

MEMORANDUM

Agenda Item No. 5(A)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: (Public Hearing: 7-2-24)
June 4, 2024

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Ordinance relating to hospital mandatory payments; amending article IV of chapter 18 of the Code; authorizing the imposition of mandatory payments against certain hospitals within Miami-Dade County to fund the non-federal share of certain additional supplemental payment programs authorized by the State of Florida; making technical and conforming changes

Ordinance No. 24-62

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



Geri Bonzon-Keenan
County Attorney

GBK/jp



MEMORANDUM

(Revised)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: July 2, 2024

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 5(A)

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(A)
7-2-24

ORDINANCE NO. 24-62

ORDINANCE RELATING TO HOSPITAL MANDATORY PAYMENTS; AMENDING ARTICLE IV OF CHAPTER 18 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; AUTHORIZING THE IMPOSITION OF MANDATORY PAYMENTS AGAINST CERTAIN HOSPITALS WITHIN MIAMI-DADE COUNTY TO FUND THE NON-FEDERAL SHARE OF CERTAIN ADDITIONAL SUPPLEMENTAL PAYMENT PROGRAMS AUTHORIZED BY THE STATE OF FLORIDA; MAKING TECHNICAL AND CONFORMING CHANGES; AND PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, this Board enacted article IV of chapter 18 of the Code of Miami-Dade County (Code), which created the Medicaid Hospital Directed Payment Program; and

WHEREAS, this Board wishes to impose, levy, collect, and enforce a mandatory payment against private for-profit or not-for-profit hospitals that provide inpatient hospital services within the County to fund the non-federal share of additional supplemental payment programs authorized by the state, including but not limited to, the Low Income Pool Supplemental Payment Program, Florida Cancer Hospital Supplemental Payment Program, and Indirect Graduate Medical Education Supplemental Payment Programs; and

WHEREAS, this Board would still be required to authorize by resolution each additional supplemental payment program to be funded by the assessment,

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
MIAMI-DADE COUNTY, FLORIDA:**

Section 1. Article IV of chapter 18 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec. 18-50. Definitions.

* * *

Mandatory Payment means a payment imposed to fund the non-federal share of >>Medicaid Supplemental Payment Programs<< ~~[[Medicaid and Medicaid managed care payments]]~~ to benefit Properties.

* * *

Medicaid >>Supplemental<< ~~[[Hospital Directed]]~~ *Payment Program* means the >>Low Income Pool Supplemental Payment Program, Florida Cancer Hospital Supplemental Payment Program, and Indirect Graduate Medical Education Supplemental Payment Program<< ~~[[program]]~~ authorized by the Centers for Medicare & Medicaid Services (CMS) >>and expressly designated for imposition of a Mandatory Payment under this article by a resolution of the Board. Notwithstanding anything in this article to the contrary, the term “Medicaid Supplemental Payment Programs” shall also include the Medicaid Hospital Directed Payment Program, as authorized by Ordinance No. 21-81, unless or until such program is removed pursuant to Section 18-51 of this article.<< ~~[[allowing Florida to direct specific payments made by managed care plans to all hospital providers for Medicaid services.]]~~

* * *

¹ Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

Sec. 18-51. Authority.

Pursuant to the Florida Constitution, Miami-Dade County Home Rule Charter, Chapter 125 of the Florida Statutes, Florida legislative and other administrative authority, and 42 CFR § 433.68, the Board is hereby authorized to impose a Mandatory Payment pursuant to the Medicaid Supplemental ~~[[Hospital Directed]]~~ Payment Program without the necessity of creating and establishing under the provisions of this chapter a special district. >>The Board must authorize each Medicaid Supplemental Payment Program, and remove any previously authorized Medicaid Supplement Payment Program, by a duly enacted resolution of the Board.<<

Sec. 18-52. Purposes, use, and services for which Mandatory Payments imposed.

Institutional Health Care Providers within the County incur hundreds of millions of dollars in unreimbursed Medicaid costs each year. Contingent upon the nonfederal share being provided through intergovernmental transfers, the State of Florida received federal authority to establish ~~[[the Statewide]]~~ Medicaid Managed Care ~~[[hospital directed]]~~ >>supplemental<< payment programs to help offset >>the costs associated with these expenses.<< ~~[[this shortfall.]]~~ The Mandatory Payments will, through intergovernmental transfers provided consistent with federal guidelines that the Mandatory Payments extend to all providers in Miami-Dade County, support additional funding for Medicaid >>supplemental<< payments to Institutional Health Care Providers to address the Medicaid >>losses<<~~[[shortfall]]~~ and benefit the Properties.

The Mandatory Payments authorized by this article shall be imposed, levied, collected, and enforced against Property Owners and the Institutional Health Care Providers located within the County. The County services to be provided will consist of collecting the Mandatory Payments eligible for federal matching, ~~[[creation of]]~~ >>creating<< a local participation pool and trust fund, and >>collecting, depositing, and transferring<< ~~[[collection, deposit and subsequent transfer of]]~~ such funds through intergovernmental transfers to the State of Florida in accordance with federal and state program requirements.

