

**REPORT OF THE  
BOARD AND DIRECTOR OF THE  
MEDICAL ASSISTANCE SERVICES ON**

**Recommended Statutory  
Modifications Of The Code  
Of Virginia Authorizing  
The Creation Of The  
Virginia Indigent Health  
Care Trust Fund**

**TO THE GOVERNOR AND  
THE GENERAL ASSEMBLY OF VIRGINIA**



**HOUSE DOCUMENT NO. 28**

**COMMONWEALTH OF VIRGINIA  
RICHMOND  
1990**



# COMMONWEALTH of VIRGINIA

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December 1, 1989

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To The Members of the General Assembly

Pursuant to §32.1-340 of Chapter 635 of the Acts of Assembly (H 1859), and on behalf of the Board of Medical Assistance Services, I am pleased to submit the Board's Report on statutory modifications that the Board believes are required to effectively implement the Virginia Indigent Health Care Trust Fund.

The proposed statutory modifications contained in the report emerged from recommendations made to the Board by the Board's Technical Advisory Panel (TAP), created by §32.1-335 to advise the Board on the operation of the Trust Fund. The TAP, which consists of seven members, three of whom represent hospital interests, met on five separate occasions to develop suggested policy and operating procedure for the Trust Fund. As a result of their discussions the TAP identified statutory modifications that were proposed to the Board and accepted by the Board.

Briefly, the proposed statutory modifications are as follows:

1. It is proposed that § 32.1-332 and § 32.1-333 be amended by changing the definition of "charity care" contained in these sections from 100 percent of the federal poverty level to 150 percent. This modification is proposed to make the definition consistent with Board's recommendation on adjusting the definition of charity care.
2. It is proposed that § 32.1-336 be amended by extending the date by which hospitals are required to submit charity care data and by allowing hospitals to have one

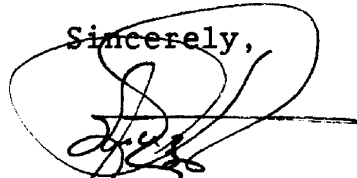
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30 day filing extension. These modifications are proposed to account for the variance in ending dates for hospital fiscal years and to bring the filing requirements of this legislation into conformity with the Virginia Health Services Cost Review Council's hospital filing requirements.

3. It is proposed that § 32.1-337 and § 32.1-338 be amended by making technical changes in the language of each of the two sections that will clarify the processes for calculating hospital contributions to the Fund and payments to hospitals from the Fund.
4. It is proposed that § 32.1-339 be amended by changing the month in which hospitals are required to contribute to the Fund from December of each calendar year to January of each calendar year, beginning with January of 1991. This modification is proposed to ensure consistency between the new charity care data submission dates proposed for § 32.1-336 and the date hospitals make their contributions to the Fund.
5. It is proposed that § 32.1-341 be amended to correct an error made in citing a section of the legislation.

The specific proposed statutory modifications are attached as part of this report.

Sincerely,



Bruce V. Kozlowski

BUK/dc

Enclosure

cc: The Honorable Gerald L. Baliles  
Governor of Virginia  
The Honorable Eva S. Teig  
Secretary of Health and Human Resources

RECOMMENDATIONS FOR STATUTORY CHANGES TO  
THE VIRGINIA INDIGENT HEALTH CARE TRUST FUND  
PRESENTED BY THE BOARD OF MEDICAL ASSISTANCE SERVICES

32.1-332. Definitions.--As used in this chapter unless the context requires a different meaning:

"Board" means the Board of Medical Assistance Services.

"Charity care" means hospital care for which no payment is received and which is provided to any person whose gross annual family income is equal to or less than 100 150 percent of the federal nonfarm poverty level as published for the then current year in the Code of Federal Regulations.

"The Fund" means the Virginia Indigent Health Care Trust Fund created by this chapter.

"Hospital" means any acute care hospital which is required to be licensed as a hospital pursuant to Chapter 5 of Title 32.1.

"Panel" means the Technical Advisory Panel appointed pursuant to the provisions of this chapter.

32.1-333. Creation of Fund; administration--A. There is hereby created the Virginia Indigent Health Care Trust Fund whose purpose is to receive moneys appropriated by the Commonwealth and contributions from certain hospitals and others for the purpose of distributing these moneys to certain hospitals subject to restrictions as provided in this chapter.

B. The Fund shall be the responsibility of the Board and Department of Medical Assistance Services. However the Fund shall be maintained and administered separately from any other program or fund of the Board and Department.

C. The Board may promulgate rules and regulations pursuant to the Administrative Process Act (§ 9-6.14:1 et seq.) for the administration of the Fund consistent with this act, including but not limited to:

1. Uniform eligibility criteria to define those medically indigent persons whose care shall qualify a hospital for reimbursement from the Fund. Such criteria shall define medically indigent persons as only those individuals whose gross annual family income is equal to or less than 100 150 percent of the federal nonfarm poverty level as published for the then current year in the Code of Federal Regulations.

2. Hospital inpatient and outpatient medical services qualifying for reimbursement from the Fund. Such medical services shall be limited to those categories of inpatient and outpatient hospital services covered under the Medical Assistance Program, but shall exclude any durational or newborn infant services limitations.

