CHAPTER 76

(HB 289)

AN ACT relating to disproportionate share hospital payments and making an appropriation therefor.

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

➔Section 1. KRS 205.639 is amended to read as follows:

As used in KRS 205.639 to ***205.640***~~[205.641]~~, unless the context otherwise requires:

(1) "Acute care hospital" means an acute care hospital~~[, critical access hospital, or comprehensive physical rehabilitation hospital]~~ licensed under KRS ~~[Chapter]~~216B***.0425 except that it shall not include a critical access hospital, private psychiatric hospital, or state mental hospital***;

(2) ***"Comprehensive physical rehabilitation hospital" means an in-state freestanding rehabilitation hospital that also meets the criteria for an inpatient rehabilitation facility under 42 C.F.R. sec. 412.29***~~["Private psychiatric hospital" means a psychiatric hospital licensed under KRS Chapter 216B that is not a state mental hospital]~~;

(3) ***"Critical access hospital" means a hospital licensed as a critical access hospital under KRS 216.380***~~["State mental hospital" means a psychiatric hospital licensed under KRS Chapter 216B that is owned and operated by the Commonwealth];[and]~~

(4) ***"Department" means the Department for Medicaid Services;***~~["University hospital" means a state university teaching hospital, owned and operated by either the University of Kentucky School of Medicine or the University of Louisville School of Medicine]~~

(5) "Essential hospital" means an acute care hospital that qualifies as a Medicaid inpatient utilization rate (MIUR) hospital, a low-income utilization rate (LIUR) hospital, or a critical access hospital;

(6) "Final disproportionate share hospital payment" or "final DSH payment" means the state fiscal year DSH payment for a hospital determined by the department using the hospital's examined Medicaid DSH survey and which is reconciled to the hospital's initial state fiscal year DSH payment and limited to the hospital's hospital-specific DSH limit;

(7) "Hospital-specific disproportionate share hospital limit" or "Hospital-specific DSH limit" means the limitation required under 42 U.S.C. sec. 1396r-4(g) and corresponding regulations that a DSH payment may not exceed a hospital's uncompensated costs of providing inpatient hospital and outpatient hospital services to Medicaid-eligible individuals and uninsured individuals;

(8) "Initial disproportionate share hospital payment" or "Initial DSH payment" means the state fiscal year DSH payment made to a hospital by the department using data, subject to limited review, from the hospital's Medicaid DSH survey or proxy information and which is subject to reconciliation when the hospital's Medicaid DSH survey is examined;

(9) "Long-term acute hospital" means an in-state hospital that is certified as a long-term care hospital under 42 U.S.C. sec. 1395ww(d)(1)(B)(iv);

(10) "Low-income utilization rate" or "LIUR" means, for a hospital, the sum of:

(a) A fraction expressed as a percentage, rounded to the nearest hundredth:

1. The numerator of which is the sum for a period of the total Medicaid revenues paid to the hospital for patient services, regardless of whether the services were furnished on a fee-for-service basis or through a managed care entity, and the amount of cash subsidies for patient services received directly from state and local governments; and

2. The denominator of which is the total amount of revenues of the hospital for patient services, including the amount of cash subsidies, in the period; and

(b) A fraction expressed as a percentage rounded to the nearest hundredth:

1. The numerator of which is the total amount of the hospital's charges for inpatient hospital services which are attributable to charity care in a period, less the portion of any cash

subsidies described in subparagraph 1. of paragraph (a) of this section in the period reasonably attributable to inpatient hospital services, and which shall not include contractual allowances and discounts other than for indigent patients not eligible for medical assistance; and

2. The denominator of which is the total amount of the hospital's charges for inpatient hospital services in the hospital in the period;

(11) "Low income Utilization rate hospital" or "LIUR hospital" means an acute care hospital whose low-income utilization rate exceeds one hundred twenty percent (120%) of the state average low-income utilization rate rounded to the nearest hundredth for all acute care hospitals, critical access hospitals, private psychiatric hospitals, and university hospitals combined, as reported on the hospitals' Medicaid DSH surveys;

(12) "Medicaid disproportionate share hospital survey" or "Medicaid DSH survey" means the report required to be submitted by each hospital receiving Medicaid disproportionate share payments pursuant to 42 C.F.R. sec. 447.299;

(13) "Medicaid uncompensated care" means the same as in 42 C.F.R. sec. 447.299(c)(11);

