

LEGISLATIVE HISTORY CHECKLIST
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(Health Care Reform Act--
definitions)

NJSA: 26:2H-18.53

LAWS OF: 1994 **CHAPTER:** 120

BILL NO: S419

SPONSOR(S): Inversion and others

DATE INTRODUCED: Pre-filed

COMMITTEE: **ASSEMBLY:** Appropriations
SENATE: Health

AMENDED DURING PASSAGE: Yes
Fifth reprint enacted

DATE OF PASSAGE: **ASSEMBLY:** June 16, 1994 Re-enacted 10-20-94
SENATE: May 23, 1994 Re-enacted 10-3-94

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FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes
SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: Yes

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBG:pp

[FIFTH REPRINT]

SENATE, No. 419

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1994 SESSION

By Senators INVERSO, SINAGRA, McGreevey,
Assemblymen Felice and Doria

1 AN ACT concerning the revenue cap established for acute care
2 hospitals in 1993 and amending P.L.1992, c.160.

3

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

6 1. Section 1 of P.L.1992, c.160 (C.26:2H-18.53) is amended to
7 read as follows:

8 3. a. For the period January 1, 1993 to December 31, 1993,
9 hereinafter referred to as the "transition year," the Hospital
10 Rate Setting Commission shall establish a revenue cap for each
11 hospital whose rates had been established prior to this period by
12 the Hospital Rate Setting Commission under the diagnosis related
13 group methodology pursuant to P.L.1978, c.83. The Hospital Rate
14 Setting Commission shall establish the revenue cap effective
15 January 1, 1993.

16 The revenue cap shall establish the maximum amount a hospital
17 may collect in revenues in 1993 from all payers, but shall not
18 include payments from the fund. The revenue cap shall be based
19 upon the same financial elements used to prepare the preliminary
20 cost base for 1992, but shall not include any amounts provided in
21 1992 for a subsidy to Blue Cross and Blue Shield of New Jersey,
22 Inc. and for patient appeals. The revenue cap shall include:

23 (1) a component for a hospital's bad debt as determined by
24 the hospital's payment for bad debt from the New Jersey Health
25 Care Trust Fund in 1992 pursuant to P.L.1991, c.187
26 (C.26:2H-18.24 et al.), but the total amount allowed for bad debt
27 plus the amount a hospital is eligible to receive from the fund for
28 its charity care subsidy shall not exceed the total amount of
29 uncompensated care payments the hospital received in 1992 from
30 the New Jersey Health Care Trust Fund;

31 (2) the hospital specific amount agreed to by a hospital and
32 the Hospital Rate Setting Commission pursuant to the 1990
33 voluntary settlement program (N.J.A.C.8:31B-3.65); [and] ⁵and⁵

34 (3) an amount to be determined by the Hospital Rate Setting
35 Commission which represents a hospital's share of the total
36 outstanding reconciliation amounts as of December 31, 1992,
37 including any reasonably projected reconciliation amounts for
38 calendar year 1992[, which total amount shall be adjusted so that
39 a hospital's revenue cap does not exceed the hospital's
40 preliminary cost base for 1992] ⁵[; and], which total amount 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:

1 Senate SHH committee amendments adopted February 24, 1994.

2 Senate floor amendments adopted March 15, 1994.

3 Senate floor amendments adopted May 12, 1994.

4 Assembly AAP committee amendments adopted June 9, 1994.

5 Senate amendments adopted on accordance with Governor's
recommendations September 19, 1994.

1 be adjusted so that a hospital's revenue cap does not exceed the
2 hospital's preliminary cost base for 1992.⁵

3 ⁵[(4)] b. In addition to the categories of revenues described in
4 paragraphs (1), (2) and (3) of subsection a. of this section, which
5 together shall constitute the hospital revenue cap for 1993, each
6 hospital subject to this section may also retain any revenues
7 collected in 1993 that represent⁵ an amount to provide for the
8 financial impact of a certificate of need approved service or
9 project⁴[1, adjusted to 1993 ²dollars^{2, 1}]⁴ that was not included in
10 the hospital's preliminary cost base for 1992⁴[, which amount
11 includes the cost for capital and the incremental operating cost
12 associated with the service or project³], ⁵[shall be added to the
13 cap as previously calculated;⁴ as determined by the department³
14 ⁴,this]. This⁵ addition will be calculated ⁵by the department⁵ as
15 follows:

16 ⁵[(a)] (1)⁵ For new inpatient services, the addition to the
17 preliminary cost base is determined by multiplying the
18 appropriate DRG rate by the 1993 admissions resulting from that
19 new or expanded service.

