

DISTRICT OF COLUMBIA
OFFICIAL CODE

TITLE 44.
CHARITABLE AND CURATIVE
INSTITUTIONS.

CHAPTER 6A.
HOSPITAL ASSESSMENTS.

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DISTRICT OF COLUMBIA OFFICIAL CODE
CHAPTER 6A. HOSPITAL ASSESSMENTS.

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CHAPTER 6A. HOSPITAL ASSESSMENTS.

§ 44-631. DEFINITIONS.

For the purposes of this chapter, the term:

(1) "Hospital" shall have the same meaning as provided in § 44-501(a)(1), but excludes St. Elizabeths Hospital and any hospital operated by the federal government.

(2) "Medicaid" means the medical assistance programs authorized by title XIX of the Social Security Act, approved July 30, 1965 (79 Stat. 343; 42 U.S.C. § 1396 *et seq.*), and by § 1-307.02, and administered by the Department of Health Care Finance.

(Sept. 24, 2010, D.C. Law 18-223, § 5012, 57 DCR 6242.)

HISTORICAL AND STATUTORY NOTES

Temporary Addition of Section

Section 1102 of D.C. Law 18-222 added a section to read as follows:

"Sec. 1102. Definitions.

"For the purposes of this act, the term:

"(1) 'Hospital' has the same meaning as set forth in section 2(a)(1) of the Health-Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code § 44-501(a)(1)), but excludes St. Elizabeths Hospital and any hospital operated by the federal government.

"(2) 'Medicaid' means the medical assistance programs authorized by title XIX of the Social Security Act, approved July 30, 1965 (79 Stat. 343; 42 U.S.C. § 1396 *et seq.*), and by section 1 of An Act To enable the District of Columbia to receive Federal financial assistance under title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 744; D.C. Official Code § 1-307.02), and administered by the Department of Health Care Finance."

Section 2002(b) of D.C. Law 18-222 provides that the act shall expire after 225 days of its having taken effect.

Emergency Act Amendments

For temporary (90 day) addition, see § 1102 of Fiscal Year 2010 Balanced Budget Support Emergency Act of 2010 (D.C. Act 18-450, June 28, 2010, 57 DCR 5635).

For temporary (90 day) addition, see § 5012 of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

For temporary (90 day) addition, see §§ 1102 of Fiscal Year 2010 Balanced Budget Support Congressional Review Emergency Act of 2010 (D.C. Act 18-531, August 6, 2010, 57 DCR 8109).

Legislative History of Laws

Law 18-223, the "Fiscal Year 2011 Budget Support Act of 2010", was introduced in Council and assigned Bill No. 18-731, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 26, 2010, and June 15, 2010, respectively. Signed by the Mayor on July 2, 2010, it was assigned Act No. 18-462 and transmitted to both Houses of Congress for its review. D.C. Law 18-223 became effective on September 24, 2010.

§ 44-632. HOSPITAL FUND.

(a) There is established as a nonlapsing fund the Hospital Fund, which shall be used solely to fund District State Medicaid services.

(b) There shall be deposited into the Hospital Fund:

(1) Assessments collected under this chapter;

- (2) Interest and penalties collected under this chapter;
- (3) Matching federal funds on assessments; and
- (4) Other amounts collected under this chapter.

(c) All funds deposited in the Hospital Fund; and any interest earned on those funds, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available for the purpose set forth in subsection (a) of this section without regard to fiscal year limitation, subject to authorization by Congress.

(Sept. 24, 2010, D.C. Law 18-223, § 5013, 57 DCR 6242.)

HISTORICAL AND STATUTORY NOTES

Temporary Addition of Section

Section 1103 of D.C. Law 18-222 added a section to read as follows:

"Sec. 1103. Hospital Fund.

"(a) There is established as a nonlapsing fund the Hospital Fund, which shall be used solely to fund District State Medicaid services.

"(b) There shall be deposited into the Hospital Fund:

"(1) Assessments collected under this act;

"(2) Interest and penalties collected under this act;

"(3) Matching federal funds on assessments; and

"(4) Other amounts collected under this act.

"(c) All funds deposited in the Hospital Fund, and any interest earned on those funds, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available for the purpose set forth in subsection (a) of this section without regard to fiscal year limitation, subject to authorization by Congress."

Section 2002(b) of D.C. Law 18-222 provides that the act shall expire after 225 days of its having taken effect.

Emergency Act Amendments

For temporary (90 day) addition, see § 1103 of Fiscal Year 2010 Balanced Budget Support Emergency Act of 2010 (D.C. Act 18-450, June 28, 2010, 57 DCR 5635).

For temporary (90 day) addition, see § 5013 of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

For temporary (90 day) addition, see §§ 1103 of Fiscal Year 2010 Balanced Budget Support Congressional Review Emergency Act of 2010 (D.C. Act 18-531, August 6, 2010, 57 DCR 8109).

