

Hamilton County Board of County Commissioners

Recessed Meeting from April 02, 2014

April 09, 2014

AGENDA

ROLL CALL

INVOCATION - **Commissioner Beck**

PLEDGE TO THE FLAG - **Commissioner Beck**

Res. No. 414-31

A Resolution approving the entering into an Interlocal Agreement between Hamilton County, Tennessee, and the Chattanooga-Hamilton County Hospital Authority ("ERLANGER") for the purpose of allowing Erlanger to participate in the State of Tennessee 's Public Hospital Supplemental Payment Pool ("PHSPP") for the providing of Health Services to TENNCARE enrollees and uninsured patients.

ANNOUNCEMENTS

DELEGATIONS ON MATTERS OTHER THAN ZONING

Any invocation that may be offered before the official start of the Commission meeting shall be the voluntary offering of a private citizen, to and for the benefit of the Commission. The views or beliefs expressed by the invocation speaker have not been previously reviewed or approved by the Commission and do not necessarily represent the religious beliefs or views of the Commission in part or as a whole. No member of the community is required to attend or participate in the invocation and such decision will have no impact on their right to actively participate in the business of the Commission.



Hamilton County Board of Commissioners

RESOLUTION

No. 414-31

A RESOLUTION APPROVING THE ENTERING INTO OF AN INTERLOCAL AGREEMENT BETWEEN HAMILTON COUNTY, TENNESSEE, AND THE CHATTANOOGA-HAMILTON COUNTY HOSPITAL AUTHORITY (“ERLANGER”) FOR THE PURPOSE OF ALLOWING ERLANGER TO PARTICIPATE IN THE STATE OF TENNESSEE’S PUBLIC HOSPITAL SUPPLEMENTAL PAYMENT POOL (“PHSPP”) FOR THE PROVIDING OF HEALTH SERVICES TO TENNCARE ENROLLEES AND UNINSURED PATIENTS.

WHEREAS, for years the TennCare Program as administered by the State of Tennessee has had a financial pool of Seventy Million Dollars (\$70,000,000.00), known as the Public Hospital Supplemental Payment Pool (“PHSPP”), which has been disbursed between Nashville General Hospital, in Nashville, and The Regional Medical Center, in Memphis, for the providing of health services to TennCare enrollees and uninsured patients being serviced by those respective hospitals; and

WHEREAS, through efforts of Tennessee’s United States Senator Bob Corker, said pool has been expanded to allow Thirty Million Dollars (\$30,000,000.00) to be available for the Chattanooga-Hamilton County Hospital Authority, d/b/a Erlanger Health System (“Erlanger”) to participate in said program for its providing of said same health services to TennCare enrollees and uninsured patients; and

WHEREAS, Erlanger’s participation in said pool requires Hamilton County (as a political subdivision of the State of Tennessee) to make an intergovernmental transfer from the County to the State of Tennessee’s TennCare Program in the amount of Ten Million Dollars (\$10,000,000.00) in order for said Thirty Million Dollars (\$30,000,000.00) to be appropriated to Erlanger by the TennCare Program; and

WHEREAS, the attached Interlocal Agreement to be entered into between Hamilton County and Erlanger provides that Erlanger shall tender to Hamilton County from Erlanger’s appropriate funds said required Ten Million Dollars (\$10,000,000.00), and the County will then forward said sum as received from Erlanger to the State of Tennessee’s TennCare Program to be credited as Erlanger’s required contribution to generate the receipt of the said Thirty Million Dollars (\$30,000,000.00); and

WHEREAS, this county legislative body deems this transaction to be in the best interest of the citizens of this county.

NOW, THEREFORE, BE IT RESOLVED BY THIS COUNTY LEGISLATIVE BODY IN SESSIONS ASSEMBLED:

That the entering into of the attached Interlocal Agreement between Hamilton County and the Chattanooga-Hamilton County Hospital Authority, d/b/a Erlanger Health System, to allow the inclusion of Erlanger into the State of Tennessee’s TennCare Public Hospital Supplemental Payment Pool (“PHSPP”) is hereby approved, and the County Mayor is hereby authorized to execute said Agreement.

BE IT FURTHER RESOLVED, that upon the execution of the attached Agreement, Hamilton County is authorized to accept from Erlanger the sum of Ten Million Dollars (\$10,000,000.00) from the appropriate Erlanger funds, and to transmit same as received to the State of Tennessee’s Bureau of TennCare to be credited by same as the required contribution on behalf of Erlanger for Erlanger’s inclusion in the Public Hospital Supplemental Payment Pool (“PHSPP”), and Erlanger’s subsequent receipt of Thirty Million Dollars (\$30,000,000.00) for payment toward Erlanger’s uncompensated care of TennCare enrollees and uninsured patients.

