

**SYNOPSIS OF PROPOSED RULE CHANGES**

**RULES OF  
DEPARTMENT OF COMMUNITY HEALTH  
MEDICAL ASSISTANCE**

**CHAPTER 111-3-10  
HOSPITAL MEDICAID FINANCING PROGRAM**

**STATEMENT OF PURPOSE AND MAIN FEATURES OF PROPOSED RULE**

**Synopsis**

The Department is proposing a new Chapter 111-3-10 and accompanying Rules .01 through .05 to implement the requirements of the Hospital Medicaid Financing Program Act as signed by the Governor as Act I of the 2013 Session of the Georgia General Assembly. The chapter and rules authorize the Department, upon approval by the Board of Community Health, to assess and collect Provider Payments from Non-Governmental Hospitals. The chapter and rules define "Non-Governmental Hospital" as a subclass of Hospitals pursuant to paragraph (a) of O.C.G.A. § 31-8-179.2. All revenues raised from these payments are to be deposited into a segregated account within the Indigent Care Trust Fund. Funds can only be used to obtain federal financial participation for medical assistance payments to Non-Governmental Hospitals and Long Term Acute Care Hospitals on behalf of Medicaid recipients. Revenues must be appropriated to the Department by the Georgia General Assembly. Finally, the chapter and rules also authorize the Department to assess penalties against any Non-Governmental Hospital that fails to make the required payment within specified timeframes.

## **111-3-10-.01 Definitions**

### **As used in this Chapter 111-3-10:**

(1) "Advisory Committee" means the Georgia Hospital Medicaid Financial Program Advisory Committee created by Executive Order executed by the Governor on March 5, 2013.

(2) "Board" means the Board of Community Health, the body created under O.C.G.A. § 31-2-3, appointed by the Governor, that establishes the general policy to be followed by the Department of Community Health.

(3) "Department" means the Department of Community Health established under O.C.G.A. § 31-2-1.

(4) "Hospital" means an institution licensed pursuant to Chapter 7 of Title 31, which is primarily engaged in providing to inpatients, by or under the supervision of physicians, diagnostic services and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons or rehabilitation services for the rehabilitation of injured, disabled, or sick persons. Such term includes public, private, rehabilitative, geriatric, osteopathic, and other specialty hospitals but shall not include psychiatric hospitals, which shall have the same meaning as facilities as defined in paragraph (7) of O.C.G.A. § 37-3-1, critical access hospitals as defined in paragraph (3) of O.C.G.A. § 33-21A-2, or any state owned or state operated hospitals.

(5) "Long Term Acute Care Hospital" means a hospital defined in section 1886(d)(1)(B)(iv) of the Social Security Act that is enrolled in the Medicaid program as of the effective date of Article 6C of Chapter 8 of Title 31.

(6) "Non-Governmental Hospital" means a subclass of Hospitals, authorized to be defined by the Board pursuant to paragraph (a) of O.C.G.A. § 31-8-179.2, that shall not include public, Long Term Acute Care, children's, rehabilitative, geriatric, osteopathic, and other specialty hospitals, psychiatric hospitals which shall have the same meaning as facilities as defined in paragraph (7) of O.C.G.A. § 37-3-1, critical access hospitals as defined in paragraph (3) of O.C.G.A. § 33-21A-2, or any state owned or state operated hospitals.

(7) "Provider Payment" means a payment assessed by the Department pursuant to this Chapter for the privilege of operating a Non-Governmental Hospital.

(8) "Segregated Account" means an account for the dedication and deposit of Provider Payments which is established within the Trust Fund.

(9) "State Plan Amendment" means all documentation submitted by the Commissioner, on behalf of the Department, to and for approval by the Secretary of Health and Human Services pursuant to Title XIX of the federal Social Security Act of 1935, as amended.

(10) "Trust Fund" means the Indigent Care Trust Fund created by Article 6 of Chapter 8 of Title 31.

(11) "Waiver" means a waiver of the requirements for permissible health care related taxes, as provided for in 42 C.F.R. § 433.68.

Authority: Act I of the 2013 Session of the Georgia General Assembly.

### **111-3-10-02 Payments to the Segregated Account**

(1) There is established within the Trust Fund a Segregated Account for revenues raised through the imposition of the Provider Payment. Any Provider Payment assessed pursuant to this Chapter shall be deposited into the Segregated Account. No other funds shall be deposited into the Segregated Account. All funds shall be invested in the same manner as authorized for investing other moneys in the state treasury.