Legislative History of Laws

For Law 18-223, see notes following § 44-631.

§ 44-633. ASSESSMENTS ON HOSPITALS.

(a) Each hospital in the District of Columbia shall pay to the Mayor an annual assessment as follows:

(1) For fiscal year 2010, \$500 per licensed bed, which shall be paid by September 1, 2010, and which shall be deposited in the Medical Liability Captive Trust Fund, established by § 1-307.91, to be used for the purposes of this fund; and

(2) For fiscal year 2011, \$2,529 per licensed bed and for fiscal years 2012 through 2014, \$3,788 per licensed bed, which shall be paid based on a schedule determined by the Mayor and which shall be deposited in the Hospital Fund, established by § 44-632, to be used for the purpose of this fund.

(b) The Chief Financial Officer may determine the manner in which payments are to be made under this chapter, including whether payments owed by each hospital pursuant to subsection (a) of this section shall be paid electronically.

(Sept. 24, 2010, D.C. Law 18-223, § 5014, 57 DCR 6242; Apr. 8, 2011, D.C. Law 18-370, § 512, 58 DCR 1008; Sept. 14, 2011, D.C. Law 19-21, § 8182, 58 DCR 6226; Sept. 26, 2012, D.C. Law 19-171, § 111, 59 DCR 6190.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 18-370, in subsec. (a)(2), substituted "\$2,000" for "\$1,500".

D.C. Law 19-21, in subsec. (a)(2), substituted "For fiscal year 2011, \$2,529 per licensed bed and for fiscal years 2012 through 2014, \$3,788 per licensed bed, " for "For fiscal years 2011 through 2014, \$1,500 per licensed bed,".

D.C. Law 19-171, in subsec. (a)(2), validated a previously made technical correction.

Temporary Addition of Section

Section 1104 of D.C. Law 18-222 added a section to read as follows:

"Sec. 1104. Assessments on hospitals.

"(a) Each hospital in the District of Columbia shall pay to the Mayor an annual assessment as follows:

"(1) For fiscal year 2010, \$500 per licensed bed, which shall be paid by September 1, 2010, and which shall be deposited in the Medical Liability Captive Trust Fund, established by section 12 of the District of Columbia Medical Liability Captive Insurance Agency Establishment Act of 2008, effective July 18, 2008 (D.C. Law 17-196; D.C. Official Code § 1-307.91), to be used for the purposes of this fund.

"(2) For fiscal years 2011 through 2014, \$1,500 per licensed bed, which shall be paid based on a schedule determined by the Mayor and which shall be deposited in the Hospital Fund, established by section 1103 to be used for the purpose of this fund.

"(b) The Chief Financial Officer may determine the manner in which payments are to be made under this act, including whether payments owed by each hospital pursuant to subsection (a) of this section shall be paid electronically."

Section 2002(b) of D.C. Law 18-222 provides that the act shall expire after 225 days of its having taken effect.

Emergency Act Amendments

For temporary (90 day) addition, see § 1104 of Fiscal Year 2010 Balanced Budget Support Emergency Act of 2010 (D.C. Act 18-450, June 28, 2010, 57 DCR 5635).

For temporary (90 day) addition, see § 5014 of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

For temporary (90 day) addition, see §§ 1104 of Fiscal Year 2010 Balanced Budget Support Congressional Review Emergency Act of 2010 (D.C. Act 18-531, August 6, 2010, 57 DCR 8109).

For temporary (90 day) amendment of section, see § 512 of Fiscal Year 2011 Supplemental Budget Support Emergency Act of 2010 (D.C. Act 18-694, January 19, 2011, 58 DCR 662).

For temporary (90 day) amendment of section, see § 8032 of Fiscal Year 2012 Budget Support Emergency Act of 2011 (D.C. Act 19-93, June 29, 2011, 58 DCR 5599).

Legislative History of Laws

For Law 18-223, see notes following § 44-631.

Law 18-370, the "Fiscal Year 2011 Supplemental Budget Support Act of 2010", was introduced in Council and assigned Bill No. 18-1100, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 7, 2010, and December 21, 2010, respectively. Signed by the Mayor on January 27, 2011, it was assigned Act No. 18-721 and transmitted to both Houses of Congress for its review. D.C. Law 18-370 became effective on April 8, 2011.

For history of Law 19-21, see notes under § 44-407.

For history of Law 19-171, see notes under § 44-407.

Miscellaneous Notes

Short title: Section 511 of D.C. Law 18-370 provided that subtitle B of title V of the act may be cited as "Hospital Assessment Amendment Act of 2010".

