N.J.A.C. 10:52B

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 57 No. 12, June 16, 2025

NJ - New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 52B. THE COUNTY OPTION HOSPITAL FEE PILOT PROGRAM

Title 10, Chapter 52B -- Chapter Notes

Statutory Authority

CHAPTER AUTHORITY:

N.J.S.A. 30:4D-1 et seq., 30:4D-7r through 7x, and 30:4J-8 et seq.; and P.L. 2018, c. 136.

History

CHAPTER SOURCE AND EFFECTIVE DATE:

R.2020 d.036, effective March 16, 2020.

See: 51 N.J.R. 1493(a), 52 N.J.R. 520(a).

CHAPTER HISTORICAL NOTE:

Chapter 52B, The County Option Hospital Fee Pilot Program, was adopted as new rules by R.2020 d.036, effective March 16, 2020. See: Source and Effective Date.

Annotations

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Research References & Practice Aids

CHAPTER EXPIRATION DATE:

Chapter 52B, The County Option Hospital Fee Pilot Program, expires on March 16, 2027.

End of Document

N.J.A.C. 10:52B-1.1

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 57 No. 12, June 16, 2025

§ 10:52B-1.1 Scope and purpose

(a) This chapter sets forth the policies and procedures for eligible counties to participate in The County Option Hospital Fee Pilot Program.

(b) The County Option Hospital Fee Pilot Program will raise funds to increase financial resources through the New Jersey Medicaid/NJ FamilyCare program to support local hospitals and to ensure that they continue to provide the necessary services to residents with low incomes.

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N.J.A.C. 10:52B-1.2

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 57 No. 12, June 16, 2025

§ 10:52B-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Act" means The County Option Hospital Fee Pilot Program Act, *N.J.S.A. 30:4D-7r* et seq.

"Affected hospital" means a hospital that is assessed a fee imposed by a participating county.

"Centers for Medicare and Medicaid Services (CMS)" means the agency of the Federal Department of Health and Human Services that is responsible for the administration of the Title XIX Medicaid program and the Title XXI Children's Health Insurance Program (CHIP), known in New Jersey as the Medicaid/NJ FamilyCare program.

"Commissioner" means the Commissioner of the New Jersey Department of Human Services.

"Days" mean calendar days.

"Department" means the New Jersey Department of Human Services.

"Eligible county" means a county with a population greater than 250,000, according to the 2010 Federal decennial census, that contains a municipality that:

1. Is classified, pursuant to *N.J.S.A. 40A:6-4* , as a First or Second Class municipality, or a Fourth Class municipality whose population exceeds 20,000; and

2. Has a Municipal Revitalization Index score, as last calculated by the New Jersey Department of Community Affairs prior to April 27, 2019, that exceeds 60.

"Fee" means the local health care-related fee authorized by the Act.

"Hospital" means a hospital that is licensed pursuant to P.L. 1971, c. 136 (*N.J.S.A. 26:2H-1* et seq.) and is located within the borders of the participating county.

"Intergovernmental agreement (IGA)" means the agreement between a participating county and the Department through which a transfer of funds is made by the participating county to the Department.

"Intergovernmental transfer (IGT)" means the transfer of funds meeting the requirements of *42 U.S.C. § 1396b(w)* to the Department by a participating county pursuant to an intergovernmental transfer agreement.

"Medicaid/NJ FamilyCare program" means the New Jersey Medical Assistance and Health Services Program established pursuant to P.L. 1968, c. 413 (*N.J.S.A. 30:4D-1* et seq.) and P.L. 1997, c. 2 (*N.J.S.A. 30:4J-8* et seq.).

"Non-Federal share" means the portion of a Medicaid/NJ FamilyCare expenditure that is financed by State or local funds.

"Participating county" means an eligible county that chooses to participate in the pilot program.

"Pilot program" means The County Option Hospital Fee Pilot Program established by a participating county.

"Proposed fee and expenditure report" means a written report by a participating county that describes how the local health care-related fee authorized pursuant to the Act will be imposed in the participating county; how the funds collected from the fee will be used by the participating county; and how the plan described in the fee and expenditure report satisfies the purposes of the pilot program specified at *N.J.A.C. 10:52B-1.1(b)* .

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N.J.A.C. 10:52B-2.1

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 57 No. 12, June 16, 2025

§ 10:52B-2.1 Authorization and implementation of a county option hospital fee

(a) The Department of Human Services may authorize a county to become a participating county by approving its implementation of a pilot program imposing a fee on hospitals located within the county. Approval is subject to the following procedures:

1. The county shall submit a proposed fee and expenditure report to the Department for review and approval as specified in *N.J.A.C. 10:52B-3.1* ;

2. The Department will make a participating county's proposed fee and expenditure report available for review and comment by affected hospitals and other interested parties for a period of 21 days and will consider the comments received in its review of the proposed report; and

3. The Department may request that a participating county amend its proposed fee and expenditure report if the Department determines that the county's proposal does not meet Federal or State requirements or address comments received during the comment period.