(2) Each Non-Governmental Hospital shall be assessed a Provider Payment not to exceed the amount necessary to obtain federal financial participation for medical assistance payments allowable under 42 C.F.R. § 447.272 and 42 C.F.R. § 447.321. The amount of each Non-Governmental Hospital's Provider Payment shall be determined by the Department using available hospital financial data and other information as applicable, including, but not limited to, hospital cost reports and the annual Hospital Financial Survey. The Department shall seek any Waivers and State Plan Amendments necessary to fully implement this Chapter.

(3) The Provider Payment shall be paid quarterly by each Non-Governmental Hospital to the Department. Payment of the Provider Payment shall be due on the last day of the last month of each calendar quarter; the first payment shall be due on September 30, 2013 or 30 calendar days after the receipt of State Plan Amendment approval, whichever is later.

(4) The Department shall prepare and distribute a form on which each Non-Governmental Hospital shall submit information to comply with this Chapter.

(5) Each Non-Governmental Hospital shall keep and preserve for a period of seven (7) years such books and records as may be necessary to determine the amount for which it is liable under this Chapter. The Department shall have the authority to inspect and copy the records of a Non-Governmental Hospital for purposes of auditing the calculation of the Provider Payment. All information obtained by the Department pursuant to this Chapter shall be confidential and shall not constitute a public record.

(6) The Department shall impose a penalty of up to six percent (6%) for any Non-Governmental Hospital that fails to pay a Provider Payment within the time required by the Department for each month or fraction thereof that the Provider Payment is overdue. If a required Provider Payment has not been received by the Department by the last day of the last month of the calendar quarter, the Department shall withhold an amount equal to the Provider Payment and penalty owed from any medical assistance payment due such Non-Governmental Hospital under the Medicaid program. Any Provider Payment assessed pursuant to this Chapter shall constitute a debt due the state and may be collected by civil action and the filing of tax liens in addition to such methods provided for in this Chapter. Any penalty that accrues pursuant to this Rule shall be credited to the Segregated Account.

(7) In the event the Department determines that a Non-Governmental Hospital has underpaid the Provider Payment, the Department shall notify the Non-Governmental Hospital of the balance of the Provider Payment that is due. Such payment shall be due within thirty (30) days of the Department's notice.

Authority: Act I of the 2013 Session of the Georgia General Assembly.

#### **111-3-10-.03 Use of Provider Payments**

(1) The Department shall collect the Provider Payments imposed pursuant to this Chapter. All revenues raised pursuant to this Chapter shall be deposited into the Segregated Account. Such funds shall be dedicated and used for the sole purpose of obtaining federal financial participation for medical assistance payments to Non-Governmental Hospitals and Long Term Acute Care Hospitals on behalf of Medicaid recipients pursuant to Article 7 of Chapter 4 of Title 49. Such payments to Non-Governmental Hospitals and Long Term Acute Care Hospitals may include, among other things:

- (a) general Medicaid rate increases;
- (b) targeted payments for higher acuity Medicaid beneficiaries; and/or
- (c) targeted payments for specific services such as organ transplant, certified breast or cancer centers, psychiatric, telemedicine or other services.

(2) Revenues appropriated to the Department by the General Assembly pursuant to Article 6C of Chapter 8 of Title 31, shall be used to match federal funds that are available for the purpose for which such funds have been appropriated.

(3) The Department shall remit any payments required under this Rule within ten (10) days of the Department's quarterly receipt of the Provider Payments pursuant to this Chapter.

Authority: Act I of the 2013 Session of the Georgia General Assembly.

#### **111-3-10-.04 Advisory Committee**

(1) The Advisory Committee shall develop and recommend to the Department new and amended rules, state plan amendments and waivers for the implementation of any provider payments established pursuant to Act 1 of the 2013 Georgia General Assembly.

(2) The Committee shall develop and recommend to the Department the methodology to calculate the annual UPL applicable to hospital payments under federal Medicaid law.

Authority: Act I of the 2013 Session of the Georgia General Assembly.

**111-3-10-05 Effective Date**

Upon the adoption by the Board, Chapter 111-3-10 shall become effective on July 1, 2013; provided however, the Advisory Committee which was created by Executive Order of the Governor became effective on March 5, 2013.

Authority: Act I of the 2013 Session of the Georgia General Assembly.