

**STORAGE NAME:** h0891s1.hcr

**DATE:** April 8, 1997

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
HEALTH CARE STANDARDS & REGULATORY REFORM  
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

**BILL #:** CS/HB 891

**RELATING TO:** Health Care/Certain Entities/Radiation Therapy

**SPONSOR(S):** Committee on Health Care Standards & Regulatory Reform and Representative Gay

**STATUTE(S) AFFECTED:** Section 395.7015, F.S.

**COMPANION BILL(S):** SB 1218 (s)

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) HEALTH CARE STANDARDS & REGULATORY REFORM YEAS 6 NAYS 0
- (2) FINANCE & TAXATION (FRC)
- (3) HEALTH & HUMAN SERVICES APPROPRIATIONS
- (4)
- (5)

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**I. SUMMARY:**

The bill provides a credit against the annual assessment on net operating revenues for freestanding radiation therapy centers that treat medically indigent or Medicaid patients for cancer. Revenues from the assessments are currently deposited into the Public Medical Assistance Trust Fund (PMATF).

The bill provides that the amount of the credit is the total dollar value of uncompensated care for the fiscal year, calculated using Medicare reimbursement rates.

The estimated fiscal impact on the Public Medical Assistance Trust Fund is a decrease in revenue of up to \$710,068 for FY 1997-98, with a corresponding requirement to increase general funding by \$710,068 or reduce expenditures by \$1,601,416 (the amount of the revenue loss plus the federal matching funds).

The bill has no fiscal impact on local government or the private sector.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

In 1984, out of a concern to equalize the financial burdens imposed upon licensed hospitals which expended medical resources to provide indigent health care--as contrasted with those facilities who did not--the Legislature created the Public Medical Assistance Trust Fund (PMATF) for "providing a method for funding the provision of health care services to indigent persons, the cost of which shall be borne by the state and by hospitals that are granted the privilege of operating in this state." Through this legislation, the PMATF became the depository for all monies collected. The original PMATF assessment was 1.5 percent of the annual net operating revenues of hospitals. Recent estimates have placed annual collections from hospitals at approximately \$230 million per year.

Following an unsuccessful attempt to increase the percentage of the assessment against hospitals, the Legislature expanded the PMATF collection base in 1991 by establishing an assessment against certain defined "health care entities." The added health care entities now subject to the 1.5 percent assessment on net operating revenues include: ambulatory surgical centers, clinical laboratories, freestanding radiation therapy centers, and diagnostic imaging centers (chapter 395.7015, F.S.). The Agency for Health Care Administration (AHCA) subjects those who fail to comply with the periodic reporting and payment requirements to penalties of up to \$1,000 per day.

Freestanding radiation therapy centers providing treatment through the use of radiation therapy machines that are registered under s. 404.22, F.S. "Sophisticated radiological services" include magnetic resonance imaging, nuclear medicine, angiography, arteriography, computed tomography, positron emission tomography, digital vascular imaging, bronchography, lymphangiography, splenography and ultrasound. Any physician or group practice which performs one or more of these specifically defined sophisticated radiological services has been deemed by AHCA to meet the definition of a diagnostic imaging center subject to the 1.5 percent tax on the practice's total revenues.

Florida Administrative Code 59B-6.009 defines "net operating revenue" as gross revenue less deductions from revenue. "Deductions from revenue" means reductions from gross revenues resulting from inability to collect payments of charges. Such reductions include bad debts, contractual adjustments, uncompensated care, administrative, courtesy, and policy discounts and adjustments, and other such revenue deductions and includes the offset of restricted donations and grants for indigent care.

B. EFFECT OF PROPOSED CHANGES:

The bill allows freestanding radiation therapy centers to deduct uncompensated care from gross revenues before the calculation of the annual assessment of 1.5 percent on net operating revenues. It permits the centers to deduct uncompensated care dollar for dollar, calculated using Medicare reimbursement rates, from the annual assessment, as well as deduct the uncompensated care from gross operating revenue before the imposition of the assessment.

The legislation provides a credit against a radiation therapist's PMATF assessment if the physician treats the medically indigent for cancer, but only if the physician also accepts and treats Medicaid patients. The total credit would equal the total dollar value of the uncompensated care given by the center in the previous fiscal year. The credit would be calculated using Medicare reimbursement rates for the indigent services provided.

Radiation therapists choosing not to provide cancer treatment to the medically indigent on an uncompensated basis or who refuse to see Medicaid patients would not be entitled to receive a credit and would continue to pay one and one-half percent of their net revenues to the PMATF.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

None.

