

17B:30-41

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2003 **CHAPTER:** 112
NJSA: 17B:30-41 (“Hospital Care Payment Commission”)
BILL NO: A3708 (Substituted for S2621)
SPONSOR(S): Weinberg

DATE INTRODUCED: June 12, 2003

COMMITTEE: **ASSEMBLY:** Budget

SENATE: ---

AMENDED DURING PASSAGE : No

DATE OF PASSAGE: **ASSEMBLY:** June 23, 2003

SENATE: June 30, 2003

DATE OF APPROVAL: July 1, 2003

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (Original version of bill enacted)

A3708

[SPONSORS STATEMENT:](#) (Begins on page 8 of original bill) [Yes](#)

COMMITTEE STATEMENT: **[ASSEMBLY:](#)** [Yes](#)

SENATE: No

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

S2621

[SPONSORS STATEMENT:](#) (Begins on page 8 of original bill) [Yes](#)

Bill and Sponsors Statement identical to A3708

COMMITTEE STATEMENT: **[ASSEMBLY:](#)** No

[SENATE:](#) [Yes](#)

Identical to Assembly Statement for A3708

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR’S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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REPORTS:

No

HEARINGS:

No

NEWSPAPER ARTICLES:

No

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Updated: 10/05/04

P.L. 2003, CHAPTER 112, *approved July 1, 2003*
Assembly, No. 3708

1 AN ACT concerning the collection of unpaid hospital accounts and
2 supplementing Title 17B of the New Jersey Statutes.

3

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

6

7 1. The Legislature finds and declares that:

8 a. The rising cost of hospital-based health care in this State
9 impedes the ability of the State and insurers to provide reasonably
10 priced, comprehensive health insurance to the citizens of the State.

11 b. Hospitals located within the State report more than \$1 billion
12 annually in debts that they are unable to collect.

13 c. The cost of covering the unpaid care represented by the debt is
14 spread among citizens, private insurers, hospitals and the State in the
15 form of higher bills for hospital-based care.

16 d. A significant portion of the uncollected debt is related to
17 copayments and deductibles that are difficult for hospitals to collect
18 efficiently.

19 e. The State's Set off of Individual Liability (SOIL) program has
20 proven to be an administratively efficient means of collecting debts
21 owed to State agencies.

22 f. It is, therefore, in the public interest to create a New Jersey
23 Hospital Care Payment Commission, the duties of which would
24 include, but not be limited to, creating a system for using the State's
25 SOIL program to collect valid hospital debts.

26

27 2. As used in this act:

28 "Coinsurance" means the percentage of a charge covered by a
29 health plan that must be paid by a person covered under the health
30 plan.

31 "Collection agency" means the Department of the Treasury and any
32 company, agency or law firm engaged in collecting debts that the
33 Department of the Treasury may determine to engage to assist it in
34 collecting debts.

35 "Commission" means the Hospital Care Payment Commission
36 created pursuant to this act.

37 "Debt" means money owed by a patient to a hospital, or by
38 someone who is legally responsible for payment for a patient, and
39 includes late payment penalties and interest thereon. It does not
40 include monies owed to a hospital by a health plan for services
41 provided by the hospital to a person with coverage under that plan, or
42 amounts subject to dispute between a health plan and a hospital.

1 "Debtor" means an individual owing money to or having a
2 delinquent account with a hospital, which obligation has not been
3 adjudicated, satisfied by court order, set aside by court order or
4 discharged in bankruptcy.

5 "Deductible" means the amount of covered charges under a health
6 plan that an individual must pay for a services before a health plan
7 begins to pay on a covered charge.

8 "General Hospital" and "hospital" have the meanings set forth in
9 N.J.A.C.8:43G-1.2.

10 "Health plan" means an individual or group health benefits plan that
11 provides or pays the cost of hospital and medical expenses, dental or
12 vision care, or prescription drugs, and is provided by or through an
13 insurer, health maintenance organization, the Medicaid program, the
14 Medicare program, a Medicare+Choice provider or Medicare
15 supplemental insurer, an employer-sponsored group health benefits
16 plan, government or church-sponsored health benefits plan or a
17 multi-employer welfare arrangement.

18 "Medicaid" means the program established pursuant to P.L.1968
19 c.413 (C.30:4D-1 et seq.).

20 "Medicare" means the program established Pub.L.89-97 (42 U.S.C.
21 s.1395 et seq) as amended, or its successor plan or plans.

22 "Patient" means a person who receives services in a hospital on an
23 inpatient or outpatient basis.

24
25 3. a. There is established, within the Department of Banking and
26 Insurance, a "Hospital Care Payment Commission." The commission
27 is constituted as an instrumentality of the State exercising public and
28 essential governmental functions, and the exercise by the commission
29 of the powers conferred by this act shall be deemed and held to be an
30 essential governmental function of the State.

31 b. The commission shall consist of the Commissioners of Banking
32 and Insurance, Health and Senior Services and Human Services and
33 the State Treasurer, who shall serve ex officio, and a representative of
34 the hospital community appointed by the Governor for a term of three
35 years. The Commissioner of Banking and Insurance shall serve as chair
36 of the commission.

37 The powers of the commission shall be vested in the members
38 thereof, and a majority of the total authorized membership of the
39 commission shall constitute a quorum at any meeting thereof. Action
40 may be taken and motions and resolutions adopted by the commission
41 at any meeting of the commission by the affirmative vote of a majority
42 of the members present. A vacancy in the membership of the
43 commission shall not impair the right of a quorum of the members to
44 exercise all the powers and perform all the duties of the commission.

45 c. Each ex officio member may designate an officer or employee of
46 the member's department to serve as the member's representative at

1 meetings of the commission, and each such designee may lawfully vote
2 and otherwise act on behalf of the member. Any such designation shall
3 be in writing delivered to the commission, and shall continue in effect
4 until revoked or amended by a writing delivered to the commission.

5 d. On or before March 31 in each year, the commission shall make
6 an annual report of its activities for the preceding calendar year to the
7 Governor and the Legislature. Each report shall set forth at least the
8 following: the number of hospitals participating in the program; the
9 number and value of the debts processed; the number of challenges
10 received by the commission; the number of debts returned to hospitals
11 for incomplete information or a finding of lack of validity of the debt;
12 the total level of funds recovered; and the total funds returned to
13 hospitals. The commission shall also report at least quarterly to each
14 participating hospital on the results regarding debts assigned by that
15 hospital.

16 e. The director of the Division of Budget and Accounting in the
17 Department of the Treasury is authorized to provide all necessary
18 accounting services to the commission, and to maintain the books,
19 records and accounts of the commission, including receipts,
20 disbursements, contracts and any other matter related to its financial
21 standing.

22

23 4. a. There is established the "New Jersey Hospital Care Payment
24 Fund" in the Department of the Treasury.

25 b. The fund shall be comprised of monies collected from debtors
26 of hospitals pursuant to this act, and any other monies appropriated
27 thereto to carry out the purposes of this act.

