



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.3.

9/14/2021

Subject:

Approval of a Rate Resolution to Impose Non-Ad Valorem Special Assessment for the State's Medicaid Managed Care for Direct Payment Program for Local Hospitals

Fiscal Impact:

The non-ad valorem special assessments (Assessments) will be imposed, levied, collected and enforced solely on real property owned by private for-profit and non-profit local hospitals in Brevard County. The County's administrative costs associated with the implementation, collection, and enforcement of the Assessment will be funded by the private for-profit and non-profit hospitals through the Assessment program.

Dept/Office:

County Manager

Requested Action:

It is requested that the Board of County Commissioners adopt a Rate Resolution that will impose non-ad valorem special assessments against real property owned by private for-profit and non-profit local hospitals in Brevard County for the State's Medicaid Managed Care for Direct Payment Program. Authorize the Chair to sign the Resolution and authorize the County Manager to execute any necessary budget change requests to implement the non-ad valorem special assessment program for the Medicaid Managed Care for Direct Payment Program for local hospitals and execute the Letter of Agreement with the State of Florida authorizing the County's participation in this program.

Summary Explanation and Background:

Representatives from the private for-profit and non-profit local hospitals (Local Hospitals) have requested the County consider the imposition of a non-ad valorem special assessment (Assessment) against real property owned by their Local Hospitals.

The Board on May 18, 2021 adopted Ordinance 21-14 establishing a non-ad valorem assessment program which Assessments will be used to benefit the assessed properties for local services provided by the private for-profit and non-profit hospitals in Brevard County. The Medicaid Managed Care Hospital Direct Payment program is a federally approved program that permits the State of Florida to access federal funds through Intergovernmental Transfer in order to direct the federal funds for managed care plan expenditures to hospitals for plan-covered services and offset the hospitals' Medicaid shortfall.

The Ordinance provides the method of assessing these properties using the non-ad valorem special assessment as specified in Section 197.3631, Florida Statutes. The Assessment shall be assessed on an annual basis by a Rate Resolution adopted by the Board. The noticing requirements of the Ordinance were met and all property owners were mailed notices of the Assessment on August 20, 2021 and advertised on August 24, 2021.

Attached is the Non-Ad Valorem Assessment Roll (Exhibit A) that will be imposed against the real property owned by private for-profit and non-profit local hospitals in Brevard County. The Assessments will be mailed to the real property owners on September 15, 2021 and become due on October 1, 2021.

Clerk to the Board Instructions:

Please provide copies of the executed Rate Resolution to the County Manager's Office, County Attorney's Office and the County's Budget Office.



Kimberly Powell, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972
Kimberly.Powell@brevardclerk.us

September 15, 2021

MEMORANDUM

TO: Frank Abbate, County Manager Attn: Kathy Wall

RE: Item H.3., Approval of a Rate Resolution to Impose Non-Ad Valorem Special Assessment for the State's Medicaid Managed Care for Direct Payment Plan Program for Local Hospitals

The Board of County Commissioners, in regular session on September 14, 2021, executed and adopted Resolution No. 21-119, imposing Non-Ad Valorem Special Assessments against real property owned by private for-profit and non-profit local hospitals in the County for the State's Medicaid Managed Care for Direct Payment Program; authorized you to execute any necessary Budget Change Requests to implement the Non-Ad Valorem Special Assessment Program for the Medicaid Managed Care for Direct Payment Program for local hospitals; and authorized you to execute the Letter of Agreement with the State of Florida authorizing the County's participation with this Program. Enclosed is a fully-executed Resolution.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK

A handwritten signature in cursive script, reading "Kimberly Powell", is written over the typed name and title.

Kimberly Powell, Clerk to the Board

Encl. (1)

cc: Finance
Budget

RESOLUTION NO. 21- 119

AN ASSESSMENT RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, AUTHORIZING AND ADOPTING A NON-AD VALOREM SPECIAL ASSESSMENT WITHIN THE COUNTY LIMITS FOR THE PURPOSE OF BENEFITING ASSESSED PROPERTIES THROUGH ENHANCED MEDICAID PAYMENTS FOR LOCAL SERVICES; FINDING AND DETERMINING THAT CERTAIN REAL PROPERTY IS SPECIALLY BENEFITED BY THE ASSESSMENT; COLLECTING THE ASSESSMENT AGAINST THE REAL PROPERTY; ESTABLISHING A PUBLIC HEARING TO CONSIDER IMPOSITION OF THE PROPOSED ASSESSMENT AND THE METHOD OF ITS COLLECTION; AUTHORIZING AND DIRECTING THE PUBLICATION OF NOTICES IN CONNECTION THEREWITH; PROVIDING FOR CERTAIN OTHER AUTHORIZATIONS AND DELEGATIONS OF AUTHORITY AS NECESSARY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the private for profit or not for profit hospitals in Brevard County's jurisdiction (the "Hospitals") annually provide millions of dollars of uncompensated care to uninsured persons and those who qualify for Medicaid because Medicaid, on average, covers only 60% of the costs of the health care services actually provided by Hospitals to Medicaid-eligible persons, leaving hospitals with significant uncompensated costs; and

