

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 SENATE BILL 1396

By: Hall

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5  
6 AS INTRODUCED

7 An Act relating to the supplemental hospital offset  
8 payment program; amending 63 O.S. 2021, Section  
9 3241.3, which relates to hospital assessment;  
10 creating termination date for certain fee; and  
11 providing an effective date.

12 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

13 SECTION 1. AMENDATORY 63 O.S. 2021, Section 3241.3, is  
14 amended to read as follows:

15 Section 3241.3. A. For the purpose of assuring access to  
16 quality care for Oklahoma Medicaid consumers, the Oklahoma Health  
17 Care Authority, after considering input and recommendations from the  
18 Hospital Advisory Committee, shall assess hospitals licensed in  
19 Oklahoma, unless exempt under subsection B of this section, a  
20 supplemental hospital offset payment program fee.

21 B. The following hospitals shall be exempt from the  
22 supplemental hospital offset payment program fee:  
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1 1. A hospital that is owned or operated by the state or a state  
2 agency, the federal government, a federally recognized Indian tribe,  
3 or the Indian Health Service;

4 2. A hospital that provides more than fifty percent (50%) of  
5 its inpatient days under a contract with a state agency other than  
6 the Authority;

7 3. A hospital for which the majority of its inpatient days are  
8 for any one of the following services, as determined by the  
9 Authority using the Inpatient Discharge Data File published by the  
10 State Department of Health, or in the case of a hospital not  
11 included in the Inpatient Discharge Data File, using substantially  
12 equivalent data provided by the hospital:

- 13 a. treatment of a neurological injury,
- 14 b. treatment of cancer,
- 15 c. treatment of cardiovascular disease,
- 16 d. obstetrical or childbirth services,
- 17 e. surgical care, except that this exemption shall not  
18 apply to any hospital located in a city of less than  
19 five hundred thousand (500,000) population and for  
20 which the majority of inpatient days are for back,  
21 neck, or spine surgery;

22 4. A hospital that is certified by the federal Centers for  
23 Medicare and Medicaid Services as a long-term acute care hospital or  
24 as a children's hospital; and

1           5. A hospital that is certified by the federal Centers for  
2 Medicare and Medicaid Services as a critical access hospital.

3           C. The supplemental hospital offset payment program fee shall  
4 be an assessment imposed on each hospital, except those exempted  
5 under subsection B of this section, for each calendar year in an  
6 amount calculated as a percentage of each hospital's net patient  
7 revenue.

8           1. Funds generated by the supplemental hospital offset payment  
9 program fee shall be disbursed for the following purposes in the  
10 following priority order:

11           a. the nonfederal portion of the upper payment limit gap  
12 used to fund supplemental or directed payments or  
13 both,

14           b. the annual fee to be paid to the Authority under  
15 subparagraph c of paragraph 1 of subsection G of  
16 Section 3241.4 of this title, and

17           c. the amount to be transferred by the Authority to the  
18 Medical Payments Cash Management Improvement Act  
19 Programs Disbursing Fund under subsection C of Section  
20 3241.4 of this title.

21           2. The assessment rate until December 31, 2012, shall be fixed  
22 at two and one-half percent (2.5%). For the calendar year ending  
23 December 31, 2022, the assessment rate shall be fixed at three  
24 percent (3%). For the calendar year ending December 31, 2023, the

1 assessment rate shall be fixed at three and one-half percent (3.5%).  
2 For the calendar year ending December 31, 2024 and for all  
3 subsequent calendar years, the assessment rate shall be fixed at  
4 four percent (4%).

5 3. Net hospital patient revenue shall be determined using the  
6 data from each hospital's Medicare Cost Report contained in the  
7 Centers for Medicare and Medicaid Services' Healthcare Cost Report  
8 Information System file.

9 a. Through 2013, the base year for assessment shall be  
10 the hospital's fiscal year that ended in 2009, as  
11 contained in the Healthcare Cost Report Information  
12 System file dated December 31, 2010.

13 b. For years after 2013, the base year for assessment  
14 shall be determined by rules established by the  
15 Oklahoma Health Care Authority Board and beginning  
16 January 1, 2022, the base year for assessment shall be  
17 determined annually.

18 4. If a hospital's applicable Medicare Cost Report is not  
19 contained in the Centers for Medicare and Medicaid Services'  
20 Healthcare Cost Report Information System file, the hospital shall  
21 submit a copy of the hospital's applicable Medicare Cost Report to  
22 the Authority in order to allow the Authority to determine the  
23 hospital's net hospital patient revenue for the base year.

