

26:2H-18.28

LEGISLATIVE HISTORY CHECKLIST
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(New Jersey Health Care Trust)

NJSA: 26:2H-18.28

LAWS OF: 1992 CHAPTER: 25

BILL NO: A11

SPONSOR(S): Wright and others

DATE INTRODUCED: April 13, 1992

COMMITTEE: ASSEMBLY: Health & Human Services; Appropriations
SENATE: —

AMENDED DURING PASSAGE: Yes Amendments during passage denoted
by asterisks

DATE OF PASSAGE: ASSEMBLY: May 7, 1992 Re-enacted 6-25-92
SENATE: May 7, 1992 Re-enacted 6-25-92

DATE OF APPROVAL: June 29, 1992

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes
SENATE: No

FISCAL NOTE: No

VETO MESSAGE: Yes

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: Yes

974.90 New Jersey. Legislature. Assembly. Health & Human Services
I59 Committee.
1992a Public hearing, held 3-5-92.
Trenton, 1992.

KEG:pp

[SECOND REPRINT]

ASSEMBLY, No. 11

STATE OF NEW JERSEY

INTRODUCED APRIL 13, 1992

By Assemblywoman WRIGHT, Assemblymen T. SMITH, Frelinghuysen, Assemblywoman J. Smith, Assemblymen Haytaian, Collins, Franks, Shinn, Zecker, Colburn, Arnone, Felice, Mikulak, Geist, Kavanaugh, Penn, DeCroce, Gaffney, Nickles, Assemblywoman Weber, Assemblymen Azzolina, Sosa, Assemblywoman Anderson, Assemblymen Lance, Cottrell, Kamin, Corodemus, Rocco, Lustbader, Catania, Assemblywoman Crecco, Assemblymen Singer and Rooney

1 AN ACT concerning the New Jersey Health Care Trust Fund and
2 amending P.L.1991, c.187.

3

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

6 1. Section 5 of P.L.1991, c.187 (C.26:2H-18.28) is amended to
7 read as follows:

8 5. a. For the periods beginning January or July of the
9 hospitals' rate year, the department shall determine a uniform
10 Statewide uncompensated care add-on. The commission shall
11 approve the add-on before it is included in hospital rates.

12 The add-on shall be determined by dividing the Statewide
13 amount of approved uncompensated care plus an amount adequate
14 to fund the reasonable cost of administering the fund pursuant to
15 subsection a. of section 4 of P.L.1991, c.187 (C.26:2H-18.27) and
16 to maintain the reserve pursuant to subsection c. of section 4 of
17 P.L.1991, c.187 (C.26:2H-18.27), by the Statewide amount of
18 approved revenue for all payers and approved revenue for
19 medically indigent persons less the Statewide amount of approved
20 uncompensated care.

21 The Medicaid program shall provide its share of the
22 uncompensated care add-on, as determined by the commission,
23 through a direct contribution to the fund of an amount equal to
24 the Medicaid program's State share of the uncompensated care
25 add-on.

26 The add-on and any increases made to the add-on are an
27 allowable cost and shall be included as part of the hospital's
28 rates as established by the commission.

29 b. The amount of money raised by the uniform Statewide
30 uncompensated care add-on, as a percentage of all governmental
31 and nongovernmental approved revenue, shall not exceed 13%,
32 except that the add-on shall not exceed ~~[19.7%]~~ 19.1%.

33 The commissioner shall establish the following target levels for
34 the add-on: 16% by July 1, 1993, 13% by July 1, 1994 and 10% by
35 July 1, 1995.

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 Assembly AHH committee amendments adopted April 30, 1992.

² Assembly amendment adopted in accordance with Governor's recommendations June 15, 1992.

1 c. The uniform Statewide uncompensated care add-on for
2 patients whose hospital bills are paid by a health maintenance
3 organization or other payer which has negotiated a discounted
4 rate of payment with the hospital shall be based on the full rate
5 of reimbursement for the services provided by the hospital to the
6 patient under the hospital reimbursement system established
7 pursuant to P.L.1978, c.83, rather than on the discounted rate of
8 payment.