Section 513 of D.C. Law 18-370 provides:

"Sec. 513. Applicability.

"This subtitle shall apply as of October 1, 2010."

Short title: Section 8181 of D.C. Law 19-21 provided that subtitle S of title VIII of the act may be cited as "Hospital Assessment Amendment Act of 2011".

§ 44-634. INTEREST AND PENALTIES.

(a) If a hospital fails to pay the full amount of an assessment by the date required by this chapter, or by rules issued pursuant to this chapter, the hospital shall pay, in addition to the required assessment:

(1) Interest at the rate of 1.5% of the assessment per month or any fraction thereof, which shall be added to the unpaid balance; and

(2) An administrative penalty of 10% of the assessment.

(b) The District of Columbia shall have a lien upon a hospital's real and personal property located in the District of Columbia for any assessments, interest, or administrative penalties that are due under this chapter, or rules issued pursuant to this chapter.

(c) An action brought to enforce the provisions of this section shall be brought in the Superior Court of the District of Columbia by the Attorney General for the District of Columbia in the name of the District of Columbia.

(Sept. 24, 2010, D.C. Law 18-223, § 5015, 57 DCR 6242.)

HISTORICAL AND STATUTORY NOTES

Temporary Addition of Section

Section 1105 of D.C. Law 18-222 added a section to read as follows:

"Sec. 1105. Interest and penalties.

"(a) If a hospital fails to pay the full amount of an assessment by the date required by this act, or by rules issued pursuant to this act, the hospital shall pay, in addition to the required assessment:

"(1) Interest at the rate of 1.5% of the assessment per month or any fraction thereof, which shall be added to the unpaid balance; and

"(2) An administrative penalty of 10% of the assessment.

"(b) The District of Columbia shall have a lien upon a hospital's real and personal property located in the District of Columbia for any assessments, interest, or administrative penalties that are due under this act, or rules issued pursuant to this act.

"(c) An action brought to enforce the provisions of this section shall be brought in the Superior Court of the District of Columbia by the Attorney General for the District of Columbia in the name of the District of Columbia."

Section 2002(b) of D.C. Law 18-222 provides that the act shall expire after 225 days of its having taken effect.

Emergency Act Amendments

For temporary (90 day) addition, see § 1105 of Fiscal Year 2010 Balanced Budget Support Emergency Act of 2010 (D.C. Act 18-450, June 28, 2010, 57 DCR 5635).

For temporary (90 day) addition, see § 5015 of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

For temporary (90 day) addition, see §§ 1105 of Fiscal Year 2010 Balanced Budget Support Congressional Review Emergency Act of 2010 (D.C. Act 18-531, August 6, 2010, 57 DCR 8109).

Legislative History of Laws

For Law 18-223, see notes following § 44-631.

§ 44-635. APPEALS.

(a) A hospital may contest the amount of an assessment, including any interest or administrative penalties, imposed under this chapter, or by rules issued pursuant to this chapter, by filing a notice of appeal with the Office of Administrative Hearings within 60 days after the date of the notice of a determination or redetermination of an assessment based on an audit of information.

(b) The Office of Administrative Hearings shall conduct a hearing on the appeal filed under subsection (a) of this section subject to the provisions of subchapter I of Chapter 5 of Title 2 governing adjudication of contested cases, and pursuant to the rules of the Office of Administrative Hearings.

(c) Before filing an appeal pursuant to subsection (a) of this section, the hospital shall pay to the Mayor the assessment and any administrative penalties and interest due on the assessment. The filing of a notice of appeal shall not act as a stay on the requirement to pay payment of the assessment, interest, and administrative penalties.

(Sept. 24, 2010, D.C. Law 18-223, § 5016, 57 DCR 6242.)

HISTORICAL AND STATUTORY NOTES

Temporary Addition of Section

Section 1106 of D.C. Law 18-222 added a section to read as follows:

"Sec. 1106. Appeals.

"(a) A hospital may contest the amount of an assessment, including any interest or administrative penalties,

imposed under this act, or by rules issued pursuant to this act, by filing a notice of appeal with the Office of Administrative Hearings within 60 days after the date of the notice of a determination or redetermination of an assessment based on an audit of information.

"(b) The Office of Administrative Hearings shall conduct a hearing on the appeal filed under subsection (a) of this section subject to the provisions of Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), governing adjudication of contested cases, and pursuant to the rules of the Office of Administrative Hearings.

"(c) Before filing an appeal pursuant to subsection (a) of this section, the hospital shall pay to the Mayor the assessment and any administrative penalties and interest due on the assessment. The filing of a notice of appeal shall not act as a stay on the requirement to pay payment of the assessment, interest, and administrative penalties."

Section 2002(b) of D.C. Law 18-222 provides that the act shall expire after 225 days of its having taken effect.