WHEREAS, the State of Florida (the "State") received federal authority to establish the Statewide Medicaid Managed Care Hospital directed payment program (the "DPP") to offset hospitals' uncompensated Medicaid costs and improve quality of care provided to Florida's Medicaid population; and

WHEREAS, impacted Hospitals have asked Brevard County Board of County Commissioners (the "County") to impose a non-ad valorem special assessment upon certain real property interests held by the Hospitals to help finance the non-federal share of the State's Medicaid program; and

WHEREAS, the only real property interests that will be subject to the non-ad valorem assessments authorized herein are those belonging to the Hospitals; and

WHEREAS, the County recognizes that one or more of the Hospitals within the County's boundaries may be located upon real property leased from governmental entities and that leasehold interests in properties may be assessed; and

WHEREAS, the funding raised by the County assessment will, through intergovernmental transfers (“IGTs”) provided consistent with federal guidelines, support additional funding for Medicaid payments to Hospitals; and

WHEREAS, the County acknowledges that the Hospital properties assessed will benefit directly and especially from the assessment as a result of the above-described additional funding provided to said Hospitals; and

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

WHEREAS, the County has an interest in promoting access to health care for its low-income and uninsured residents; and

WHEREAS, leveraging additional federal support through the above-described IGTs to fund Medicaid payments to the Hospitals for health care services directly and specifically benefits the Hospitals’ property interests and supports their continued ability to provide those services; and

WHEREAS, imposing an assessment limited to Hospital properties to help fund the provision of these services and the achievement of certain quality standards by the Hospitals to residents of the County is a valid public purpose that benefits the health, safety, and welfare of the citizens of the County; and

WHEREAS, the assessment ensures the financial stability and viability of the Hospitals providing such services; and

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

WHEREAS, the Board finds the assessment will enhance the Hospitals’ ability to grow, expand, maintain, improve, and increase the value of their Brevard County properties and facilities under all present circumstances and those of the foreseeable future; and

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

WHEREAS, on May 18, 2021, the Board of County Commissioners adopted Ordinance 2021-14, enabling the County to levy a non-ad valorem special assessment, with a uniform rate, which is fairly and reasonably apportioned among the Hospitals’ property interests within the County’s jurisdictional limits, to establish and maintain a system of funding for IGTs to support the non-federal share of Medicaid payments, thus directly and specially benefitting Hospital properties; and

WHEREAS, pursuant to Section 102-264 of the Brevard County Code of Ordinances, the County will execute an agreement with the State of Florida in order to collect assessment.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA:

Section 1. Definitions. As used in this Resolution, the following capitalized terms, not otherwise defined herein or in the Ordinance, shall have the meanings below, unless the context otherwise requires.

Assessed Property means the real property in the County to which an Institutional Health Care Provider holds a right of possession and right of use through an ownership or leasehold interest, thus making the property subject to the Assessment.

Assessment means a non-ad valorem special assessment imposed by the County on Assessed Property to fund the non-federal share of Medicaid and Medicaid managed care payments that will benefit hospitals providing Local Services in the County.

Assessment Coordinator means the person appointed to administer the Assessment imposed pursuant to this Article, or such person's designee.

Board means the Board of County Commissioners of Brevard County, Florida.

Comptroller means the Brevard County Comptroller, ex officio Clerk to the Board, or other such person as may be duly authorized to act on such person's behalf.

County means Brevard County, Florida.

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

Institutional Health Care Provider means a private for-profit or not-for-profit hospital that provides inpatient hospital services.

Local Services means the provision of health care services to Medicaid, indigent, and uninsured members of the Brevard County community.

Non-Ad Valorem Assessment Roll means the special assessment roll prepared by the County.

Ordinance means the Brevard County Local Provider Participation Fund Ordinance codified in Chapter 102, Article IV of the Brevard County Code of Ordinances.

Section 2. Authority. Pursuant to Article VIII, Section 1(g) of the Constitution of the State of Florida, Chapter 125 of the Florida Statutes, and the Brevard Local Provider Participation Fund Ordinance, the County is hereby authorized to impose a special assessment against private for-profit and not-for-profit hospitals located within the County to fund the non-federal share of Medicaid payments associated with Local Services.

