



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

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G.3.

9/12/2023

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### **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 Assessment Roll to be imposed, levied, collected and enforced solely on private for profit and non-profit local hospitals holding a right of possession and right of use to real property through ownership or lease hold interest 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:**

Budget Office

### **Requested Action:**

It is requested that the Board of County Commissioners adopt a Rate Resolution that will impose non-ad valorem special assessments against private for-profit and non-profit local hospitals holding a right of possession and right of use to real property 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 to 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 18, 2023 and advertised on August 23, 2023.

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 12, 2023, and become due upon receipt.

**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 13, 2023

**MEMORANDUM**

TO: Jill Hayes, Budget Office Director

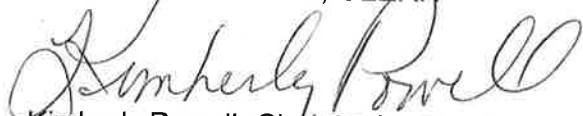
RE: Item G.3., Approval of Rate Resolution to Impose Non-Ad Valorem Special Assessment to the State's Medicaid Managed Care for Direct Payment Program for Local Hospitals

The Board of County Commissioners, in regular session on September 12, 2023, executed and adopted Resolution No. 23-099, imposing non-ad valorem special assessments against private for-profit and non-profit local hospitals holding a right-of-possession and right-of-use to real property in Brevard County for the State's Medicaid Managed Care for Direct Payment Program; authorized the County Manager to execute any necessary budget change requests to implement the non-ad valorem special assessment program for the State's Medicaid Managed Care for Direct Payment Program for local hospitals; and authorized the County Manager to execute the Letter of Agreement with the State of Florida authorizing the County's participation to this program. Enclosed is the fully-executed Resolution.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
RACHEL M. SADOFF, CLERK

  
Kimberly Powell, Clerk to the Board

Encl. (1)

cc: County Manager  
County Attorney  
Finance

**RESOLUTION NO. 23- 099**

**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**, 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 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 (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 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

**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 No. 21-14, 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.

**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, Division 4 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 owned by Hospitals and/or a lien upon improvements on the Property made by Hospital leaseholders 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 Board is hereby authorized either (a) 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, or (b) if requested to do so by the Assessed Properties, 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.

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 amended Assessment shall equal 1.07% 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 amended 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 in 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 18, 2023, and published on August 23, 2023, 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 duly adopted this 12th day of September, 2023.



DONE, ORDERED AND ADOPTED, in Regular Session, this 12th day of September, 2023.

ATTEST:  
BREVARD COUNTY, FLORIDA

  
Rachel Sadoff, Clerk  
(SEAL)

BOARD OF COUNTY COMMISSIONERS

  
Rita Pritchett, Chair

As approved by the Board on SEP 12 2023

Reviewed for legal form and content:

  
County Attorney

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

| MCD ID #  | Organization               | Facility                          | Hospital Address                                  | Rate      | Mandatory Payment |
|-----------|----------------------------|-----------------------------------|---|-----------|-------------------|
| 12042100  | Encompass Health           | Sea Pines Rehabilitation Hospital | 101 E Florida Ave, Melbourne, FL 32901            | 1.07% NPR | \$ 301,035        |
| 10009900  | Health First               | Cape Canaveral Hospital           | 701 W Cocoa Beach Causeway, Cocoa Beach, FL 32931 | 1.07% NPR | \$ 1,418,528      |
| 10008100  | Health First               | Holmes Regional Medical Center    | 1350 Hickory St, Melbourne, FL 32901              | 1.07% NPR | \$ 5,413,260      |
| 3297500   | Health First               | Palm Bay Hospital                 | 1425 Malabar Rd, Palm Bay, FL 32907               | 1.07% NPR | \$ 1,072,850      |
| 3158800   | Health First               | Viera Hospital                    | 8745 N Wickham Rd, Melbourne, FL 32940            | 1.07% NPR | \$ 1,330,850      |
| 16552300  | Independent                | Circles of Care                   | 400 E Sheridan Rd, Melbourne, FL 32901            | 1.07% NPR | \$ 233,180        |
| 1681500   | Kindred Healthcare         | Kindred Hospital Melbourne        | 765 W NASA Blvd, Melbourne, FL 32901              | 1.07% NPR | \$ 273,355        |
| 10320900  | Steward Health Care System | Melbourne Regional Medical Center | 250 N Wickham Rd, Melbourne, FL 32935             | 1.07% NPR | \$ 857,874        |
| 10011100  | Steward Health Care System | Rockledge Regional Medical Center | 110 Longwood Ave, Rockledge, FL 32955             | 1.07% NPR | \$ 1,600,937      |
| 101334000 | UHS                        | Palm Point Behavioral Health      | 2355 Truman Scarborough Way, Titusville, FL 32796 | 1.07% NPR | \$ 54,333         |

County Phone Number: (321) 633-2153

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

Resolution Date: September 12, 2023, at 9 a.m.

Ordinance Date: May 18, 2021

**Payments Due by: Upon receipt of invoice**

**\$ 12,556,202**



Please contact us with changes or cancellations as soon as possible, otherwise no further action needed.

|                    |                  |                |                       |
|--------------------|------------------|----------------|-----------------------|
| <b>PUBLICATION</b> | <b>TOLL-FREE</b> | <b>Local #</b> | <b>Email</b>          |
| Florida Today      | 888-516-9220     | 321-242-3632   | BRELegals@gannett.com |

**Customer:** BOARD OF COUNTY COMMISSIONERS

**Ad No.:** 0005804095

**Address:** 2725 JUDGE FRAN JAMIESON WAY  
MELBOURNE FL 32940  
USA

**Pynt Method** Invoice  
**Order Amount** 605.12

**Run Times:** 1

**No. of Affidavits:** 1

**Run Dates:** 08/23/23

**Text of Ad:**

Ad#5804095 08/23/2023  
NOTICE OF HEARING REGARDING AN  
AMENDMENT TO THE RATE OF  
THE NON-AD VALOREM SPECIAL  
ASSESSMENT FROM SPECIFIED  
HOSPITAL PROPERTIES

Notice is hereby given that the Board of County Commissioners of Brevard County, Florida, will conduct a public hearing pursuant to Ordinance No. 21-14 to consider an amendment to the rate of the non-ad valorem special assessment against each private for-profit and not-for-profit hospital that provides inpatient hospital services and that holds a right of possession and right of use to real property in Brevard County, Florida (each, an "Assessed Property"). The list of affected hospitals is included at the conclusion of this notice.

