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RWH 4/24/08

P.L. 2007, CHAPTER 79, *approved May 4, 2007*
Senate, No. 1250 (*First Reprint*)

1 AN ACT concerning outpatient renal dialysis services for
2 certain persons and supplementing Title 26 of the Revised
3 Statutes.

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

7
8 1. a. **[An]** As a condition of licensure and renewal, an¹
9 ambulatory care facility that is licensed to provide chronic **[or**
10 acute]¹ renal dialysis services shall in each calendar year provide
11 uncompensated renal dialysis treatment **[and],**¹ services **and**
12 medication associated with dialysis treatment¹ for uninsured low-
13 income persons in an amount **[equal to the Medicare rate of**
14 reimbursement for] up to¹ 3.5% of the total number of renal
15 dialysis treatments provided by the facility during that year¹**[, or**
16 \$200,000, whichever amount is less]¹.

17 b. As used in this act, “uninsured low-income person” means a
18 patient who:

19 (1) is a resident of New Jersey;

20 (2) has an individual or, if applicable, family gross income that
21 would qualify that person for charity care pursuant to section 10 of
22 P.L.1992, c.160 (C.26:2H-18.60); and

23 (3) has no health insurance coverage for the renal dialysis
24 treatment and services provided.

25 c. Compliance with the requirements of this act may be
26 calculated on an aggregate basis for separately licensed ambulatory
27 care facilities in this State that have common ownership, except that
28 the total amount of uncompensated renal dialysis treatment and
29 services provided shall equal the sum of the amounts required for
30 each separately licensed facility.

31 **[d.** A facility that fails to comply with the requirements of this
32 act shall be liable for a civil penalty not to exceed \$200,000 for
33 each calendar year in which the facility is not in compliance. The
34 Commissioner of Health and Senior Services shall recover any
35 penalties provided for in this subsection in an administrative
36 proceeding in accordance with the “Penalty Enforcement Law of
37 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.).]¹

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:

¹Senate SHH committee amendments adopted November 13, 2006.

1 2. The Commissioner of Health and Senior Services shall adopt
2 regulations, pursuant to the "Administrative Procedure Act,"
3 P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of
4 this act.

5
6 '3. The Commissioner of Health and Senior Services shall
7 annually report to the Legislature, pursuant to section 2 of
8 P.L.1991, c.164 (C.52:14-19.1), on the number of patients who
9 receive treatment at each facility pursuant to this act who are not
10 eligible for Medicare or Medicaid, the number of treatments
11 provided to those patients, and such other information as he deems
12 appropriate.'

13
14 '3.] 4.' This act shall take effect 'July 1, 2006, but the
15 Commissioner of Health and Senior Services may take such
16 anticipatory administrative action in advance as shall be necessary
17 for the implementation of the act] 30 days after enactment'.

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21

22 Requires ambulatory care facilities to provide uncompensated
23 outpatient renal dialysis services for uninsured low-income persons.

SENATE, No. 1250

STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED JANUARY 30, 2006

Sponsored by:

Senator JOSEPH F. VITALE

District 19 (Middlesex)

Senator ELLEN KARCHER

District 12 (Mercer and Monmouth)

SYNOPSIS

Requires ambulatory care facilities to provide uncompensated outpatient renal dialysis services for uninsured low-income persons.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning outpatient renal dialysis services for certain
2 persons and supplementing Title 26 of the Revised Statutes.

3

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

6

7 1. a. An ambulatory care facility that is licensed to provide
8 chronic or acute renal dialysis services shall in each calendar year
9 provide uncompensated renal dialysis treatment and services for
10 uninsured low-income persons in an amount equal to the Medicare
11 rate of reimbursement for 3.5% of the total number of renal dialysis
12 treatments provided by the facility during that year, or \$200,000,
13 whichever amount is less.

14 b. As used in this act, "uninsured low-income person" means a
15 patient who:

16 (1) is a resident of New Jersey;

17 (2) has an individual or, if applicable, family gross income that
18 would qualify that person for charity care pursuant to section 10 of
19 P.L.1992, c.160 (C.26:2H-18.60); and

20 (3) has no health insurance coverage for the renal dialysis
21 treatment and services provided.

22 c. Compliance with the requirements of this act may be
23 calculated on an aggregate basis for separately licensed ambulatory
24 care facilities in this State that have common ownership, except that
25 the total amount of uncompensated renal dialysis treatment and
26 services provided shall equal the sum of the amounts required for
27 each separately licensed facility.