Section 3. Special Assessment. The non-ad valorem special assessment discussed herein shall be imposed, levied, collected, and enforced against Assessed Properties located within the County. Proceeds from the Assessment shall be used to benefit Assessed Properties through a directed payment program that will benefit the Assessed Properties for Local Services.

When imposed, the Assessment shall constitute a lien upon the Assessed Properties equal in rank and dignity with the liens of all state, county, district, or municipal taxes and other non-ad valorem assessments. Payments made by Assessed Properties may not be passed along to patients of the Assessed Property as a surcharge or as any other form of additional patient charge. Failure to pay may cause foreclosure proceedings, which could result in loss of title, to commence.

Section 4. Assessment Scope, Basis, and Use. Funds generated from the Assessment shall be used only to:

1. Provide to the Florida Agency for Health Care Administration the non-federal share for Medicaid managed care hospital directed payments to be made directly or indirectly in support of hospitals serving Medicaid beneficiaries; and
2. Reimburse the County for administrative costs associated with the implementation of the Assessment authorized by the Ordinance.

If, at the end of the Fiscal Year, additional amounts remain in the Local Provider Participation fund, the County is hereby authorized either (a) to refund to Assessed Properties, in proportion to amounts paid in during the Fiscal Year, all or a portion of the unutilized local provider participation fund, or (b) if requested to do so by the Assessed Properties, to retain such amounts in the fund to transfer to the Agency in the next fiscal year for use as the non-federal share of Medicaid hospital payments.

If, after the Assessment funds are transferred to the Agency, the Agency returns some or all of the transferred funding to the County (including, but not limited to, a return of the non-federal share after a disallowance of matching federal funds), the County is hereby authorized to refund to Assessed Properties, in proportion to amounts paid in during the Fiscal Year, the amount of such returned funds.

In the event there are not sufficient funds in the Local Provider Participation Fund to make the required transfer for the non-federal share for the Medicaid hospital payment as required by the Florida Agency for Health Care Administration's formal invoice, the transfer will not be made and the County may return all funds to the Assessed entities.

Section 5. Computation of Assessment. The Assessment shall equal 0.97% of net patient revenue for each Assessed Property specified in the attached Non-Ad Valorem Assessment Roll attached hereto and incorporated herein as Exhibit "A." The amount of the Assessment required of each Assessed Property may not exceed an amount that, when added to the amount of other hospital assessments levied by the state or local government, exceeds the maximum percent of the aggregate net patient revenue of all Assessed Hospitals in the County permitted by 42 C.F.R. § 433.68(f)(3)(i)(A). Assessments for each Assessed Property will be derived from data contained in cost reports and/or the Florida Hospital Uniform Reporting System, as available from the Florida Agency for Health Care Administration.

Section 6. Timing and Method of Collection. The amount of the assessment is to be collected pursuant to the Alternative Method outlined in §197.3631, Fla. Stat.

The County shall provide Assessment invoices by first class mail to the owner of each affected Hospital. The invoice or accompanying explanatory material shall include: (1) a reference to this Resolution, (2) the total amount of the hospital's Assessment for the appropriate period, (3) the location at which payment will be accepted, (4) the date on which the Assessment is due, and (5) a statement that the Assessment constitutes a lien against assessed property equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments.

No act of error or omission on the part of the Comptroller, Assessment Coordinator, Board, or their deputies or employees shall operate to release or discharge any obligation for payment of the Assessment imposed by the Board under the Ordinance and this resolution.

Section 7. Public Hearing. Per the notice provided on August 20, 2021 and published on August 24, 2021, the Board has heard and considered objections of all interested persons prior to rendering a decision on the Assessment and attached Non-Ad Valorem Assessment Roll.

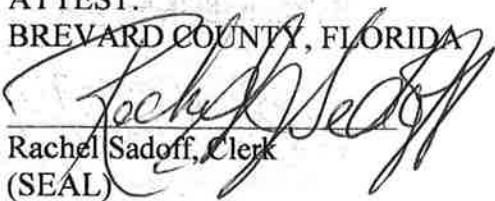
Section 8. Responsibility for Enforcement. The County and its agents, if any, may enforce the prompt collection of the Assessment by the means provided herein. The duties related to collection of assessments may be enforced at the suit of any holder of obligations in a court of competent jurisdiction by mandamus or other appropriate proceedings or actions.

Section 9. Severability. If any clause, section, or provision of this resolution is declared unconstitutional or invalid for any reason or cause, the remaining portion hereof shall be in full force and effect and shall be valid as if such invalid portion thereof had not been incorporated herein.

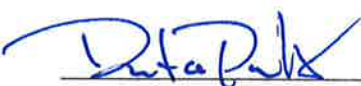
Section 10. Effective Date. This Resolution to be effective immediately upon adoption. This Resolution is duly adopted this 14th day of September, 2021.

