

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Enrolled

Senate Bill 437

BY SENATORS MARONEY, PLYMALE, AND WOELFEL

[Passed April 5, 2021; in effect from passage]

1 AN ACT to amend and reenact §11-27-38 of the Code of West Virginia, 1931, as amended,
2 relating to health care provider tax; defining terms; modifying the effective date; and
3 removing the expiration date for the tax.

Be it enacted by the Legislature of West Virginia:

ARTICLE 27. HEALTH CARE PROVIDER TAXES.

§11-27-38. Contingent increase of tax rate on certain eligible acute care hospitals.

1 (a) In addition to the rate of the tax imposed by §11-27-9 and §11-27-15 of this code on
2 providers of inpatient and outpatient hospital services, there is imposed on certain eligible acute
3 care hospitals an additional tax of 75 one-hundredths of one percent on the gross receipts
4 received or receivable by eligible acute care hospitals that provide inpatient or outpatient hospital
5 services in this state through a directed payment program, or its successor, in accordance with
6 42 C.F.R. 438.6.

7 (b) For purposes of this section, the term “eligible acute care hospital” means any inpatient
8 or outpatient hospital conducting business in this state that is not:

9 (1) A state-owned or -designated facility;

10 (2) A critical access hospital, designated as a critical access hospital after meeting all
11 federal eligibility criteria;

12 (3) A licensed free-standing psychiatric or medical rehabilitation hospital;

13 (4) A licensed long-term acute care hospital; or

14 (5) A facility designated pursuant to §16-5B-14 of this code.

15 (c) There is continued a special revenue account in the State Treasury designated the
16 Medicaid State Share Fund. The amount of taxes collected under this section, including any
17 interest, additions to tax and penalties collected under §11-10-1 *et seq.* of this code, less the
18 amount of allowable refunds, the amount of any interest payable with respect to such refunds,
19 and costs of administration and collection, shall be deposited into the special revenue fund and
20 do not revert to General Revenue. The Tax Commissioner shall establish and maintain a separate

21 account and accounting for the funds collected under this section in an account to be designated
22 as the Eligible Acute Care Provider Enhancement Account. The amounts collected shall be
23 deposited, within 15 days after receipt by the Tax Commissioner, into the Eligible Acute Care
24 Provider Enhancement Account. Disbursements from the Eligible Acute Care Provider
25 Enhancement Account within the Medicaid State Share Fund may only be used to support West
26 Virginia Medicaid and the directed payment program, or its successor, in accordance with
27 42 C.F.R. 438.6 and as otherwise set forth in this section.

28 (d) The imposition and collection of taxes imposed by this section is suspended
29 immediately upon the occurrence of any of the following:

30 (1) The effective date of any action by Congress that would disqualify the taxes imposed
31 by this section from counting toward state Medicaid funds available to be used to determine the
32 federal financial participation;

33 (2) The effective date of any decision, enactment, or other determination by the Legislature
34 or by any court, officer, department, agency, or office of state or federal government that has the
35 effect of disqualifying the tax from counting toward state Medicaid funds available to be used to
36 determine federal financial participation for Medicaid matching funds or creating for any reason a
37 failure of the state to use the assessment of the Medicaid program as described in this section;
38 and

39 (3) If the tax payments remitted by the eligible acute care hospitals are not used to
40 effectuate the provisions of this article.

41 (e) Any funds remaining in the Eligible Acute Care Provider Enhancement Account as of
42 June 30, 2021, and on June 30 of each year thereafter, shall be transferred to the West Virginia
43 Medical Services Fund after that June 30 but no later than the next ensuing September 30. These
44 funds shall be used during the state fiscal year in which they were transferred at the discretion of
45 the Bureau for Medical Services.

46 (f) The changes to the tax rate in this section enacted in the regular session of the
47 Legislature, 2021, are effective July 1, 2021.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman, Senate Committee

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Chairman, House Committee

Originated in the Senate.

In effect from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

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Day of, 2021.

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Governor