

LEON COUNTY ORDINANCE NO. 2021-

1
2
3 AN ORDINANCE OF THE BOARD OF COUNTY
4 COMMISSIONERS OF LEON COUNTY, FLORIDA,
5 AMENDING CHAPTER 8 OF THE CODE OF LAWS OF LEON
6 COUNTY, FLORIDA, BY ADDING A NEW ARTICLE VIII TO
7 BE ENTITLED LOCAL PROVIDER PARTICIPATION FUND
8 NON-AD VALOREM ASSESSMENT; PROVIDING FOR THE
9 ESTABLISHMENT OF A NON-AD VALOREM ASSESSMENT
10 FOR THE DIRECTED PAYMENT PROGRAM FOR HOSPITALS
11 PROVIDING INPATIENT AND OUTPATIENT SERVICES TO
12 MEDICAID MANAGED CARE ENROLLEES; PROVIDING FOR
13 CREATION OF THE LEON COUNTY LOCAL PROVIDER
14 PARTICIPATION FUND; PROVIDING FOR ESTABLISHMENT
15 OF THE METHOD OF SETTING AND COMPUTING ANNUAL
16 NON-AD VALOREM ASSESSMENTS TO BE DEPOSITED INTO
17 THE FUND AND SPECIFYING THE AUTHORIZED USES FOR
18 FUND PROCEEDS; PROVIDING FOR APPLICABILITY;
19 PROVIDING FOR CONFLICTS; PROVIDING FOR
20 SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

21
22 RECITALS
23

24 WHEREAS, the private for-profit and not-for-profit hospitals in Leon County (the “Hospitals”) annually provide millions of dollars of uncompensated care to persons who qualify for Medicaid because Medicaid typically covers only about 60% of the costs of the health care services actually provided by Hospitals to Medicaid-eligible persons, leaving Hospitals with significant uncompensated costs (“Medicaid shortfall”); and
28

29
30 WHEREAS, the Medicaid directed payment program is a federally approved program that permits States to access federal funds through intergovernmental transfers (the “IGTs”) in order to direct the federal funds for managed care plan expenditures to hospitals for plan-covered services and offset hospitals’ Medicaid shortfall; and
34

35 WHEREAS, the State of Florida, Agency for Health Care Administration (AHCA), has received federal approval from the Centers for Medicare and Medicaid Services (CMS) to establish the Statewide Medicaid Managed Care hospital directed payment program to help offset hospitals’ Medicaid shortfall and improve quality of care provided to Florida’s Medicaid population; and
39

40 WHEREAS, the only properties to be assessed are the real property sites of the Hospitals’ licensed facilities; and
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42
43 WHEREAS, Leon County, Florida (the “County”) recognizes that one or more Hospitals’ licensed facilities within the County’s boundaries may be located upon real property leased from governmental entities and that such Hospitals may be assessed because courts do not make distinctions on the application of special assessments based on “property interests” but rather on the distinction of the classifications of real property being assessed; and
47
48

1 WHEREAS, the funding raised by the County special assessment will support, through IGTs
2 consistent with federal guidelines, additional funding for Medicaid payments to Hospitals to address
3 the Medicaid shortfall; and
4

5 WHEREAS, the County acknowledges that the Hospital properties assessed will benefit
6 directly and especially from the special assessment as a result of the additional funding provided to the
7 Hospitals; and
8

9 WHEREAS, the County has determined that a logical relationship exists between the Medicaid
10 services provided by the Hospitals, which will be supported by the special assessment, and the special
11 and particular benefit to the real property of the Hospitals; and
12

13 WHEREAS, the County has an interest in promoting access to health care for its low-income
14 and under-insured residents; and
15

16 WHEREAS, leveraging additional federal support through the IGTs to fund payments to the
17 Hospitals for health care services provided to Medicaid eligible persons directly and specifically
18 benefits the Hospitals' properties and supports the Hospitals' continued ability to provide those
19 services; and
20

21 WHEREAS, imposing a special assessment limited to those Hospital properties to help fund
22 the provision of Medicaid services and the achievement of certain quality standards by the Hospitals
23 to residents of the County is a valid public purpose that benefits the health, safety, and welfare of the
24 citizens of the County; and
25

26 WHEREAS, the special assessment ensures the financial stability and viability of the Hospitals
27 providing such Medicaid services; and
28

29 WHEREAS, the Hospitals are important contributors to the County's economy, and the
30 financial benefit to these Hospitals directly and specifically supports their mission, as well as their
31 ability to grow, expand, and maintain their facilities in concert with the population growth in the
32 jurisdiction of the County; and
33