3. A mechanism to ensure that hospitals are compensated from the Fund only for charity care as defined in this chapter.

4. Terms, conditions and reporting requirements for hospitals participating in the Fund.

§ 32.1-336. Annual charity care data submission. - No later than ~~ninety one hundred and twenty days~~ following the end of each of its fiscal years, each hospital shall file with the Department a statement of charity care and such other data as may be required by the Department. One thirty day extension of the filing date may be granted by the Department to hospitals unable to meet the filing date. Data required for carrying out the purposes of this chapter may be supplied to the Department by the Virginia Health Services Cost Review Council. The Board shall prescribe a procedure for alternative data gathering in cases of extreme hardship or impossibility of compliance by a hospital.

§ 32.1-337. Hospital contributions, calculations.-Hospitals shall make contributions to the Fund in accordance with the following:

A. A charity care standard shall be established annually as follows: For each hospital, a percentage shall be calculated of which the numerator shall be the charity care charges and the denominator shall be the gross patient revenues as reported by that hospital. This percentage shall be the charity care percent. The median of the percentages of all such hospitals shall be the standard.

B. Based upon the general fund appropriation to the Fund and the contribution, a disproportionate share level shall be established as a percentage above the standard not to exceed three percent above the standard.

C. The cost of charity care shall be each hospital's charity care charges multiplied by each hospital's cost to charge ratio as determined ~~from the Medicare allowable cost to charge ratio where available~~ in accordance with Medicare allowable cost finding principles. For those hospitals whose mean Medicare patient days are greater than two standard deviations below the Medicare statewide mean, the individual hospital's individual cost to charge ratio shall be used.

D. An annual contribution shall be established which shall be equal to the total sum required to support charity care costs of hospitals between the standard and the disproportionate share level. This sum shall be equally funded by hospital contributions and general fund appropriations.

F. E. A charity care and corporate tax credit shall be calculated, the numerator of which shall be each hospital's cost of charity care plus state corporate taxes and the denominator of which shall be each hospital's ~~total net~~ patient revenues as defined by the Virginia Health Services Cost Review Council.

E. F. An annual hospital contribution rate shall be calculated, the numerator of which shall be the sum of one-half the contribution plus the sum of ~~state/corporate/taxes/paid/by the/hospitals~~ the product of the contributing hospitals' credits multiplied by contributing hospitals' positive operating margins and the denominator of which shall be the sum of ~~the hospitals' positive operating margins plus the sum of state corporate taxes paid by the hospitals~~ positive operating margins for contributing hospitals. The annual hospital contribution rate shall not exceed 6.25 percent of a hospital's positive operating margin.

G. For each hospital, the contribution dollar amount shall be calculated as the difference between the rate and the credit multiplied by each hospital's operating margin.

H. The Fund shall be established on the books of the Comptroller so as to segregate the amounts appropriated and contributed thereto and the amounts earned or accumulated therein. No portion of the Fund shall be used for a purpose other than that described in this chapter. Any money remaining in the Fund at the end of a biennium shall not revert to the General Fund but shall remain in the Fund to be used only for the purpose described in this chapter.

§ 32.1-338. Distribution of Fund moneys.-The Fund shall distribute moneys to hospitals in accordance with the following:

A. The payment to each hospital shall be determined as the standard subtracted from each hospital's charity care percent, multiplied by each hospital's gross patient revenues, multiplied by each hospital's cost to charge ratio and multiplied by a percentage not to exceed sixty percent.

B. ~~Each/hospital/whose~~ That portion of a hospital's charity care percent less the standard which is above the standard but below the disproportionate share level shall be paid from the total amount of the contribution.

C. That portion of a hospital's charity care percent less the standard which is above the disproportionate share level shall be paid solely from the appropriations by the General Assembly to the Fund.

§ 32.1-339 Frequency of calculations, contributions and distributions.-Contributions to the Fund by hospitals shall be made once annually in ~~December~~ January of each calendar year beginning in ~~December/1990~~ January of 1991 using financial data for the hospitals' most recent fiscal years ending on or before June 30 of ~~that~~ the preceding calendar year. Calculations for distributions shall be made under the same terms. The policy and details relating to receipt of contributions and distribution of the Fund moneys shall be prescribed by the Board.

§ 32.1-341. Failure to comply; Fraudulently obtaining participation or reimbursement; criminal penalty.-A. Any person who engages in the following activities, on behalf of himself or another, shall be guilty of a Class 1 misdemeanor in addition to any other penalties provided by law:

1. Knowingly and willfully making or causing to be made any false statement or misrepresentation of a material fact in order to participate in or receive reimbursement from the fund.

2. Knowingly or willfully failing to provide reports to the Department as required in this chapter; or

3. Knowingly and willfully failing to pay in a timely manner the contribution to the Fund by a hospital as calculated by the Department as described in ~~§ 32.1-333~~ § 32.1-337, G.

B. Conviction of any provider or any employee or officer of such provider of any offense under this section shall also result in forfeiture of any payment due.

