

MEMORANDUM

Agenda Item No. 5(NN)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: September 1, 2022

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution approving, adopting, and confirming a preliminary mandatory payment roll pursuant to section 18-53 of the Code against certain real property to fund the non-federal share of Medicaid and Medicaid managed care payments to benefit existing and newly licensed hospital properties; delegating authority to the County Mayor to execute required agreements in connection with the Medicaid hospital directed payment program; and providing for the collection of such mandatory payments

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Senator René García.



Geri Bonzon-Keenan
County Attorney

GBK/ks



MEMORANDUM
(Revised)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: September 1, 2022

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Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 5(NN)

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 5(NN)
9-1-22

RESOLUTION NO. _____

RESOLUTION APPROVING, ADOPTING, AND CONFIRMING A PRELIMINARY MANDATORY PAYMENT ROLL PURSUANT TO SECTION 18-53 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA AGAINST CERTAIN REAL PROPERTY TO FUND THE NON-FEDERAL SHARE OF MEDICAID AND MEDICAID MANAGED CARE PAYMENTS TO BENEFIT EXISTING AND NEWLY LICENSED HOSPITAL PROPERTIES; DELEGATING AUTHORITY TO THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE REQUIRED AGREEMENTS IN CONNECTION WITH THE MEDICAID HOSPITAL DIRECTED PAYMENT PROGRAM; AND PROVIDING FOR THE COLLECTION OF SUCH MANDATORY PAYMENTS

WHEREAS, this Board adopted Ordinance 18-21, which created chapter 18, article IV of the Code of Miami-Dade County, Florida (“Code”), authorizing the imposition of mandatory payments to fund the non-federal share of Medicaid and Medicaid managed care payments to benefit properties upon which private for-profit or not-for-profit licensed hospitals that provide inpatient hospital services in Miami-Dade County, Florida (“Institutional Health Care Providers”); and

WHEREAS, pursuant to section 18-53 of the Code, over 75 percent of property owners as defined in section 18-50 of the Code (“Property Owners”) and Institutional Health Care Providers filed a Petition requesting the imposition of the mandatory payments (“Petition”) against those properties on which the Institutional Health Care Providers are situated (“Properties”); and

WHEREAS, the Medicaid payments proposed for funding from the mandatory payments are those which support the Medicaid Hospital Directed Payment program that results in a uniform rate increase in reimbursement for the provision of Medicaid services; and

WHEREAS, the Properties benefit from the imposition of such mandatory payments as described in Ordinance 21-81 and the Petition, which is hereby adopted and incorporated herein by reference; and

WHEREAS, in accordance with the provisions of chapter 18 of the Code, the County Mayor or County Mayor's designee caused a preliminary mandatory payment roll to be prepared and filed with the Clerk of the Board ("Clerk"), a copy of which is hereby adopted and incorporated herein; and

WHEREAS, the Board desires to accomplish the purposes outlined in the accompanying memorandum, which is incorporated herein by reference; and

WHEREAS, the benefits satisfy the requirements of Florida law and have been fairly and reasonably apportioned as provided in the attached mandatory payment roll; and

WHEREAS, in accordance with the provisions of section 18-53 of the Code, notice of the public hearing on the preliminary mandatory payment roll was provided; and

WHEREAS, this Board held a public hearing on this date upon the preliminary mandatory payment roll submitted by the County Mayor or County Mayor's designee, and all interested persons were afforded the opportunity to present their objections, if any, with respect to such mandatory payment roll; and

WHEREAS, each Property Owner and Institutional Health Care Provider was notified that the mandatory payments will be collected by the County, and that, if the mandatory payments are not paid when due, the County shall enforce their collection in accordance with applicable law; and

WHEREAS, no Property Owner or Institutional Health Care Provider has objected to its imposition,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. This Board incorporates, approves, and adopts the foregoing recitals as if fully set forth herein.

Section 2. The mandatory payment roll on file with the Clerk of the Board is approved, adopted, and confirmed pursuant to section 18-53(f) of the Code.

Section 3. Within 10 days from the effective date of this resolution, the Clerk is directed to deliver to the Finance Director a copy of the mandatory payment roll, and to cause a duly certified copy of this resolution, together with the mandatory payment roll, to be filed and recorded in the Office of the Clerk of the Circuit Court of Miami-Dade County, Florida.

