

SENATE, No. 1839

STATE OF NEW JERSEY
208th LEGISLATURE

INTRODUCED MAY 6, 1999

Sponsored by:

Senator DIANE ALLEN

District 7 (Burlington and Camden)

Senator JOHN J. MATHEUSSEN

District 4 (Camden and Gloucester)

SYNOPSIS

Establishes "New Jersey Tobacco Settlement Trust Fund" and provides additional funding for hospital charity care subsidies from the fund.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT establishing the "New Jersey Tobacco Settlement Trust
2 Fund," amending P.L.1992, c.160, and supplementing Title 52 of
3 the Revised Statutes.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7

8 1. Section 8 of P.L.1992, c.160 (C.26:2H-18.58) is amended to
9 read as follows:

10 8. There is established the Health Care Subsidy Fund in the
11 Department of Health and Senior Services.

12 a. The fund shall be comprised of revenues from employee and
13 employer contributions made pursuant to section 29 of P.L.1992,
14 c.160 (C.43:21-7b), revenues from the hospital assessment made
15 pursuant to section 12 of P.L.1992, c.160 (C.26:2H-18.62), revenues
16 pursuant to section 11 of P.L.1996, c.28 (C.26:2H-18.58c), revenues
17 pursuant to section 3 of P.L. , c. (C.)(pending before the
18 Legislature as this bill), revenues from interest and penalties collected
19 pursuant to this act and revenues from such other sources as the
20 Legislature shall determine. Interest earned on the monies in the fund
21 shall be credited to the fund. The fund shall be a nonlapsing fund
22 dedicated for use by the State to: (1) distribute charity care and other
23 uncompensated care disproportionate share payments to hospitals, and
24 other eligible providers pursuant to section 8 of P.L.1996, c.28
25 (C.26:2H-18.59f), provide subsidies for the Health Access New Jersey
26 program established pursuant to section 15 of P.L.1992, c.160
27 (C.26:2H-18.65), and provide funding for children's health care
28 coverage pursuant to P.L.1997, c.272 (C.30:4I-1 et seq.); and (2)
29 assist hospitals and other health care facilities in the underwriting of
30 innovative and necessary health care services.

31 b. The fund shall be administered by a person appointed by the
32 commissioner.

33 The administrator of the fund is responsible for overseeing and
34 coordinating the collection and reimbursement of fund monies. The
35 administrator is responsible for promptly informing the commissioner
36 if monies are not or are not reasonably expected to be collected or
37 disbursed.

38 c. The commissioner shall adopt rules and regulations to ensure the
39 integrity of the fund, pursuant to the "Administrative Procedure Act,"
40 P.L.1968, c.410 (C.52:14B-1 et seq.).

41 d. The administrator shall establish separate accounts for the
42 charity care component of the disproportionate share hospital subsidy,
43 other uncompensated care component of the disproportionate share

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 hospital subsidy, hospital and other health care initiatives funding and
2 the payments for subsidies for insurance premiums to provide care in
3 disproportionate share hospitals, known as the Health Access New
4 Jersey subsidy account, respectively.

5 e. In the event that the charity care component of the
6 disproportionate share hospital subsidy account has a surplus in a
7 given year after payments are distributed pursuant to the methodology
8 established in section 13 of P.L.1995, c.133 (C.26:2H-18.59b) and
9 section 7 of P.L.1996, c.28 (C.26:2H-18.59e) and within the
10 limitations provided in subsection e. of section 9 of P.L.1992, c.160
11 (C.26:2H-18.59), the surplus monies in calendar years 1996 and 1997
12 shall lapse to the unemployment compensation fund established
13 pursuant to R.S.43:21-9, and each year thereafter shall lapse to the
14 charity care component of the disproportionate share hospital subsidy
15 account for distribution in subsequent years.
16 (cf: P.L.1998, c.37, s.1)

17

18 2. Section 9 of P.L.1992, c.160 (C.26:2H-18.59) is amended to
19 read as follows:

20 9. a. The commissioner shall allocate such funds as specified in
21 subsection e. of this section to the charity care component of the
22 disproportionate share hospital subsidy account. In a given year, the
23 department shall transfer from the fund to the Division of Medical
24 Assistance and Health Services in the Department of Human Services
25 such funds as may be necessary for the total approved charity care
26 disproportionate share payments to hospitals for that year.