(14) "Medicaid inpatient utilization rate" or "MIUR" means, for a hospital, a fraction expressed as a percentage rounded to the nearest hundredth for which the numerator shall be the number of in-state and out-of-state inpatient Medicaid days where Medicaid is the primary payor, covered under fee-for-service and managed care, and for which the denominator shall be the total number of inpatient days for the hospital as reported on the hospital's Medicaid DSH survey. However, for a pediatric teaching hospital, as defined in KRS 205.565, the calculation shall exclude from the numerator and the denominator the hospital's inpatient Medicaid days utilized in the calculation of an intensity operating allowance (IOA) payment. Supplemental information will be requested to support the IOA days included in the Medicaid DSH survey submission;

(15) "Medicaid inpatient utilization rate hospital" or "MIUR hospital" means an acute care hospital whose MIUR equals or exceeds one (1) standard deviation above the mean MIUR rounded to the nearest hundredth for all acute care hospitals, critical access hospitals, private psychiatric hospitals, and university hospitals combined, as determined from the hospitals' Medicaid DSH surveys;

(16) "Paid claims listing" or "PCL" means a report created for a hospital by the department, or by a Medicaid managed care organization using the same format as the department, with claim level payment information prescribed by the department in sufficient detail to permit reconciliation with the hospital's internal data for each Medicaid recipient or managed care enrollee having a discharge date or service date, as applicable, for inpatient or outpatient services within a hospital's fiscal year;

(17) "Private psychiatric hospital" means a psychiatric hospital licensed under KRS Chapter 216B that is not a state mental hospital and is not a distinct part unit of a licensed acute care hospital or operated under the same provider number as a licensed acute care hospital;

(18) "State mental hospital" means a psychiatric hospital licensed under KRS Chapter 216B that is owned or operated by the Commonwealth;

(19) "Total uncompensated care costs" means the same as in 42 C.F.R. sec. 447.299(c)(16);

(20) "Uninsured uncompensated care costs" means the same as in 42 C.F.R. sec. 447.299(c)(15); and

(21) "University hospital" means a state university teaching hospital, owned or operated by either the University of Kentucky School of Medicine or the University of Louisville School of Medicine.

➔Section 2. 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 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. Disproportionate share funds shall be divided into three (3) pools for distribution as follows:

1. ***An acute care pool, composed of critical access hospitals, comprehensive physical rehabilitation hospitals, long-term acute hospitals, and acute care hospitals that do not qualify as a university hospital, shall receive an initial and a final allocation determined by subtracting from the state's total DSH allotment:***

   a. The allocation required in subparagraph 2. of this paragraph for the psychiatric pool; and

   b. The initial or final, as applicable, DSH payments to be made to hospitals in the university pool in subparagraph 3. of this paragraph~~[Forty-three and ninety-two hundredths percent (43.92%) of the total disproportionate share funds shall be allocated to acute care hospitals]~~;

2. ***A psychiatric pool, composed of private psychiatric hospitals and state mental hospitals, shall receive 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, with the allocation between each respective group of hospitals established by the biennial budget; except, however, that the allocation to state mental hospitals shall not exceed ninety-two and three-tenths percent (92.3%) of the total allotment to the psychiatric pool. If there are remaining funds within the psychiatric pool after all private psychiatric hospitals reach their hospital-specific DSH limit, state mental hospitals may exceed the ninety-two and three-tenths percent (92.3%) limit but may not exceed their hospital-specific DSH limit[***~~Thirty-seven percent (37%) of the total disproportionate share funds shall be allocated to university hospitals]~~;

3. ***A university hospital pool, composed of university hospitals, shall receive thirty-seven percent (37%) of the state's DSH allotment; except, however, that initial and final DSH payments to university hospitals shall be determined according to paragraph (e) of this subsection and not exceed the pool's overall allotment***~~[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 ***the psychiatric pool***~~[private psychiatric hospitals and state mental hospitals]~~, fifty-four percent (54%) of those funds shall be distributed to the ***acute care pool and***~~[acute care hospitals]~~ and forty-six percent (46%) shall be distributed to the ***university pool. If the university hospitals are unable to absorb additional DSH payment dollars, remaining funds shall be distributed to the acute care pool***~~[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 ***that is not matched by university hospitals***~~[applicable to the hospital or hospitals that fail to provide state matching funds]~~ shall be made available to ***the acute care pool***~~[acute care hospitals]~~.

(b) The MART fund shall be used to compensate acute care hospitals, private psychiatric hospitals, state mental hospitals, ***critical access hospitals, comprehensive physical rehabilitation hospitals, long-term acute care hospitals,*** and university hospitals participating in the disproportionate share program for uncompensated ***care costs***~~[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 ***pursuant to 42 U.S.C. sec. 1396r-4***.