9 d. No provision of this section shall be construed to preclude
10 the commission from approving individual hospital rate increases
11 for uncompensated care in addition to the add-on. Such
12 increases, however, shall not be paid from the moneys in the
13 Health Care Trust Fund.

14 (cf: P.L.1991, c.187, s.5)

15 ¹2. Section 7 of P.L.1991, c.187 (C.26:2H-18.30) is amended to
16 read as follows:

17 7. a. A hospital shall remit the mandatory assessment to the
18 fund at the end of every month[, for 12 months,] except that, a
19 hospital shall remit the first payment under this act by August
20 30, 1991.

21 b. If a hospital is delinquent in its payment of the mandatory
22 assessment to the fund, the commission may, pursuant to rules
23 and regulations adopted by the commissioner, remove from that
24 hospital's schedule of rates the uniform Statewide
25 uncompensated care add-on or levy a reasonable penalty on the
26 hospital. The penalty shall be recovered in a summary civil
27 proceeding brought in the name of the State in the Superior Court
28 pursuant to "the penalty enforcement law" (N.J.S.2A:58-1 et
29 seq.). Penalties collected pursuant to this section shall be
30 deposited in the fund established pursuant to this act.

31 c. A hospital authorized to receive payments from the Division
32 of Medical Assistance and Health Services in the Department of
33 Human Services pursuant to subsection b. of section 6 of
34 P.L.1991, c.187 (C.26:2H-18.29), shall receive the payments on a
35 monthly basis. [A hospital shall receive 12 monthly payments and
36 the] The first payment shall be made within 45 days of the
37 effective date of this section.¹

38 (cf: P.L.1991, c.187, s.7)

39 ¹[2.] 3.1 Section 24 of P.L.1991, c.187 (C.26:2H-18.46) is
40 amended to read as follows:

41 24. The commissioner shall report to the Governor, the
42 presiding officers of the Senate and the General Assembly, and
43 the chairmen of the Senate [Institutions, Health and Welfare
44 Committee] and the General Assembly Health and Human
45 Services Committee, six and 11 months after the effective date
46 of this act and annually thereafter, by June 30 of each year, on
47 the status of the fund.

48 a. The commissioner shall include in the first report a
49 summary of the findings of the 1990 annual audit of each
50 hospital's uncompensated care conducted pursuant to section 12
51 of P.L.1991, c.187 (C.26:2H-18.34). The summary shall include
52 the percentage of uncompensated care for each hospital that is
53 classified as charity care and as bad debt, respectively. The
54 report shall also include a compilation of the information

1 collected pursuant to section 13 of P.L.1991, c.187
2 (C.26:2H-18.35).

3 b. The commissioner shall include in the second report a
4 compilation of the information collected pursuant to section 13
5 of P.L.1991, c.187 (C.26:2H-18.35) and provided by the
6 Department of the Treasury pursuant to section 14 of P.L.1991,
7 c.187 (C.26:2H-18.36).

8 (cf: P.L.1991, c.187, s.24)

9 ¹[3.] 4.¹ Section 86 of P.L.1991, c.187 is amended to read as
10 follows:

11 86. This act shall take effect on the 30th day after enactment,
12 except that sections 1 through 26, inclusive, shall take effect on
13 July 1, 1991, [sections 1 through 8 and 11 through 24, inclusive,
14 and section 26 shall expire on June 30, 1992,] ²sections 1 through
15 8 and 11 through 24, inclusive, and section 26 shall expire on
16 November 30, 1992,² section 29 shall take effect on the 120th
17 day after enactment, sections 31 and 32 shall take effect on
18 January 1, 1992 and sections 50, 52, 54, 56 and 58 shall take
19 effect on the 90th day after enactment.

20 (cf: P.L.1991, c.187, c.86)

21 ¹[4.] 5.¹ This act shall take effect immediately but if enacted
22 after June 30, 1992, shall be retroactive to June 30, 1992.

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27 Continues NJ Health Care Trust Fund.