(2) what is the cost of such responsibility at the new level/agency?

N/A.

(3) how is the new agency accountable to the people governed?

N/A.

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

No.

- b. Does the bill require or authorize an increase in any fees?

No.

- c. Does the bill reduce total taxes, both rates and revenues?

The bill provides for a credit against the assessment (tax) which will reduce the overall tax collected by the state for deposit into the Public Medical Assistance Trust Fund (PMATF).

- d. Does the bill reduce total fees, both rates and revenues?

No.

- e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A.

- (2) Who makes the decisions?

N/A.

- (3) Are private alternatives permitted?

N/A.

- (4) Are families required to participate in a program?

N/A.

- (5) Are families penalized for not participating in a program?

N/A.

- b. Does the bill directly affect the legal rights and obligations between family members?

No.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

- (1) parents and guardians?

N/A.

(2) service providers?

N/A.

(3) government employees/agencies?

N/A.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends subsection (2) of section 395.7015, F.S., to provide that a freestanding radiation therapy center subject to the 1.5 percent annual assessment on net operating revenue and that treats cancer patients who are medically indigent and accepts Medicaid patients for cancer treatment shall receive a credit against the amount of the assessment due. The freestanding radiation therapy center qualifying for the credit may reduce the amount of the assessment by an amount equal to the total dollar value of the assessment by an amount equal to the total dollar value of the uncompensated care provided by the center during the most recent completed fiscal year, Medicare reimbursement rates shall be used to calculate the value of the uncompensated care.

Section 2. Provides an effective date of upon becoming law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

	Amount Year 1 FY 1998-98	Amount Year 1 FY 1998-99
1. <u>Non-recurring Effects:</u>		
None.		
2. <u>Recurring Effects:</u>		
Agency for Health Care Administration Medicaid Services		
Revenues:		
Public Medical Assistance Trust Fund	(710,068)	(745,571)
Expenditures:		
Hospital Inpatient Services		
General Revenue	710,068	745,571
Public Medical Assistance Trust Fund	(710,068)	(745,571)
Total Hospital Inpatient Services	0	0

3. Long Run Effects Other Than Normal Growth:

Unknown.

4. Total Revenues and Expenditures:

Agency for Health Care Administration  
Medicaid Services

Revenues:

Public Medical Assistance Trust Fund	(710,068)	(745,571)
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Expenditures:

General Revenue	710,068	745,571
Public Medical Assistance Trust Fund	(710,068)	(745,571)

\*See Fiscal Comments Section.

Note: If the Public Medical Assistance Trust Fund revenues are decreased, then additional general revenue is required in the amount of the reduction or projected expenditures must be reduced by the amount of the reduction plus the federal matching funds. The amounts above assume that additional general revenue will be funded.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

Freestanding radiation therapy centers would avoid paying assessments by the amount of the credit permitted by the bill.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

The Agency for Health Care Administration (agency) indicates that "if the Public Medical Assistance Trust Fund revenues re decreased, additional general revenue is required in the amount of the reduction or projected expenditures must be reduced by the amount of the reduction plus the federal matching funds."

The following fiscal comments have been submitted by the agency:

"The figures used for comparison for this bill came from actual assessments for 65 providers using FY 1994 cost reports and FY 1995 cost reports. The figures for uncompensated care are from FY 1995 cost reports received by the agency and have been inflated using normal growth of revenue from FY 1994 to FY 1995. The facilities were assessed \$1,021,419.77 using FY 1994 data and were assessed \$1,104,290.49 using FY 1995 reports. Uncompensated care for FY 1995 was reported as \$710,068; this was used as the deduction since it was not possible to calculate the actual Medicare rate for these revenues. The numbers also assume that all the facilities accept cancer patients for treatment and treat cancer patients who are medically indigent. It is possible that he actual reductions would be slightly lower.

Beginning July 1, 1993, the assessments are based on the actual experience of the entity as reported to the agency within 120 days after the end of its fiscal year in the preceding calendar year."

The agency raises a number of questions regarding the intent for transitioning the credit, with the bill's effective date of as becoming law. They state that collections in FY 1997-98 will be based on the last report filed with the agency, and many of the reports will not reflect the credit. Additional questions they raise include:

- ▶ If the bill becomes law effective before July 1, 1997, is the credit applied to collections in the current year?
- ▶ If applied in the current year, is the credit prorated?
- ▶ Is the intent to apply the credit to the assessments based on reports filed after the effective date of the bill?