(d) ***1. An individual hospital shall not receive an initial DSH payment unless the hospital submits a Medicaid DSH survey by the deadline established by subsection (8)(a) of this section, unless the deadline has been extended by the commissioner of the department. Extension requests shall be received at least ten (10) days prior to the deadline. Extensions shall be limited to rare circumstances which prevent the hospital from meeting the deadline despite due diligence. Extensions shall be granted for no more than thirty (30) calendar days from the original due date for the Medicaid DSH survey. Failure to submit a DSH survey in a timely manner or other required information for receipt of an initial DSH payment shall result in an individual hospital's final DSH payment being reduced by twenty percent (20%).***

2. A hospital newly enrolled in the Medicaid program, which does not have at least six (6) months of cost report information necessary to calculate an initial DSH payment, may submit a limited DSH survey for the purpose of determining if the hospital is eligible to receive an initial DSH payment.

(e) Distributions ~~[to acute care and private psychiatric hospitals]~~shall be made as follows:

1. ***For state fiscal year 2018-2019, the department shall use the examined state fiscal year 2014-2015 DSH survey to calculate an initial DSH payment. Providers who did not receive a DSH payment for state fiscal year 2014-2015 shall be eligible to submit data for the purpose of the 2019 payment, subject to limited review. For state fiscal year 2019-2020, and each year thereafter, the department shall use the Medicaid DSH survey covering the hospital's fiscal year ending in the calendar year preceding July 1 of the applicable state fiscal year to calculate an initial DSH payment. Using the surveys submitted in accordance with this subsection, payments shall be made as follows:***

a. Each university hospital in the university pool shall receive an initial DSH payment equal to one hundred percent (100%) of the hospital's total uncompensated care costs if the total initial DSH payments to all hospitals in the university pool do not exceed the maximum allotment to the university pool as set forth in subsection (3)(a) of this section. If the total uncompensated care costs for the pool exceed the pool's maximum allotment, the initial uncompensated care factor for university hospitals shall be determined by calculating the percentage of each hospital's total uncompensated care costs toward the sum of the total uncompensated care costs of all hospitals in the university pool, and each hospital's initial DSH payment shall be calculated by multiplying the hospital's initial uncompensated care factor by the total funds allocated to the university hospital pool;

b. For each private psychiatric and state mental hospital in the psychiatric pool, the department shall calculate an initial uncompensated care factor. The initial uncompensated care factor for a private psychiatric or state mental hospital shall be determined by calculating the percentage of each hospital's total uncompensated care costs toward the sum of the total uncompensated care costs for all private psychiatric or state mental hospitals in the psychiatric pool, as appropriate. Each hospital's initial DSH payment shall be calculated by multiplying the hospital's initial uncompensated care factor by the total funds allocated to private psychiatric or state mental hospitals in the psychiatric pool, as appropriate. No individual hospital's initial DSH payment shall exceed the hospital's hospital-specific DSH limit;

c. For each hospital in the acute care pool, the department shall make an initial determination of whether the acute care hospital qualifies as an essential hospital and calculate an initial uncompensated care factor for each hospital. The initial uncompensated care factor for each hospital in the acute care pool shall be determined by calculating the percentage of each hospital's total uncompensated care costs toward the sum of the total uncompensated care costs for all hospitals in the acute care pool except that the initial uncompensated care factor for an essential hospital shall be calculated using two hundred percent (200%) of the hospital's total uncompensated care costs. Each hospital's initial DSH payment shall be calculated by multiplying the hospital's initial uncompensated care factor by the total funds allocated to the acute

care pool. No individual hospital's initial DSH payment shall exceed the hospital's hospital-specific DSH limit;

d. For any hospital that is newly enrolled in the Medicaid program and lacks at least six (6) months of cost report information, the department shall calculate a proxy amount for the hospital's uncompensated care costs. A newly enrolled hospital's uncompensated care costs proxy amount shall be determined by first dividing the total uncompensated care costs for all non-newly enrolled hospitals in the appropriate pool by the total number of hospital beds, excluding swing beds, reported on the Medicaid cost reports by those hospitals and then multiplying the resulting uncompensated care cost per bed by the new hospital's total number of hospital beds, excluding swing beds. Any uncompensated care costs proxy amounts calculated for newly enrolled hospitals shall be used in the determination of initial uncompensated care factors for all other hospitals in the appropriate pool;

e. The department may make adjustments to a Medicaid DSH survey filed by a hospital to correct information that is incomplete or inaccurate as determined by limited review. If the department makes adjustments to a hospital's Medicaid DSH survey, the department shall provide written notice to the hospital;

f. If a hospital has a negative uncompensated care cost, its uncompensated care costs shall be excluded from the calculation of any uncompensated care costs proxy amount for newly enrolled hospitals and uncompensated care factors for the appropriate pool;