1 rate of payment with the hospital shall be based on the full rate
2 of reimbursement for the services provided by the hospital to the
3 patient under the hospital reimbursement system established
4 pursuant to P.L.1978, c.83, rather than on the discounted rate of
5 payment.

6 d. No provision of this section shall be construed to preclude
7 the commission from approving individual hospital rate increases
8 for uncompensated care in addition to the add-on. Such
9 increases, however, shall not be paid from the moneys in the
10 Health Care Trust Fund.

11 (cf: P.L.1991, c.187, s.5)

12 2. Section 24 of P.L.1991, c.187 (C.26:2H-18.46) is amended to
13 read as follows:

14 24. The commissioner shall report to the Governor, the
15 presiding officers of the Senate and the General Assembly, and
16 the chairmen of the Senate [Institutions, Health and Welfare
17 Committee] and the General Assembly Health and Human
18 Services Committee, six and 11 months after the effective date
19 of this act and annually thereafter, by June 30 of each year, on
20 the status of the fund.

21 a. The commissioner shall include in the first report a
22 summary of the findings of the 1990 annual audit of each
23 hospital's uncompensated care conducted pursuant to section 12
24 of P.L.1991, c.187 (C.26:2H-18.34). The summary shall include
25 the percentage of uncompensated care for each hospital that is
26 classified as charity care and as bad debt, respectively. The
27 report shall also include a compilation of the information
28 collected pursuant to section 13 of P.L.1991, c.187
29 (C.26:2H-18.35).

30 b. The commissioner shall include in the second report a
31 compilation of the information collected pursuant to section 13
32 of P.L.1991, c.187 (C.26:2H-18.35) and provided by the
33 Department of the Treasury pursuant to section 14 of P.L.1991,
34 c.187 (C.26:2H-18.36).

35 (cf: P.L.1991, c.187, s.24)

36 3. Section 86 of P.L.1991, c.187 is amended to read as follows:

37 86. This act shall take effect on the 30th day after enactment,
38 except that sections 1 through 26, inclusive, shall take effect on
39 July 1, 1991, [sections 1 through 8 and 11 through 24, inclusive,
40 and section 26 shall expire on June 30, 1992,] section 29 shall
41 take effect on the 120th day after enactment, sections 31 and 32
42 shall take effect on January 1, 1992 and sections 50, 52, 54, 56
43 and 58 shall take effect on the 90th day after enactment.

44 (cf: P.L.1991, c.187, c.86)

45 4. This act shall take effect immediately but if enacted after
46 June 30, 1992, shall be retroactive to June 30, 1992.

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STATEMENT

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51 This bill deletes the expiration date for the New Jersey Health
52 Care Trust Fund and establishes target levels for reducing the
53 uncompensated care add-on over the next three years.

54 The New Jersey Health Care Trust Fund was established for

1 one year pursuant to P.L.1991, c.187 (C.26:2H-18.24 et al.), and
2 expires on June 30, 1992.

3 When the trust fund was first established in 1987, with a
4 two-year expiration date, it was considered a temporary solution
5 to the problem of funding uncompensated care. However, the
6 trust fund was subsequently renewed for another two-year period
7 in 1989, and again in 1991, for a one-year period. Each time that
8 the expiration deadline for the trust fund approached and no
9 permanent solution was agreed on, the financial stability of those
10 hospitals which were most dependent on the trust fund was
11 jeopardized and a great deal of concern was raised about the
12 effect that elimination of the funding mechanism for
13 uncompensated care would have on the availability and delivery
14 of health care for many residents in the State.

15 By extending the trust fund indefinitely and removing the
16 pressure of having to act quickly in the absence of achieving a
17 consensus on the issue, the Legislature and the Governor will be
18 able to engage in a deliberative process to develop a rational and
19 equitable, permanent solution for the funding of uncompensated
20 care in the State.

21 The bill reduces the cap on the uncompensated care add-on
22 from 19.7% to 19.1%, which is the current level of the add-on,
23 and establishes target levels for further reductions in the
24 add-on. The target levels are: 16% by July 1, 1993, 13% by July
25 1, 1994 and 10% by July 1, 1995.