28 d. A facility that fails to comply with the requirements of this
29 act shall be liable for a civil penalty not to exceed \$200,000 for
30 each calendar year in which the facility is not in compliance. The
31 Commissioner of Health and Senior Services shall recover any
32 penalties provided for in this subsection in an administrative
33 proceeding in accordance with the "Penalty Enforcement Law of
34 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

35

36 2. The Commissioner of Health and Senior Services shall adopt
37 regulations, pursuant to the "Administrative Procedure Act,"
38 P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of
39 this act.

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41 3. This act shall take effect July 1, 2006, but the Commissioner
42 of Health and Senior Services may take such anticipatory
43 administrative action in advance as shall be necessary for the
44 implementation of the act.

STATEMENT

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This bill requires ambulatory care facilities to provide a specified amount of renal dialysis services without charge to certain uninsured low-income persons.

The bill provides specifically as follows:

An ambulatory care facility that is licensed to provide chronic or acute renal dialysis services is required in each calendar year to provide uncompensated renal dialysis treatment and services for uninsured low-income persons in an amount equal to the Medicare rate of reimbursement for 3.5% of the total number of renal dialysis treatments provided by the facility during that year, or \$200,000, whichever amount is less.

As used in the bill, "uninsured low-income person" means a patient who:

- is a resident of New Jersey;
- has an individual or, if applicable, family gross income that would qualify that person for charity care pursuant to N.J.S.A.26:2H-18.60; and
- has no health insurance coverage for the renal dialysis treatment and services provided.

Compliance with the requirements of the bill may be calculated on an aggregate basis for separately licensed ambulatory care facilities in this State that have common ownership, except that the total amount of uncompensated renal dialysis treatment and services provided must equal the sum of the amounts required for each separately licensed facility.

A facility that fails to comply with the requirements of the bill is liable for a civil penalty not to exceed \$200,000 for each calendar year in which the facility is not in compliance. The Commissioner of Health and Senior Services is to recover the penalty in an administrative proceeding in accordance with the "Penalty Enforcement Law of 1999" (N.J.S.A.2A:58-10 et seq.).

The bill takes effect July 1, 2006, but authorizes the Commissioner of Health and Senior Services to take anticipatory administrative action in advance as necessary for its implementation.

It is important to note that ambulatory care facilities providing renal dialysis services are one of a limited number of ambulatory care facility types not subject to the provisions of P.L.2004, c.54, which imposes an assessment on the revenues of many types of ambulatory care facilities. Through the exercise of its discretion, the Legislature exempted from this assessment certain facility types (such as federally qualified health centers) that play an important role in preserving the health care safety net of this State, thereby assuring access to care in much the same way that hospital charity care does.

S1250 VITALE, KARCHER

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1 Ambulatory renal dialysis facilities, however, through a quirk of
2 federal Medicaid regulations, could not be subject to the assessment
3 established under P.L.2004, c.54. Ironically, however, these
4 facilities, which provide essential life-sustaining treatments,
5 generally do not provide services to the uninsured, unlike the other
6 exempt facility types. The financial impact on renal dialysis
7 facilities under this bill would be similar to that on most ambulatory
8 care facilities from the assessment established under P.L.2004, c.54,
9 and is proportional to the total volume of each ambulatory dialysis
10 facility's treatments, until the maximum value of the treatments,
11 priced at the Medicare rate, is reached. A typical ambulatory renal
12 dialysis facility licensed for 18 renal dialysis stations, and assuming
13 three shifts per day, would be required to treat without charge, at a
14 maximum, less than four uninsured patients per week out of its
15 more-than-100-patient weekly census. It is, therefore, unlikely that
16 the financial impact on these facilities under this bill would be
17 unduly burdensome.

ASSEMBLY HEALTH AND SENIOR SERVICES COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 1250

STATE OF NEW JERSEY

DATED: MARCH 12, 2007

The Assembly Health and Senior Services Committee reports favorably Senate Bill No. 1250 (1R).

This bill requires ambulatory care facilities that provide renal dialysis services to do so without charge to a certain portion of uninsured low-income patients who present at their facilities.

Specifically, the bill provides as follows:

- As a condition of licensure or renewal, an ambulatory care facility licensed to provide chronic renal dialysis is to provide uncompensated renal dialysis treatment, services and medication associated with dialysis treatment for uninsured low-income persons in an amount up to 3.5% of the total number of renal dialysis treatments provided by the facility in a calendar year.
- The bill defines “uninsured low-income person” to mean a patient who:
 - is a resident of New Jersey;
 - has an individual income, or family gross income if applicable, which would qualify for charity care pursuant to N.J.S.A.26:2H-18.60; and
 - lacks health insurance coverage for the renal dialysis services provided.
- Compliance with the requirements of the bill may be calculated on an aggregate basis for separately licensed ambulatory care facilities in this State that have common ownership; however, the total uncompensated renal dialysis service provided must equal the sum of the amounts required for each separately licensed facility.
- The bill takes effect 30 days after enactment.