Section 4. All mandatory payments shall be payable in accordance with sections 18-56 and 18-58 of the Code and shall be due 30 days from the date the mandatory payment bills are sent to each Property Owner and Institutional Health Care Provider. Unless paid when due, such mandatory payments shall be deemed delinquent and payment thereof may be enforced by means of the procedures provided by the provisions of section 18-58 of the Code.

Section 5. Pursuant to section 18-52 of the Code, the County Mayor or County Mayor's designee is authorized to execute any agreements, as required by the Florida Agency for Health Care Administration or the federal government in connection with the Medicaid Hospital Directed Payment Program, following approval by the County Attorney's Office as to legal sufficiency.

The Prime Sponsor of the foregoing resolution is Senator René García. It was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a vote, the vote was as follows:

Jose "Pepe" Diaz, Chairman
Oliver G. Gilbert, III, Vice-Chairman
Sen. René García
Sally A. Heyman
Eileen Higgins
Kionne L. McGhee
Raquel A. Regalado
Sen. Javier D. Souto
Keon Hardemon
Danielle Cohen Higgins
Joe A. Martinez
Jean Monestime
Rebeca Sosa

The Chairperson thereupon declared the resolution duly passed and adopted this 1st day of September, 2022. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this resolution and the filing of this approval with the Clerk.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk


Approved by County Attorney as
to form and legal sufficiency.



Jorge Martinez-Esteve
Christopher C. Kokoruda

Date: September 1, 2022

To: Honorable Chairman Jose “Pepe” Diaz
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor 

Subject: Resolution Amending the Fiscal Year 2021-2022 rate for the Medicaid Hospital Directed Payment Program

Summary

This item amends the FY 2021-22 rate for the Medicaid Hospital Directed Payment Program, which was created via Ordinance 21-81 and adopted by the Board of County Commissioners (Board) on September 1, 2021. Additionally, on October 5, 2021, the Board adopted Resolution R-881-21 approving, adopting and confirming a mandatory payment roll imposing a mandatory payment obligation on the eligible properties.

Recommendation

It is recommended that the Board of County Commissioners (Board) approve a resolution pursuant to Article IV, Chapter 18, of the Code of Miami-Dade County (Code), and relating to the Medicaid Hospital Directed Payment Program. This resolution proposes to amend the rate adopted by the Board on October 5, 2021, via Resolution No. R-188-21, from 0.29% to 0.57%. The purpose of the amendment is to generate additional funds that would be matched by a new round of federal funds for the County’s private hospitals.

Scope

This proposed mandatory payment is countywide, but it applies to private, for-profit or not-for-profit hospitals, their respective properties and property owners. The applicable hospital properties are located throughout multiple County Commission Districts, which are represented by several County Commissioners.

Fiscal Impact/Funding Source

Amending the rate of this mandatory payment will result in no economic impact to the County budget and no increase or decrease in County staffing. The funds collected via the mandatory payment will reimburse the County’s estimated administrative costs for the management of the mandatory payment for 2020-21 of \$97,533.10.

Social Equity Statement

The Directed Payment Program, which was requested by the affected hospitals, will allow generation of federal matching dollars – a result that benefits the affected hospital properties by improving income potential and by providing funds available for investment in capital improvements. If the proposed resolution is approved, hospital property owners affected by the mandatory payments will make payments appropriately apportioned according to the special benefit they receive from the resultant service, regardless of their demographics. The total estimated amount of the mandatory payments to be levied will not exceed the benefits each owner will receive from the service provided. Pursuant to the applicable federal regulations, this service can only be provided by the County, and only if all hospitals participate by paying the mandatory payment.

Track Record/Monitor

The mandatory payments will be managed by the Finance Department’s Credit and Collections Division and monitored by Ms. Cristina Mekin, Director of Finance Credit and Collections Division.

Delegation of Authority

Pursuant to Section 18-52 of the County Code, the County Mayor or County Mayor’s designee is authorized to execute any agreements, as required by the Florida Agency for Health Care Administration (AHCA) or the federal government in connection with the Medicaid Hospital Directed Payment Program, following approval by the County Attorney’s Office as to legal sufficiency.

Background

Medicaid is a joint federal-state health insurance program that provides medical coverage to a low-income population consisting of children, pregnant women, people over 65, and individuals with disabilities. *See* 42 U.S.C. § 1396, *et seq.* Although the program is administered by the states, Medicaid is jointly funded by states and the federal government through federal matching of state funds. *See* 42 U.S.C. § 1396b.