28 c. The fund shall be a nonlapsing fund, from which costs shall be
29 paid in the following order, for each hospital participating:

30 (1) administrative costs of the commission;

31 (2) administrative fees to the collection agency;

32 (3) 50% of the remainder, but only from monies collected from
33 debtors of hospitals pursuant to this act after paragraphs (1) and (2)
34 of this subsection are paid, shall be payable to the hospital from which
35 the debt originated within 90 days of receipt of monies related to
36 discharge of the assigned debt into the fund; and

37 (4) the remainder, after paragraphs (1), (2) and (3) of this
38 subsection are paid, shall be deposited into the General Fund.

39

40 5. The commission is authorized to:

41 a. Accept assignment of debts from hospitals which have followed
42 the procedures outlined in section 7 of this act, or such other
43 procedures as the commission shall adopt.

44 b. Pursue collection of debts pursuant to this act. The commission
45 shall initiate the program in phases. The first phase may involve
46 acceptance of assignment of debt that:

- 1 (1) derives from a limited number of hospitals;
- 2 (2) consists of coinsurance and deductibles that remain payable
- 3 after adjudication by a health plan;
- 4 (3) is assigned by a general hospital;
- 5 (4) is less than two years old at the date of assignment to the
- 6 commission, as determined by the date of discharge for inpatient
- 7 services and date of service for outpatient services;
- 8 (5) involves any of the above or any combination of the above, or
- 9 includes such other limitations as the commission determines are
- 10 desirable to smooth implementation of the program created by this act.
- 11 After the first phase, the commission may expand acceptance of
- 12 assignments as it shall determine pursuant to this act.
- 13 c. Test assignment data received from the hospitals to determine
- 14 whether the records are sufficient to make set-off practicable, and
- 15 return records that do not pass the test to the hospitals.
- 16 d. Conduct such fact-finding, as is necessary, in preparation for
- 17 making a determination as to the validity of debts.
- 18 e. Make final determinations as to the validity of debts.
- 19 f. Determine the payment to be collected from the debtor, based
- 20 upon a "fairness formula" to be determined by the commission. For
- 21 debt processed by the commission during the fiscal year starting on
- 22 July 1, 2003, the fairness formula shall be based upon the Department
- 23 of Health and Senior Services' report entitled "Net Patient Revenue to
- 24 Charge Ratio," for the most recent year available. For debt processed
- 25 by the commission during the fiscal year starting on July 1, 2004 and
- 26 thereafter, the fairness formula shall be based upon the most recent
- 27 available "Net Patient Revenue to Charge Ratio" report, or such other
- 28 measure as the commission determines would most fairly reimburse
- 29 hospitals for treatment.
- 30 g. Offset liability for the hospital debts against the New Jersey
- 31 Gross Income Tax pursuant to N.J.S.54A:1-1 et seq., including an
- 32 earned income tax credit provided as a refund pursuant to P.L.2000,
- 33 c.80 (C.54A:4-6 et al.), or whenever any individual is eligible to
- 34 receive an NJ SAVER rebate or a homestead rebate pursuant to
- 35 P.L.1990, c.61 (C.54:4-8.57 et al.) or P.L.1999, c.63 (C.54:4-8.58a
- 36 et al.), and if the rebate is not required to be paid over to the municipal
- 37 tax collector under the provisions of section 8 of P.L.1990, c.61
- 38 (C.54:4-8.64), and including any other financial resource authorized
- 39 as a source capable of offset for any reason by section 1 of P.L.1981
- 40 c.239 (C.54A:9-8.1) et seq.
- 41 h. Adjudicate the validity of all set-off challenges pursuant to
- 42 N.J.A.C. 18:35-10.1 et seq.
- 43 i. Make such decisions as to compromise and waiver of interest,
- 44 penalties, post-judgment interest and write-off as it shall deem
- 45 prudent.
- 46 j. Refer assigned debts under section 7 of this act to a collection

1 agency in the event that offsetting is not practical or is not successful
2 in fully resolving the debt.

3 k. Create standards for settlement of debts through the collection
4 agency process.

5 l. Determine to cease accepting debt from a hospital until such time
6 as the hospital can demonstrate to the satisfaction of the commission
7 that its accuracy has improved to acceptable levels where the
8 commission determines that data forwarded by a hospital to the
9 commission has an unacceptable level of inaccuracies regarding
10 validity or quality of the debt forwarded to the commission.

11 m. Contract with other State agencies for services, including
12 administrative services necessary to carry out the duties of the
13 commission.

14 n. Fund the cost of its operations from the fund created by section
15 4 of this act.

16 o. Adopt rules and regulations pursuant to the "Administrative
17 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to effectuate
18 the purposes of this act; except that, notwithstanding any provision of
19 P.L.1968, c.410 to the contrary, the commission may adopt,
20 immediately upon filing with the Office of Administrative Law, such
21 regulations as the commission deems necessary to implement the
22 provisions of this act, which shall be effective for a period not to
23 exceed six months and may thereafter be amended, adopted or
24 readopted by the commission in accordance with the requirements of
25 P.L.1968, c.410.

26

27 6. Decisions of the commission, regarding the fairness formula, the
28 validity of debts, the adequacy of data provided to the commission by
29 hospitals for use in the program, and other such matters as shall arise
30 concerning the administration of the program, shall constitute final
31 agency action.

32

33 7. a. The following procedures shall apply for those hospitals that
34 wish to participate in the voluntary assignment program created by this
35 act.

36 b. The hospital shall file with the commission a notice signifying its
37 intent to participate voluntarily and certifying the following:

38 (1) the hospital has determined that the patient is not eligible for
39 charity care under the New Jersey Hospital Care Payment Assistance
40 Program established by the Department of Health and Senior Services
41 pursuant to section 10 of P.L.1992, c.160 (C.26:2H-18.60);

42 (2) the hospital has submitted a "clean claim" pursuant to
43 P.L.1999, c.154 (C.17B:30-23 et al.) and P.L.1999, c.155
44 (C.17B:30-26 et seq.) to the patient, a responsible party, Medicaid,
45 Medicare or a health plan, as applicable, within a reasonable time
46 following the patient's discharge, or in the case of outpatient service,

1 the date of service;

2 (3) the claims have been fully adjudicated by a health plan,
3 Medicare or Medicaid, where applicable, and a debt remains
4 outstanding;

5 (4) the hospital has not initiated collection procedures against the
6 patient or responsible party while a claim was pending adjudication
7 with Medicare or a health plan, for which a debt remains outstanding;

8 (5) the hospital has notified the patient of the hospital's intention,
9 if the account is not paid in full, or alternatively through a payment
10 plan with the hospital, to proceed with legal action, or to turn the bill
11 over to the State Hospital Care Payment Commission for collection.

12 c. Nothing herein shall be deemed to create any new right to
13 collection of hospital debts by hospitals beyond existing law; nor shall
14 it be deemed to preclude any existing right to collection.

15 d. The commission may determine the content of the notice
16 required by paragraph (5) of subsection b. of this section to the patient
17 concerning the likelihood that the account will be turned over to the
18 commission for collection.