1           5. If a hospital commenced operations after the due date for a  
2 Medicare Cost Report, the hospital shall submit its initial Medicare  
3 Cost Report to the Authority in order to allow the Authority to  
4 determine the hospital's net patient revenue for the base year.

5           6. Partial year reports may be prorated for an annual basis.

6           7. In the event that a hospital does not file a uniform cost  
7 report under 42 U.S.C., Section 1396a(a)(40), the Authority shall  
8 establish a uniform cost report for such facility subject to the  
9 Supplemental Hospital Offset Payment Program provided for in this  
10 section.

11           8. The Authority shall review what hospitals are included in  
12 the Supplemental Hospital Offset Payment Program provided for in  
13 this subsection and what hospitals are exempted from the  
14 Supplemental Hospital Offset Payment Program pursuant to subsection  
15 B of this section. Such review shall occur at a fixed period of  
16 time. This review and decision shall occur within twenty (20) days  
17 of the time of federal approval and annually thereafter in November  
18 of each year.

19           9. The Authority shall review and determine the amount of the  
20 annual assessment. Such review and determination shall occur within  
21 the twenty (20) days of federal approval and annually thereafter in  
22 November of each year.

23           D. A hospital may not charge any patient for any portion of the  
24 supplemental hospital offset payment program fee.

1 E. Closure, merger and new hospitals.

2 1. If a hospital ceases to operate as a hospital or for any  
3 reason ceases to be subject to the fee imposed under the  
4 Supplemental Hospital Offset Payment Program Act, the assessment for  
5 the year in which the cessation occurs shall be adjusted by  
6 multiplying the annual assessment by a fraction, the numerator of  
7 which is the number of days in the year during which the hospital is  
8 subject to the assessment and the denominator of which is 365.  
9 Immediately upon ceasing to operate as a hospital, or otherwise  
10 ceasing to be subject to the supplemental hospital offset payment  
11 program fee, the hospital shall pay the assessment for the year as  
12 so adjusted, to the extent not previously paid.

13 2. In the case of a hospital that did not operate as a hospital  
14 throughout the base year, its assessment and any potential receipt  
15 of a hospital access payment will commence in accordance with rules  
16 for implementation and enforcement promulgated by the Oklahoma  
17 Health Care Authority Board, after consideration of the input and  
18 recommendations of the Hospital Advisory Committee.

19 F. 1. In the event that federal financial participation  
20 pursuant to Title XIX of the Social Security Act is not available to  
21 the Oklahoma Medicaid program for purposes of matching expenditures  
22 from the Supplemental Hospital Offset Payment Program Fund at the  
23 approved federal medical assistance percentage for the applicable  
24 year, the portion of the supplemental hospital offset payment

1 program fee attributable to the provisions of subparagraphs a and b  
2 of paragraph 1 of subsection C of this section shall be null and  
3 void as of the date of the nonavailability of such federal funding  
4 through and during any period of nonavailability.

5 2. In the event of an invalidation of the Supplemental Hospital  
6 Offset Payment Program Act by any court of last resort, the  
7 supplemental hospital offset payment program fee shall be null and  
8 void as of the effective date of that invalidation.

9 3. In the event that the supplemental hospital offset payment  
10 program fee is determined to be null and void for any of the reasons  
11 enumerated in this subsection, any supplemental hospital offset  
12 payment program fee assessed and collected for any period after such  
13 invalidation shall be returned in full within twenty (20) days by  
14 the Authority to the hospital from which it was collected.

15 G. The Oklahoma Health Care Authority Board, after considering  
16 the input and recommendations of the Hospital Advisory Committee,  
17 shall promulgate rules for the implementation and enforcement of the  
18 supplemental hospital offset payment program fee. Unless otherwise  
19 provided, the rules adopted under this subsection shall not grant  
20 any exceptions to or exemptions from the hospital assessment imposed  
21 under this section.

22 H. The Authority shall provide for administrative penalties in  
23 the event a hospital fails to:

24 1. Submit the supplemental hospital offset payment program fee;

1 2. Submit the fee in a timely manner;

2 3. Submit reports as required by this section; or

3 4. Submit reports timely.

4 I. The Oklahoma Health Care Authority Board shall have the  
5 power to promulgate emergency rules to enact the provisions of this  
6 act.

7 J. The supplemental hospital offset payment program fee shall  
8 terminate effective December 31, 2055.

9 SECTION 2. This act shall become effective November 1, 2022.

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