20 ⁵[(b)] (2)⁵ For any new outpatient services, the addition to the
21 preliminary cost base is calculated by multiplying the appropriate
22 charge by the number of admissions related to the new or
23 expanded service.

24 ⁵[(c)] (3)⁵ Increased debt service costs allocated to new patient
25 services above that debt service included in the 1992 preliminary
26 cost base will be additions to the 1992 preliminary cost base.

27 This addition to the cap for any hospital which implements a
28 new certificate of need approved service in 1992 or 1993 shall be
29 verified by the hospital's auditor through an agreed-upon
30 procedures report. The report shall be submitted in accordance
31 with the procedures outlined by the department pursuant to
32 subsection ⁵[b.] c.⁵ of this section. The department shall review
33 and approve any addition to a hospital revenue cap due to new
34 certificate of need projects prior to such additions being
35 implemented.⁴

36 ⁵The additional revenues that provide for the financial impact
37 of a certificate of need approved service or project shall not be
38 considered in the calculations of a hospital's revenue cap or in
39 the assessment of any revenue cap penalties levied pursuant to
40 subsection d. of this section.⁵ A hospital shall continue to
41 provide any public health services which were formerly supported
42 by grant funds but whose costs were included in that hospital's
43 preliminary cost base for 1992 and shall provide for its regional
44 hemophilia center and regional maternal and child health
45 consortia, as applicable.

46 ⁵[(b.) c.]⁵ The department shall provide for an audit of a
47 hospital's revenues for 1993 in a time frame established by the
48 department.

49 ⁵[(c.) d.]⁵ A hospital whose revenues exceeded its revenue cap
50 during 1993 shall be liable to a civil penalty of payment of an
51 amount not to exceed 1.5 times the amount of revenue in excess
52 of the revenue cap¹]; except that the department shall not
53 impose any hospital specific penalties if the total 1993 collected
54 revenue for all hospitals subject to the revenue cap is less than

1 the total amount of the revenue caps for all hospitals as
2 established by the Hospital Rate Setting Commission]¹.

3 The civil penalty provided for in this section shall be recovered
4 in an administrative proceeding held pursuant to the
5 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
6 seq.). Any monies recovered pursuant to this penalty shall be
7 deposited in the fund.

8 ^{5[d.] e.}⁵ In order to minimize the disruption in the transition
9 year, any discounts negotiated between hospitals and
10 non-governmental third party payers shall reflect cost savings
11 resulting from the efficient use of resources and not merely cost
12 shifts from one payer to another. The final rate shall be mutually
13 agreeable to both parties.

14 ^{5[e.] f.}⁵ In the event that the revenues collected by a hospital
15 during the transition year are insufficient, the State shall not be
16 liable for any deficiency.

17 (cf: P.L.1992, c.160, s.3)

18 2. This act shall take effect immediately and shall be
19 retroactive to January 1, 1993.

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24 Revises definition of hospital revenue cap during transition year
25 in "Health Care Reform Act of 1992."

1 included in the hospital's preliminary cost base for 1992, which
2 amount includes the cost for capital and the incremental
3 operating cost associated with the service or project.

4 A hospital shall continue to provide any public health services
5 which were formerly supported by grant funds but whose costs
6 were included in that hospital's preliminary cost base for 1992
7 and shall provide for its regional hemophilia center and regional
8 maternal and child health consortia, as applicable.

9 b. The department shall provide for an audit of a hospital's
10 revenues for 1993 in a time frame established by the department.

11 c. A hospital whose revenues exceeded its revenue cap during
12 1993 shall be liable to a civil penalty of payment of an amount
13 not to exceed 1.5 times the amount of revenue in excess of the
14 revenue cap; except that the department shall not impose any
15 hospital specific penalties if the total 1993 collected revenue for
16 all hospitals subject to the revenue cap is less than the total
17 amount of the revenue caps for all hospitals as established by the
18 Hospital Rate Setting Commission.