19 e. The minimum amount of an unpaid bill that may be assigned to
20 the commission by a hospital is \$100, or such other minimum as the
21 commission shall determine by regulation.

22 f. Upon receipt of the voluntary assignment, the Department of the
23 Treasury shall send, on behalf of the commission, a notice to the
24 person named as a debtor of the hospital, notifying the person as to
25 receipt of the assignment by the commission, providing the person
26 with 30 days to challenge the validity of the debt, and providing notice
27 that in the absence of such challenge, a Certificate of Debt will be filed
28 with the Superior Court of New Jersey. The notice shall also include
29 a statement on the commission's intention to take action to set off the
30 liability against any refund of taxes pursuant to the "New Jersey Gross
31 Income Tax Act" including an earned income tax credit, a NJ SAVER
32 rebate or a homestead rebate, or other such funds as may be
33 authorized by law.

34 g. If the person named as a debtor responds within the 30-day
35 period, the person shall be provided with an opportunity to present,
36 either in writing or in person, evidence as to why the person does not
37 believe he is responsible for the debt. The commission shall provide
38 written notice to both the person and the hospital as to its
39 determination regarding the validity of the debt, including the
40 imposition of collection fees and interest, if applicable.

41 h. If the person fails to respond within 30 days to the commission,
42 the commission may utilize the provisions of the Set off of Individual
43 Liability (SOIL) program established pursuant to P.L.1981, c.239
44 (C.54A:9 8.1 et seq.), to collect any surcharge levied under this
45 section that is unpaid on or after the effective date of this act.

46 As additional remedies, the commission may utilize the services of

1 a collection agency to settle the debt and may also issue a certificate
2 to the Clerk of the Superior Court stating that the person identified in
3 the certificate is indebted under this law in such amount as shall be
4 stated in the certificate. The certificate shall reference this act.
5 Thereupon the clerk to whom such certificate shall have been issued
6 shall immediately enter upon the record of docketed judgments: the
7 name of the person as debtor; the State as creditor; the address of the
8 person, if shown in the certificate; the amount of the debt so certified;
9 a reference to this act under which the debt is assessed; and the date
10 of making the entries. The docketing of the entries shall have the same
11 force and effect as a civil judgment docketed in the Superior Court,
12 and the commission shall have all the remedies and may take all of the
13 proceedings for the collection thereof which may be had or taken upon
14 the recovery of a judgment in an action, but without prejudice to any
15 right of appeal. Upon entry by the clerk of the certificate in the record
16 of docketed judgments in accordance with this provision, interest in
17 the amount specified by the court rules for post-judgment interest shall
18 accrue from the date of the docketing of the certificate; however,
19 payment of the interest may be waived by the commission.

20 i. Any collection efforts undertaken pursuant to this act shall be
21 undertaken in accordance with the "Health Insurance Portability and
22 Accountability Act of 1996," Pub.L. 104-191 and 45 C.F.R. 160.101
23 to 164.534, or any other similar law. The commission and any other
24 entity performing collection activities pursuant to this act is authorized
25 to enter into any agreements required to comply with such laws,
26 including, but not limited to, entering into agreements with the
27 hospitals and collection agencies to provide for appropriate
28 safeguarding of information.

29

30 8. This act shall take effect on the 30th day after enactment.

31

32

33

STATEMENT

34

35 This bill allows hospitals to voluntarily assign unpaid accounts to
36 a new State entity, the five-member Hospital Care Payment
37 Commission for set-off against gross income tax refunds and other
38 State refunds. The commission, which is established in the
39 Department of Banking and Insurance, shall consist of the
40 Commissioners of Banking and Insurance, Health and Senior Services
41 and Human Services and the State Treasurer, or their designees, who
42 shall serve ex officio, and a representative of the hospital community
43 appointed by the Governor.

44 To avoid involving the State in disputes between hospitals and
45 insurers, where there is a third party such as Medicare or a private
46 health plan with potential responsibility for a claim, the bill limits the

1 assignment to debts involving "clean claims" that have been
2 adjudicated fully by the third party. Since hospitals frequently discount
3 services heavily to large insurers but not to individual patients, the bill
4 incorporates a mechanism by which the Hospital Care Payment
5 Commission can adjust the debt owed by individual patients to parity
6 with discounted amounts to health insurers.

7 Under the bill, patients would have an opportunity to challenge the
8 validity of a hospital debt to the commission prior to having the bill
9 forwarded for collection. Patients also would have the usual right to
10 challenge the assessment under the regular Set off of Individual
11 Liability program (SOIL). In addition, where the commission
12 determines that debt assigned by a hospital is at an unacceptable level
13 of accuracy, the commission may elect to cease accepting debt from
14 the hospital.

15 Further, the bill creates a phased-in program, beginning with debt
16 from a few general hospitals, and allowing expansion to other types of
17 debt if the first phase proves effective. The commission is limited to
18 accepting debt that is less than three years old.

19 The bill creates a New Jersey Hospital Care Payment Fund, into
20 which all revenues from the collection process would be deposited.
21 The amount collected would be divided 50% to the State; 50% to each
22 participating hospital after administrative expenses are paid. The
23 State's share of the revenue will be deposited into the General Fund.
24 Once money related to a debt is received in the fund, the bill would
25 require payment of the hospital share within 90 days. The bill also
26 authorizes the commission to take whatever actions are necessary to
27 comply with the rules concerning protected health information under
28 the federal "Health Insurance Portability and Accountability Act of
29 1996."

30

31

32

33

34 Establishes "Hospital Care Payment Commission" and "NJ Hospital
35 Care Payment Fund" for collection of certain hospital bad debts.

ASSEMBLY, No. 3708

STATE OF NEW JERSEY 210th LEGISLATURE

INTRODUCED JUNE 12, 2003

Sponsored by:

**Assemblywoman LORETTA WEINBERG
District 37 (Bergen)**

Co-Sponsored by:

Assemblywoman Pou and Senator Codey

SYNOPSIS

Establishes "Hospital Care Payment Commission" and "NJ Hospital Care Payment Fund" for collection of certain hospital bad debts.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 7/1/2003)

1 AN ACT concerning the collection of unpaid hospital accounts and
2 supplementing Title 17B of the New Jersey Statutes.

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

6
7 1. The Legislature finds and declares that:

8 a. The rising cost of hospital-based health care in this State
9 impedes the ability of the State and insurers to provide reasonably
10 priced, comprehensive health insurance to the citizens of the State.

11 b. Hospitals located within the State report more than \$1 billion
12 annually in debts that they are unable to collect.

13 c. The cost of covering the unpaid care represented by the debt is
14 spread among citizens, private insurers, hospitals and the State in the
15 form of higher bills for hospital-based care.

16 d. A significant portion of the uncollected debt is related to
17 copayments and deductibles that are difficult for hospitals to collect
18 efficiently.

19 e. The State's Set off of Individual Liability (SOIL) program has
20 proven to be an administratively efficient means of collecting debts
21 owed to State agencies.

22 f. It is, therefore, in the public interest to create a New Jersey
23 Hospital Care Payment Commission, the duties of which would
24 include, but not be limited to, creating a system for using the State's
25 SOIL program to collect valid hospital debts.