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30 Continues NJ Health Care Trust Fund.

ASSEMBLY HEALTH AND HUMAN SERVICES COMMITTEE

STATEMENT TO

ASSEMBLY, No. 11

with committee amendments

STATE OF NEW JERSEY

DATED: APRIL 30, 1992

The Assembly Health and Human Services Committee favorably reports Assembly Bill No. 11 with committee amendments.

As amended by the committee, this bill deletes the expiration date for the New Jersey Health Care Trust Fund and establishes target levels for reducing the uncompensated care add-on over the next three years.

The New Jersey Health Care Trust Fund was established for one year pursuant to P.L.1991, c.187 (C.26:2H-18.24 et al.), and expires on June 30, 1992. By extending the trust fund indefinitely and removing the pressure of having to act quickly in the absence of achieving a consensus on the issue, this bill is intended to ensure that the Legislature and the Governor will be able to engage in a deliberative process to develop a rational and equitable, permanent solution for the funding of hospital uncompensated care.

The amended bill reduces the cap on the uncompensated care add-on from 19.7% to 19.1%, which is the current level of the add-on, and establishes target levels for further reductions in the add-on. The target levels are: 16% by July 1, 1993, 13% by July 1, 1994 and 10% by July 1, 1995.

The committee adopted a technical amendment to conform section 7 of P.L.1991, c.187 (C.26:2H-18.30) to the provisions of the bill. That section provides that each hospital shall remit the hospital mandatory assessment funded by the uniform Statewide uncompensated care add-on to the New Jersey Health Care Trust Fund each month. The amendment deletes the 12-month time limitation on the hospital payments to the trust fund.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[FIRST REPRINT]

ASSEMBLY, No. 11

STATE OF NEW JERSEY

DATED: MAY 4, 1992

The Assembly Appropriations Committee reports favorably Assembly Bill No. 11 [1R]

This bill deletes the expiration date for the New Jersey Health Care Trust Fund and establishes target levels for reducing the uncompensated care add-on over the next three years.

The New Jersey Health Care Trust Fund (formerly the Uncompensated Care Trust Fund) was established for one year pursuant to P.L.1991, c.187 (C.26:2H-18.24 et al.) and expires on June 30, 1992. By extending the trust fund, this bill is intended to ensure that the Legislature and the Governor will be able to engage in a deliberative process to develop a rational and equitable, permanent solution for the funding of hospital uncompensated care, while assuring continued State receipt of federal Medicaid reimbursement.

The bill reduces the cap on the uncompensated care add-on from 19.7% to 19.1%, which is the current level of the add-on, and establishes target levels for further reductions in the add-on. The target levels are: 16% by July 1, 1993, 13% by July 1, 1994 and 10% by July 1, 1995.

FISCAL IMPACT:

The Health Care Trust Fund is financed by a surcharge on hospital bills, currently set at 19.1%. The amount of uncompensated care approved during January 1992 by the Hospital Rate Setting Commission is \$754.7 million. A new certification will be made in June, 1992.

The State currently receives Medicaid reimbursement from the federal government by virtue of having an approved plan for financing uncompensated care. The FY 1992 budget anticipates the receipt of \$330 million in Medicaid uncompensated care reimbursement for private hospitals (plus additional amounts for State and county public psychiatric facilities). If the Health Care Trust Fund expires as scheduled on June 30, 1992, whatever system is put in place to pay for uncompensated care would have to meet the requirements of Pub. L.102-234, the Medicaid Voluntary Contribution and Provider Specific Tax Amendments of 1991, in order to retain Medicaid eligibility. One of the requirements of the federal law is that all future revenues used as a State match for Medicaid purposes be derived from taxes that are uniformly applied to all health care providers within a specific class. This requirement may cast doubt on New Jersey's ability to receive continued Medicaid reimbursement if, instead of a uniform surcharge, the Trust Fund expired without a replacement financing plan and each hospital became responsible for covering its own uncompensated care expenses.