BE IT FURTHER RESOLVED THAT THIS RESOLUTION TAKE EFFECT FROM AND AFTER ITS PASSAGE, THE PUBLIC WELFARE REQUIRING IT.

CERTIFICATION OF ACTION

Approved:

Rejected:

County Clerk

Approved:

Vetoed:

County Mayor

April 9, 2014

Date

STATE OF TENNESSEE

COUNTY OF HAMILTON

INTERLOCAL AGREEMENT

THIS INTERLOCAL AGREEMENT is made and entered into as of the ____ day of April, 2014 (hereafter, the “Interlocal Agreement”), by and among **HAMILTON COUNTY, TENNESSEE**, a political subdivision of the State of Tennessee (“County”), and the **CHATTANOOGA-HAMILTON COUNTY HOSPITAL AUTHORITY, d/b/a ERLANGER HEALTH SYSTEM**, a body corporate and politic and an instrumentality of the State of Tennessee (the “Authority”).

WITNESSETH:

WHEREAS, the County and the Authority (both sometimes referred to hereinafter as the “Party” or collectively as the “Parties”) are each classified as public agencies as defined in TCA §12-9-101, et seq., and desire to enter into this Interlocal Agreement under the provisions of TCA §12-9-108;

WHEREAS, the Authority is a public, safety-net hospital that participates in the State of Tennessee’s (“State”) TennCare program, a federal-state partnership authorized pursuant to a Section 1115 Medicaid waiver (“Waiver”);

WHEREAS, the County recognizes the importance of the Authority in ensuring the indigent have access to care and treatment of their health care needs;

WHEREAS, the State has for many years operated a Public Hospital Supplemental Payment Pool (“PHSPP”) pursuant to the Waiver, through which certain public hospitals in the State obtain supplemental TennCare payments, the state share of which is funded through intergovernmental transfers from county governments;

WHEREAS, the federal Centers for Medicare and Medicaid Services (“CMS”) has approved a Waiver Amendment (“Waiver Amendment”) authorizing the State to expand the PHSPP to provide supplemental payments to the Authority in consideration of its uncompensated care of TennCare enrollees and uninsured patients;

WHEREAS, the State is authorized under the Waiver and federal and state law to utilize moneys obtained via intergovernmental transfers from the County and Authority as the non-federal share of PHSPP payments to the Authority under the Waiver Amendment, which will be paid by the State, together with federal-matching funds, directly to the Authority to further the purposes identified in the Waiver Amendment;

WHEREAS, the Authority could permissibly transfer funds directly to the State in accordance with the Waiver and federal and state law, but the Bureau of TennCare has

expressed a preference that the State receive funds from the County so that funding for all hospitals participating in the PHSP follows the same structure;

WHEREAS, the Authority desires to contribute public funds to the County, and the County desires to contribute public funds to the State, as the non-federal share of PHSP payments to the Authority under the Waiver Amendment in a manner that is at all times budget neutral to the County and in compliance with applicable law and regulation; and

WHEREAS, the County and the Authority desire to memorialize their mutual understanding of the process of such funding and payment and further to set forth the Parties' respective responsibilities in regards thereto.

NOW THEREFORE, in consideration of the promises and the undertakings set forth in this Interlocal Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Effective Date; Term: This Interlocal Agreement shall become effective upon the date of execution by both parties hereto (the "Effective Date") and shall continue in full force and effect until the earlier of (i) the termination by either party hereto by the provision of at least ninety (90) days advance written notice; (ii) immediately upon any expiration of the Waiver Amendment or any change in applicable law or regulation that renders the Interlocal Agreement null and void; or (iii) immediately if payments by the County to the State under this Interlocal Agreement no longer qualify for federal matching funds; provided, however, that no termination shall be effective at any time after which the Authority has met its payment obligations under Section 3 below until the County has made the corresponding transfer of funds to the State under Section 2 below.

This Interlocal Agreement is intended to be an Interlocal Agreement entered into and governed by the provisions of TCA § 12-9-108.

2. Agreements of the County: The County agrees as follows:

That the County shall accept from the Authority Transfer Amounts pursuant to Section 3 below and within three (3) business days forward said Transfer Amounts as received directly to the State for the benefit of the Authority and for the sole purpose of providing funding for the non-federal share of supplemental payments from the PHSP to the Authority pursuant to the Waiver Amendment in consideration of the Authority's continued and ongoing provision of uncompensated care to TennCare enrollees and the uninsured.

3. Agreements of the Authority: The Authority agrees as follows:

That upon executing this Interlocal Agreement, and at other times specified by the Bureau of TennCare, the Authority shall tender to the County from the Authority's public funds an amount specified by the Bureau of TennCare equal to the non-federal share of

PHSPP payments to the Authority under the Waiver Amendment (the “Transfer Amount”) for immediate transfer by the County in accordance with Section 2. The Transfer Amount is estimated to be approximately Ten Million Dollars (\$10,000,000.00) per demonstration year. In no event shall the Transfer Amount be paid from PHSPP payments received by the Authority under the Waiver Amendment. Nothing in this Agreement is intended to or should be construed to return or redirect any portion of Medicaid payments received by the Authority to the County.