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27 2. As used in this act:

28 "Coinsurance" means the percentage of a charge covered by a
29 health plan that must be paid by a person covered under the health
30 plan.

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32 company, agency or law firm engaged in collecting debts that the
33 Department of the Treasury may determine to engage to assist it in
34 collecting debts.

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38 someone who is legally responsible for payment for a patient, and
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40 include monies owed to a hospital by a health plan for services
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19 inpatient or outpatient basis.

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22 Insurance, a "Hospital Care Payment Commission." The commission
23 is constituted as an instrumentality of the State exercising public and
24 essential governmental functions, and the exercise by the commission
25 of the powers conferred by this act shall be deemed and held to be an
26 essential governmental function of the State.

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28 and Insurance, Health and Senior Services and Human Services and
29 the State Treasurer, who shall serve ex officio, and a representative of
30 the hospital community appointed by the Governor for a term of three
31 years. The Commissioner of Banking and Insurance shall serve as chair
32 of the commission.

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34 thereof, and a majority of the total authorized membership of the
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36 may be taken and motions and resolutions adopted by the commission
37 at any meeting of the commission by the affirmative vote of a majority
38 of the members present. A vacancy in the membership of the
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41 c. Each ex officio member may designate an officer or employee of
42 the member's department to serve as the member's representative at
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44 and otherwise act on behalf of the member. Any such designation shall
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46 until revoked or amended by a writing delivered to the commission.

1 d. On or before March 31 in each year, the commission shall make
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3 Governor and the Legislature. Each report shall set forth at least the
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5 number and value of the debts processed; the number of challenges
6 received by the commission; the number of debts returned to hospitals
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17 standing.

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30 of this subsection are paid, shall be payable to the hospital from which
31 the debt originated within 90 days of receipt of monies related to
32 discharge of the assigned debt into the fund; and

33 (4) the remainder, after paragraphs (1), (2) and (3) of this
34 subsection are paid, shall be deposited into the General Fund.

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36 5. The commission is authorized to:

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39 procedures as the commission shall adopt.

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2 commission, as determined by the date of discharge for inpatient
3 services and date of service for outpatient services;

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5 includes such other limitations as the commission determines are
6 desirable to smooth implementation of the program created by this act.

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14 e. Make final determinations as to the validity of debts.

15 f. Determine the payment to be collected from the debtor, based
16 upon a "fairness formula" to be determined by the commission. For
17 debt processed by the commission during the fiscal year starting on
18 July 1, 2003, the fairness formula shall be based upon the Department
19 of Health and Senior Services' report entitled "Net Patient Revenue to
20 Charge Ratio," for the most recent year available. For debt processed
21 by the commission during the fiscal year starting on July 1, 2004 and
22 thereafter, the fairness formula shall be based upon the most recent
23 available "Net Patient Revenue to Charge Ratio" report, or such other
24 measure as the commission determines would most fairly reimburse
25 hospitals for treatment.

26 g. Offset liability for the hospital debts against the New Jersey
27 Gross Income Tax pursuant to N.J.S.54A:1-1 et seq., including an
28 earned income tax credit provided as a refund pursuant to P.L.2000,
29 c.80 (C.54A:4-6 et al.), or whenever any individual is eligible to
30 receive an NJ SAVER rebate or a homestead rebate pursuant to
31 P.L.1990, c.61 (C.54:4-8.57 et al.) or P.L.1999, c.63 (C.54:4-8.58a
32 et al.), and if the rebate is not required to be paid over to the municipal
33 tax collector under the provisions of section 8 of P.L.1990, c.61
34 (C.54:4-8.64), and including any other financial resource authorized
35 as a source capable of offset for any reason by section 1 of P.L.1981
36 c.239 (C.54A:9-8.1) et seq.

37 h. Adjudicate the validity of all set-off challenges pursuant to
38 N.J.A.C. 18:35-10.1 et seq.

39 i. Make such decisions as to compromise and waiver of interest,
40 penalties, post-judgment interest and write-off as it shall deem
41 prudent.

42 j. Refer assigned debts under section 7 of this act to a collection
43 agency in the event that offsetting is not practical or is not successful
44 in fully resolving the debt.

45 k. Create standards for settlement of debts through the collection
46 agency process.

1 l. Determine to cease accepting debt from a hospital until such time
2 as the hospital can demonstrate to the satisfaction of the commission
3 that its accuracy has improved to acceptable levels where the
4 commission determines that data forwarded by a hospital to the
5 commission has an unacceptable level of inaccuracies regarding
6 validity or quality of the debt forwarded to the commission.

7 m. Contract with other State agencies for services, including
8 administrative services necessary to carry out the duties of the
9 commission.

10 n. Fund the cost of its operations from the fund created by section
11 4 of this act.

12 o. Adopt rules and regulations pursuant to the "Administrative
13 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to effectuate
14 the purposes of this act; except that, notwithstanding any provision of
15 P.L.1968, c.410 to the contrary, the commission may adopt,
16 immediately upon filing with the Office of Administrative Law, such
17 regulations as the commission deems necessary to implement the
18 provisions of this act, which shall be effective for a period not to
19 exceed six months and may thereafter be amended, adopted or
20 readopted by the commission in accordance with the requirements of
21 P.L.1968, c.410.

22
23 6. Decisions of the commission, regarding the fairness formula, the
24 validity of debts, the adequacy of data provided to the commission by
25 hospitals for use in the program, and other such matters as shall arise
26 concerning the administration of the program, shall constitute final
27 agency action.

28
29 7. a. The following procedures shall apply for those hospitals that
30 wish to participate in the voluntary assignment program created by this
31 act.

32 b. The hospital shall file with the commission a notice signifying its
33 intent to participate voluntarily and certifying the following:

34 (1) the hospital has determined that the patient is not eligible for
35 charity care under the New Jersey Hospital Care Payment Assistance
36 Program established by the Department of Health and Senior Services
37 pursuant to section 10 of P.L.1992, c.160 (C.26:2H-18.60);

38 (2) the hospital has submitted a "clean claim" pursuant to
39 P.L.1999, c.154 (C.17B:30-23 et al.) and P.L.1999, c.155
40 (C.17B:30-26 et seq.) to the patient, a responsible party, Medicaid,
41 Medicare or a health plan, as applicable, within a reasonable time
42 following the patient's discharge, or in the case of outpatient service,
43 the date of service;

44 (3) the claims have been fully adjudicated by a health plan,
45 Medicare or Medicaid, where applicable, and a debt remains
46 outstanding;

1 (4) the hospital has not initiated collection procedures against the
2 patient or responsible party while a claim was pending adjudication
3 with Medicare or a health plan, for which a debt remains outstanding;

4 (5) the hospital has notified the patient of the hospital's intention,
5 if the account is not paid in full, or alternatively through a payment
6 plan with the hospital, to proceed with legal action, or to turn the bill
7 over to the State Hospital Care Payment Commission for collection.

8 c. Nothing herein shall be deemed to create any new right to
9 collection of hospital debts by hospitals beyond existing law; nor shall
10 it be deemed to preclude any existing right to collection.

