

TO: Senate Ways and Means Committee

FROM: Physician Hospital Association of Kansas, Inc.

DATE: March 20, 2019

RE: Senate Bill 225

Chairwoman McGinn and members of the Committee, thank you for taking the time to consider these remarks on behalf of the Physician Hospital Association of Kansas. SB 225 amends the current Act related to Hospital Provider Assessments which the state uses to tax health care providers. This practice is allowed by the Federal Centers for Medicare and Medicaid Services (CMS) and is currently used in Kansas to increase the Federal funds for which a state is eligible. Those funds are then applied to increased rates the state pays providers for qualified Medicaid services.

Several years ago this process came under scrutiny resulting in several examinations of how the Act is administered and whether the fund was being overspent. The most recent, a 2018 Legislative Post Audit, found in pertinent part that:

- During calendar years 2016, 2017, and 2018 the fund, administered by KDHE under the oversight of a “stakeholder panel”, did not fully cover the state’s share of the increased cost of Medicaid payments made to providers. Those increases are determined by the stakeholder panel set forth in the Act.
  - The stakeholder panel providing the oversight is made up of members appointed by the Kansas Hospital Association, the Kansas Medical Society, the state’s three MCOs, and the Kansas Association for the Medically Underserved. A KDHE representative is also on the panel.
  - The Act gives the HCAIP oversight panel the authority to determine how hospital tax revenues and the associated FMAP funds are to be used, including changes to the HCAIP rate increases, payments to hospitals to help cover the cost of treating uninsured patients, and medical education scholarships.
  - The membership of the “stakeholder panel” has a significant number of members that benefit directly from the fund they “oversee”.
- KDHE uses state general funds to pay the HCAIP expenditures through a complex payment structure has made it possible for total HCAIP expenditures to exceed HCAIP funds.

- KDHE does not directly pay health care providers the HCAIP rate increases. Instead, the agency pays the MCOs a monthly amount that includes the estimated cost of the HCAIP rate increases.
- KDHE contracts with an actuarial firm to estimate the cost of the rate increases and total HCAIP expenses.
- KDHE then uses the HCAIP fund to reimburse the state general fund for the total estimated expenses.
- This complex payment structure makes it possible for total HCAIP expenditures to exceed HCAIP funds.
- Many hospitals in Kansas are not required to pay this tax. The HCAIP statute exempts certain hospitals, including critical access hospitals, hospitals run by state agencies, state educational institutions, and any hospital operated by the Kansas Department of Aging and Disability Services that focuses on mental health or developmental disabilities.
- One consultant study found HCAIP did not comply with statute's distribution requirements during calendar year 2016.
- KDHE does not have the authority to independently ensure HCAIP revenues cover HCAIP expenditures.

The members of the Physician Hospital Association of Kansas have the following concerns regarding the provisions of SB 225 if passed in its current form.

- SB 225 more than doubles the tax hospitals providers must pay from 1.83% to 3% and for the first time the calculation would now include net inpatient and outpatient revenue.
- Does simply adding more money to a fund that has been overspent in the past without additional safeguards solve the problem?
- Is this a revenue problem or simply a spending problem? Overspent typically indicates a spending problem.
- Fewer than half of hospitals are required to pay this tax
- This Act essentially subsidizes rates for Medicaid providers by taxing other health care providers many of which receive no benefit.
- Not all money goes to subsidize rates, some is diverted for medical education
- The stakeholder panel charged with oversight of the assessment funds is too exclusive to be transparent and arms-length in its decision making.
- State General Fund dollars have been used to subsidize systematic overspending which was never the intent of the program.

In summary our members oppose SB 225 in its current form for the many reasons and concerns above and encourage this committee to report the bill adversely.