When the Legislature enacted P.L.2004, c.54, which imposes an assessment on the revenues of most specialty ambulatory care facilities, the Legislature did not impose the assessment on certain types of ambulatory care facilities, such as federally qualified health centers, which play an important role in preserving the health care safety net of this State, thereby assuring access to care in much the same way that hospital charity care does. Ambulatory renal dialysis facilities were also not included in the assessment, as the bulk of their

patients are enrolled in the federal Medicare program (the revenues from which cannot be subject to a State assessment).

As reported by the committee, this bill is identical to Assembly Bill No. 2925 ACA (Conaway/Chivukula/Johnson/Stanley/Vainieri Huttle), which the committee also reported on this date.

SENATE HEALTH, HUMAN SERVICES AND SENIOR
CITIZENS COMMITTEE

STATEMENT TO

SENATE, No. 1250

with committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 13, 2006

The Senate Health, Human Services and Senior Citizens Committee reports favorably and with amendments Senate Bill No. 1250.

As amended by the committee, this bill requires ambulatory care facilities that provide renal dialysis services to do so without charge to a certain portion of uninsured low-income patients who present at their facilities.

Specifically, as a condition of licensure or renewal, an ambulatory care facility licensed to provide chronic renal dialysis would be required to provide uncompensated renal dialysis treatment, services and medication associated with dialysis treatment for uninsured low-income persons in an amount up to 3.5% of the total number of renal dialysis treatments provided by the facility in a calendar year.

As used in the bill, "uninsured low-income person" means a patient who: (1) is a resident of New Jersey; (2) has an individual income, or family gross income if applicable, which would qualify for charity care pursuant to N.J.S.A.26:2H-18.60; and (3) lacks health insurance coverage for the renal dialysis services provided.

Compliance with the requirements of the bill may be calculated on an aggregate basis for separately licensed ambulatory care facilities in this State that have common ownership; however, the total uncompensated renal dialysis service provided must equal the sum of the amounts required for each separately licensed facility.

When the Legislature enacted P.L.2004, c.54, which imposes an assessment on the revenues of most specialty ambulatory care facilities, the Legislature did not impose the assessment on certain types of ambulatory care facilities, such as federally qualified health centers, which play an important role in preserving the health care safety net of this State, thereby assuring access to care in much the same way that hospital charity care does. Ambulatory renal dialysis facilities were also not included in the assessment; the bulk of their patients are on Medicare, which revenues cannot be subject to a State assessment.

COMMITTEE AMENDMENTS

- delete references to “acute” renal dialysis services (ambulatory care facilities do not provide acute renal dialysis services);
- add “medication associated with dialysis treatment” to the services to be provided;
- delete the requirement that the uncompensated care be “equal to Medicare’s rate of reimbursement for 3.5% . . . or \$200,000, whichever is less,” and instead set a cap of “up to 3.5%” of the total number of renal dialysis treatments provided by the facility in a calendar year;
- provide that compliance with this bill is a condition of licensure and renewal, and delete the provision that imposes a civil penalty of up to \$200,000;
- require the Commissioner of Health and Senior Services to annually report to the Legislature on the number of patients who receive treatment at each facility who are not eligible for Medicare or Medicaid, the number of treatments provided to those patients, and such other information as he deems appropriate; and
- change the effective date from July 1, 2006 to 30 days after enactment.

As amended, this bill is similar to Assembly Bill No. 2925 (Conaway), which is pending before the Assembly Health and Senior Services Committee.

ASSEMBLY, No. 2925

STATE OF NEW JERSEY

212th LEGISLATURE

INTRODUCED MARCH 21, 2006

Sponsored by:

Assemblyman HERB CONAWAY, JR.