19 The civil penalty provided for in this section shall be recovered
20 in an administrative proceeding held pursuant to the
21 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
22 seq.). Any monies recovered pursuant to this penalty shall be
23 deposited in the fund.

24 d. In order to minimize the disruption in the transition year,
25 any discounts negotiated between hospitals and non-governmental
26 third party payers shall reflect cost savings resulting from the
27 efficient use of resources and not merely cost shifts from one
28 payer to another. The final rate shall be mutually agreeable to
29 both parties.

30 e. In the event that the revenues collected by a hospital during
31 the transition year are insufficient, the State shall not be liable
32 for any deficiency.

33 (cf: P.L.1992, c.160, s.3)

34 2. This act shall take effect immediately and shall be
35 retroactive to January 1, 1993.

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38 STATEMENT

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40 This bill revises the definition of the 1993 transition year
41 hospital revenue cap established pursuant to section 3 of
42 P.L.1992, c.160 (C.26:2H-18.53) to provide that the cap shall
43 include an amount to provide for the financial impact of a
44 certificate of need approved service or project that was not
45 included in the hospital's preliminary cost base for 1992, which
46 amount includes the cost for capital and the incremental
47 operating cost associated with the service or project.

48 The bill also directs the Department of Health not to impose
49 any hospital specific penalties (if a hospital's revenues exceed its
50 cap) if the total 1993 collected revenue for all hospitals subject
51 to the revenue cap is less than the total amount of the revenue
52 caps for all hospitals.

#

September 12, 1994

SENATE BILL NO. 419 (FOURTH REPRINT)

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Bill No. 419 (Fourth Reprint) with my recommendations for reconsideration.

A. Summary of Bill

Senate Bill No. 419 (Fourth Reprint) would retroactively change the formula for calculating the 1993 revenue cap for acute care hospitals that was established pursuant to the Health Care Reform Act of 1992 ("HCRA 1992"). The revenue cap, which was derived on a hospital-by-hospital basis pursuant to a three-factor formula, was originally implemented to control increases in hospital rates for the year of transition (1993) from regulated to deregulated rates. Any hospital that exceeded its revenue cap for 1993 is presently liable for a civil penalty up to 1.5 times the amount of the difference by which its revenues exceeded the cap.

This bill would add another revenue amount to the revenue cap totals and alter the calculation of the third factor of the revenue cap formula. First, the bill would add to the existing revenue cap of a hospital an amount to provide for the financial impact of a Certificate of Need ("CON") approved service or project that was not included in the calculations of a hospital's preliminary cost base for 1992. Secondly, the bill would remove the language from the third factor of the formula that precludes a hospital from collecting an amount of net revenue under the original three factors of the revenue cap that would exceed the hospital's preliminary cost base for 1992.

B. Recommended Action

I agree with the Legislature and the bill's proponents that the addition of an amount that accounts for the fiscal impact of a CON approved service or project that was not included in a hospital's preliminary cost base for 1992 to the revenue cap totals is an appropriate means to rectify what has been acknowledged as an omission in the original revenue cap formula. I am advised that such projects had been approved by the DOH prior to the calculation of the 1993 revenue cap, and HCRA 1992 essentially overlooked consideration of the revenue that was to be derived from these projects during 1993. Therefore, I support the section of the bill that makes this narrow change because it is equitable and based on sound public policy.

The bill would also remove language, however, that made the third factor of the formula, which accounts for recoupment of outstanding prior years' reconciliations, flexible in order to limit a hospital's revenue cap to the amount of its 1992 preliminary cost base. This limitation was the proper mechanism to determine an equitable level of net revenues for hospitals to recapture in 1993. Therefore, I conclude that it must remain in the formula.

To summarize: my recommended changes to the bill would ensure that an amount that provides for the fiscal impact of a CON approved service or project would be added to the already-existing revenue

cap totals. In this way, the integrity of these revenue cap totals, which were calculated pursuant to the current three-factor formula, may not be challenged on the premise of a retroactive change to the revenue cap formula.