Emergency Act Amendments

For temporary (90 day) addition, see § 1106 of Fiscal Year 2010 Balanced Budget Support Emergency Act of 2010 (D.C. Act 18-450, June 28, 2010, 57 DCR 5635).

For temporary (90 day) addition, see § 5016 of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

For temporary (90 day) addition, see §§ 1106 of Fiscal Year 2010 Balanced Budget Support Congressional Review Emergency Act of 2010 (D.C. Act 18-531, August 6, 2010, 57 DCR 8109).

Legislative History of Laws

For Law 18-223, see notes following § 44-631.

§ 44-636. FEDERAL DETERMINATIONS; SUSPENSION AND TERMINATION OF ASSESSMENT.

(a) If the federal government determines that an assessment imposed on a hospital pursuant to this chapter does not satisfy the requirements for federal financial participation set forth in section 1903(w) of the Social Security Act, approved July 30, 1965 (70 Stat. 349; 42 U.S.C. § 1396b(w)), the determination shall not affect the validity, amount, applicable rate, or any other terms of an assessment on other hospitals imposed by this chapter.

(b) If the federal government determines that an exclusion for hospitals specified under this chapter would prevent an assessment imposed by this chapter from qualifying as a broad-based health care related tax, as that term is defined in section 1903(w)(3)(B) of the Social Security Act, approved July 30, 1965 (79 Stat. 349; 42 U.S.C. § 1396b(w)(3)(B)), the exclusion shall not be made.

(Sept. 24, 2010, D.C. Law 18-223, § 5017, 57 DCR 6242.)

HISTORICAL AND STATUTORY NOTES

Temporary Addition of Section

Section 1107 of D.C. Law 18-222 added a section to read as follows:

"Sec. 1107. Federal determinations; suspension and termination of assessment.

"(a) If the federal government determines that an assessment imposed on a hospital pursuant to this act does not satisfy the requirements for federal financial participation set forth in section 1903(w) of the Social Security Act, approved July 30, 1965 (70 Stat. 349; 42 U.S.C. § 1396b(w)), the determination shall not affect the validity, amount, applicable rate, or any other terms of an assessment on other hospitals imposed by this act.

"(b) If the federal government determines that an exclusion for hospitals specified under this act would prevent an assessment imposed by this act from qualifying as a broad-based health care related tax, as that term is defined in section 1903(w)(3)(B) of the Social Security Act, approved July 30, 1965 (79 Stat. 349; 42 U.S.C. § 1396b(w)(3)(B)), the exclusion shall not be made."

Section 2002(b) of D.C. Law 18-222 provides that the act shall expire after 225 days of its having taken effect.

Emergency Act Amendments

For temporary (90 day) addition, see § 1107 of Fiscal Year 2010 Balanced Budget Support Emergency Act of 2010 (D.C. Act 18-450, June 28, 2010, 57 DCR 5635).

For temporary (90 day) addition, see § 5017 of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

For temporary (90 day) addition, see §§ 1107 of Fiscal Year 2010 Balanced Budget Support Congressional Review Emergency Act of 2010 (D.C. Act 18-531, August 6, 2010, 57 DCR 8109).

For Law 18-223, see notes following § 44-631.

§ 44-637. RULES.

The Mayor, pursuant to subchapter I of Chapter 5 of Title 2, may issue rules to implement the provisions of this chapter.

(Sept. 24, 2010, D.C. Law 18-223, § 5018, 57 DCR 6242.)

HISTORICAL AND STATUTORY NOTES

Temporary Addition of Section

Section 1108 of D.C. Law 18-222 added a section to read as follows:

"Sec. 1108. Rules.

"The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), may issue rules to implement the provisions of this act."

Section 2002(b) of D.C. Law 18-222 provides that the act shall expire after 225 days of its having taken effect.

Emergency Act Amendments

For temporary (90 day) addition, see § 1108 of Fiscal Year 2010 Balanced Budget Support Emergency Act of 2010 (D.C. Act 18-450, June 28, 2010, 57 DCR 5635).

For temporary (90 day) addition, see § 5018 of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

For temporary (90 day) addition, see §§ 1108 of Fiscal Year 2010 Balanced Budget Support Congressional Review Emergency Act of 2010 (D.C. Act 18-531, August 6, 2010, 57 DCR 8109).

Legislative History of Laws

For Law 18-223, see notes following § 44-631.

§ 44-638. SUNSET.

This chapter shall expire on September 30, 2014.

(Sept. 24, 2010, D.C. Law 18-223, § 5019, 57 DCR 6242.)

HISTORICAL AND STATUTORY NOTES

Emergency Act Amendments

For temporary (90 day) addition, see § 5019 of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

Legislative History of Laws

For Law 18-223, see notes following § 44-631.