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Clock is ticking

Bills including Medicaid rate reduction head to Fla. governor's desk

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Posted: March 17, 2012 - 12:01 am ET

Two bills that could affect hospital budgets and mergers in Florida are awaiting action from Gov. Rick Scott.

The Legislature passed a $70 billion state budget—including a 5.6% rate reduction to Medicaid—as well as a bill that could open up public hospital districts to additional pressure to sell. Scott will have 15 days to sign, veto or line-item veto the bills once he receives them.

The clock is already ticking on the Medicaid services appropriations bill, which landed on Scott's desk March 14. If approved, the cut to hospitals would amount to more than $303 million when the new Medicaid reimbursement rates take effect July 1.

A spokesman for the governor said Scott has not said whether he intends to sign the Medicaid bill. Scott had proposed a more austere $66.4 billion budget, including deeper cuts to state healthcare programs.

Hospital and long-term-care providers were generally upbeat about the bill, which the Legislature approved March 9.

Bruce Rueben, president of the Florida Hospital Association, noted that hospitals are "relieved" that the cuts amounted to only a few hundred million—and not the $2 billion Scott originally proposed.

Reuben said, though, that the legislation follows a round of cuts that totaled

$500 million last May. "When you take it all together, it's a pretty big hit," he said, adding that hospitals may need to look at limiting or cutting services, which could affect the

3.2 million Floridians on Medicaid as well as privately insured patients. "Hospitals obviously have a very big challenge."

Nursing homes also got a reprieve in the legislation—rate cuts amounted to only 1.25%, half of the 2.5% expected, said Kristen Knapp, a spokeswoman for the Florida Health Care Association, which represents long-term-care providers. "The budget was our primary focus this session," she said, "and we're relatively pleased with the outcome."

The roughly $35.2 million in rate reductions will be on top of the $187 million that was already cut last session, Knapp noted. "We're appreciative that they attempted to mitigate those cuts," she said, adding that nursing homes have had to adjust working hours and cut back on quality of life programs. "It's been significant."

The legislation also puts limits, starting Aug. 1, on the number of emergency department visits Medicaid will reimburse for nonpregnant adults over the age of 21—capping them at six per fiscal year at a cost to hospitals of $46.7 million, according to the hospital association. The bill would eliminate payments for preventable hospital errors, to the tune of $2.7 million, the association estimates.

As hospital budgets are squeezed, public hospitals may also find themselves under increased pressure to pursue a sale—if a second bill working its way toward Scott is signed. The Legislature passed HB 711 (SB 1568) on March 7, but it has not yet reached the governor.

The bill amends an existing statute to add more oversight of public hospital sales and leases—and also requires them to undertake a self-evaluation of whether a deal might be in their best interest.

“A lot of this was driven by changes in the healthcare system,” said Bruce Lamb, practice leader and shareholder in the Tampa office of law firm Gunster.

While many larger public hospitals believe they are competing effectively with private health systems, smaller public hospitals have faced operational challenges. And though hospitals won’t be required to pursue a sale, the self-review essentially opens their books to would-be buyers.

“What’s really going to be interesting is how this plays out,” Lamb said. “There will be a lot more activity very quickly.”

Keith Arnold, government affairs consultant at Florida law firm Fowler White Boggs, also noted that the legislation could be seen as inviting hospitals to merge. “I think the pendulum has swung a bit too far,” he said.

If signed, the law also would require the Agency for Health Care Administration to review potential sales and leases. And it would spell out how proceeds from the sale would be used—divided up equally between indigent care and healthcare-related economic development projects.

The bill came out of the bungled merger of Bert Fish Medical Center with Adventist Health System, which was called off last year after a judge ruled against the deal. The target hospital’s own charitable foundation, the Bert Fish Foundation, had sued to stop the sale; it argued the deal was illegal because board members had inked it in secret and subsequent public hearings to rectify the violations of Florida’s open-government law were biased in favor of Adventist.

Arnold and Lamb said they expected Scott, former CEO of for-profit Columbia/HCA Healthcare Corp., to sign the bill—with Lamb noting that it is consistent with his vision for healthcare in the state.

A special commission created by the governor in December suggested that the state has too many local taxing districts overseeing hospitals, and found that public hospitals have higher operating costs than their privately owned peers.

It too referenced the failed Bert Fish deal and urged more transparency and public disclosure around the bidding process.