H.293

Introduced by Representatives Sweaney of Windsor, Morrissey of Bennington, Andrews of Rutland City, Batchelor of Derby, Bissonnette of Winooski, Bouchard of Colchester, Branagan of Georgia, Brennan of Colchester, Burditt of West Rutland, Burke of Brattleboro, Campion of Bennington, Canfield of Fair Haven, Cheney of Norwich, Clark of Vergennes, Consejo of Sheldon, Corcoran of Bennington, Crawford of Burke, Dakin of Chester, Degree of St. Albans City, Devereux of Mount Holly, Eckhardt of Chittenden, Evans of Essex, Fagan of Rutland City, French of Randolph, Greshin of Warren, Haas of Rochester, Hebert of Vernon, Helm of Fair Haven, Higley of Lowell, Howard of Cambridge, Howrigan of Fairfield, Hubert of Milton, Komline of Dorset, Lanpher of Vergennes, Larocque of Barnet, Lawrence of Lyndon, Lewis of Berlin, Lewis of Derby, Macaig of Williston, Marcotte of Coventry, Martin of Wolcott, McAllister of Highgate, McFaun of Barre Town, McNeil of Rutland Town, Mook of Bennington, Moran of Wardsboro, Myers of Essex, Nuovo of Middlebury, Peaslee of Guildhall, Perley of Enosburgh, Poirier of Barre City, Ralston of Middlebury, Ram of Burlington, Reis of St. Johnsbury, Savage

of Swanton, Shand of Weathersfield, Sharpe of Bristol, Shaw of Pittsford, Smith of New Haven, Spengler of Colchester, Stevens of Shoreham, Strong of Albany, Taylor of Barre City, Till of Jericho, Townsend of Randolph, Webb of Shelburne, Winters of Williamstown and Wright of Burlington

Referred to Committee on

Date:

Subject: Health; hospitals; home health agencies; provider tax; state health care resources fund

Statement of purpose: This bill proposes to support Medicaid payments to hospitals and home health agencies by creating transparency on the collaboration of the provider assessment and distribution of proceeds from the collection of the provider assessment.

An act relating to hospital and home health assessments

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 33 V.S.A. § 1953 is amended to read:

§ 1953. HOSPITAL ASSESSMENT

(a) Hospitals shall be subject to an annual assessment as follows:

(1) Each hospital's annual assessment, except for hospitals assessed under subdivision (2) of this subsection, <u>effective October 31, 2011</u> shall be

~~5.5~~ six percent of its net patient revenues (less chronic, skilled, and swing bed revenues) for the hospital's fiscal year as determined annually by the commissioner of Vermont health access from the hospital's financial reports and other data filed with the department of banking, insurance, securities, and health care administration. The annual assessment shall be based on data from a hospital's most recent full fiscal year for which data has been reported to the department of banking, insurance, securities, and health care administration.

(2) Beginning July 1, 2004, each mental hospital or psychiatric facility's annual assessment shall be 4.21 percent, provided that the United States Department of Health and Human Services grants a waiver to the uniform assessment rate, pursuant to 42 C.F.R. § 433.68(e). If the United States Department of Health and Human Services fails to grant a waiver, mental hospitals and psychiatric facilities shall be assessed under subdivision (1) of this subsection.

(b) Each hospital shall be notified in writing by the department of the assessment made pursuant to this section. If no hospital submits a request for reconsideration under section 1958 of this title, the assessment shall be considered final.

(c) Each hospital shall submit its assessment to the department according to a payment schedule adopted by the commissioner in consultation with the Vermont joint fiscal committee as provided in subdivision 1953b(a)(1) of this

title. ~~Variations in payment schedules shall be permitted as deemed necessary by the commissioner.~~

(d) Any hospital that fails to make a payment to the department on or before the specified schedule, or under any schedule for delayed payments established by the commissioner, shall be assessed not more than $1,000.00. The commissioner may waive this late payment assessment provided for in this subsection for good cause shown by the hospital.

(e) All monies paid as hospital assessments shall be subject to federal matching as authorized under federal law and shall be deposited into the state health care resources fund. The hospital assessments and related matching funds shall be used by appropriation by the general assembly only for the following purposes consistent with the Global Commitment for Health Medicaid Section 1115 waiver:

(1) to pay disproportionate share (DSH) payments;

(2) to increase hospital reimbursements under the Vermont Medicaid program to 100 percent of each hospital's approved costs with the goal of decreasing Medicaid underpayments and creating Medicaid reimbursements that are at the same rate of payment as the Medicare program;

(3) to sustain the Vermont Catamount Health program; and

(4) to pay the actual administrative costs of implementing and administering this subsection.

