

# Hospital Assessment

This Act encourages the maximization of financial resources eligible and available for Medicaid services by establishing a fund within the state department of health and welfare to receive private hospital assessments to use in securing federal matching funds under federally prescribed Upper Payment Limit programs available through the state Medicaid plan.

Submitted as:

Idaho

HB443

Status: Enacted into law in 2008.

## Suggested State Legislation

(Title, enacting clause, etc.)

1           Section 1. [*Short Title.*] This Act shall be cited as the “The Hospital Assessment Act.”

2

3           Section 2. [*Legislative Intent.*] It is the intent of the [legislature] to encourage the  
4 maximization of financial resources eligible and available for Medicaid services by establishing  
5 a fund within the [department of health and welfare] to receive private hospital assessments to  
6 use in securing federal matching funds under federally prescribed Upper Payment Limit  
7 programs available through the state Medicaid plan.

8

9           Section 3. [*Definitions.*] As used in this Act:

10           (1) “Governmental entity” means and includes the state and its political subdivisions.

11           (2) “Hospital” means that defined in [insert citation].

12           (3) “Political subdivision” means a county, city, municipal corporation or hospital taxing  
13 district as defined in [insert citation] and, shall include state licensed hospitals established by  
14 counties pursuant to [insert citation], or jointly by cities and counties pursuant to [insert citation].

15           (4) “Private hospital” means a hospital that is not owned by a governmental entity.

16           (5) “Upper Payment Limit” means a limitation established by federal regulations, 42 CFR  
17 447.272 and 42 CFR 447.321, that disallows federal matching funds when state Medicaid  
18 agencies pay certain classes of hospitals an aggregate amount for inpatient and outpatient  
19 hospital services that would exceed the amount that would be paid for the same services  
20 furnished by that class of hospitals under Medicare payment principles.

21

22           Section 4. [*Hospital Assessment Fund Established.*]

23           (A) There is hereby created in the [office of the state treasurer] a dedicated fund to be  
24 known as the Hospital Assessment Fund, hereinafter “fund,” to be administered by the  
25 [department of health and welfare], hereinafter “department.” The [state treasurer] shall invest  
26 idle moneys in the fund and any interest received on those investments shall be returned to the  
27 fund.

28           (B) Moneys in the fund shall consist of:

29           (1) All moneys collected or received by the [department] from hospital  
30 assessments required by this Act;

31           (2) All federal matching funds received by the [department] as a result of  
32 expenditures made by the [department] that are attributable to moneys deposited in the fund;

33 (3) Any interest or penalties levied in conjunction with the administration of this  
34 Act; and

35 (4) Any appropriations, federal funds, donations, gifts or moneys from any other  
36 sources.

37 (C) The fund is created for the purpose of receiving moneys in accordance with this  
38 section and section 5 of this Act. The fund shall not be used to replace any moneys appropriated  
39 to the [state medical assistance program] under [insert citation] by the [legislature]. Moneys in  
40 the fund shall be distributed by the [department] subject to appropriation for the following  
41 purposes only:

42 (1) Payments to hospitals as required under the [state medical assistance program]  
43 as set forth in [insert citation];

44 (2) Reimbursement of moneys collected by the [department] from hospitals  
45 through error or mistake in performing the activities authorized under the [state medical  
46 assistance program];

47 (3) Payments of administrative expenses incurred by the [department] or its agent  
48 in performing the activities authorized by this Act;

49 (4) Payments made to the federal government to repay excess payments made to  
50 hospitals from the fund if the assessment plan is deemed out of compliance and after the state has  
51 appealed the findings. Hospitals shall refund the payments in question to the assessment fund.  
52 The state in turn shall return funds to both the federal government and hospital providers in the  
53 same proportion as the original financing. Individual hospitals shall be reimbursed based on the  
54 proportion of the individual hospital's assessment to the total assessment paid by all hospitals. If  
55 a hospital is unable to refund payments, the state shall develop a payment plan and deduct  
56 moneys from future Medicaid payments;

57 (5) Transfers to any other fund in the [state treasury], provided such transfers shall  
58 not exceed the amount transferred previously from that other fund into the [Hospital Assessment  
59 Fund]; and

60 (6) Making refunds to hospitals pursuant to section 11 of this Act.

61

62 Section 5. *[Assessments.]*

63 (A) All hospitals, except those exempted under section 9 of this Act, shall make  
64 payments to the fund in accordance with this Act. Subject to section 9 of this Act, an annual  
65 assessment on both inpatient and outpatient services is determined for each qualifying hospital  
66 for [state fiscal years 2009, 2010 and 2011], in an amount calculated by multiplying the rate, as  
67 set forth in subsection (C) of this section, by the assessment base, as set forth in subsection (D)  
68 of this section.