11 d. The commission may determine the content of the notice
12 required by paragraph (5) of subsection b. of this section to the patient
13 concerning the likelihood that the account will be turned over to the
14 commission for collection.

15 e. The minimum amount of an unpaid bill that may be assigned to
16 the commission by a hospital is \$100, or such other minimum as the
17 commission shall determine by regulation.

18 f. Upon receipt of the voluntary assignment, the Department of the
19 Treasury shall send, on behalf of the commission, a notice to the
20 person named as a debtor of the hospital, notifying the person as to
21 receipt of the assignment by the commission, providing the person
22 with 30 days to challenge the validity of the debt, and providing notice
23 that in the absence of such challenge, a Certificate of Debt will be filed
24 with the Superior Court of New Jersey. The notice shall also include
25 a statement on the commission's intention to take action to set off the
26 liability against any refund of taxes pursuant to the "New Jersey Gross
27 Income Tax Act" including an earned income tax credit, a NJ SAVER
28 rebate or a homestead rebate, or other such funds as may be
29 authorized by law.

30 g. If the person named as a debtor responds within the 30-day
31 period, the person shall be provided with an opportunity to present,
32 either in writing or in person, evidence as to why the person does not
33 believe he is responsible for the debt. The commission shall provide
34 written notice to both the person and the hospital as to its
35 determination regarding the validity of the debt, including the
36 imposition of collection fees and interest, if applicable.

37 h. If the person fails to respond within 30 days to the commission,
38 the commission may utilize the provisions of the Set off of Individual
39 Liability (SOIL) program established pursuant to P.L.1981, c.239
40 (C.54A:9 8.1 et seq.), to collect any surcharge levied under this
41 section that is unpaid on or after the effective date of this act.

42 As additional remedies, the commission may utilize the services of
43 a collection agency to settle the debt and may also issue a certificate
44 to the Clerk of the Superior Court stating that the person identified in
45 the certificate is indebted under this law in such amount as shall be
46 stated in the certificate. The certificate shall reference this act.

1 Thereupon the clerk to whom such certificate shall have been issued
2 shall immediately enter upon the record of docketed judgments: the
3 name of the person as debtor; the State as creditor; the address of the
4 person, if shown in the certificate; the amount of the debt so certified;
5 a reference to this act under which the debt is assessed; and the date
6 of making the entries. The docketing of the entries shall have the same
7 force and effect as a civil judgment docketed in the Superior Court,
8 and the commission shall have all the remedies and may take all of the
9 proceedings for the collection thereof which may be had or taken upon
10 the recovery of a judgment in an action, but without prejudice to any
11 right of appeal. Upon entry by the clerk of the certificate in the record
12 of docketed judgments in accordance with this provision, interest in
13 the amount specified by the court rules for post-judgment interest shall
14 accrue from the date of the docketing of the certificate; however,
15 payment of the interest may be waived by the commission.

16 i. Any collection efforts undertaken pursuant to this act shall be
17 undertaken in accordance with the "Health Insurance Portability and
18 Accountability Act of 1996," Pub.L. 104-191 and 45 C.F.R. 160.101
19 to 164.534, or any other similar law. The commission and any other
20 entity performing collection activities pursuant to this act is authorized
21 to enter into any agreements required to comply with such laws,
22 including, but not limited to, entering into agreements with the
23 hospitals and collection agencies to provide for appropriate
24 safeguarding of information.

25

26 8. This act shall take effect on the 30th day after enactment.

27

28

29

STATEMENT

30

31 This bill allows hospitals to voluntarily assign unpaid accounts to
32 a new State entity, the five-member Hospital Care Payment
33 Commission for set-off against gross income tax refunds and other
34 State refunds. The commission, which is established in the
35 Department of Banking and Insurance, shall consist of the
36 Commissioners of Banking and Insurance, Health and Senior Services
37 and Human Services and the State Treasurer, or their designees, who
38 shall serve ex officio, and a representative of the hospital community
39 appointed by the Governor.

40 To avoid involving the State in disputes between hospitals and
41 insurers, where there is a third party such as Medicare or a private
42 health plan with potential responsibility for a claim, the bill limits the
43 assignment to debts involving "clean claims" that have been
44 adjudicated fully by the third party. Since hospitals frequently discount
45 services heavily to large insurers but not to individual patients, the bill
46 incorporates a mechanism by which the Hospital Care Payment

1 Commission can adjust the debt owed by individual patients to parity
2 with discounted amounts to health insurers.

3 Under the bill, patients would have an opportunity to challenge the
4 validity of a hospital debt to the commission prior to having the bill
5 forwarded for collection. Patients also would have the usual right to
6 challenge the assessment under the regular Set off of Individual
7 Liability program (SOIL). In addition, where the commission
8 determines that debt assigned by a hospital is at an unacceptable level
9 of accuracy, the commission may elect to cease accepting debt from
10 the hospital.

11 Further, the bill creates a phased-in program, beginning with debt
12 from a few general hospitals, and allowing expansion to other types of
13 debt if the first phase proves effective. The commission is limited to
14 accepting debt that is less than three years old.

15 The bill creates a New Jersey Hospital Care Payment Fund, into
16 which all revenues from the collection process would be deposited.
17 The amount collected would be divided 50% to the State; 50% to each
18 participating hospital after administrative expenses are paid. The
19 State's share of the revenue will be deposited into the General Fund.
20 Once money related to a debt is received in the fund, the bill would
21 require payment of the hospital share within 90 days. The bill also
22 authorizes the commission to take whatever actions are necessary to
23 comply with the rules concerning protected health information under
24 the federal "Health Insurance Portability and Accountability Act of
25 1996."

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3708

STATE OF NEW JERSEY

DATED: JUNE 16, 2003

The Assembly Budget Committee reports favorably Assembly Bill No. 3708.

Assembly Bill No. 3708 allows hospitals to voluntarily assign unpaid accounts to a new State entity, the five-member Hospital Care Payment Commission for set-off against gross income tax refunds and other State refunds. The commission, which the bill establishes in the Department of Banking and Insurance, will consist of the Commissioners of Banking and Insurance, Health and Senior Services and Human Services and the State Treasurer, or their designees, who will serve ex officio, and a representative of the hospital community appointed by the Governor.

To avoid involving the State in disputes between hospitals and insurers, if there is a third party such as Medicare or a private health plan with potential responsibility for a claim, the bill limits the assignment to debts involving "clean claims" that have been adjudicated fully by the third party. As hospitals frequently discount services heavily to large insurers but not to individual patients, the bill incorporates a mechanism by which the Hospital Care Payment Commission can adjust the debt owed by individual patients to parity with discounted amounts to health insurers.

Under the bill, patients will have an opportunity to challenge the validity of a hospital debt to the commission before to having the bill forwarded for collection. Patients also will have the usual right to challenge the assessment under the regular Set off of Individual Liability program (SOIL). In addition, if the commission determines that debt assigned by a hospital is at an unacceptable level of accuracy, the commission may elect to cease accepting debt from the hospital.