District 7 (Burlington and Camden)

Assemblyman UPENDRA J. CHIVUKULA

District 17 (Middlesex and Somerset)

Assemblyman GORDON M. JOHNSON

District 37 (Bergen)

Assemblyman CRAIG A. STANLEY

District 28 (Essex)

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Co-Sponsored by:

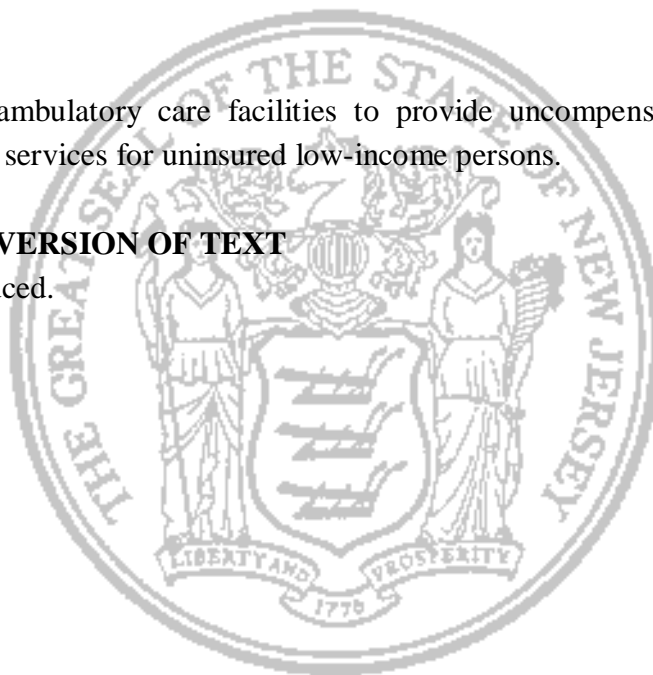
Assemblyman Vas

SYNOPSIS

Requires ambulatory care facilities to provide uncompensated outpatient renal dialysis services for uninsured low-income persons.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/9/2007)

1 AN ACT concerning outpatient renal dialysis services for certain
2 persons and supplementing Title 26 of the Revised Statutes.

3

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

6

7 1. a. An ambulatory care facility that is licensed to provide
8 chronic or acute renal dialysis services shall in each calendar year
9 provide uncompensated renal dialysis treatment and services for
10 uninsured low-income persons in an amount equal to the Medicare
11 rate of reimbursement for 3.5% of the total number of renal dialysis
12 treatments provided by the facility during that year, or \$200,000,
13 whichever amount is less.

14 b. As used in this act, "uninsured low-income person" means a
15 patient who:

16 (1) is a resident of New Jersey;

17 (2) has an individual or, if applicable, family gross income that
18 would qualify that person for charity care pursuant to section 10 of
19 P.L.1992, c.160 (C.26:2H-18.60); and

20 (3) has no health insurance coverage for the renal dialysis
21 treatment and services provided.

22 c. Compliance with the requirements of this act may be
23 calculated on an aggregate basis for separately licensed ambulatory
24 care facilities in this State that have common ownership, except that
25 the total amount of uncompensated renal dialysis treatment and
26 services provided shall equal the sum of the amounts required for
27 each separately licensed facility.

28 d. A facility that fails to comply with the requirements of this
29 act shall be liable for a civil penalty not to exceed \$200,000 for
30 each calendar year in which the facility is not in compliance. The
31 Commissioner of Health and Senior Services shall recover any
32 penalties provided for in this subsection in an administrative
33 proceeding in accordance with the "Penalty Enforcement Law of
34 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

35

36 2. The Commissioner of Health and Senior Services shall adopt
37 regulations, pursuant to the "Administrative Procedure Act,"
38 P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of
39 this act.

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41 3. This act shall take effect July 1, 2006, but the Commissioner
42 of Health and Senior Services may take such anticipatory
43 administrative action in advance as shall be necessary for the
44 implementation of the act.

STATEMENT

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This bill requires ambulatory care facilities to provide a specified amount of renal dialysis services without charge to certain uninsured low-income persons.

The bill provides specifically as follows:

An ambulatory care facility that is licensed to provide chronic or acute renal dialysis services is required in each calendar year to provide uncompensated renal dialysis treatment and services for uninsured low-income persons in an amount equal to the Medicare rate of reimbursement for 3.5% of the total number of renal dialysis treatments provided by the facility during that year, or \$200,000, whichever amount is less.

As used in the bill, "uninsured low-income person" means a patient who:

- is a resident of New Jersey;
- has an individual or, if applicable, family gross income that would qualify that person for charity care pursuant to N.J.S.A.26:2H-18.60; and
- has no health insurance coverage for the renal dialysis treatment and services provided.

Compliance with the requirements of the bill may be calculated on an aggregate basis for separately licensed ambulatory care facilities in this State that have common ownership, except that the total amount of uncompensated renal dialysis treatment and services provided must equal the sum of the amounts required for each separately licensed facility.