Sec. 2. 33 V.S.A. § 1955a is amended to read:

§ 1955a. HOME HEALTH AGENCY ASSESSMENT

(a) Beginning July 1, 2009, each home health agency's assessment shall be 17.69 percent of its net operating revenues from core home health care services, excluding revenues for services provided under Title XVIII of the federal Social Security Act. The amount of the tax shall be determined by the commissioner based on the home health agency's most recent audited financial statements at the time of submission, a copy of which shall be provided on or before December 1 of each year to the department. For providers who begin operations as a home health agency after January 1, 2005, the tax shall be assessed as follows:

(1) Until such time as the home health agency submits audited financial statements for its first full year of operation as a home health agency, the commissioner, in consultation with the home health agency, shall annually estimate the amount of tax payable and shall prescribe a schedule for interim payments.

(2) At such time as the full-year audited financial statement is filed, the final assessment shall be determined, and the home health agency shall pay any underpayment or the department shall refund any overpayment. The assessment for the state fiscal year in which a provider commences operations

as a home health agency shall be prorated for the proportion of the state fiscal year in which the new home health agency was in operation.

(b) Each home health agency shall be notified in writing by the department of the assessment made pursuant to this section. If no home health agency submits a request for reconsideration under section 1958 of this title, the assessment shall be considered final.

(c) Each home health agency shall submit its assessment to the department according to a payment schedule adopted by the commissioner. Variations in payment schedules shall be permitted as deemed necessary by the commissioner.

(d) Any home health agency that fails to make a payment to the department on or before the specified schedule, or under any schedule for delayed payments established by the commissioner, shall be assessed not more than $1,000.00. The commissioner may waive this late payment assessment provided for in this subsection for good cause shown by the home health agency.

(e) All monies paid as home health assessments shall be subject to federal matching as authorized under federal law and shall be deposited into the state health care resources fund. The home health assessments and related matching funds shall be used by appropriation by the general assembly only for the

following purposes consistent with the Global Commitment for Medicaid Section 1115 waiver:

(1) to increase home health reimbursement under the Vermont Medicaid program to match the current federal low utilization payment adjustment per-visit rate for those services paid on a per-visit basis;

(2) to sustain the Vermont Catamount Health program; and

(3) to pay the actual administrative costs of implementing and administering this subsection.

Sec. 3. 33 V.S.A. § 1953a is added to read:

§ 1953a. APPROPRIATIONS TO HOSPITALS AND HOME HEALTH AGENCIES

(a) Payments made from the state health care resources fund to hospitals and home health agencies pursuant to subsections 1953(e) and 1955a(e) of this title shall be timely and, to the extent feasible, simultaneous with the assessments imposed to ensure the least disruption in cash flow as possible.

(b) If payments from the state health care resources fund to hospitals and home health agencies are less than 100 percent of the approved costs under the Medicare program or as otherwise provided in this section, this appropriation shall supplement, not supplant, general fund appropriations to support reimbursements. General fund appropriations for hospital and home health agency reimbursements shall be maintained at the level of appropriations in the

Vermont Medicaid budget for the fiscal year commencing July 1, 2011, except that general fund appropriations for hospital and home health agency reimbursements may be reduced if an index of appropriations to other providers shows that general fund appropriations are reduced for other providers. If the index shows that the general fund appropriations are reduced for other providers, the general fund appropriations for hospital and home health agency reimbursements shall not be reduced by a greater percentage than the reductions of appropriations for the other providers as shown by the index.

(c) For purposes of this section, the "index of appropriations to other providers" or "index" shall mean the average percent change in reimbursement rates through appropriations or legislation enacted by the general assembly to physician services and outpatient pharmacies, excluding dispensing fees.

(d) Home health agency reimbursement shall match the federal low utilization payment adjustment per-visit Medicare rate for those services paid on a per-visit basis.

Sec. 4. 33 V.S.A. § 1953b is added to read:

§ 1953b. HOSPITAL AND HOME HEALTH AGENCY ASSESSMENT OVERSIGHT AND ADVISORY BOARD

(a) The joint fiscal committee of the Vermont general assembly shall serve as the hospital and home health agency assessment oversight and advisory board and shall have the following duties:

(1) Recommend to the department of Vermont health access the timing and method by which the department shall assess the hospital and home health agency assessment; and

(2) Consult, upon the request of the senate committee on health and welfare, the house committee on health care, the house committee on human services, or the house or senate committee on appropriations, on any legislation that may affect the hospital and home health agency assessment and reimbursements from the state health care resource fund.

(b) On or before January 15, 2012, and on or before January 15 each year thereafter, the Vermont joint fiscal committee shall submit a written report to the senate committee on health and welfare, the house committee on health care, the house committee on human services, and the senate and house committees on appropriations. The report shall include:

(1) The recommendations made to the department of Vermont health access pursuant to this section;

(2) A description of the formulas for how the hospital and home health agency assessment is calculated, along with the process by which the assessment is assessed and collected;

(3) An itemization of the total amount of the assessment paid by each hospital and home health agency and the projected revenue that is expected to be received from the health care resources fund; and

(4) Estimates, as calculated annually in consultation with the department of banking, insurance, securities, and health care administration and the agency of human services, of the differences between the cost of care provided and the payment received by each hospital and home health agency and aggregated for patients covered by each of the following:

(A) Medicaid;

(B) Medicare; and

(C) all other payers.

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.