The bill creates a phased program, beginning with debt from a few general hospitals, and allowing expansion to other types of debt if the first phase proves effective. The commission is limited to accepting debt that is less than three years old.

The bill creates a New Jersey Hospital Care Payment Fund, into which all revenues from the collection process will be deposited. The amount collected will be divided 50% to the State and 50% to each participating hospital after administrative expenses are paid. The State's share of the revenue will be deposited into the General Fund. Once money related to a debt is received in the fund, the bill requires

payment of the hospital share within 90 days. The bill also authorizes the commission to take whatever actions are necessary to comply with the rules concerning protected health information under the federal "Health Insurance Portability and Accountability Act of 1996."

FISCAL IMPACT:

The Executive has estimated that the assignment of outstanding debt owed to private hospitals will generate \$30 million in revenue in State Fiscal Year 2004.

SENATE, No. 2621

STATE OF NEW JERSEY
210th LEGISLATURE

INTRODUCED JUNE 9, 2003

Sponsored by:
Senator RICHARD J. CODEY
District 27 (Essex)

SYNOPSIS

Establishes "Hospital Care Payment Commission" and "NJ Hospital Care Payment Fund" for collection of certain hospital bad debts.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the collection of unpaid hospital accounts and
2 supplementing Title 17B of the New Jersey Statutes.

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

6
7 1. The Legislature finds and declares that:

8 a. The rising cost of hospital-based health care in this State impedes
9 the ability of the State and insurers to provide reasonably priced,
10 comprehensive health insurance to the citizens of the State.

11 b. Hospitals located within the State report more than \$1 billion
12 annually in debts that they are unable to collect.

13 c. The cost of covering the unpaid care represented by the debt is
14 spread among citizens, private insurers, hospitals and the State in the
15 form of higher bills for hospital-based care.

16 d. A significant portion of the uncollected debt is related to
17 copayments and deductibles that are difficult for hospitals to collect
18 efficiently.

19 e. The State's Set off of Individual Liability (SOIL) program has
20 proven to be an administratively efficient means of collecting debts
21 owed to State agencies.

22 f. It is, therefore, in the public interest to create a New Jersey
23 Hospital Care Payment Commission, the duties of which would
24 include, but not be limited to, creating a system for using the State's
25 set off SOIL program to collect valid hospital debts.

26
27 2. As used in this act:

28 "Coinsurance" means the percentage of a charge covered by a
29 health plan that must be paid by a person covered under the health
30 plan.

31 "Collection agency" means the Department of the Treasury and any
32 company, agency or law firm engaged in collecting debts that the
33 Department of the Treasury may determine to engage to assist it in
34 collecting debts.

35 "Commission" means the Hospital Care Payment Commission
36 created pursuant to this act.

37 "Debt" means money owed by a patient to a hospital, or by
38 someone who is legally responsible for payment for a patient, and
39 includes late payment penalties and interest thereon. It does not
40 include monies owed to a hospital by a health plan for services
41 provided by the hospital to a person with coverage under that plan, or
42 amounts subject to dispute between a health plan and a hospital.

43 "Debtor" means an individual owing money to or having a
44 delinquent account with a hospital, which obligation has not been
45 adjudicated, satisfied by court order, set aside by court order or
46 discharged in bankruptcy.

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1 "Deductible" means the amount of covered charges under a health
2 plan that an individual must pay for a services before a health plan
3 begins to pay on a covered charge.

4 "General Hospital" and "hospital" have the meanings set forth in
5 N.J.A.C. 8:43G-1.2.

6 "Health plan" means an individual or group health benefits plan that
7 provides or pays the cost of hospital and medical expenses, dental or
8 vision care, or prescription drugs, and is provided by or through an
9 insurer, health maintenance organization, the Medicaid program, the
10 Medicare program, a Medicare+Choice provider or Medicare
11 supplemental insurer, an employer-sponsored group health benefits
12 plan, government or church-sponsored health benefits plan or a
13 multi-employer welfare arrangement.

14 "Medicaid" means the program established pursuant to P.L.1968
15 c.413 (C.30:4D-1 et seq.).

16 "Medicare" means the program established Pub.L.89-97 (42 U.S.C.
17 s.1395 et seq) as amended, or its successor plan or plans.

18 "Patient" means a person who receives services in a hospital on an
19 inpatient or outpatient basis.

20
21 3. a. There is established, within the Department of Banking and
22 Insurance, a "Hospital Care Payment Commission." The commission
23 is constituted as an instrumentality of the State exercising public and
24 essential governmental functions, and the exercise by the commission
25 of the powers conferred by this act shall be deemed and held to be an
26 essential governmental function of the State.

27 b. The commission shall consist of the Commissioners of Banking
28 and Insurance, Health and Senior Services and Human Services and
29 the State Treasurer, who shall serve ex officio, and a representative of
30 the hospital community appointed by the Governor for a term of three
31 years. The Commissioner of Banking and Insurance shall serve as chair
32 of the commission.

33 The powers of the commission shall be vested in the members
34 thereof, and a majority of the total authorized membership of the
35 commission shall constitute a quorum at any meeting thereof. Action
36 may be taken and motions and resolutions adopted by the commission
37 at any meeting of the commission by the affirmative vote of a majority
38 of the members present. A vacancy in the membership of the
39 commission shall not impair the right of a quorum of the members to
40 exercise all the powers and perform all the duties of the commission.

41 c. Each ex officio member may designate an officer or employee of
42 the member's department to serve as the member's representative at
43 meetings of the commission, and each such designee may lawfully vote
44 and otherwise act on behalf of the member. Any such designation shall
45 be in writing delivered to the commission, and shall continue in effect
46 until revoked or amended by a writing delivered to the commission.

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1 d. On or before March 31 in each year, the commission shall make
2 an annual report of its activities for the preceding calendar year to the
3 Governor and the Legislature. Each report shall set forth at least the
4 following: the number of hospitals participating in the program; the
5 number and value of the debts processed; the number of challenges
6 received by the commission; the number of debts returned to hospitals
7 for incomplete information or a finding of lack of validity of the debt;
8 the total level of funds recovered; and the total funds returned to
9 hospitals. The commission shall also report at least quarterly to each
10 participating hospital on the results regarding debts assigned by that
11 hospital.

12 e. The director of the Division of Budget and Accounting in the
13 Department of the Treasury is authorized to provide all necessary
14 accounting services to the commission, and to maintain the books,
15 records and accounts of the commission, including receipts,
16 disbursements, contracts and any other matter related to its financial
17 standing.

18

19 4. a. There is established the "New Jersey Hospital Care Payment
20 Fund" in the Department of the Treasury.

21 b. The fund shall be comprised of monies collected from debtors of
22 hospitals pursuant to this act, and any other monies appropriated
23 thereto to carry out the purposes of this act.