(b) As part of the Department's process to decide whether to approve the proposed fee and expenditure report, the Department shall determine whether the report meets the following requirements, whether:

1. The county's proposed fee and expenditure report will increase financial resources through the Medicaid/NJ FamilyCare program to support local hospitals and to ensure that they continue to provide the necessary services to residents with low-income;

2. The county's proposed fee complies with *42 U.S.C. § 1396b(w)(3)(A)* ;

3. The county's proposed fee and expenditure plan described in the fee and expenditure report will not create a direct or indirect guarantee to hold affected hospitals harmless, consistent with *42 CFR 433.68(f)* ;

4. The county's proposed fee will not exceed the aggregate amount specified in *42 CFR 433.68(f)(3)* minus three and one-half percent of total net patient revenues, as defined therein;

5. The revenues collected from the fee will qualify as the non-Federal share of Medicaid/NJ FamilyCare program expenditures;

6. The financial impact of the county's proposed fee and expenditure report will reduce access to Medicaid/NJ FamilyCare services, reduce services to the uninsured, or otherwise threaten critical health care services at any hospital within the county, as determined by the Commissioner; and

7. The county's proposed plan described in the fee and expenditure report demonstrates that all good faith efforts will be made by the county to ensure that payments to be made under its proposal will not

result in any hospital in the county exceeding its hospital-specific disproportionate share (DSH) limit as outlined in
42 U.S.C. § 1396r-4 .

(c) After review of each county's proposed fee and expenditure report and consideration of any comments received during the 21-day public review period, the Department shall make a determination regarding approval for each county's proposed fee and expenditure report.

(d) Once a county's fee and expenditure report is approved, the board of chosen freeholders of the participating county may enact an ordinance or resolution, as appropriate to the county's form of government, imposing the fee and containing the elements specified at
N.J.A.C. 10:52B-2.2 .

(e) If a waiver is required pursuant to
42 CFR 433.68(e) to implement the county's approved fee and expenditure report, the Department will notify the county when the approval of such waiver is received from CMS.

(f) If revenue collected from the fee will be used as the non-Federal share of expenditures for new Medicaid/NJ FamilyCare provider payments, the Department will notify the county that it has received CMS approval for new Medicaid/NJ FamilyCare provider payments.

(g) A fee may only be collected from assessed hospitals to the extent, and for the period that, the Department determines that the fee proceeds qualify as the non-Federal share of Medicaid/NJ FamilyCare program expenditures pursuant to
42 CFR 433.68 .

(h) A fee shall be collected and the proceeds from the fee shall be used in accordance with a participating county's approved fee and expenditure report.

1. A participating county may propose to amend its approved fee and expenditure report annually by submitting a proposed amendment to its fee and expenditure report to the Commissioner for review and approval. Any amendments must be approved by the Commissioner and have received any required Federal approvals before any changes are implemented.

2. Any amendment to a participating county's approved fee and expenditure report shall be subject to the requirements and process specified in this chapter.

3. Revenues from the imposition of a fee must be used as specified at
N.J.A.C. 10:52B-3.3 .

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N.J.A.C. 10:52B-2.2

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 57 No. 12, June 16, 2025

§ 10:52B-2.2 Required elements of county ordinance or resolution

(a) In order for an eligible county to participate in the pilot program, the county may enact a county ordinance or resolution, as appropriate to the county's form of government, that clearly defines the following:

1. The process for communicating with affected hospitals and collecting feedback and comments on the county proposal;

2. Which hospitals are subject to the fee;

3. The revenue or other metric that will be used as the basis for the fee and the rate that will be used to assess the hospital fee;

4. The notice and collection process;

5. Penalties that may be imposed for nonpayment or late payment;

6. The appeals process;

7. Use of fees for administrative costs, transfers for State administrative costs, and transfers to finance Medicaid/NJ FamilyCare payments to county providers;

8. A statement that there will be no impact on patients or payers; and

9. Affirmation that payments made under the pilot program will not supplant or otherwise offset payments made to hospitals from other sources, except that payments may be otherwise limited to the hospital's hospital-specific disproportionate share (DSH) limit as provided in Section 1923(g) of the Social Security Act (
42 U.S.C. § 1394r-4
).

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§ 10:52B-2.2 Required elements of county ordinance or resolution

End of Document

N.J.A.C. 10:52B-3.1

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 57 No. 12, June 16, 2025

§ 10:52B-3.1 Fee and expenditure report; appropriate fee methodology

(a) A participating county must submit a proposed fee and expenditure report to the Department for review in accordance with instructions specified by the Department. The fee and expenditure report shall describe the county's plan for imposing fees and making expenditures from those fees and include such information as may be required by the Department to determine whether the county's report satisfies the requirements at
N.J.A.C. 10:52B-2.2 .

