

Amendment to SB 590-FN-A

Amend the title of the bill by replacing it with the following:

AN ACT making a supplemental appropriation to the state loan repayment program, relative to emergency involuntary admissions, the child protection act, and the developmental disabilities wait list and making appropriations therefor, and relative to modifying the Medicaid enhancement tax to include health care services provided by nursing facility services, ambulatory surgical center services, therapist services, other nursing services, and laboratory and x-ray services.

Amend the bill by replacing all after section 22 with the following:

23 New Paragraph; Medicaid Enhancement Tax; Definitions; Health Care Services. Amend RSA 84-A:1 by inserting after paragraph II the following new paragraph:

II-a. "Health care services" means the following classes of health care services as described in 42 C.F.R. 433.56:

(a) Outpatient hospital services.

(b) Nursing facility services, other than services of intermediate care facilities for individuals with intellectual disabilities.

(c) Ambulatory surgical center services, as described for purposes of the Medicare program in section 1832(a)(2)(F)(i) of the Social Security Act. These services are defined to include facility services only and do not include surgical procedures.

(d) Therapist services, defined to include physical therapy, speech therapy, occupational therapy, respiratory therapy, audiological services, and rehabilitative specialist services.

(e) Nursing services, defined to include all nursing services, including services of nurse midwives, nurse practitioners, and private duty nurses.

(f) Laboratory and x-ray services, defined as services provided in a licensed, free-standing laboratory or x-ray facility. This definition does not include laboratory or x-ray services provided in a physician's office, hospital inpatient department, or hospital outpatient department.

24 Definition; Hospital. Amend RSA 84-A:1, III to read as follows:

III. "Hospital" means general hospitals required to be licensed under RSA 151 that provide inpatient ~~[and outpatient]~~ hospital services **and health care services**, but not including government facilities.

25 Definition; Net Patient Services Revenue. Amend RSA 84-A:1, IV-a to read as follows:

IV-a. "Net patient services revenue" means the gross charges of the ~~[hospital]~~ **provider** for

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1 inpatient [~~and outpatient~~] hospital services **and health care services** less any deducted amounts
2 for bad debts, charity care, and payor discounts. "Net patient services revenue" shall include
3 revenues received from the state's uncompensated care account and revenues received from all
4 payers of inpatient [~~and outpatient~~] hospital services **and health care services**.

5 26 New Paragraph; Definition; Provider. Amend RSA 84-A:1 by inserting after paragraph IV-b
6 the following new paragraph:

7 IV-c. "Provider" means every hospital or provider of health care services included in
8 paragraph II-a which is liable for the payment of tax under this chapter.

9 27 Definition; Uncompensated Care and Medicaid Fund. Amend RSA 84-A:1, VI to read as
10 follows:

11 VI. "Uncompensated care and Medicaid fund" means the fund established in RSA 167:64 [~~to~~
12 ~~reimburse hospitals for costs associated with uncompensated care and shortfalls in publicly funded~~
13 ~~programs~~].

14 28 Imposition of Tax. RSA 84-A:2 is repealed and reenacted to read as follows:

15 84-A:2 Imposition of Tax. A tax is imposed at a rate of 5.4 percent upon the net patient services
16 revenue of every provider for the provider's fiscal year ending during the calendar year in which
17 the taxable period begins.

18 29 Medicaid Enhancement Tax Due; Returns. Amend RSA 84-A:3 and 84-A:4 to read as
19 follows:

20 84-A:3 Tax Due; Offset for Past Due Payments.

21 I. [~~For the taxable period beginning July 1, 2014, and for every taxable period thereafter,~~
22 ~~each hospital~~] **Each provider** shall pay 100 percent of its Medicaid enhancement tax due and
23 payable for the taxable period no later than the fifteenth day of April.

24 II. Payments due under this section which are past due from any [~~hospital~~] **provider** by
25 more than 60 days may be collected from such [~~hospital~~] **provider** by means of offset against any
26 amounts due and payable to such [~~hospital~~] **provider** by any program operated by the department
27 of health and human services including, but not limited to, programs of medical assistance
28 authorized under the Title XIX or XXI of the Social Security Act and operated by the department of
29 health and human services, or any other state program under which the state purchases services
30 from such a [~~hospital~~] **provider**. The department of revenue administration shall establish a plan
31 for reporting the necessary information to the department of health and human services or other
32 appropriate state department to collect offsets under this section.

33 84-A:4 Returns. Every [~~hospital~~] **provider** shall on or before the fifteenth day of April in the
34 taxable period make a return to the commissioner. The commissioner shall adopt rules, pursuant to
35 RSA 541-A, relative to the form of such return and the data which it must contain for the correct
36 computation of net patient services revenue and the tax assessed upon such amount. All returns
37 shall be signed by the taxpayer or by its authorized representative, subject to the pains and

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1 penalties of perjury. If such return shows an overpayment of the tax due, the commissioner shall
2 refund or credit the overpayment to the ~~[hospital]~~ **provider** in accordance with RSA 21-J:28-a.
3 Every ~~[hospital]~~ **provider** shall on or before January 15 in the taxable period make a nonbinding
4 estimate of its projected tax payment.