34 WHEREAS, the County finds the special assessment will enhance the Hospitals' ability to
35 grow, expand, maintain, improve, and increase the value of their properties and facilities under all
36 present circumstances and those of the foreseeable future; and
37

38 WHEREAS, the County is proposing a properly apportioned special assessment by which all
39 Hospitals will be assessed a uniform amount that is compliant with 42 C.F.R. § 433.68(d); and
40

41 WHEREAS, the County adopts this Ordinance enabling the County to levy a non-ad valorem
42 assessment, which is fairly and reasonably apportioned among the Hospitals' properties within the
43 County's jurisdictional limits, to establish and maintain a system of funding for IGTs to support the
44 non-federal share of Medicaid payments that will directly and specially benefit Hospital properties.
45

46 BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEON
47 COUNTY, FLORIDA, that:
48

1 **Section 1. Amendments to Code.**
2

3 Chapter 8 of the Code of Laws of Leon County, Florida, is hereby amended by adding a new
4 Article VIII, which shall read as follows:
5

6 **ARTICLE VIII. LOCAL PROVIDER PARTICIPATION FUND NON-AD VALOREM**
7 **ASSESSMENT**
8

9 **Sec. 8-201. Definitions.**
10

11 When used in this article, the following terms shall have the following meanings, unless the context
12 clearly requires otherwise:
13

14 *Annual Final Assessment Resolution* means the resolution imposing an Assessment and
15 memorializing the final rate for the non-ad valorem assessment applicable for the Fiscal Year.
16

17 *Assessed Property(ies)* means all parcels of land subject to the Assessment which an Institutional
18 Health Care Provider holds a right of possession and right of use, either through fee ownership or
19 leasehold interest, and which receives a special benefit from the directed payment in an amount up to
20 the uncompensated Medicaid costs.
21

22 *Assessment* means the non-ad valorem assessment imposed by the County on the Assessed
23 Property(ies) located in the County limits to fund the non-federal share of Medicaid and Medicaid
24 managed care payments directed to hospitals providing Local Services in the County.
25

26 *Assessment Resolution* means the resolution described in section 8-207 of this article.
27

28 *Board* means the Leon County Board of County Commissioners.
29

30 *Comptroller* means the Leon County Clerk of Circuit Court and Comptroller, ex officio Clerk to
31 the Board, or other such person as may be duly authorized to act on such person's behalf.
32

33 *County* means Leon County, Florida.
34

35 *Fiscal Year* means the period commencing on October 1 of each year and continuing through the
36 next succeeding September 30, or such other period as may be prescribed by law as the fiscal year for
37 the County.
38

39 *Institutional Health Care Provider(s)* means a private for-profit or not-for-profit entity licensed by
40 the State of Florida, Agency for Health Care Administration ("AHCA") under Part I, chapter 395,
41 Florida Statutes, to operate a hospital.
42

43 *Local Services* means the provision of inpatient and outpatient hospital services to Medicaid,
44 indigent, and uninsured members of the Leon County community.
45

1 *Non-Ad Valorem Assessment Roll* means the assessment roll prepared by the County.
2

3 **Sec. 8-202. Purpose of Assessment.**
4

5 The Assessment authorized by this article shall be imposed, levied, collected, and enforced
6 against Assessed Properties located within the County. Proceeds from the Assessment shall be used to
7 benefit Assessed Properties through enhanced Medicaid payments for Local Services. When imposed,
8 the Assessment shall constitute a lien upon the Assessed Properties equal in rank and dignity with the
9 liens of all state, county, district, or municipal taxes and other non-ad valorem assessments. Failure to
10 pay an Assessment may cause a lien to be filed against the Assessed Property or the commencement of
11 foreclosure proceedings which could result in loss of title. The Assessment shall be computed and
12 assessed only in the manner provided in this article.
13

14 **Sec. 8-203. Method of collection.**
15

16 This article shall be deemed to provide an alternative method, as specified in F.S. § 197.3631,
17 for the assessment and collection of the Assessment described in this article.
18

19 **Sec. 8-204. Construction of article.**
20

21 This article shall be regarded as supplemental and additional to powers conferred by other laws
22 and shall not be regarded as in derogation of any powers now existing, or which may hereafter come
23 into existence. This article, being necessary for the health, safety, and welfare of the inhabitants of the
24 County, shall be liberally construed to effect the purposes hereof.
25

26 **Sec. 8-205. Scope of Assessment.**
27

28 (a) Pursuant to F.S. § 125.01, there is hereby created an Assessment that shall be imposed,
29 levied, collected, and enforced against Assessed Property to fund the non-federal share of Medicaid
30 payments benefitting Assessed Properties providing Local Services in the County.
31