~~[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. 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.]~~

g ~~[c]~~. By September ***30*** ~~[1]~~ of each year, the department shall calculate ***an initial DSH payment pursuant to subparagraph (1) of this paragraph and shall notify each hospital of their calculation*** ~~[a preliminary indigent care factor and preliminary annual payment amount for each hospital, and shall notify each hospital of their calculation]~~. The notice shall***, at minimum,*** contain ***the following for*** ~~[a listing of]~~ each ***hospital:*** ~~[hospital's indigent]~~

i. Uninsured uncompensated care costs***;***

ii. Total uncompensated care costs;

iii. The status of the MIUR and LIUR calculations;

iv. The uncompensated~~[, their indigent]~~ care factor***;***~~[,]~~ and

v. The~~[the]~~ estimated ***initial*** annual payment amount***;***~~[.]~~

h. Hospitals shall notify the department by ***October 31***~~[September 15]~~ of any adjustments in the department's ***initial***~~[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.]~~

i.~~[(e)]~~ The department shall ***make any necessary adjustments and shall*** issue ***an initial DSH payment*** to each hospital ***in*** one (1) lump-sum payment on ***or before November 30***~~[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. ***If the federal disproportionate share allotment for the Commonwealth has not been published through the Federal Register by November 15, the***~~[The]~~ department may pay a portion ***but no less than ninety percent (90%)*** of the expected annual payment prior to the publication of the annual federal allotment. ***If a partial initial payment is made, the remaining amount shall be paid within sixty (60) days after the date upon which notice of the Commonwealth's federal allotment is published through the Federal Register; and***

j. An initial DSH payment shall not be subject to appeal;

2. a. Each hospital's total initial DSH payment shall be reconciled to a final DSH payment using the examined Medicaid DSH surveys and shall correspond to the applicable state fiscal year DSH payment year.

b. Using the surveys submitted in accordance with subsection (8)(a) of this section, the department shall make a final determination of whether an acute care hospital qualifies as a MIUR or as a LIUR hospital. Any qualifying hospital will be deemed an essential hospital. Critical access hospital status will also be confirmed to make a final determination of essential hospital status.

c. The department shall calculate a final DSH payment as follows:

i. Each university hospital shall receive a final DSH payment equal to one hundred percent (100%) of the hospital's total uncompensated costs so long as the total final DSH payments to all university hospitals do not exceed the maximum allotment to the university pool as set forth in subsection (3)(a) of this section. If total uncompensated care cost for the pool exceeds the pool's maximum allotment, the final uncompensated care factor for university hospitals shall be determined by calculating the percentage of each hospital's total uncompensated care costs toward the sum of the total uncompensated care costs for all hospitals within the university pool. In this event, each hospital's final DSH payment shall be calculated by multiplying the hospital's uncompensated care factor by the total fund allocated to the hospitals within the respective pool under subsection (3)(a) of this section;

ii. For hospitals in the acute care pool and the psychiatric pool, the department shall recalculate each hospital's uncompensated care factor using examined data. The final uncompensated care factor for each hospital that qualifies as an essential hospital shall be computed using two hundred percent (200%) of the hospital's total uncompensated care costs using examined data;

iii. If a hospital has a negative uncompensated care cost, their uncompensated care cost will be excluded in the calculation of uncompensated care factors; and

iv. The department shall compare each hospital's initial DSH payment with the hospital's final DSH payment and with the hospital's hospital-specific DSH limit

to determine if any underpayment or an overpayment exists.

d. By September 30 of the fourth year following the year in which an initial DSH payment is made, the department shall provide each hospital with a final DSH reconciliation report which, at a minimum, shall indicate the following:

i. A hospital's final MIUR and LIUR status;

ii. Final uncompensated care factor and underlying data;

iii. Final DSH payment; and

iv. If applicable, the amount of any overpayment to be paid to the department and the due date for repayment.

e. If an overpayment is identified, repayment shall be made by January 31 of the following year, which is five (5) years following the year in which an initial DSH payment is made.

f. Hospitals shall notify the department by October 31 of any corrections to the department's calculations.