69 (B) The [department] shall calculate the private hospital Upper Payment Limit gap for  
70 both inpatient and outpatient services. The Upper Payment Limit gap is the difference between  
71 the maximum allowable payments eligible for federal match, less Medicaid payments not  
72 financed using hospital assessment funds. The Upper Payment Limit gap shall be calculated  
73 separately for hospital inpatient and outpatient services. Medicaid disproportionate share  
74 payments shall be excluded from the calculation.

75 (C) The [department] shall calculate the assessment rate for [state fiscal years 2009, 2010  
76 and 2011] to be the percentage that, when multiplied by the assessment base as defined in  
77 subsection (D) of this section, equals the Upper Payment Limit gap determined in subsection (B)  
78 of this section, but is not greater than [one and one-half percent].

79 (D) The assessment base shall be the hospital's net patient revenue for the applicable  
80 period. "Net patient revenue" for [state fiscal year 2009] shall be determined using the most

81 recent data available from each hospital's [fiscal year 2004] Medicare Cost Report on file with  
82 the [department] on [June 30, 2008], without regard to any subsequent adjustments or changes to  
83 such data. Net patient revenue for [state fiscal year 2010] shall be determined using the most  
84 recent data available for each hospital's [fiscal year 2005] Medicare Cost Report on file with the  
85 [department] on [June 30, 2009], without regard to any subsequent adjustments or changes to  
86 such data. Net patient revenue for [state fiscal year 2011] shall be determined using the most  
87 recent data available from each hospital's [fiscal year 2006] Medicare Cost Report on file with  
88 the [department] on [June 30, 2010], without regard to any subsequent adjustments or changes to  
89 such data.

90  
91 Section 6. [*Review of Annual Assessment Amount.*] Each [state fiscal year], hospitals shall  
92 have at least [thirty] days prior to implementation to review and verify the assessment base, rate,  
93 and the estimated assessment amount.

94  
95 Section 7. [*Inpatient and Outpatient Adjustment Payments.*] All hospitals, except those  
96 exempted under section 9 of this Act, shall be eligible for inpatient and outpatient adjustments as  
97 follows:

98 (1) For [state fiscal year 2009], the inpatient Upper Payment Limit gap for private  
99 hospitals shall be divided by Medicaid inpatient days for the same hospitals from [calendar year  
100 2007] to establish an average per diem adjustment rate. Each hospital shall receive an annual  
101 payment that is equal to the average per diem adjustment rate multiplied by the hospital's  
102 [calendar year 2007] Medicaid inpatient days. For purposes of this section, "hospital Medicaid  
103 inpatient days" are days of inpatient hospitalization paid for by the [state medical assistance  
104 program] for the applicable calendar year. For [fiscal year 2010], [calendar year 2008] inpatient  
105 hospital Medicaid days shall be used to determine the hospital inpatient adjustment payment. For  
106 [state fiscal year 2011], [calendar year 2009] hospital Medicaid inpatient days shall be used to  
107 determine the hospital inpatient adjustment payment. In the event that either the inpatient Upper  
108 Payment Limit gap for private hospitals or the available hospital assessment funding is lower  
109 than anticipated, the [department] shall apply an across-the-board factor such that the inpatient  
110 payment adjustments are maximized, financed entirely from hospital assessment funding, and do  
111 not exceed the state inpatient upper payment limit for private hospitals. Payments shall be made  
112 no later than [seven] days after the due date for the hospital assessment required in section 5 of  
113 this Act.

114 (2) For [state fiscal year 2009], the outpatient Upper Payment Limit gap for private  
115 hospitals shall be divided by Medicaid outpatient hospital reimbursement for the same hospitals  
116 from [calendar year 2007] to establish an average percentage adjustment rate. Each hospital,  
117 except those exempt under section 9 of this Act, shall receive an annual payment that is equal to  
118 the average percentage adjustment rate multiplied by the hospital's [calendar year 2007] hospital  
119 Medicaid outpatient reimbursement. For purposes of this section, "hospital outpatient  
120 reimbursement" is reimbursement for hospital outpatient services paid for by the [state medical  
121 assistance program] for the applicable calendar year. For [state fiscal year 2010], [calendar year  
122 2008] hospital Medicaid outpatient reimbursement shall be used to determine the outpatient  
123 hospital adjustment payment. For [state fiscal year 2011], [calendar year 2009] hospital Medicaid  
124 outpatient reimbursement shall be used to determine the outpatient hospital adjustment payment.  
125 In the event that either the outpatient Upper Payment Limit gap for private hospitals or the  
126 available hospital assessment funding is lower than anticipated, the [department] shall apply an  
127 across-the-board factor, such that outpatient adjustment payments are maximized, financed  
128 entirely from hospital assessment funding, and do not exceed the [state] outpatient Upper

129 Payment Limit for private hospitals. Payments shall be made no later than [seven] days after the  
130 due date for the hospital assessments required in section 5 of this Act.