32 (b) Funds generated as a result of the Assessment shall be held in a separate account called
33 the local provider participation fund and shall be available to be used only to:
34

- 35 (1) provide to the State of Florida, Agency for Health Care Administration, the non-
36 federal share for Medicaid payments to be made directly or indirectly in support
37 of Institutional Health Care Providers serving Medicaid beneficiaries; and
38
- 39 (2) reimburse the County for administrative costs associated with the
40 implementation of the Assessment authorized by this article, as further specified
41 in the Assessment Resolution.
42

43 (c) The Assessment will be broad-based, and the amount of the Assessment shall be
44 uniformly imposed on each Assessed Property. The Assessment may not hold harmless any
45 Institutional Health Care Provider, as required under 42 U.S.C. § 1396b(w). As set forth in section 8-

1 202, the Assessment shall constitute a lien upon the Assessed Properties equal in rank and dignity with
2 the liens of all state, county, district, or municipal taxes and other non-ad valorem assessments.

3
4 (d) The Assessment shall be imposed, levied, collected, and enforced against only Assessed
5 Properties, and the Assessment Resolution shall provide that the County's administrative costs shall be
6 reimbursed from the collected amounts.

7
8 (e) The imposition, levy, collection and enforcement of the Assessment is conditioned upon
9 the federal Centers for Medicaid and Medicare Services' (CMS) approval of the Medicaid Directed
10 Payment Program and authorization of the Florida Legislature, as may be required from time to time
11 by law.

12
13 **Sec. 8-206. Computation of Assessment.**

14
15 (a) The annual Assessment shall be specified for each Assessed Property. The Board shall
16 set the Assessment in amounts that, in the aggregate, will generate sufficient revenue to fund the non-
17 federal share of Medicaid payments associated with Local Services to be funded by the Assessment.

18
19 (b) The amount of the Assessment required of each Assessed Property may not exceed an
20 amount that, when added to the amount of other required assessments, exceeds the maximum percent
21 of the aggregate net patient revenue of all assessed Institutional Health Care Providers in the County
22 permitted by 42 C.F.R. § 433.68(f)(3)(i)(A). Assessments for each Assessed Property will be derived
23 from data contained in respective Institutional Health Care Provider's cost reports and/or the Florida
24 Hospital Uniform Reporting System, as available from the AHCA.

25
26 **Sec. 8-207. Assessment Resolution.**

27
28 The Assessment Resolution adopted pursuant to this article shall include a description of the
29 following:

- 30
31 (a) The Medicaid payments proposed for funding from proceeds of the Assessment;
32
33 (b) The benefits to the Assessment Properties associated with the Assessment;
34
35 (c) The methodology for computing the assessed amounts; and
36
37 (d) The method of collection, including how and when the Assessment must be paid.

38
39 **Sec. 8-208. Non-Ad Valorem Assessment Roll.**

40
41 The County shall prepare, or direct the preparation of, the Non-Ad Valorem Assessment Roll,
42 which shall contain the following:

- 43
44 (a) The names of the property owners for the Assessed Properties; and
45

- 1 (b) The Assessment rate and amount of the Assessment to be imposed against each
2 Assessed Property based on the Assessment Resolution.
3

4 **Sec. 8-209. Notice by publication.**
5

6 Upon completion of the Non-Ad Valorem Assessment Roll, the County shall publish once in a
7 newspaper of general circulation within the County a notice stating that the Board, at a regular,
8 adjourned, or special meeting on a certain day and hour, not earlier than 20 calendars days from such
9 publication. Such published notice shall include:

- 10 (a) The name of the Board;
11
12 (b) A geographic depiction of the property subject to the Assessment;
13
14 (c) The method by which the Assessment will be collected;
15
16 (d) A statement that all affected and/or interested parties have a right to appear at the hearing
17 and to file written objections with the Board within 20 days of the notice; and
18
19 (e) A statement that the Non-Ad Valorem Special Assessment Roll is available for
20 inspection at a designated County office.
21
22

23 **Sec. 8-210. Notice by mail.**
24

25 (a) In addition to the published notice required by section 8-209, when the Assessment is
26 levied for the first time and for any assessment that will exceed a prior year's Assessment rate imposed
27 by the Board against Assessed Properties, the County shall provide notice of the proposed Assessment
28 by first class mail to each Institutional Health Care Provider. Such notice shall include:

- 29 (1) The purpose of the Assessment;
30
31 (2) The total amount to be levied against each Assessed Property;
32
33 (3) The unit of measurement applied against each Assessed Property to determine
34 the Assessment;
35
36 (4) The total revenue to be collected by the County from the Assessment;
37
38 (5) A statement that failure to pay the Assessment will cause a lien to be filed against
39 the Assessed Property or foreclosure proceedings to be instituted, either of which
40 may result in a loss of title to the Assessed Property;
41
42 (6) A statement that all affected and/or interested parties have a right to appear at
43 the hearing and to file written objections with the board within 20 days of the
44 notice; and
45