A facility that fails to comply with the requirements of the bill is liable for a civil penalty not to exceed \$200,000 for each calendar year in which the facility is not in compliance. The Commissioner of Health and Senior Services is to recover the penalty in an administrative proceeding in accordance with the "Penalty Enforcement Law of 1999" (N.J.S.A.2A:58-10 et seq.).

The bill takes effect July 1, 2006, but authorizes the Commissioner of Health and Senior Services to take anticipatory administrative action in advance as necessary for its implementation.

It is important to note that ambulatory care facilities providing renal dialysis services are one of a limited number of ambulatory care facility types not subject to the provisions of P.L.2004, c.54, which imposes an assessment on the revenues of many types of ambulatory care facilities. Through the exercise of its discretion, the Legislature exempted from this assessment certain facility types (such as federally qualified health centers) that play an important role in preserving the health care safety net of this State, thereby assuring access to care in much the same way that hospital charity care does.

1 Ambulatory renal dialysis facilities, however, through a quirk of
2 federal Medicaid regulations, could not be subject to the assessment
3 established under P.L.2004, c.54. Ironically, however, these
4 facilities, which provide essential life-sustaining treatments,
5 generally do not provide services to the uninsured, unlike the other
6 exempt facility types. The financial impact on renal dialysis
7 facilities under this bill would be similar to that on most ambulatory
8 care facilities from the assessment established under P.L.2004, c.54,
9 and is proportional to the total volume of each ambulatory dialysis
10 facility's treatments, until the maximum value of the treatments,
11 priced at the Medicare rate, is reached. A typical ambulatory renal
12 dialysis facility licensed for 18 renal dialysis stations, and assuming
13 three shifts per day, would be required to treat without charge, at a
14 maximum, less than four uninsured patients per week out of its
15 more-than-100-patient weekly census. It is, therefore, unlikely that
16 the financial impact on these facilities under this bill would be
17 unduly burdensome.

ASSEMBLY HEALTH AND SENIOR SERVICES COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2925

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 12, 2007

The Assembly Health and Senior Services Committee reports favorably and with amendments Assembly Bill No. 2925.

As amended by the committee, this bill requires ambulatory care facilities that provide renal dialysis services to do so without charge to a certain portion of uninsured low-income patients who present at their facilities.

Specifically, the bill provides as follows:

- As a condition of licensure or renewal, an ambulatory care facility licensed to provide chronic renal dialysis is to provide uncompensated renal dialysis treatment, services and medication associated with dialysis treatment for uninsured low-income persons in an amount up to 3.5% of the total number of renal dialysis treatments provided by the facility in a calendar year.
- The bill defines “uninsured low-income person” to mean a patient who:
 - is a resident of New Jersey;
 - has an individual income, or family gross income if applicable, which would qualify for charity care pursuant to N.J.S.A.26:2H-18.60; and
 - lacks health insurance coverage for the renal dialysis services provided.
- Compliance with the requirements of the bill may be calculated on an aggregate basis for separately licensed ambulatory care facilities in this State that have common ownership; however, the total uncompensated renal dialysis service provided must equal the sum of the amounts required for each separately licensed facility.
- The bill takes effect 30 days after enactment.

When the Legislature enacted P.L.2004, c.54, which imposes an assessment on the revenues of most specialty ambulatory care facilities, the Legislature did not impose the assessment on certain types of ambulatory care facilities, such as federally qualified health centers, which play an important role in preserving the health care safety net of this State, thereby assuring access to care in much the same way that hospital charity care does. Ambulatory renal dialysis

facilities were also not included in the assessment, as the bulk of their patients are enrolled in the federal Medicare program (the revenues from which cannot be subject to a State assessment).

As reported by the committee, this bill is identical to Senate Bill No. 1250 (1R) (Vitale/Karcher), which the committee also reported on this date.

COMMITTEE AMENDMENTS:

The committee amendments to the bill:

- delete references to “acute” renal dialysis services (as ambulatory care facilities do not provide acute renal dialysis services);
- add “medication associated with dialysis treatment” to the services to be provided;
- delete the requirement that the uncompensated care provided by the facility be “equal to Medicare’s rate of reimbursement for 3.5% . . . or \$200,000, whichever is less,” and instead set a cap of “up to 3.5%” of the total number of renal dialysis treatments provided by the facility in a calendar year;
- provide that compliance with the bill is a condition of licensure and renewal, and delete the provision that imposes a civil penalty of up to \$200,000;
- require the Commissioner of Health and Senior Services to annually report to the Legislature on the number of patients who receive treatment at each facility who are not eligible for Medicare or Medicaid, the number of treatments provided to those patients, and such other information as he deems appropriate; and
- change the effective date from July 1, 2006 to 30 days after enactment.