The assessment is intended to finance intergovernmental transfers, provided consistent with federal guidelines, that fund the non-federal share of certain Medicaid and/or Medicaid managed care payments. As a result, the assessment directly and specially benefits Assessed Properties and supports the provision of health care services to Medicaid, indigent, and uninsured members of the County's community.

The public hearing will be held at Viera Government Center, located at 2725 Judge Fran Jamieson Way, Bldg. C, 1st Floor, Viera, FL, on September 12, 2023, at 9 a.m., or as soon thereafter as the matter can be heard. At that time, the Board will receive public comment on the proposed special assessment.

The County has prepared the Non-Ad Valorem Assessment Roll being considered for approval. The roll contains the names of the hospitals; the tax parcel identification numbers of the parcels; the section, township, and range of the parcels assessed; the parcel owner's name; the address and the names and addresses of any leaseholders of the Assessed Properties; the assessment rate, and the amount of the special assessment to be imposed against each Assessed Property. The Non-Ad Valorem Assessment Roll will be available for inspection at the Brevard County Budget Office during regular business hours from Monday, August 28, 2023, until the hearing concludes on Tuesday September 12, 2023. The amended assessment rate set forth in the Non-Ad Valorem Assessment Roll to be levied against the net patient revenue of each Assessed Property is 1.07%.

At the date and time set forth in this notice, the Board of County Commissioners may: (1) approve the Non-Ad Valorem Assessment Roll, with such amendments as it deems just and right, and (2) adopt a resolution (the "Assessment Resolution") that describes: (a) the Medicaid payments proposed for funding from proceeds of the assessment, (b) the benefits to the Assessed Properties, (c) the methodology for computing the assessed amounts, and (d) the method of collection, including how and when the assessment is to be paid.

All interested persons have a right to appear at the public hearing and to file written objections with the Board prior

to the resolution vote. All written objections to the Non-Ad Valorem Assessment Roll being considered for approval shall be filed with the County by September 11, 2023. Written objections should be sent to the attention of the Brevard County Budget Office at 2725 Judge Fran Jamieson Way, Bldg. C, Suite C303, Viera, FL 32940.

The amount of the assessment is to be collected pursuant an additional and alternative method, as specified in § 197.3631, Fla Stat. Details will be included in the Assessment Resolution.

If you are a person with disability who needs any accommodation to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact Cathy Lively at (321) 633-2010 or Cathy.Lively@brevardfl.gov at least three days prior to the public hearing if you need special accommodations.

Pursuant to § 286.0105, Fla Stat., if a person decides to appeal any decision of the Board of County Commissioners on any matter considered at the public hearing, he or she will need a record of the proceedings. For such purpose, a person appealing the decision may need to ensure the creation of a verbatim record, which captures the testimony and evidence upon which the appeal is based.

Brevard County, FLORIDA

**List of Affected Properties:**

The special assessment is to be levied against the real property or leasehold interest each private for-profit and not-for-profit hospital operating under a Florida hospital license affiliated with the following providers of inpatient hospital services that holds a right of possession and right of use to real property in Brevard County, Florida:

Hospital Name: Sea Pines Rehabilitation Hospital  
Hospital Address: 101 E. Florida Ave.,  
Melbourne, FL 32901  
Parcel ID: 28-37-15-00-253

Hospital Name: Cape Canaveral Hospital  
Hospital Address: 701 W. Cocoa Beach  
Causeway, Cocoa Beach, FL 32931  
Parcel ID: 24-37-34-00-1

Hospital Name: Holmes Regional Medical Center  
Hospital Address: 1350 Hickory St.,  
Melbourne, FL 32901  
Parcel ID: 27-37-34-51-392

Hospital Name: Palm Bay Hospital  
Hospital Address: 1425 Malabar Rd.,  
Palm Bay, FL 32907  
Parcel ID: 28-37-34-00-754

Hospital Name: Viera Hospital  
Hospital Address: 8745 N. Wickham Rd.,  
Melbourne, FL 32940  
Parcel ID: 26-36-16-02-A-1

Hospital Name: Circles of Care  
Hospital Address: 400 E. Sheridan Rd.,  
Melbourne, FL 32901  
Parcel ID: 27-37-34-00-508

Hospital Name: Kindred Hospital Melbourne  
Hospital Address: 765 W. NASA Blvd.,  
Melbourne, FL 32901  
Parcel ID: 27-37-33-00-252

Hospital Name: Melbourne Regional Medical Center  
Hospital Address: 250 N. Wickham Rd.,  
Melbourne, FL 32935  
Parcel ID: 27-36-25-00-13

Hospital Name: Rockledge Regional Medical Center  
Hospital Address: 110 Longwood Ave.,  
Rockledge, FL 32955  
Parcel ID: 25-36-04-78-2-1

Hospital Name: Palm Point Behavioral Health  
Hospital Address: 2355 Truman Scarborough Way, Titusville, FL 32796  
Parcel ID: 21-35-28-00-258