24 c. The fund shall be a nonlapsing fund, from which costs shall be
25 paid in the following order, for each hospital participating:

26 (1) administrative costs of the commission;

27 (2) administrative fees to the collection agency;

28 (3) 50% of the remainder, but only from monies collected from
29 debtors of hospitals pursuant to this act after paragraphs (1) and (2)
30 of this subsection are paid, shall be payable to the hospital from which
31 the debt originated within 90 days of receipt of monies related to
32 discharge of the assigned debt into the fund; and

33 (4) the remainder, after paragraphs (1), (2) and (3) of this
34 subsection are paid, shall be deposited into the General Fund.

35

36 5. The commission is authorized to:

37 a. Accept assignment of debts from hospitals which have followed
38 the procedures outlined in section 7 of this act, or such other
39 procedures as the commission shall adopt.

40 b. Pursue collection of debts pursuant to this act. The commission
41 shall initiate the program in phases. The first phase may involve
42 acceptance of assignment of debt that:

43 (1) derives from a limited number of hospitals;

44 (2) consists of coinsurance and deductibles that remain payable
45 after adjudication by a health plan;

46 (3) is assigned by a general hospital;

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1 (4) is less than two years old at the date of assignment to the
2 commission, as determined by the date of discharge for inpatient
3 services and date of service for outpatient services;

4 (5) involves any of the above or any combination of the above, or
5 includes such other limitations as the commission determines are
6 desirable to smooth implementation of the program created by this act.

7 After the first phase, the commission may expand acceptance of
8 assignments as it shall determine pursuant to this act.

9 c. Test assignment data received from the hospitals to determine
10 whether the records are sufficient to make set-off practicable, and
11 return records that do not pass the test to the hospitals.

12 d. Conduct such fact-finding, as is necessary, in preparation for
13 making a determination as to the validity of debts.

14 e. Make final determinations as to the validity of debts.

15 f. Determine the payment to be collected from the debtor, based
16 upon a "fairness formula" to be determined by the commission. For
17 debt processed by the commission during the fiscal year starting on
18 July 1, 2003, the fairness formula shall be based upon the Department
19 of Health and Senior Services' report entitled "Net Patient Revenue to
20 Charge Ratio," for the most recent year available. For debt processed
21 by the commission during the fiscal year starting on July 1, 2004 and
22 thereafter, the fairness formula shall be based upon the most recent
23 available "Net Patient Revenue to Charge Ratio" report, or such other
24 measure as the commission determines would most fairly reimburse
25 hospitals for treatment.

26 g. Offset liability for the hospital debts against the New Jersey
27 Gross Income Tax pursuant to N.J.S.54A:1-1 et seq., including an
28 earned income tax credit provided as a refund pursuant to P.L.2000,
29 c.80 (C.54A:4-6 et al.), or whenever any individual is eligible to
30 receive an NJ SAVER rebate or a homestead rebate pursuant to
31 P.L.1990, c.61 (C.54:4-8.57 et al.) or P.L.1999, c.63 (C.54:4-8.58a
32 et al.), and if the rebate is not required to be paid over to the municipal
33 tax collector under the provisions of section 8 of P.L.1990, c.61
34 (C.54:4-8.64), and including any other financial resource authorized
35 as a source capable of offset for any reason by section 1 of P.L.1981
36 c.239 (C.54A:9-8.1) et seq.

37 h. Adjudicate the validity of all set-off challenges pursuant to
38 N.J.A.C. 18:35-10.1 et seq.

39 i. Make such decisions as to compromise and waiver of interest,
40 penalties, post-judgment interest and write-off as it shall deem
41 prudent.

42 j. Refer assigned debts under section 7 of this act to a collection
43 agency in the event that offsetting is not practical or is not successful
44 in fully resolving the debt.

45 k. Create standards for settlement of debts through the collection
46 agency process.

1 l. Determine to cease accepting debt from a hospital until such time
2 as the hospital can demonstrate to the satisfaction of the commission
3 that its accuracy has improved to acceptable levels where the
4 commission determines that data forwarded by a hospital to the
5 commission has an unacceptable level of inaccuracies regarding
6 validity or quality of the debt forwarded to the commission.

7 m. Contract with other State agencies for services, including
8 administrative services necessary to carry out the duties of the
9 commission.

10 n. Fund the cost of its operations from the fund created by section
11 4 of this act.

12 o. Adopt rules and regulations pursuant to the "Administrative
13 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to effectuate
14 the purposes of this act; except that, notwithstanding any provision of
15 P.L.1968, c.410 to the contrary, the commission may adopt,
16 immediately upon filing with the Office of Administrative Law, such
17 regulations as the commission deems necessary to implement the
18 provisions of this act, which shall be effective for a period not to
19 exceed six months and may thereafter be amended, adopted or
20 readopted by the commission in accordance with the requirements of
21 P.L.1968, c.410.

22
23 6. Decisions of the commission, regarding the fairness formula, the
24 validity of debts, the adequacy of data provided to the commission by
25 hospitals for use in the program, and other such matters as shall arise
26 concerning the administration of the program, shall constitute final
27 agency action.

28
29 7. a. The following procedures shall apply for those hospitals that
30 wish to participate in the voluntary assignment program created by this
31 act.

32 b. The hospital shall file with the commission a notice signifying its
33 intent to participate voluntarily and certifying the following:

34 (1) the hospital has determined that the patient is not eligible for
35 charity care under the New Jersey Hospital Care Payment Assistance
36 Program established by the Department of Health and Senior Services
37 pursuant to section 10 of P.L.1992, c.160 (C.26:2H-18.60);

38 (2) the hospital has submitted a "clean claim" pursuant to
39 P.L.1999, c.154 (C.17B:30-23 et al.) and P.L.1999, c.155
40 (C.17B:30-26 et seq.) to the patient, a responsible party, Medicaid,
41 Medicare or a health plan, as applicable, within a reasonable time
42 following the patient's discharge, or in the case of outpatient service,
43 the date of service;

44 (3) the claims have been fully adjudicated by a health plan,
45 Medicare or Medicaid, where applicable, and a debt remains
46 outstanding;

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1 (4) the hospital has not initiated collection procedures against the
2 patient or responsible party while a claim was pending adjudication
3 with Medicare or a health plan, for which a debt remains outstanding;

4 (5) the hospital has notified the patient of the hospital's intention,
5 if the account is not paid in full, or alternatively through a payment
6 plan with the hospital, to proceed with legal action, or to turn the bill
7 over to the State Hospital Care Payment Commission for collection.

8 c. Nothing herein shall be deemed to create any new right to
9 collection of hospital debts by hospitals beyond existing law; nor shall
10 it be deemed to preclude any existing right to collection.

11 d. The commission may determine the content of the notice required
12 by paragraph (5) of subsection b. of this section to the patient
13 concerning the likelihood that the account will be turned over to the
14 commission for collection.

15 e. The minimum amount of an unpaid bill that may be assigned to
16 the commission by a hospital is \$100, or such other minimum as the
17 commission shall determine by regulation.