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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 >>Supplemental<< ~~[[Hospital-Directed]]~~ Payment Program, following approval by the County Attorney's Office as to legal sufficiency.

Sec. 18-53. Annual Proceedings for Imposing the Mandatory Payment.

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(c) *Preliminary Mandatory Payment roll.* If no Property Owners and the Institutional Health Care Providers file a written objection stating good cause to the Mandatory Payment as provided for in this article, the County Mayor or County Mayor's designee shall cause to be prepared and filed with the Clerk one preliminary Mandatory Payment roll. The preliminary Mandatory Payment roll shall contain:

- (1) The names of all Property Owners and the Institutional Health Care Providers and a description of the Property;
- (2) The total cost of the service; and
- (3) The >>rate(s)<<~~[[rate]]~~ and amount of the Mandatory Payment to be imposed against each Property based on the Mandatory Payment Resolution.

The preliminary Mandatory Payment roll shall be retained by the Clerk of the Board and shall be open to public inspection. The foregoing shall not be construed to require that the roll be in printed form if the amount of the Mandatory Payment for each Property can be determined by use of a computer terminal available to the public.

- (d) *Mandatory Payment Resolution.* The Mandatory Payment Resolution shall describe (a) the Medicaid >>supplemental<< payments proposed for funding from proceeds of the Mandatory Payment; (b) the benefits to the Properties associated with the Mandatory Payment; (c) the methodology for computing the Mandatory Payment amounts; and (d) the method of collection, including how and when the Mandatory Payment is to be paid.

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Sec. 18-54. Scope, computation, and administrative costs of Mandatory Payment.

* * *

(b) *Computation.* The annual Mandatory Payment shall be specified. The Board shall set the Mandatory Payment in amounts that in the aggregate will generate sufficient revenue to fund the non-federal share of Medicaid >>supplemental<< payments to be funded by the Mandatory Payment. The amount of the Mandatory Payment required of each Property Owner may not exceed an amount that, when added to the amount of assessments levied by the state or local government, exceeds the maximum percent of the aggregate net patient revenue of all Properties in the County permitted by 42 C.F.R. § 433.68(f)(3)(i)(A). Mandatory Payments for each Property Owner will be derived from data contained in hospital cost reports and/or data in the Florida Hospital Uniform Reporting System, as available from the Florida Agency for Health Care Administration. Institutional Health Care Providers shall be responsible for timely providing hospital cost reports, data in the Florida Hospital Uniform Report System, or any other data or information necessary in the County's sole discretion to perform computations in connection with the Mandatory Payments required in this article.

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Sec. 18-55. Local provider participation trust fund.

All moneys received under the provisions of this article shall be held in a trust fund, created by the County applied solely (1) for >>Medicaid Supplemental Payment Programs,<< ~~[[the Medicaid Direct Payment Program,]]~~ and (2) to reimburse the County for administrative costs associated with the implementation of the Mandatory Payment authorized by this article, as further specified in the Mandatory Payment Resolution. Any officer to whom, or any

bank, trust company or other fiscal agent or trustee to which such moneys shall be paid shall act as trustee of such moneys and shall hold and apply the same for the purposes of this article.

Sec. 18-56. Method of Collection.

The County Mayor or County Mayor's Designee shall provide the Mandatory Payment bills by first class mail to each Property Owner and Institutional Health Care Provider. The bill or accompanying explanatory material shall include:

- (1) A brief explanation of the Mandatory Payment;
- (2) A description of the unit of measurement used to determine the amount of the service;
- (3) The number of >>unit(s)<<[[units]] contained within the Mandatory Payment;
- (4) The total amount of the Mandatory Payment imposed against the Property for the appropriate period;
- (5) The location at which payment will be accepted;
- (6) The date on which the Mandatory Payment is due; and
- (7) A statement regarding the potential consequences for failure to timely pay the Mandatory Payment.

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Sec. 18-60. Limitations on Mandatory Payment.

This Mandatory Payment is authorized only based on the approval by CMS, and related authorization by >>the<< Florida Legislature, of [[the directed payment program]] >>Medicaid Supplemental Payment Programs<< that will benefit the Property Owners, Institutional Health Care Providers, and Properties. If at any time, due to action at the federal, state or local level, there is no longer [[an enhanced]] Medicaid >>supplemental<< payment benefitting the Property Owners, Institutional Health Care Providers, and Properties in the County, the Board's authority to collect Mandatory Payments under this article shall cease. 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.

* * *

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 4. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

July 2, 2024

Approved by County Attorney as
to form and legal sufficiency:



Prepared by:

Jorge Martinez-Esteve
Christopher C. Kokoruda

Prime Sponsor: Senator René García