

WEST VIRGINIA LEGISLATURE
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REGULAR SESSION, 2015



ENROLLED

Senate Bill No. 398

(BY SENATORS FERNS, D. HALL AND STOLLINGS)

[PASSED FEBRUARY 27, 2015; IN EFFECT JULY 1, 2015.]

FILED

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

SB 398

E N R O L L E D

Senate Bill No. 398

(By Senators Ferns, D. Hall and Stollings)

[Passed February 27, 2015; in effect July 1, 2015.]

AN ACT to amend and reenact §11-27-38 of the Code of West Virginia, 1931, as amended, relating generally to health care provider taxes; modifying expiration date for tax rate on eligible acute care hospitals; changing tax rate on eligible acute care hospitals; and providing for disbursement of any funds remaining in the Eligible Acute Care Provider Enhancement Account.

Be it enacted by the Legislature of West Virginia:

That §11-27-38 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 27. HEALTH CARE PROVIDER TAXES.

§11-27-38. Contingent increase of tax rate on certain eligible acute care hospitals.

1 (a) In addition to the rate of the tax imposed by sections
2 nine and fifteen of this article on providers of inpatient and
3 outpatient hospital services, there is imposed on certain
4 eligible acute care hospitals an additional tax of seventy-two
5 one hundredths of one percent on the gross receipts received
6 or receivable by eligible acute care hospitals that provide

7 inpatient or outpatient hospital services in this state through
8 a Medicaid upper payment limit program.

9 (b) For purposes of this section, the term “eligible acute
10 care hospital” means any inpatient or outpatient hospital
11 conducting business in this state that is not:

12 (1) A state-owned or -designated facility;

13 (2) A nonstate, but government-owned facility such as
14 a county or city hospital;

15 (3) A critical access hospital, designated as a critical
16 access hospital after meeting all federal eligibility criteria;

17 (4) A licensed free-standing psychiatric or medical
18 rehabilitation hospital; or

19 (5) A licensed long-term acute care hospital.

20 (c) The taxes imposed by this section may not be
21 imposed or collected until all of the following have occurred:

22 (1) A state plan amendment is developed by the Bureau
23 for Medical Services, as authorized by the Secretary of the
24 Department of Health and Human Resources;

25 (2) The state plan amendment is reviewed by the
26 Medical Fund Services Advisory Council;

27 (3) A comment period of not less than thirty days for
28 public comment on the state plan amendment shall have
29 passed; and

30 (4) The state plan amendment is approved by the Centers
31 for Medicare and Medicaid Services.

32 (d) The state plan amendment shall include all of the
33 following:

34 (1) The provisions of the proposed upper payment limit
35 program or programs;

36 (2) A state maintenance of effort to maintain adequate
37 Medicaid funding; and

38 (3) A provision that any other state Medicaid program
39 will not negatively impact the hospital upper payment limit
40 payments. The taxes imposed and collected may be imposed
41 and collected beginning on the earliest date permissible under
42 applicable federal law under the upper payment limit
43 program, as determined by the secretary.

44 (e) There is continued a special revenue account in the
45 State Treasury designated the Medicaid State Share Fund.
46 The amount of taxes collected under this section, including
47 any interest, additions to tax and penalties collected under
48 article ten of this chapter, less the amount of allowable
49 refunds, the amount of any interest payable with respect to
50 such refunds and costs of administration and collection, shall
51 be deposited into the Special Revenue Fund and may not
52 revert to general revenue. The Tax Commissioner shall
53 establish and maintain a separate account and accounting for
54 the funds collected under this section in an account to be
55 designated as the Eligible Acute Care Provider Enhancement
56 Account. The amounts collected shall be deposited, within
57 fifteen days after receipt by the Tax Commissioner, into the
58 Eligible Acute Care Provider Enhancement Account.
59 Disbursements from the Eligible Acute Care Provider
60 Enhancement Account within the Medicaid State Share Fund
61 may only be used as set forth in this section.

62 (f) The imposition and collection of taxes imposed by
63 this section is suspended immediately upon the occurrence of
64 any of the following:

65 (1) The effective date of any action by Congress that
66 would disqualify the taxes imposed by this section from
67 counting toward state Medicaid funds available to be used to
68 determine the federal financial participation;

69 (2) The effective date of any decision, enactment or
70 other determination by the Legislature or by any court,
71 officer, department, agency or office of state or federal
72 government that has the effect of disqualifying the tax from
73 counting toward state Medicaid funds available to be used to
74 determine federal financial participation for Medicaid
75 matching funds or creating for any reason a failure of the
76 state to use the assessment of the Medicaid program as
77 described in this section; and

78 (3) The effective date of an appropriation for any state
79 fiscal year for hospital payments under the state Medicaid
80 program that is less than the amount appropriate for state
81 fiscal year ending June 30, 2011. Fifty percent of any funds
82 remaining in the Eligible Acute Care Provider Enhancement
83 Account as of June 30, 2015, shall be transferred to the West
84 Virginia Medical Services Fund. This transfer shall occur no
85 later than September 30, 2015. These funds shall be used
86 during state fiscal year 2016 at the discretion of the Bureau
87 for Medical Services. The remaining fifty percent of any
88 funds in the Eligible Acute Care Provider Enhancement
89 Account as of June 30, 2015, shall remain in the Eligible
90 Acute Care Provider Enhancement Account and shall be used
91 in state fiscal year 2016. If the program expires on June 30,
92 2016, as set forth in subsection (h) of this section, fifty
93 percent of any funds remaining as of June 30, 2017, shall be
94 transferred on that date to the West Virginia Medical Services

95 Fund. This transfer shall occur only after state fiscal year
96 2016 fourth quarter tax collections and program payments.
97 The remaining fifty percent of the funds shall be distributed
98 to the eligible acute care providers no later than June 30,
99 2017. The distribution of funds to the eligible acute care
100 providers shall be made in the same proportion as the taxes
101 paid by the eligible acute care providers into the Eligible
102 Acute Care Provider Enhancement Fund during state fiscal
103 year 2016.

104 (g) The changes to the tax rate in this section enacted in
105 the 2015 Regular Session are effective July 1, 2015, upon the
106 approval of the state plan amendment.

107 (h) The tax imposed by this section expires on and after
108 June 30, 2016, unless otherwise extended by the Legislature.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Paul R. Marshall
.....
Chairman Senate Committee

Alan B. McIl
.....
Chairman House Committee

Originated in the Senate.

In effect July 1, 2015.

Mark A. Burman
.....
Clerk of the Senate

Steph J. Thomas
.....
Clerk of the House of Delegates

William P. Miller
.....
President of the Senate

Robert R. Hurt
.....
Speaker of the House of Delegates

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

FILED

The within *is approved* this the *5th*
April
Day of, 2015.

Earl Ray Tomblin
.....
Governor

PRESENTED TO THE GOVERNOR

MAR 03 2015

Time 3:00 pm