27 b. For the period January 1, 1993 to December 31, 1993, the
28 commission shall allocate \$500 million to the charity care component
29 of the disproportionate share hospital subsidy account. The
30 Department of Health and Senior Services shall recommend the
31 amount that the Division of Medical Assistance and Health Services
32 shall pay to an eligible hospital on a provisional, monthly basis
33 pursuant to paragraphs (1) and (2) of this subsection. The department
34 shall also advise the commission and each eligible hospital of the
35 amount a hospital is entitled to receive.

36 (1) The department shall determine if a hospital is eligible to
37 receive a charity care subsidy in 1993 based on the following:

38 Hospital Specific Approved Uncompensated Care-1991

39

40

Hospital Specific Preliminary Cost Base-1992

41

42 = Hospital Specific % Uncompensated Care (% UC)

43

44 A hospital is eligible for a charity care subsidy in 1993 if, upon
45 establishing a rank order of the % UC for all hospitals, the hospital is
46 among the 80% of hospitals with the highest % UC.

1 (2) The maximum amount of the charity care subsidy an eligible
2 hospital may receive in 1993 shall be based on the following:

3
4 Hospital Specific Approved Uncompensated Care-1991

5
6

Total approved Uncompensated Care All Eligible Hospitals-1991
7 X \$500 million

8
9 = Maximum Amount of Hospital Specific Charity Care Subsidy
10 for 1993

11 (3) A hospital shall be required to submit all claims for charity care
12 cost reimbursement, as well as demographic information about the
13 persons who qualify for charity care, to the department in a manner
14 and time frame specified by the Commissioner of Health and Senior
15 Services, in order to continue to be eligible for a charity care subsidy
16 in 1993 and in subsequent years.

17 The demographic information shall include the recipient's age, sex,
18 marital status, employment status, type of health insurance coverage,
19 if any, and if the recipient is a child under 18 years of age who does
20 not have health insurance coverage or a married person who does not
21 have health insurance coverage, whether the child's parent or the
22 married person's spouse, as the case may be, has health insurance.

23 (4) A hospital shall be reimbursed for the cost of eligible charity
24 care at the same rate paid to that hospital by the Medicaid program;
25 except that charity care services provided to emergency room patients
26 who do not require those services on an emergency basis shall be
27 reimbursed at a rate appropriate for primary care, according to a
28 schedule of payments developed by the commission.

29 (5) The department shall provide for an audit of a hospital's charity
30 care for 1993 within a time frame established by the department.

31 c. For the period January 1, 1994 to December 31, 1994, a hospital
32 shall receive disproportionate share payments from the Division of
33 Medical Assistance and Health Services based on the amount of
34 charity care submitted to the commission or its designated agent, in a
35 form and manner specified by the commission. The commission or its
36 designated agent shall review and price all charity care claims and
37 notify the Division of Medical Assistance and Health Services of the
38 amount it shall pay to each hospital on a monthly basis based on actual
39 services rendered.

40 (1) (Deleted by amendment, P.L.1995, c.133.)

41 (2) If the commission is not able to fully implement the charity care
42 claims pricing system by January 1, 1994, the commission shall
43 continue to make provisional disproportionate share payments to
44 eligible hospitals, through the Division of Medical Assistance and
45 Health Services, based on the charity care costs incurred by all
46 hospitals in 1993, until such time as the commission is able to

1 implement the claims pricing system.

2 If there are additional charity care balances available after the 1994
3 distribution based on 1993 charity care costs, the department shall
4 transfer these available balances from the fund to the Division of
5 Medical Assistance and Health Services for an approved one-time
6 additional disproportionate share payment to hospitals according to
7 the methodology provided in section 12 of P.L.1995, c.133
8 (C.26:2H-18.59a). The total payment for all hospitals shall not exceed
9 \$75.5 million.