(b) A participating county shall consult with affected hospitals located in the county to develop its proposed fee and expenditure report prior to submission to the Department.

(c) A participating county's proposed fee and expenditure report must include, at a minimum, the following:

1. An overview of the fee and expenditure plan described in the fee and expenditure report;

2. A list of all the hospitals within the jurisdiction and their facility type (acute care, psychiatric, rehabilitation, long-term acute care hospital, etc.);

3. The proposed fee methodology;

4. The proposed expenditure methodology;

5. Source documentation for the data used to create the fee and expenditure report (for example, Medicare or Medicaid/NJ FamilyCare cost report, survey data, etc.);

6. Any and all facilities the county requests to exclude from the fee with the rationale for those exclusions;

7. A delineation of the percentage of the fee proceeds that the county proposes to:

i. Transfer to the Department to cover State administrative costs; and

ii. Transfer to the Department to be used as non-Federal share of Medicaid/NJ FamilyCare payments to hospitals in the participating county; and

8. A submission of the county's prospective hospital specific disproportionate share payment limit (DSH limit) calculation with supporting documentation for each hospital subject to the hospital fee. The DSH limit is the difference between a hospital's costs for treating Medicaid and uninsured individuals minus Medicaid payments and minus any payments received on behalf of the uninsured.

i. The DSH limit must:

(1) Be calculated in a form and in accordance with instructions specified by the Department;

(2) Be based on the data from the most recent Federal DSH audit;

(3) Use the Inpatient Prospective Payment System (IPPS) Hospital Market Basket as published by CMS to trend costs to the current fiscal year, unless hospital documentation verifies a different cost inflation for the hospital;

(4) Exclude any proposed payments to be made under the pilot program;

(5) Adjust for any changes in Federally matched State subsidy payments since the time of the finalized DSH audit used in the calculation (that is, Charity Care, Graduate Medical Education); and

(6) Be approved by the Department. The Department reserves the right to discount any values included in the calculation that are not supported by appropriate documentation.

ii. Should the county's fee and expenditure report include provisions that would result in increased Medicaid/NJ FamilyCare payments for any hospital that exceed the calculated value of the hospital's DSH limit, the county's proposed fee and expenditure report must include an attestation from the specific hospital's chief executive officer confirming that the hospital is agreeing to a reduction to the hospital's Medicaid DSH payments, including Charity Care payments, to the extent necessary to comply with payment limits outlined in Section 1923(g) of the Social Security Act (42 U.S.C. § 1394r-4). The Department reserves the right to take all appropriate action to comply with Section 1923(g) of the Social Security Act (42 U.S.C. § 1394r-4).

(d) A participating county's proposed fee and expenditure report must describe the fee methodology that the county is proposing to adopt. An appropriate fee methodology is any methodology that is permitted under applicable Federal regulations and that meets the following criteria:

1. The county must determine how to apply the fee; the fee may be applied to inpatient hospital services, outpatient hospital services, or both;

2. The fee must be applied to all hospitals uniformly, except that the participating county may exempt hospitals within the county that provide the assessed service from the fee, provided that the exemption complies with the requirements of *42 CFR 433.68(c)* and (d), and the Department requests and receives approval of the waiver of the broad-based and/or uniform requirements from CMS; and

3. The fee shall be assessed consistent with Federal rules, with the basis of the assessment being: net or gross revenues, discharges, encounters, days, beds, or visits, and may exclude revenue or utilization attributable to Medicaid/NJ FamilyCare, Medicare, or both.

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N.J.A.C. 10:52B-3.2

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§ 10:52B-3.2 No impact on patients or payers

The chief executive officer of each hospital subject to the fee shall certify that the cost of the fee shall not be assigned to any patient, insurer, self-insured employer program, or other responsible party, nor shall the fee be listed separately on any invoice or statement sent to a patient, insurer, self-insured employer program, or other responsible party.

