

1 **SENATE FLOOR VERSION**

February 14, 2022

2 **AS AMENDED**

3 SENATE BILL NO. 1396

By: Hall

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6 **[supplemental hospital offset payment program -
7 certain fee - effective date]**
8

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

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

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

18 B. The following hospitals shall be exempt from the
19 supplemental hospital offset payment program fee:

20 1. A hospital that is owned or operated by the state or a state
21 agency, the federal government, a federally recognized Indian tribe,
22 or the Indian Health Service;
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1 2. A hospital that provides more than fifty percent (50%) of
2 its inpatient days under a contract with a state agency other than
3 the Authority;

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

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

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

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

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

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

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

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

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

19 2. The assessment rate until December 31, 2012, shall be fixed
20 at two and one-half percent (2.5%). For the calendar year ending
21 December 31, 2022, the assessment rate shall be fixed at three
22 percent (3%). For the calendar year ending December 31, 2023, the
23 assessment rate shall be fixed at three and one-half percent (3.5%).
24 For the calendar year ending December 31, 2024 and for all

1 subsequent calendar years, the assessment rate shall be fixed at
2 four percent (4%).

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

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

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

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

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

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

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

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

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

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

23 E. Closure, merger and new hospitals.

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

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

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

1 of paragraph 1 of subsection C of this section shall be null and
2 void as of the date of the nonavailability of such federal funding
3 through and during any period of nonavailability.

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

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

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

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

- 23 1. Submit the supplemental hospital offset payment program fee;
24 2. Submit the fee in a timely manner;

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

2 4. Submit reports timely.

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

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

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

9 COMMITTEE REPORT BY: COMMITTEE ON HEALTH AND HUMAN SERVICES
10 February 14, 2022 - DO PASS AS AMENDED

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