10 (3) A hospital shall be reimbursed for the cost of eligible charity
11 care at the same rate paid to that hospital by the Medicaid program;
12 except that charity care services provided to emergency room patients
13 who do not require those services on an emergency basis shall be
14 reimbursed at a rate appropriate for primary care, according to a
15 schedule of payments developed by the commission.

16 (4) (Deleted by amendment, P.L.1995, c.133.)

17 d. (Deleted by amendment, P.L.1995, c.133.)

18 e. The total amount allocated for charity care subsidy payments
19 shall be: in 1994, \$450 million; in 1995, \$400 million; in 1996, \$310
20 million; in 1997, \$300 million; for the period January 1, 1998 through
21 June 30, 1998, \$160 million; and in fiscal year 1999 and each fiscal
22 year thereafter, \$320 million in addition to the amounts made available
23 pursuant to section 3 of P.L. , c. (C.)(pending before the
24 Legislature as this bill). Total payments to hospitals shall not exceed
25 the amount allocated for each given year.

26 f. Beginning January 1, 1995:

27 (1) The charity care subsidy shall be determined pursuant to
28 section 13 of P.L.1995, c.133 (C.26:2H-18.59b).

29 (2) A charity care claim shall be valued at the same rate paid to
30 that hospital by the Medicaid program, except that charity care
31 services provided to emergency room patients who do not require
32 those services on an emergency basis shall be valued at a rate
33 appropriate for primary care according to a schedule of payments
34 adopted by the commissioner.

35 (3) The department shall provide for an audit of a hospital's charity
36 care within a time frame established by the commissioner.

37 (cf: P.L.1997, c.263, s.4)

38

39 3. (New section) a. There is established the "New Jersey Tobacco
40 Settlement Trust Fund" within the General Fund as a special,
41 nonlapsing fund into which the State Treasurer shall deposit all monies
42 made available to the State from tobacco companies under the
43 nationwide settlement of the respective actions by state governments
44 against those companies, entered into by the State in the Master
45 Settlement Agreement in State of New Jersey v. R.J. Reynolds
46 Tobacco Company, et al., Superior Court, Chancery Division,

1 Middlesex County, No. C-254-96. The interest earned on the monies
2 in the fund shall be credited to the fund.

3 b. The monies in the trust fund shall be expended only upon
4 appropriation by the Legislature and shall be used for health-related
5 purposes exclusively.

6 c. In fiscal year 2000 and each fiscal year thereafter, the Governor
7 shall recommend and the Legislature shall appropriate, from the
8 balance in the trust fund as of June 30 of each year, to the Health Care
9 Subsidy Fund established pursuant to section 8 of P.L.1992, c.160
10 (C.26:2H-18.58) for the purpose of funding hospital charity care
11 subsidy payments in accordance with the provisions of section 7 of
12 P.L.1996, c.28 (C.26:2H-18.59e), an amount which, when added to
13 the annual sum allocated pursuant to subsection e. of section 9 of
14 P.L.1992, c.160 (C.26:2H-18.59), shall be sufficient to cover all of the
15 documented hospital charity care costs reported to the Department of
16 Health and Senior Services for the preceding fiscal year, or the entire
17 balance in the trust fund as of June 30 of each year, whichever amount
18 is less.

19

20 4. This act shall take effect immediately.

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STATEMENT

24

25 This bill establishes the "New Jersey Tobacco Settlement Trust
26 Fund" as the depository for monies received by New Jersey under the
27 nationwide tobacco settlement of November 23, 1998. The monies in
28 this trust fund are to be dedicated to health-related purposes, and shall
29 be expended only upon appropriation by the Legislature for these
30 purposes.

31 The bill specifies that the monies in the trust fund shall be annually
32 appropriated by the Legislature, from the balance in the trust fund as
33 of June 30 of each year, to the Health Care Subsidy Fund and used to
34 fund hospital charity care subsidy payments in an amount which, when
35 added to the annual sum allocated for charity care subsidies pursuant
36 to N.J.S.A.26:2H-18.59 (i.e., currently \$320 million), shall be
37 sufficient to cover all of the documented hospital charity care costs
38 reported to the Department of Health and Senior Services for the
39 preceding fiscal year, or the entire balance in the trust fund as of June
40 30 of each year, whichever amount is less.