5 30 Method of Payment. Amend RSA 84-A:5 by inserting after paragraph II the following new
6 paragraph:

7 III. The commissioner may adopt rules, pursuant to RSA 541-A, relative to exceptions to the
8 requirement in paragraph I that payment be made by electronic transfer in instances when a
9 provider is unable to remit payment to the state treasurer by electronic transfer.

10 31 Returns. Amend RSA 84-A:6 and 84-A:7 to read as follows:

11 84-A:6 Additional Returns. When the commissioner has reason to believe that a ~~[hospital]~~
12 **provider** has failed to file a return or to include any part of its net patient services revenue in a
13 filed return, the commissioner may require the ~~[hospital]~~ **provider** to file a return or a
14 supplementary return showing such additional information as the commissioner prescribes. Upon
15 the receipt of the supplementary return, or if none is received within the time set by the
16 commissioner, the commissioner may find and assess the amount due upon the information that is
17 available. The making of such additional return does not relieve the ~~[hospital]~~ **provider** of any
18 penalty for failure to make a correct original return or relieve it from liability for interest imposed
19 under RSA 21-J:28 or any other additional charges imposed by the commissioner. This section shall
20 not be construed to modify the statute of limitations provided in RSA 21-J:29.

21 84-A:7 Extension of Time for Returns. For good cause, the commissioner may extend the time
22 within which a ~~[hospital]~~ **provider** is required to file a return, and if such return is filed during the
23 period of extension no penalty or late filing charge may be imposed for failure to file the return at
24 the time required by this chapter, but the ~~[hospital]~~ **provider** shall be liable for interest and late
25 payment charges as prescribed in RSA 21-J:28 or 33. Failure to file the return during the period of
26 the extension shall void the extension.

27 32 Taxpayer Records. Amend the introductory paragraph of RSA 84-A:8, I to read as follows:

28 I. Every ~~[hospital]~~ **provider** shall:

29 33 Declaration of Intent. Amend RSA 84-A:14 to read as follows:

30 84-A:14 Declaration of Intent. It is the declared intent of this chapter to provide for the
31 consistent, equitable, and rational taxation of revenue received from inpatient hospital services and
32 ~~[outpatient hospital]~~ **health care** services, which are ~~[2 separate and distinct classes of property~~
33 ~~and are]~~ permissible classes **under 42 C.F.R. 433.56 and 42 C.F.R. 433.68** of health care-related
34 services which may be taxed in accordance with federal law to ensure access to Federal Financial
35 Participation. In addition, it is the declared intent of this chapter to enact a health care-related tax,
36 as permitted under section 1903(w) of the Social Security Act, upon the revenue derived from
37 inpatient and outpatient hospital services, which are distinct from other classes of health care

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1 services, are subject to a different reimbursement methodology for public payors, are subject to
2 different licensing and certification requirements, are potentially eligible for uncompensated care
3 payments under the disproportionate share hospital program, and which provide a necessary,
4 rational, and demonstrated public health benefit.

5 34 Application of the Medical Enhancement Tax to Health Care Providers. The provisions of
6 RSA 84-A as amended by this act shall apply to net patient services revenue for the tax year
7 beginning January 1, 2018 and for all subsequent years.

8 35 Effective Date.

9 I. Sections 7-12 of this act shall take effect July 1, 2018.

10 II. The remainder of this act shall take effect upon its passage.

2018-1487h

AMENDED ANALYSIS

This bill:

I. Clarifies admission to receiving facilities and other services for persons who are involuntarily committed under RSA 135-C.

II. Makes a supplemental appropriation to the state loan repayment program.

III. Clarifies the determination of unfounded but with reasonable concern for possible abuse and neglect under the child protection law, and enables the department of health and human services to offer voluntary services to the family.

IV. Makes appropriations for voluntary services and community-based prevention programs under the child protection act.

V. Provides that the New Hampshire home visiting program shall be available to Medicaid eligible families.

VI. Makes an appropriation to the department of health and human services to hire additional attorneys.

VII. Makes an appropriation to the department of health and human services for the purpose of funding the developmental disabilities wait list.

VIII. Requires the commissioner of the department of health and human services to issue requests for proposals for a behavioral health crisis treatment center and, contingent upon available funding, an additional mobile crisis team and apartments.

IX. Clarifies the department of health and human services' authority to consent to medical treatment for a minor in foster care.

X. Modifies the Medicaid enhancement tax to include health care services provided by nursing facility services, ambulatory surgical center services, therapist services, other nursing services, and laboratory and x-ray services.