The agency also states:

"This bill allows the health care entity to deduct from gross revenue the uncompensated care before the assessment is figured. It then allows the entity to take a credit of an amount equal to the total dollar value of the uncompensated care, calculated using Medicare reimbursement rates, from the assessment. The federal government could also interpret that the tax as amended is an impermissible provider-related tax. To be a permissible provider-related tax, the tax must be broad based, uniformly imposed, and not violate hold harmless provisions. The Health Care Financing Administration could

find that the tax, as amended, is not a permissible tax. This would cause a loss in matching federal financial participation for the tax if the tax was found to be impermissible. Title 42, part 433, sections 54 through 72, regulate provider-related donations and taxes.

The bill specifies that Medicare reimbursement rates are to be used to calculate the value of the uncompensated care. Does this mean the Medicare schedule rate or the Medicare schedule less any coinsurance/deductible? Medicare schedule rates are also adjusted for geographic practice cost indices, designated health professional shortage areas, and for non-participating physicians. Covered procedures listed on Medicare's payment schedule that have no values assigned are still paid under a reasonable charge system, meaning that Medicare will pay the lowest of the actual charge, the customary charge, the prevailing charge of other doctors, the carrier's usual payment for comparable services, and the inflation-indexed charge limit for non-physician services, supplies, and equipment. It appears that the language in the bill allows for various interpretations.

All revenues projected to be collected for FY 1997-98 are used to fund an appropriation in the Public Medical Assistance Trust Fund for hospital inpatient services in Medicaid Services, offsetting the general revenue that would otherwise be required to fund Medicaid Services. If the Public Medical Assistance Trust Fund revenues are decreased, then additional general revenue is required in the amount of the reduction or projected expenditures must be reduced by the amount of the reduction plus the federal matching funds. There is no projected cash balance in the trust fund.

Cash analysis of the PMATF based on the 2/25/97 Social Services Estimating Conference:

	FY 1997-98	FY 1998-99
Estimated Beginning Cash Balance	\$17,076,509	\$0
Estimated Revenues		
Hospital Assessments	222,000,000	222,000,000
Health Entity Assessments	16,100,000	16,100,000
Cigarette Taxes	117,000,000	117,800,000
Interest	2,800,00	1,000,000
Damages	4,140,165	0
Adjust Cash Retained by DC&F	(548,311)	0
Total Estimated Revenues	361,491,854	356,900,000
Projected Expenditures		
Hospital Inpatient Services	349,168,363	356,900,000
Transfer Cash to GR Unallocated	29,400,000	0
Total Estimated Expenditures	378,568,363	356,900,000
Total Ending Cash Balance	0	0

Cash analysis of the PMATF after estimated impact of proposed amendment to s. 395.7015:

	FY 1997-98	FY 1998-99
Estimated Beginning Cash Balance	\$17,076,509	\$0

Estimated Revenues		
Hospital Assessments	222,000,000	222,000,000
Health Entity Assessments	15,389,932	15,354,429
Cigarette Taxes	117,000,000	117,800,000
Interest	2,800,00	1,000,000
Damages	4,140,165	0
Adjust Cash Retained by DC&F	(548,311)	0
Total Estimated Revenues	360,781,786	356,154,429
Projected Expenditures		
Hospital Inpatient Services	348,458,295	356,154,429
Transfer Cash to GR Unallocated	29,400,000	0
Total Estimated Expenditures	377,858,295	356,154,429
Total Ending Cash Balance	0	0

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

It is the feeling of Industry (Radiation Therapy Section of the Florida Radiological Society) that the comments made by the agency under the Fiscal Comments Section are an indication of the agency's concern that a credit would violate HCFA (Health Care Financing Administration) rules for permissible health care taxes which are collected by the state for funding Medicaid. This was not the intent of the bill sponsor or industry. In an effort to address those concerns, industry intends to offer an amendment which will repeal those issues which are of concern to the agency; it would appear that by this effort to compromise, the concerns should be alleviated.

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VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

One amendment (with a title) was added to the bill in Committee. The difference between the original bill and the Committee Substitute is that the committee substitute has eliminated the credit concept by repealing the assessment on radiation therapy.

VII. SIGNATURES:

COMMITTEE ON HEALTH CARE STANDARDS & REGULATORY REFORM:

Prepared by:

Legislative Research Director:

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