1
2 (7) The date, time, and place of the hearing.
3

4 (b) Notice shall be mailed at least 20 calendar days prior to the hearing to each Institutional
5 Health Care Provider at such address as is shown on the Non-Ad Valorem Assessment Roll. Notice
6 shall be deemed mailed upon delivery thereof to the possession of the United States Postal Service.
7 The County may provide proof of such notice by affidavit. Failure of the Institutional Health Care
8 Provider to receive such notice, due to mistake or inadvertence, shall not affect the validity of the Non-
9 Ad Valorem Assessment Roll or release or discharge any obligation for payment of the Assessment
10 imposed by the Board pursuant to this article.
11

12 **Sec. 8-211. Adoption of Assessment Resolution and Non-Ad Valorem Assessment Roll.**
13

14 At the time named in the notice, the Board shall receive and consider any written objections of
15 interested persons and shall hear testimony from all interested persons. All written objections to the
16 Assessment Resolution and Non-Ad Valorem Assessment Roll shall be filed with the County within
17 20 days of the publication of the Notice provided pursuant to Sections 8-209 and 8-210. At the date
18 and time named in the notice, the Board may adopt the Assessment Resolution and Non-Ad Valorem
19 Assessment Roll which shall:
20

- 21 (a) Set the rate of the Assessment to be imposed;
22
23 (b) Approve the Non-Ad Valorem Assessment Roll, with such amendment as the Board
24 deems just and right; and
25
26 (c) Affirm the method of collection.
27

28 **Sec. 8-212. Annual Final Assessment Resolution.**
29

30 The Board may revise the Non-Ad Valorem Assessment Roll during the Fiscal Year to modify
31 the Assessment rate. In the event of a revision, the Board must adopt an Annual Final Assessment
32 Resolution during the Fiscal Year to memorialize the final rate applicable for the Fiscal Year.
33

34 **Sec. 8-213. Effect of Annual Final Assessment Resolution.**
35

36 The adoption of the Annual Final Assessment Resolution shall be the final adjudication of the
37 issues presented (including, but not limited to, the method of apportionment and assessment, the revised
38 rate of Assessment, the initial rate of Assessment, the Non-Ad Valorem Assessment Roll, and the levy
39 and lien of the Assessments), unless proper steps shall be initiated in a court of competent jurisdiction
40 to secure relief within 20 days from the date of Board action on the Annual Final Assessment
41 Resolution.
42

43 **Sec. 8-214. Method of collection.**
44

1 The amount of the Assessment is to be collected pursuant to F.S. § 197.3631, as amended, and
2 as specified in the Assessment Resolution.
3

4 **Sec. 8-215. Refunds.**
5

6 If, at the end of the Fiscal Year, additional amounts remain in the local provider participation
7 fund, the Board is hereby authorized to make refunds to the Institutional Health Care Providers in
8 proportion to amounts paid in during the Fiscal Year for all or a portion of the unutilized local provider
9 participation fund.
10

11 **Sec. 8-216. Responsibility for enforcement.**
12

13 The County shall enforce the prompt collection of the Assessment by the means provided in
14 this article. The duties related to collection of assessments may be enforced by any holder of obligations
15 in a court of competent jurisdiction by mandamus or other appropriate proceedings or actions.
16

17 **Sec. 8-217. Correction of errors and omissions.**
18

19 No act of error or omission on the part of the Board of its employees shall operate to release or
20 discharge any obligation for payment of the Assessment imposed by the Board under the provisions of
21 this article.
22

23 **Section 2. Applicability.**
24

25 It is intended that this Ordinance shall constitute a uniform law applicable in all unincorporated
26 areas of Leon County, Florida, and to all incorporated areas of Leon County where there is no existing
27 conflict of law or municipal ordinance.
28

29 **Section 3. Conflicts.**
30

31 All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby
32 repealed to the extent of such conflict, except to the extent of any conflicts with the Tallahassee-Leon
33 County 2030 Comprehensive Plan as amended, which provisions shall prevail over any parts of this
34 ordinance which are inconsistent, either in whole or in part, with the said Comprehensive Plan.
35

36 **Section 4. Severability.**
37

38 If any word, phrase, clause, section, or portion of this Ordinance is declared by any court of
39 competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and
40 portions of this Ordinance shall remain in full force and effect.
41

42 **Section 5. Effective Date.**
43

44 This ordinance shall have effect upon becoming law.
45