The Authority further agrees to retain all supplemental payments received from the PHSPP (estimated to be Thirty Million Dollars (\$30,000,000.00) per demonstration year) in furtherance of the Authority’s continued and ongoing provision of uncompensated care to TennCare enrollees and the uninsured.

The Authority further agrees, that in the event it does not receive said supplemental payments from the PHSPP from the State as contemplated under the Waiver Amendment, or if the State recoups any PHSPP payments made to the Authority through a disallowance or otherwise, the County will have no obligation nor responsibility to reimburse or otherwise repay the Authority, the State, or CMS for those funds previously received by the County from the Authority and forwarded to the State as set forth in Section 2, except to the extent the State has refunded such funds to the County, in which case the County will return amounts refunded by the State to the Authority. In the event that the State or CMS seeks to recover amounts from the County in connection with this Interlocal Agreement, the Authority will reimburse the County for its related costs.

The Authority certifies that, at all times, transfers under this Interlocal Agreement and its use of payments from the PHSPP will be consistent with the Waiver Amendment and any other applicable law or regulation.

The Authority further agrees that it will maintain complete and accurate records reflecting upon the financial responsibility and eligibility of the Authority for current and ongoing receipt of supplemental payments from the PHSPP, including but not limited to applicable records regarding the medical care and hospitalization of patients and the administrative, clerical and financial affairs of the Authority.

4. Agreements of the County and Authority: The County and the Authority agree as follows:

(a) Notices. Any notice, demand or other communication required, permitted or desired to be given hereunder shall be deemed effectively given when mailed by pre-paid Certified Mail, Return Receipt Requested; delivered by hand or personal delivery or overnight courier service, or by facsimile or other electronic transmission, which date and time stamp such notices, addressed as follows:

If to the County:
County Mayor
Room 200 Hamilton County Courthouse
Chattanooga, TN 37402

If to the Authority:
President/CEO
975 East Third Street
Chattanooga, TN 37403

Each Party may change its address or the person to be notified indicated above by giving the other Party written notice of the new individual or address in the manner set forth above.

(b) Governing Law. This Interlocal Agreement shall be governed and interpreted in accordance with, and the rights of the Parties shall be determined by, the laws of the State of Tennessee.

(c) Severability. If any provision or portion thereof of this Interlocal Agreement is held to be invalid, void or unenforceable for any reason, the remaining portion of such provision and all other provisions shall continue to be enforceable and shall remain in full force and effect.

(d) Assignment. No assignment of this Interlocal Agreement or the rights and obligations hereunder shall be valid without the specific written consent of both parties hereto. Any attempted assignment in violation of this provision shall be void and shall have no binding effect.

(e) Waiver of Breach. The failure of either Party to insist upon strict performance of any of the terms or conditions and covenants herein shall not be deemed to be a waiver of any rights or remedies by either Party which they may have and shall not be deemed to be a waiver of any subsequent breach or default.

(f) Enforcement. In the event either Party resorts to legal action to enforce the terms and provisions of this Interlocal Agreement, the prevailing Party shall be entitled to recover all costs and expenses of such action so incurred, including, without limitation, any and all attorneys' fees.

(g) Article and Other Headings. The article and other headings contained in this Interlocal Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Interlocal Agreement.

(h) Amendments. This Interlocal Agreement may not be changed, amended or modified except in writing, signed by both Parties.

(i) Successors or Binding Effect. This Interlocal Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective legal representatives, successors and assigns.

(j) Medicare Certificate. Both parties hereto represents and warrants that it and/or its representatives have never been sanctioned by or excluded from participation in the Medicare, Medicaid or any other state or federal healthcare program for program-related offenses and have never been convicted of a criminal offense related to health care. Both parties agrees to and shall notify the other party immediately if any such action is proposed or taken against it, or if it becomes the subject of an investigation that could lead to such action, at which time the other party may terminate this Interlocal Agreement immediately. In addition, both parties agrees, as relates to their respective participation in the providing of the subject services, to abide by Authority's Code of Conduct and Ethics and Compliance Program as set forth at http://www.erlangers.org/workfiles/code_of_conduct.pdf and <http://www.erlangers.org/workfiles/complianceProgram.pdf>, respectively.

IN WITNESS WHEREOF, the parties hereto, acting by and through their duly authorized officers, have caused this Interlocal Agreement to be executed in duplicate as of the day and year first above written.

HAMILTON COUNTY, TENNESSEE

By: _____
County Mayor

**CHATTANOOGA-HAMILTON
COUNTY HOSPITAL AUTHORITY
d/b/a ERLANGER HEALTH SYSTEM**

By: _____
President/CEO