For these reasons, I herewith return Senate Bill No. 419 (Fourth Reprint) and recommend that it be amended as follows:

- Page 1, Section 3, Line 33: After "[and]" insert "and"
- Page 1, Section 3, Line 40: After "1992]" insert ", which total amount shall be adjusted so that a hospital's revenue cap does not exceed the hospital's preliminary cost base for 1992."
- Page 1, Section 3, Line 41: Before "an" delete "(4)" and insert "b. In addition to the categories of revenues described in paragraphs 3.a. (1), (2) and (3), which together shall constitute the hospital revenue cap for 1993, each hospital subject to the act may also retain any revenues collected in 1993 that represent"
- Page 2, Section 3, Line 2: After "1992" insert "."
- Page 2, Section 3, Line 4: After "project,]" delete "shall be added to the cap as previously"
- Page 2, Section 3, Line 5: Delete "calculated; as determined by the department, this" and insert "This"
- Page 2, Section 3, Line 6: After "calculated" insert "by the department"
- Page 2, Section 3, Line 7: Before "For" delete "(a)" and insert "(1)"
- Page 2, Section 3, Line 11: Before "For" delete "(b)" and insert "(2)"
- Page 2, Section 3, Line 15: Before "Increased" delete "(c)" and insert "(3)"
- Page 2, Section 3, Line 27: Before "A" insert "The additional revenues that provide for the financial impact of a certificate of need approved service or project shall not be considered in the calculations of a hospital's revenue cap or in the assessment of any revenue cap penalties levied pursuant to section 3.d."
- Page 2, Section 3, Line 32: Before "The" delete "b." and insert "c."
- Page 2, Section 3, Line 34: Before "A" delete "c." and insert "d."
- Page 2, Section 3, Line 47: Before "In" delete "d." and insert "e."
- Page 2, Section 3, Line 53: Before "In" delete "e." and insert "f."

Respectfully,

/s/ Christine Todd Whitman

GOVERNOR

[seal]

Attest:

/s/ Peter Verniero

Chief Counsel to the Governor

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[THIRD REPRINT]

SENATE, No. 419

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: JUNE 2, 1994

The Assembly Appropriations Committee reports favorably Senate Bill No.419 (3R), with committee amendments.

Senate Bill No. 419 (3R), as amended, revises the definition of the 1993 transition year hospital revenue cap established pursuant to section 3 of P.L.1992, c.160 (C.26:2H-18.53) to provide that the cap shall include an amount to provide for the financial impact of a certificate of need approved service or project, which was not included in the hospital's preliminary cost base for 1992.

As amended and reported by the committee, this bill is identical to Assembly Bill No. 1371 (1R), also amended and reported by this committee.

FISCAL IMPACT:

This bill was not certified as needing a fiscal note.

COMMITTEE AMENDMENTS:

The amendments make the determination of costs associated with the certificate of need approved services or projects clearer. The amendments remove the adjustment to 1993 dollars for the financial impact of a certificate of need approved service or project which was not included in the hospital's preliminary cost base for 1992, specify the calculation of the financial impact of a new inpatient or outpatient service, and provide for the inclusion of certain allocated debt service costs in 1992 preliminary cost base. The amendments also direct that a report be submitted by hospitals for Department of Health review.

SENATE HEALTH COMMITTEE

STATEMENT TO

SENATE, No. 419

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 24, 1994

The Senate Health Committee favorably reports Senate Bill No. 419 with committee amendments.

As amended by committee, this bill revises the definition of the 1993 transition year hospital revenue cap established pursuant to section 3 of P.L.1992, c.160 (C.26:2H-18.53) to provide that the cap shall include an amount to provide for the financial impact of a certificate of need approved service or project, adjusted to 1993, that was not included in the hospital's preliminary cost base for 1992, which amount includes the cost for capital and the incremental operating cost associated with the service or project.

The committee amended the bill to provide that the amount shall be adjusted to 1993 dollars and to delete the provision which directs the Department of Health not to impose any hospital specific penalties (if a hospital's revenues exceed its cap) if the total 1993 collected revenue for all hospitals subject to the revenue cap is less than the total amount of the revenue caps for all hospitals.

As amended by committee, this bill is identical to Assembly Bill No. 1371 (Felice/Doria), which is currently pending before the General Assembly.

This bill was prefiled for introduction in the 1994-95 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

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3 Revises definition of hospital revenue cap during transition year
4 in "Health Care Reform Act of 1992."