CHAPTER 142

(HB 518)

AN ACT relating to Medicaid.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 205.640 is amended to read as follows:

(1) The commissioner of Medicaid services shall adopt a disproportionate share program consistent with the requirements of Title XIX of the Social Security Act which shall include to the extent possible, but not limited to, the provisions of this section.

(2) The "Medical Assistance Revolving Trust Fund" (MART) shall be established in the State Treasury and all provider tax revenues collected pursuant to KRS 142.301 to 142.363 shall be deposited in the State Treasury and transferred on a quarterly basis to the Department for Medicaid Services for use as specified in this section. All investment earnings of the fund shall be credited to the fund. Provider tax revenues collected in accordance with KRS 142.301 to 142.363 ***may***~~[shall]~~ be used to fund the provisions of KRS 216.2920 to 216.2929 and to supplement the medical assistance-related general fund appropriations for fiscal year 1994 and subsequent fiscal years. Notwithstanding the provisions of KRS 48.500 and 48.600, the MART fund shall be exempt from any state budget reduction acts.

(3) (a) Beginning in state fiscal year 2000-2001 and continuing annually thereafter, provider tax revenues and state and federal matching funds shall be used to fund the disproportionate share program established by ***administrative regulations promulgated by the Cabinet for Health and Family Services***~~[the commissioner of Medicaid services]~~. Disproportionate share funds shall be divided into three (3) pools for distribution as follows:

1. Forty-three and ninety-two hundredths percent (43.92%) of the total disproportionate share funds shall be allocated to acute care hospitals;

2. Thirty-seven percent (37%) of the total disproportionate share funds shall be allocated to university hospitals;~~[and]~~

3. ***The percentage allowable by federal law pursuant to 42 U.S.C. sec. 1396r-4(h), up to*** nineteen and eight hundredths percent (19.08%) of the total disproportionate share funds shall be allocated to private psychiatric hospitals and state mental hospitals, with the allocation to each respective group of hospitals established by the biennial budget***;***~~[.]~~

4. If there are any remaining disproportionate share funds from private psychiatric hospitals and state mental hospitals, fifty-four percent (54%) of those funds shall be distributed to the acute care hospitals and forty-six percent (46%) shall be distributed to the university hospitals; and

5. If, in any year, one (1) or both university hospitals fail to provide state matching funds necessary to secure federal financial participation for the funds allocated to university hospitals under this subsection, the portion of the funding allocation applicable to the hospital or hospitals that fail to provide state matching funds shall be made available to acute care hospitals.

(b) The MART fund shall be used to compensate acute care hospitals, private psychiatric hospitals, ***state mental hospitals,*** and university hospitals ***participating in***~~[qualifying for]~~ the disproportionate share program for uncompensated service provided by the hospitals to individuals and families with total annual incomes and resources up to one hundred percent (100%) of the federal poverty level, as determined by the hospital pursuant to administrative regulations promulgated by the Cabinet for Health and Family Services in accordance with this section.

(c) An individual hospital shall receive distributions for indigent care provided by that hospital ***if the hospital meets the requirements of the disproportionate share program***~~[that meets the guidelines established in paragraph (a) of this subsection]~~.

(d) Distributions to acute care and private psychiatric hospitals shall be made as follows:

1. The department shall calculate an indigent care factor for each hospital annually. The indigent care factor shall be determined by calculating the percentage of each hospital's annual indigent

care costs toward the sum of the total annual indigent care costs for all hospitals within each respective pool. For purposes of this paragraph, "indigent care costs" means the hospital's inpatient and outpatient care as reported to the department multiplied by the hospital's Medicaid rate, or at a rate determined by the department in administrative regulation that, when multiplied by the hospital's reported indigent care, is equivalent to the amount that would be payable by the department under the fee-for-service Medicaid program for the hospital's total reported indigent care.

2. Each hospital's annual distribution shall be calculated by multiplying the hospital's indigent care factor by the total fund allocated to all hospitals within the respective pool under paragraph (a) of this subsection.

a. Hospitals shall report uncompensated care provided to qualified individuals and families with total annual incomes and resources up to one hundred percent (100%) of the federal poverty level, including care rendered to indigent persons age twenty-two (22) to sixty-four (64) in a psychiatric hospital to the Cabinet for Health and Family Services on a quarterly basis. However, all data for care provided during the state fiscal year shall be submitted no later than August 15 of each year.