DONE, ORDERED AND ADOPTED, in Regular Session, this 14 day of Sept., 2021.

ATTEST:
BREVARD COUNTY, FLORIDA


Rachel Sadoff, Clerk
(SEAL)

BOARD OF COUNTY COMMISSIONERS


Rita Pritchett, Chair

As approved by the Board on 9/14/21

Reviewed for legal form and content:

County Attorney

Exhibit A

EXHIBIT A
NON-AD VALOREM SPECIAL ASSESSMENT ROLL
MEDICAID MANAGED CARE FOR DIRECT PAYMENT FOR LOCAL HOSPITALS

MCD ID #	Organization	Facility	Hospital Address	Rat
12042100	Encompass Health	Sea Pines Rehabilitation Hospital	101 E Florida Ave, Melbourne, FL 32901	0.97%
10009900	Health First	Cape Canaveral Hospital	701 W Cocoa Beach Causeway, Cocoa Beach, FL 32931	0.97%
10008100	Health First	Holmes Regional Medical Center	1350 Hickory St, Melbourne, FL 32901	0.97%
3297500	Health First	Palm Bay Hospital	1425 Malabar Rd, Palm Bay, FL 32907	0.97%
3158800	Health First	Viera Hospital	8745 N Wickham Rd, Melbourne, FL 32940	0.97%
16552300	Independent	Circles of Care	400 E Sheridan Rd, Melbourne, FL 32901	0.97%
1681500	Kindred Healthcare	Kindred Hospital Melbourne	765 W NASA Blvd, Melbourne, FL 32901	0.97%
10320900	Steward Health Care System	Melbourne Regional Medical Center	250 N Wickham Rd, Melbourne, FL 32935	0.97%
10011100	Steward Health Care System	Rockledge Regional Medical Center	110 Longwood Ave, Rockledge, FL 32955	0.97%
101334000	UHS	Palm Point Behavioral Health	2355 Truman Scarborough Way, Titusville, FL 32796	0.97%

County Phone Number: (321) 633-2153

Brevard County: Government Center, located at 2725 Judge Fran Jamieson Way, Viera, Bldg. C

Resolution Date: September 14, 2021, at 9 a.m.

Ordinance Date: May 18, 2021

Payments Due By: October 2, 2021

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME Zonka, Kristine	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE Brevard County Board of County Commissioners
MAILING ADDRESS 490 Centre Lake Drive, Suite 175	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: <input type="checkbox"/> CITY <input checked="" type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
CITY Palm Bay	COUNTY Brevard
DATE ON WHICH VOTE OCCURRED 09/14/21	NAME OF POLITICAL SUBDIVISION: Brevard County
	MY POSITION IS: <input checked="" type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTIVE

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which would inure to his or her special private gain or loss. Each elected or appointed local officer also **MUST ABSTAIN** from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies (CRAs) under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

* * * * *

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

* * * * *

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on page 2)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Kristine Zonka, hereby disclose that on September 14, 20 21:

(a) A measure came or will come before my agency which (check one or more)

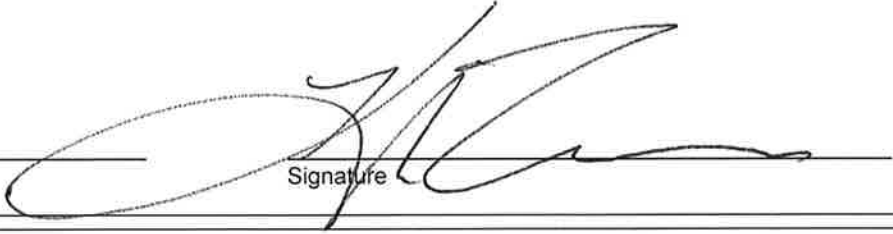
- ☐ inured to my special private gain or loss;
- ☐ inured to the special gain or loss of my business associate, _____;
- ☐ inured to the special gain or loss of my relative, _____;
- ☐ inured to the special gain or loss of _____, by whom I am retained; or
- ☒ inured to the special gain or loss of Health First, Inc., Item H(3), which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

The Board of County Commissioners is considering approving a Rate Resolution to impose non-ad valorem special assessments against real property owned by private for-profit and non-profit local hospitals in Brevard County for the State's Medicaid Managed Care for Direct Payment Program. One of the participating local hospitals is Health First, Inc. Health First, Inc. owns the company which employs me, Health First Medical Group. Pursuant to the informal opinion provided by the Commission on Ethics on August 11, 2020, I am declaring a voting conflict and I have not and will not participate in the Board's decision regarding adopting said Rate Resolution.

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

Date Filed 9/14/21

Signature 

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.