g. If a hospital's initial DSH payment was less than the hospital's final DSH payment, the department shall pay the hospital the amount of the difference. Final DSH payments shall be issued by the department within sixty (60) days of the due date for the repayment of funds from hospitals with a DSH overpayment. If all repayments have not yet been received by the due date, the department shall distribute the funds collected as of the due date, and shall issue additional payments on a timely basis upon collection of all remaining outstanding overpayments.

h. Any funds remaining after the reconciliation process shall be redistributed pursuant to subparagraph 3. of this paragraph; and

3. Disproportionate share payments remaining after reconciling each hospital's initial DSH payment with the hospital's final DSH payment shall be distributed to other hospitals in the acute care pool, university pool, or to private psychiatric hospitals in the psychiatric pool as follows:

a. Funds shall first be distributed to all hospitals in the same pool as the hospitals from which the overpayments were recovered, and the funds shall be distributed in a proportional manner in relation to each hospital's remaining total uncompensated care costs in accordance with the hospital's examined DSH survey for the applicable DSH year;

b. In the proportional distribution, the distribution factor for each hospital that qualifies as an essential hospital shall be computed using two hundred percent (200%) of the hospital's total remaining uncompensated care costs; and

c. If DSH funds remain after making this distribution to other hospitals in the same pool, funds shall be distributed proportionally to hospitals in the acute care pool, university pool, and private psychiatric hospitals in the psychiatric pool in relation to each hospital's remaining total uncompensated care costs in accordance with the hospital's examined Medicaid DSH survey for the applicable DSH year.

(4) Notwithstanding any other provision to ***the*** contrary, total annual disproportionate share payments made to state mental hospitals, university hospitals, acute care hospitals, ***critical access hospitals, comprehensive physical rehabilitation hospitals, long-term 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 ***made to a hospital***~~[shall be subject to the availability of adequate state matching funds and]~~ shall not exceed ***the hospital's*** total uncompensated costs ***or the hospital's hospital-specific DSH limit***.

~~[(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.]~~

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

(6) ~~[(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."

(7) ~~[(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.

(8) (a) An in-state hospital participating in the Medicaid Program shall submit a Medicaid DSH survey corresponding to the hospital's cost reporting period to the department no later than sixty (60) days following the hospital's submission of their annual cost report, unless an extension has been granted by the commissioner. Extension requests shall be received ten (10) days prior to the deadline. Extensions shall be limited to rare circumstances which prevent the hospital from meeting the deadline despite its due diligence. Extensions shall be granted for no more than thirty (30) calendar days from the original due date. A new in-state hospital lacking six (6) months of cost report information necessary to calculate an initial DSH payment shall submit a limited DSH survey to determine eligibility no later than the September 1 immediately prior to the department's initial DSH payment calculation. A hospital may submit corrections to an applicable Medicaid DSH survey prior to the scheduled start date of the department's desk review.

(b) The department shall notify each hospital in advance of the desk review of the opportunity to submit corrections to the Medicaid DSH survey.

(c) The department and each Medicaid managed care organization shall supply a paid claims listing (PCL) to each hospital within ninety (90) days of the last day of the hospital's fiscal year end date and a second set of data twelve (12) months after the hospital's fiscal year end date. The PCL shall include all claims with discharge dates or service dates, as applicable, within the hospital's fiscal year that are paid from the first day of the hospital's fiscal year to ninety (90) days or twelve (12) months, respectively, after the end of the hospital's fiscal year. For all hospitals, the department and each Medicaid managed care organization shall provide separate reports for adjudicated claims associated with both inpatient services and outpatient services provided to eligible members. If the PCL data is inaccurate or unavailable, providers shall complete the DSH survey using internal data.

(d) The department shall specify a timetable for hospitals to update DSH audit survey data.

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

A Medicaid managed care organization that does not provide a hospital with an accurate and complete paid claims listing as required under Section 2(8)(c) of this Act shall be subject to a penalty of one thousand dollars ($1,000) per day, starting on the first day after the report was due and continuing until the report is provided.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) If federal law governing disproportionate share hospital payments changes, the Department for Medicaid Services may promulgate administrative regulations in accordance with KRS Chapter 13A to comply with the changes.

(2) All payments specified in Section 2 of this Act are contingent upon the receipt of federal financial participation, availability of state funds, and Centers for Medicare and Medicaid Services' approval.

➔Section 5. The following KRS section is repealed:

205.641 Disproportionate share funds paid to acute care hospitals and private psychiatric hospitals.

Signed by Governor April 2, 2018.