b. ~~[The department shall use indigent care data for services delivered from October 1, 1998, through September 30, 1999, as reported by hospitals to calculate each hospital's indigent care factor for state fiscal year 2000-2001.]~~For state fiscal year 2001-2002 and each year thereafter, the department shall use data reported by the hospitals for indigent care services rendered for the twelve (12) month period ending June 30 of each year as reported by the hospital to the department by August 15 in calculating each hospital's indigent care factor. The hospital shall, upon request by the Cabinet for Health and Family Services, submit any supporting documentation to verify the indigent care data submitted for the calculation of an indigent care factor and annual payment.

c. By September 1 of each year, the department shall calculate a preliminary indigent care factor and preliminary annual payment amount for each hospital, and shall notify each hospital of their calculation. The notice shall contain a listing of each hospital's indigent care costs, their indigent care factor, and the estimated annual payment amount. Hospitals shall notify the department by September 15 of any adjustments in the department's preliminary calculations. The department shall make adjustments identified by hospitals and shall make a final determination of each hospital's indigent care factor and annual payment amount by October 1. ***The department shall make a final determination of each hospital's annual payment amount upon notification through the Federal Register of the annual federal disproportionate share hospital allotment for the Commonwealth.***

(e) ~~[For fiscal year 2000-2001 and continuing annually thereafter,]~~The department shall issue to each hospital one (1) lump-sum payment on October 15, or later as soon as federal financial participation becomes available ***through notification by publication of the Federal Register***, for the disproportionate share funds available during the corresponding federal fiscal year. ***The department may pay a portion of the expected annual payment prior to the publication of the annual federal allotment.***

(4) Notwithstanding any other provision to contrary, total annual disproportionate share payments made to state mental hospitals, university hospitals, acute care hospitals, and private psychiatric hospitals in each state fiscal year shall be equal to the maximum amount of disproportionate share payments established under the Federal Balanced Budget Act of 1997 and any amendments thereto. Disproportionate share payments shall be subject to the availability of adequate state matching funds and shall not exceed total uncompensated costs.

(5) Hospitals receiving reimbursement shall not bill patients for services submitted for reimbursement under this section and KRS 205.641. Services provided to individuals who are eligible for medical assistance or the Kentucky Children's Health Insurance Program do not qualify for reimbursement under this section and KRS 205.641. Hospitals shall make a reasonable determination that an individual does not qualify for these programs and shall request the individual to apply, if appropriate, for medical assistance or Kentucky Children's Health Insurance on forms supplied by and in accordance with procedures established by the Department for Medicaid Services. The hospital shall document any refusal to apply and shall inform the patient that the refusal may result in the patient being billed for any services performed. The hospital shall not

be eligible for reimbursement if the patient was eligible for medical assistance or Kentucky Children's Health Insurance and did not apply. Hospitals receiving reimbursement under this section and KRS 205.641 shall not bill patients for services provided to patients not eligible for medical assistance with family incomes up to one hundred percent (100%) of the federal poverty level.

(6) The secretary of the Cabinet for Health and Family Services shall promulgate administrative regulations~~[necessary]~~, pursuant to KRS Chapter 13A, for the administration and implementation of this section.

(7) All hospitals receiving reimbursement under this section and KRS 205.641 shall display prominently a sign which reads as follows: "This hospital will accept patients regardless of race, creed, ethnic background, or ability to pay."

(8) The hospital shall, upon request by the Cabinet for Health and Family Services, submit any supporting documentation to substantiate compliance with the audit requirements established by 42 C.F.R. sec. 455.

➔Section 2. KRS 333.150 is amended to read as follows:

(1) A medical laboratory shall examine human specimens only at the request of a licensed physician, podiatrist, dentist, or other person authorized by law to use the findings of medical laboratory examinations. The results of a test shall be reported ~~[directly]~~to the licensed ***health care provider***~~[physician, dentist, or other authorized person]~~ who requested it.

(2) Medical laboratory results may be transmitted to:

(a) Any health care provider who is treating the patient;

(b) An electronic health information exchange or network for the purposes of transmitting medical laboratory results to the ordering provider and to any other provider for the purposes of treatment, payment, or operations if patient consent has been obtained under the federal Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191); and

(c) An electronic health information exchange or network for the purpose of meeting the requirements of the American Recovery and Reinvestment Act of 2009 (P.L. 111-5) and its related federal regulations.

(3) All transactions under subsection (2) of this section shall be in compliance with the federal Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191).

(4) Laboratory reports~~[Such report]~~ shall include the name of the director and the name and address of the medical laboratory in which the test was actually performed. All specimens accepted by a medical laboratory shall be tested on the premises except that specimens for infrequently performed tests may be forwarded for examination to another medical laboratory licensed under this chapter or to a medical laboratory located outside this state if licensed or approved by the appropriate agency of the state concerned.

Signed by Governor April 13, 2010.