.

*Section: Human Services*

*Analyst: Sarah Schmidt  
Lead Research Analyst*

*Approved: Thomas Koenig  
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# LEGISLATIVE FISCAL ESTIMATE

[Third Reprint]

## SENATE, No. 2552 STATE OF NEW JERSEY 221st LEGISLATURE

DATED: JULY 3, 2024

### SUMMARY

- Synopsis:** Clarifies cap on fees imposed, and modifies definition of participating county, under "County Option Hospital Fee Program Act."
- Type of Impact:** Annual expenditure and revenue increases to the State and certain counties.
- Agencies Affected:** Department of Human Services, certain county governments.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Annual</u></b>
<b>State Revenue Increases – County Option Hospital Fee</b>	At least \$607.2 million
<b>State Revenue Increases – Federal Medicaid Reimbursements</b>	At least \$1.24 billion
<b>State Expenditure Increases</b>	At least \$1.84 billion
<b>County Revenue Increases</b>	At least \$667.3 million
<b>County Expenditure Increases</b>	At least \$607.2 million

- The Office of Legislative Services (OLS) concludes that this bill will produce an annual net revenue gain for the State and certain county governments as a result of increasing the existing cap on the fee a participating county can impose on a hospital from 2.5 percent to five percent of a hospital's total net patient revenues under the County Option Hospital Fee Program. Increasing the cap will result in an additional \$667.3 million in hospital fees collected under the program.
- The OLS estimates that the \$667.3 million in fee collections will generate \$1.24 billion in federal Medicaid cost reimbursements, for an estimated \$1.91 billion in program revenues. The revenue would be allocated as detailed in the table below.
- Additionally, the OLS finds that, in revising the definition of "participating county," the bill will expand eligibility under the County Option Hospital Fee Program thereby producing an indeterminate annual net revenue gain to the program in the form of additional county hospital

fees and the federal Medicaid cost reimbursements received by the State due to those additional fees. The net gain will primarily accrue to hospitals in counties newly eligible to participate in the program under the bill.

- In their role as conduits, the State and participating counties, which included newly eligible counties under the bill, will experience annual revenue and expenditure increases. These impacts will largely offset one another, although the State and participating counties will realize some net revenue gains from fees retained to cover their administrative costs.

## **BILL DESCRIPTION**

This bill removes an existing requirement that the fee implemented under the County Option Hospital Fee Program Act and imposed on applicable hospitals under the program be subject to a cap as determined by the Department of Human Services. Rather, the bill mandates that the fee is not to exceed the aggregate amount specified in 42 C.F.R. s.433.68(f)(3), which states that the aggregate fee amount for health-care related taxes cannot exceed six percent of the provider's total net patient revenues, minus one percent of total net patient revenues. In doing so, the bill increases the cap on this fee from 2.5 percent of a hospital's total net patient revenues to five percent of a hospital's total net patient revenues.

The bill also revises the definition of "participating county" under the program. Under existing law, a county is deemed a "participating county" via two pathways. This bill modifies a single component of one of these pathways, providing that a "participating county" means a county that contains a municipality with a population greater than 20,000, and with a Municipal Revitalization Index Distress score, as last calculated by the New Jersey Department of Community Affairs prior to the effective date of P.L.2018, c.136 (C.30:4D-7r et seq.), that exceeds 55. Under the current law, the Municipal Revitalization Index Distress score must exceed 60.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS concludes that this bill will produce an annual net revenue gain for the State and certain county governments as a result of increasing the existing cap on the fee a participating county can impose on a hospital from 2.5 percent to five percent of a hospital's total net patient revenues under the County Option Hospital Fee Program. The OLS estimates that increasing the cap will result in an additional \$667.3 million in hospital fees paid to participating counties under the program. The OLS estimates that the \$667.3 million in fee collections will generate \$1.24 billion in federal Medicaid cost reimbursements, for an estimated \$1.91 billion in program revenues. The revenue would be allocated as indicated in the table below.

Estimated FY 2025 Collections and Net Resource Allocation of Increasing Cap on Hospital Fee: County Option Hospital Fee Program					
Revenue			Net Allocation		
Fee Payments by	Federal Medical	Total Program	Hospitals *	Counties	State
Hospitals	Cost Reimbursements	Revenue			
\$667,285,269	\$1,239,244,071	\$1,906,529,340	\$1,172,515,544	\$60,055,674	\$6,772,853
* Net of \$667.3 million in fee payments					

Additionally, the OLS finds that, in revising the definition of “participating county,” the bill will expand eligibility under the County Option Hospital Fee Program thereby producing an indeterminate annual net revenue gain to the program in the form of additional county hospital fees and the federal Medicaid cost reimbursements received by the State due to those additional fees. The net gain will primarily accrue to hospitals in counties newly eligible to participate in the program under the bill. For reference, according to the most recent program county cost reports, annual hospital fees collected under the program at the current 2.5 percent cap ranged from a low of \$13.0 million in Cumberland County to a high of \$109.0 million in Bergen County.

The County Option Hospital Fee Program is a federal revenue maximization initiative that provides support to local hospitals in designated high-need areas in order to ensure continued access to critical healthcare services for vulnerable populations. To this end, the program authorizes participating counties, and hospitals within those counties, to partner with the State through a provider assessment fee imposed on hospitals that generates revenue used to enhance financial support for the hospitals through increased federal Medicaid matching reimbursements. All participating counties, except Ocean County, currently impose a fee that meets the current cap of 2.5 percent of a hospital’s total net patient revenues.

As a function of the program, the net funding gain under the bill will primarily accrue to hospitals. In their role as conduits, however, the State and participating counties, which includes newly eligible counties under the bill, will experience annual revenue and expenditure increases. These impacts will largely offset one another, although the State and participating counties will realize some net gains in the form of fees retained to cover administrative costs. Specifically, under the law, at least 90 percent of the fees collected must be used to benefit hospitals, with a county required to transfer one percent of the fees to the State for administrative costs. Under this provision, in practice and assumed under this estimate, a county retains nine percent and the State retains one percent of the fees collected under the program to cover administrative costs.

For the purposes of this estimate, participating counties will realize increased revenue of \$60.1 million under this bill, while the State will realize \$6.8 million due to the provisions of the bill that increase the cap a county can impose on hospitals from 2.5 percent to five percent of a hospital’s total net patient revenues. Additional indeterminate program revenues will accrue due to the provisions of the bill that expand the counties which can participate in the program. The County Option Hospital Fee Program was established in November 2018. Current participating counties are: Atlantic, Bergen, Burlington, Camden, Cumberland, Essex, Hudson, Mercer, Middlesex, Monmouth, Ocean, and Passaic.

*Section: Human Services*

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Lead Research Analyst*

*Approved: Thomas Koenig  
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# Governor Murphy Takes Action on Legislation

07/22/2024

**TRENTON** – Today, Governor Murphy signed the following bill into law:

**A-3364/S-2552 (Conaway, Speight/Vitale)** - Clarifies cap on fees imposed, and modifies definition of participating county, under “County Option Hospital Fee Program Act”.