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§ 10:52B-3.3 Permissible use of funds

(a) A participating county shall use funds collected from the imposition of a fee as follows:

1. The participating county shall use at least 90 percent of the fee proceeds for the benefit of hospitals located in the county, as follows:

i. The participating county shall make an intergovernmental transfer (IGT) of the funds under an intergovernmental agreement (IGA) with the Department authorizing the Department's use of the funds as the non-Federal share of Medicaid/NJ FamilyCare payments to the local hospitals; or

ii. The participating county may retain the funds and use the funds to make payments to local hospitals as authorized in its approved fee and expenditure report. However, the Commissioner shall only approve a participating county's proposal to retain funds collected from the imposition of a fee provided that the participating county demonstrates, to the satisfaction of the Commissioner, that the county has sufficient funds to make payments to local hospitals in the amount of the fee proceeds that would otherwise have been transferred to the Department, plus an amount equal to the Federal matching funds that would have been paid to the Department had the fee proceeds been used as the non-Federal share Medicaid/NJ FamilyCare payments;

2. A participating county may retain no more than nine percent of the proceeds for its own use;

3. The county shall transfer at least one percent of assessment proceeds to the Department for the cost of administering the program. Should the State's administrative costs for the program exceed the total value of funding transferred by the participating counties for this purpose, remaining costs shall be subtracted from amounts otherwise available as the non-Federal share of payments to hospitals in the participating counties; and

4. Unless the county has received approval to retain funds pursuant to (a)1ii above, the county shall transfer all funds to the State on a quarterly basis, not later than 15 days after the close of each quarter of the State fiscal year. Failure to transfer the funds within this timeframe shall result in penalties imposed by the Department that may include interest penalties of up to 1.5 percent of the outstanding transfer amount per month and/or removal from the pilot program.

(b) The Department shall use the fee proceeds transferred from a participating county, and any Federal matching funds or other Federal funds generated therefrom, for the following purposes, the Department may:

1. Increase Medicaid/NJ FamilyCare payments to hospitals located in the participating county;

2. Make payments to Medicaid/NJ FamilyCare managed care organizations operating in the participating county for increased hospital or hospital-related payments; and/or

3. Use the funds for costs directly related to the administration of the pilot program.

(c) The Department shall not use the transferred fee proceeds to supplant or offset any current or future State funds allocated to a participating county, except that payments may be otherwise limited to the

hospital's hospital-specific disproportionate share (DSH) limit as provided in Section 1923(g) of the Social Security Act (
42 U.S.C § 1394r-4).

(d) All hospitals shall maintain records regarding expenditure of funds and make such records available to the Department, the Department's designated representative, or other authorized agent, upon request.

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§ 10:52B-3.4 Notice, collection, and return of fee proceeds

(a) Each participating county must develop a process to calculate the amount of the fee to be applied to each participating hospital in compliance with this chapter and Federal rules. The county may require submission of necessary financial data by the participating hospitals, or the county can choose to use other publicly available data sources.

(b) A participating county must specify in its ordinance or resolution, the frequency of collection of the fee (for example, quarterly, monthly, biannually, etc.).

(c) The participating county must provide written notice of the fee amount to each participating hospital postmarked at least 20 days in advance of the due date or define the due date in its ordinance or resolution.

(d) Each participating hospital will pay the fee amount indicated by the county on the specified due date.

(e) Each participating county will provide for refunding of overpayments, or amounts otherwise in error, to the participating hospitals within 15 days of identifying the overpayment or error. The participating county shall specify in its ordinance or resolution the maximum time limit by which a hospital must identify overpayments or amounts otherwise in error.

(f) In the event the Department returns to the participating county any of the transferred funds, the participating county will refund the full amount returned by the Department to the participating hospitals based on the pro rata share of the total fees paid, within 15 days after receipt by the county of the funds from the Department.

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N.J.A.C. 10:52B-3.5

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§ 10:52B-3.5 Penalties

A participating county may impose reasonable penalties or interest if an affected hospital fails to remit the full amount of the payment owed by the due date specified, not to exceed 1.5 percent of the outstanding payment amount per month. Any enforcement provision must be defined in the county's ordinance or resolution enacting the Department-approved fee and expenditure reports and include provisions for written notice to the participating hospitals and intended use of the funds consistent with the purpose of this chapter.

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N.J.A.C. 10:52B-3.6

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§ 10:52B-3.6 Appeal of assessment or enforcement action

(a) A participating county must specify a process for an appeal of the fee amount. The appeal shall be filed with the county within 15 days after the participating hospital receives notice of the fee amount due.

(b) A participating county must specify a process for an appeal of the decision to impose penalties and/or the amount of the penalties assessed pursuant to *N.J.A.C. 10:52B-3.5* .

(c) A hospital filing an appeal of either the amount of the fee or the penalty imposed by the county, or both, must provide any additional information requested by the county as part of the appeal process.

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N.J.A.C. 10:52B-3.7

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§ 10:52B-3.7 Reports and access

(a) Participating counties, affected hospitals, and managed care organizations are required to retain supporting documents and shall provide access to and shall furnish such reports to the Department, without charge, as the Department may specify, in order for the Department to:

1. Determine the amount of increased funding required to be paid by the managed care organizations to the hospitals;

2. Verify that the managed care organization has calculated and paid the correct amount due; or

3. Respond to inquiries from governmental entities with oversight of the pilot program, including CMS.

(b) Information and records submitted to the Department under this section shall be used only for the purposes specified in this section.

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