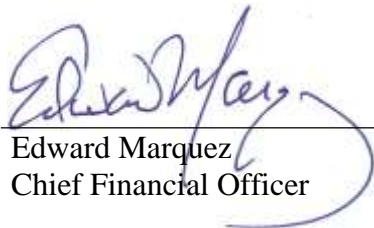
State general revenue comprises a large share of the funds receiving a federal match. Other forms of revenue collection, however, also qualify for matching. For example, local governments can collect funds and use intergovernmental transfers (IGTs) to send those funds to the state for federal matching. *See* Social Security Act § 1902(a)(2); 42 CFR § 433.51. IGTs have the advantage of increasing the magnitude of federal spending without a commensurate increase in state general revenue spending. So long as the collection of funds and these IGTs comply with federal rules, they are eligible for federal match. *See* Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991, PL 102–234, December 12, 1991, 105 Stat. 1793; Social Security Act § 1903(w).

On September 1, 2021, the Board adopted Ordinance 21-81 creating the Hospital Mandatory Payment program. On October 5, 2021, the Board adopted Resolution R-881-21 approving, adopting and confirming a mandatory payment roll imposing a mandatory payment obligation on the eligible properties, a form of provider tax permissible under 42 CFR § 433.55 (“A health care-related tax is a licensing fee, assessment, or other mandatory payment . . .”). From the federal perspective, such payments would qualify for federal match because they are mandatory, broad based, and uniformly imposed on private hospitals in the jurisdiction. 42 CFR § 433.68.

Pursuant to Section 18-53(a) of the County Code, the County received a petition requesting an amendment of the Fiscal Year 2021-2022 rate set via Resolution No. R-881-21 to revise the original rate of 0.29% to an amended rate not to exceed 0.58%. Subsequent to the submission of the petition, County staff confirmed that the rate should be set at .57%. As required by Section 18-53 of the County Code, the petition contained: (1) the boundaries or other description sufficient to identify the properties; (2) a brief description of the service requested to be provided; (3) a legal opinion, that is acceptable to the County Attorney’s Office, from a duly licensed Florida attorney stating that the imposition of the mandatory payment is lawful; (4) a copy of the hold harmless and indemnification executed by a minimum of 51 percent of the institutional health care providers; and (5) an executed release, in a form acceptable to the County Attorney's Office, wherein the property owners and institutional health care providers state, among other things, that it forever releases the County and its officers, employees, and agents from any and all liability relating to the imposition of the mandatory payment. Pursuant to 18-60 of the County Code, if at any time the mandatory payments are no longer broad-based, the Board’s authority to collect mandatory payments under this article shall be ineffective. If at any time one or more of the property owners or institutional health care providers objects to the mandatory payment, the Board’s authority to collect the mandatory payments under this article shall cease.

The proposed resolution will amend the Fiscal Year 2021-2022 rate set via Resolution No. R-881-21 to revise the original rate of 0.29% to an amended rate of 0.57%. The estimated additional amount of funds to be collected is approximately \$115,254,770. This amount supplements the \$115,254,770 collected in October 2021. The amended rate is calculated by dividing the current estimated non-federal share need for the directed payment program by the total Gross Patient Revenue of non-public hospitals in the County. The additional amount due is calculated by (1) multiplying the amended rate times the Gross Patient Revenue for non-public hospitals in the County, and then (2) subtracting the sum already paid. Additionally, the amended rate will provide for the reimbursement to the County of \$97,533.10 in administrative costs involved in administering the initial payments and the amended payments within the Mandatory Payment Program, which will be collected on a pro rata basis. Please note that the unit of measurement applied to determine the mandatory payment is Gross Patient Revenue as identified on the 2019 Medicare cost report.

The mandatory payments involve a local government service that confers a specific, direct benefit to the payors, and this benefit also extends to the hospital properties themselves. The mandatory payment is also fairly and reasonably apportioned upon the eligible properties. The County services to be provided will consist of collecting the mandatory payments eligible for federal matching and remitting such funds through IGT, which will unlock directed payment program funds. The resultant subsidy benefits Miami-Dade County hospital properties through enhanced Medicaid payments, which may be used for many purposes, such as capital projects and hospital services. Contingent upon Board approval of this proposed resolution, the services will be accomplished pursuant to an agreement between the County and AHCA. County staff will administer the billing process.



Edward Marquez
Chief Financial Officer