131

132 Section 8. [*Timing of Payments and Assessments.*]

133 (A) The [department] shall establish an annual assessment schedule for all payments  
134 created under this [Act].

135 (B) If a hospital fails to pay the full amount of an installment when due, including any  
136 extensions granted, there shall be added to the assessment imposed by section 5 of this Act,  
137 unless waived by the [department] for reasonable cause, a penalty equal to the lesser of:

138 (1) An amount equal to [five percent] of the assessment installment amount not  
139 paid on or before the due date, plus [five percent] of the portion thereof remaining unpaid on the  
140 last day of each month thereafter; or

141 (2) An amount equal to [one hundred percent] of the assessment installment  
142 amount not paid on or before the due date.

143 (C) For purposes of subsection (B) of this section, payments shall be credited first to  
144 unpaid installment amounts rather than to penalty or interest amounts, beginning with the most  
145 delinquent installment.

146

147 Section 9. [*Exemptions.*]

148 (A) A hospital that is a governmental entity, including a state agency, is exempt from the  
149 assessment required by section 5 of this Act, unless the exemption is adjudged to be  
150 unconstitutional or otherwise invalid, in which case the hospital shall pay such assessment.

151 (B) A private hospital that does not provide emergency services through an emergency  
152 department and is not categorized as “rehabilitation” or “psychiatric” as provided in [insert  
153 citation] is exempt from the assessment required by section 5 of this Act.

154

155 Section 10. [*Multihospital Locations, Hospital Closure and New Hospitals.*]

156 (A) If a hospital conducts, operates or maintains more than [one] hospital licensed by the  
157 [department], the hospital shall pay the assessment for each hospital separately.

158 (B) A hospital, subject to assessments under this Act, that ceases to conduct hospital  
159 operations or maintain its state license or did not conduct hospital operations throughout a  
160 calendar or fiscal year, shall have its required assessment adjusted by multiplying the assessment  
161 computed under section 5 of this Act, by a fraction, the numerator of which is the number of  
162 days in the year during which the hospital conducts hospital business, operates a hospital and  
163 maintains licensure, and the denominator of which is three hundred sixty-five. The hospital shall  
164 pay the required assessment computed under section 5 of this Act, on the date and in pro rata  
165 installments as required by the [department] for that portion of the state fiscal year during which  
166 the hospital operated and maintained state licensure, to the extent not previously paid.

167 (C) A hospital, subject to assessments under this Act, that has not been previously  
168 licensed as a hospital by the [department] and that commences hospital operations during a fiscal  
169 year, shall pay the required assessment computed under section 5 of this Act, and shall be  
170 eligible for payment adjustments under section 4 (C) of this Act, only after [two] complete state  
171 fiscal years have elapsed and [two] full fiscal year Medicare cost reports are filed with the  
172 [Center for Medicare and Medicaid services (CMS)] after the commencement of operations and  
173 on the date as required by the [department] beginning on the [first day of the next state fiscal  
174 year].

175

176 Section 11. [*Applicability.*]

177 (A) The assessment required by section 5 of this Act, shall not take effect or shall cease  
178 to be imposed, and any moneys remaining in the fund shall be refunded to hospitals in proportion  
179 to the amounts paid by such hospitals if:

180 (1) The appropriation for each state [fiscal year 2009, 2010 and 2011] from the  
181 [General Fund] for hospital payments under the state [Medical Assistance Program] is less than  
182 that for [fiscal year 2008];

183 (2) The [department] makes changes in its rules that reduce the hospital inpatient  
184 or outpatient payment rates, including adjustment payment rates, in effect on [January 1, 2008];  
185 or

186 (3) The payments to hospitals required under section 4 (C) of this Act, are  
187 changed or are not eligible for federal matching funds under the [state medical assistance  
188 program].

189 (B) The assessment required by section 5 of this Act shall not take effect or shall cease to  
190 be required if the assessment is not approved or is determined to be impermissible under Title  
191 XIX of the Social Security Act. Moneys in the fund derived from assessments required prior  
192 thereto shall be distributed in accordance with section 4 (C) of this Act, to the extent federal  
193 matching funds are not reduced due to the impermissibility of the assessments, and any  
194 remaining moneys shall be refunded to hospitals in proportion to the amounts paid by such  
195 hospitals.

196

197 Section 12. [*Severability.*] [Insert severability clause.]

198

199 Section 13. [*Repealer.*] [Insert repealer clause.]

200

201 Section 14. [*Effective Date.*] [Insert effective date.]