18 f. Upon receipt of the voluntary assignment, the Department of the
19 Treasury shall send, on behalf of the commission, a notice to the
20 person named as a debtor of the hospital, notifying the person as to
21 receipt of the assignment by the commission, providing the person
22 with 30 days to challenge the validity of the debt, and providing notice
23 that in the absence of such challenge, a Certificate of Debt will be filed
24 with the Superior Court of New Jersey. The notice shall also include
25 a statement on the commission's intention to take action to set off the
26 liability against any refund of taxes pursuant to the "New Jersey Gross
27 Income Tax Act" including an earned income tax credit, a NJ SAVER
28 rebate or a homestead rebate, or other such funds as may be
29 authorized by law.

30 g. If the person named as a debtor responds within the 30-day
31 period, the person shall be provided with an opportunity to present,
32 either in writing or in person, evidence as to why the person does not
33 believe he is responsible for the debt. The commission shall provide
34 written notice to both the person and the hospital as to its
35 determination regarding the validity of the debt, including the
36 imposition of collection fees and interest, if applicable.

37 h. If the person fails to respond within 30 days to the commission,
38 the commission may utilize the provisions of the Set off of Individual
39 Liability (SOIL) program established pursuant to P.L.1981, c.239
40 (C.54A:9 8.1 et seq.), to collect any surcharge levied under this
41 section that is unpaid on or after the effective date of this act.

42 As additional remedies, the commission may utilize the services of
43 a collection agency to settle the debt and may also issue a certificate
44 to the Clerk of the Superior Court stating that the person identified in
45 the certificate is indebted under this law in such amount as shall be
46 stated in the certificate. The certificate shall reference this act.

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1 Thereupon the clerk to whom such certificate shall have been issued
2 shall immediately enter upon the record of docketed judgments: the
3 name of the person as debtor; the State as creditor; the address of the
4 person, if shown in the certificate; the amount of the debt so certified;
5 a reference to this act under which the debt is assessed; and the date
6 of making the entries. The docketing of the entries shall have the same
7 force and effect as a civil judgment docketed in the Superior Court,
8 and the commission shall have all the remedies and may take all of the
9 proceedings for the collection thereof which may be had or taken upon
10 the recovery of a judgment in an action, but without prejudice to any
11 right of appeal. Upon entry by the clerk of the certificate in the record
12 of docketed judgments in accordance with this provision, interest in
13 the amount specified by the court rules for post-judgment interest shall
14 accrue from the date of the docketing of the certificate; however,
15 payment of the interest may be waived by the commission.

16 i. Any collection efforts undertaken pursuant to this act shall be
17 undertaken in accordance with the "Health Insurance Portability and
18 Accountability Act of 1996," Pub.L. 104-191 and 45 C.F.R. 160.101
19 to 164.534, or any other similar law. The commission and any other
20 entity performing collection activities pursuant to this act is authorized
21 to enter into any agreements required to comply with such laws,
22 including, but not limited to, entering into agreements with the
23 hospitals and collection agencies to provide for appropriate
24 safeguarding of information.

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26 8. This act shall take effect on the 30th day after enactment.

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28

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STATEMENT

30

31 This bill allows hospitals to voluntarily assign unpaid accounts to
32 a new State entity, the five-member Hospital Care Payment
33 Commission for set-off against gross income tax refunds and other
34 State refunds. The commission, which is established in the
35 Department of Banking and Insurance, shall consist of the
36 Commissioners of Banking and Insurance, Health and Senior Services
37 and Human Services and the State Treasurer, or their designees, who
38 shall serve ex officio, and a representative of the hospital community
39 appointed by the Governor.

40 To avoid involving the State in disputes between hospitals and
41 insurers, where there is a third party such as Medicare or a private
42 health plan with potential responsibility for a claim, the bill limits the
43 assignment to debts involving "clean claims" that have been
44 adjudicated fully by the third party. Since hospitals frequently discount
45 services heavily to large insurers but not to individual patients, the bill
46 incorporates a mechanism by which the Hospital Care Payment

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1 Commission can adjust the debt owed by individual patients to parity
2 with discounted amounts to health insurers.

3 Under the bill, patients would have an opportunity to challenge the
4 validity of a hospital debt to the commission prior to having the bill
5 forwarded for collection. Patients also would have the usual right to
6 challenge the assessment under the regular Set off of Individual
7 Liability program (SOIL). In addition, where the commission
8 determines that debt assigned by a hospital is at an unacceptable level
9 of accuracy, the commission may elect to cease accepting debt from
10 the hospital.

11 Further, the bill creates a phased-in program, beginning with debt
12 from a few general hospitals, and allowing expansion to other types of
13 debt if the first phase proves effective. The commission is limited to
14 accepting debt that is less than three years old.

15 The bill creates a New Jersey Hospital Care Payment Fund, into
16 which all revenues from the collection process would be deposited.
17 The amount collected would be divided 50% to the State; 50% to each
18 participating hospital after administrative expenses are paid. The
19 State's share of the revenue will be deposited into the General Fund.
20 Once money related to a debt is received in the fund, the bill would
21 require payment of the hospital share within 90 days. The bill also
22 authorizes the commission to take whatever actions are necessary to
23 comply with the rules concerning protected health information under
24 the federal "Health Insurance Portability and Accountability Act of
25 1996."

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 2621

STATE OF NEW JERSEY

DATED: JUNE 17, 2003

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2621.

This bill allows hospitals to voluntarily assign unpaid accounts to a new State entity, the five-member Hospital Care Payment Commission for set-off against gross income tax refunds and other State refunds. The commission, which the bill establishes in the Department of Banking and Insurance, will consist of the Commissioners of Banking and Insurance, Health and Senior Services and Human Services and the State Treasurer, or their designees, who will serve ex officio, and a representative of the hospital community appointed by the Governor.

To avoid involving the State in disputes between hospitals and insurers, if there is a third party such as Medicare or a private health plan with potential responsibility for a claim, the bill limits the assignment to debts involving "clean claims" that have been adjudicated fully by the third party. As hospitals frequently discount services heavily to large insurers but not to individual patients, the bill incorporates a mechanism by which the Hospital Care Payment Commission can adjust the debt owed by individual patients to parity with discounted amounts to health insurers.

Under the bill, patients will have an opportunity to challenge the validity of a hospital debt to the commission before to having the bill forwarded for collection. Patients also will have the usual right to challenge the assessment under the regular Set off of Individual Liability program (SOIL). In addition, if the commission determines that debt assigned by a hospital is at an unacceptable level of accuracy, the commission may elect to cease accepting debt from the hospital.

The bill creates a phased program, beginning with debt from a few general hospitals, and allowing expansion to other types of debt if the first phase proves effective. The commission is limited to accepting debt that is less than three years old.

The bill creates a New Jersey Hospital Care Payment Fund, into which all revenues from the collection process will be deposited. The amount collected will be divided 50% to the State and 50% to each participating hospital after administrative expenses are paid. The State's share of the revenue will be deposited into the General Fund. Once money related to a debt is received in the fund, the bill requires

payment of the hospital share within 90 days. The bill also authorizes the commission to take whatever actions are necessary to comply with the rules concerning protected health information under the federal "Health Insurance Portability and Accountability Act of 1996."

FISCAL IMPACT

The Executive has estimated that the assignment of outstanding debt owed to private hospitals will generate \$30 million in revenue in State Fiscal Year 2004.