June 15, 1992

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

ASSEMBLY BILL NO. 11

(First Reprint)

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the Constitution, I am returning Assembly Bill No. 11 (First Reprint) with my objections, for reconsideration.

Assembly Bill No. 11 (First Reprint) would permanently establish the Health Care Trust Fund, formerly known as the Uncompensated Care Trust Fund. This Fund was first enacted in 1986 as a temporary mechanism to pay for hospital care for the indigent and for those without health insurance in this State. The Trust Fund, which has since been extended on two occasions, is funded by a 19.1 percent surcharge placed upon the hospital bills of those using hospitals in New Jersey.

Despite my belief that this funding mechanism is fatally flawed, I signed the last extension of the Trust Fund on July 1, 1991 as part of the Health Care Cost Reduction Act, L. 1991, c. 187. I did so because the law contained numerous health care reform measures designed to contain health care costs in this State and because I believed additional time was necessary to design a better system. At the time I signed the extension, however, I also announced I would not sign another extension of this inequitable system unless it was fundamentally changed. The goal is a simple one - quality health care that is affordable and available for all New Jerseyans. Health care is a right, not a privilege. Getting sick should not cause economic distress for hardworking people whose employers choose not to provide health insurance.

Placing a 19.1 percent surcharge on the hospital bills of those who have health insurance and are able to pay for hospital care has proven to be an unsatisfactory and unworkable mechanism to pay for the hospital expenses of our citizens who need hospital care, but cannot afford health insurance or costly hospital bills. The surcharge mechanism taxes only those who use hospitals to obtain

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

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medical care. It adversely impacts all New Jerseyans who have health insurance by increasing their premiums. The present system fails to share equitably the burden of caring for our approximately 800,000 New Jerseyans who are uninsured. It also encourages the use of emergency rooms as primary care centers for those who cannot get medical care elsewhere.

This system is broken. This is especially clear after the recent decision of the U.S. District Court of New Jersey in the United Wire, Metal and Machine Health and Welfare Fund v. Morristown Memorial Hospital, Civil Action No. 90-2639. In that case, the Court invalidated the 19.1 percent surcharge and a number of other costs routinely added on to the hospital bills of patients whose employers have self-insured. Because over one-half of those who use our hospitals are Medicare patients or uninsured patients who do not pay the surcharge, the decision leaves approximately 25 percent of those people using hospitals in this State to shoulder the burden of all the uncompensated care costs in this State. This is unworkable.

When I said I would not sign another extension, it was with the hope that we would have acted to find a new way to finance our system of providing hospital care to the indigent and uninsured. A cooperative effort between the Legislature and the Executive, with input from the affected parties, is necessary to craft a system within a reasonable time. Now, because of United Wire, we have no choice but to address this problem. However, it would be a mistake to let the current system collapse until a new system is enacted. I have asked the Attorney General to seek a stay of the United Wire decision to give us the time we need to design a new system that is rational, equitable and fiscally sound. I am hopeful that the Court will grant a stay to provide the time that is needed to design such a system. To provide additional time to fashion a major restructuring of the way health costs of the poor and uninsured are met, and to avoid the chaos which would ensue if we simply abandoned, without a remedy, our existing funding mechanism, I am returning the bill with a recommendation that the Trust Fund be extended until November 30, 1992.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

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We need to act responsibly to address the flaws in both the hospital rate setting system and the uncompensated care system. Bold action is warranted. Bold action is necessary. Bold action must be taken. I look forward to working with the Legislature in its endeavor in formulating a solution to this health care crisis.

Therefore, I herewith return Assembly Bill No. 11 (First Reprint) and recommend that it be amended as follows:

Page 3, Section 4, Line 10:

After "June 30, 1992,]"
insert "sections 1 through 8
and 11 through 24, inclusive,
and section 26 shall expire
on November 30, 1992,"

Respectfully, -

/s/ Jim Florio

GOVERNOR

[seal]

Attest:

/s/ M. Robert DeCotiis

Chief Counsel to the Governor