Windfall for Massachusetts hospitals is questioned

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(AP) -- An obscure provision tucked into the federal health care law has turned into a jackpot for Massachusetts hospitals, but officials in other states are upset because the money will come from their hospitals.

The Medicare windfall for Massachusetts - $275 million a year - adds up quickly, about $1.4 billion over five years.

"If I could think of a better word than outrageous, I would come up with it," said Steve Brenton, president of the Wisconsin Hospital Association.

The news was buried in a Medicare regulation issued Monday and comes at a time when hospitals face more cuts under the newly signed federal debt deal.

Even Medicare says it is concerned about "manipulation" of its inpatient payment rules to create big rewards for one state at the expense of others.

Hospitals in 41 states will lose money as a result of the change. The biggest loser: New York, which is out $47.5 million.

Seven states come out ahead, though none do as well as Massachusetts. Runner-up New Jersey stands to gain $54 million, a fraction of what Massachusetts will get.

President Barack Obama's health care overhaul was supposed to lead to

reforms in Medicare's byzantine payment system. Critics say this latest twist will encourage the big players to game the system in a scramble for increasingly scarce taxpayer dollars.

The health care law "was to usher in a new era, based on innovations that focused on quality improvement and more efficient health care," said Herb Kuhn, president of the Missouri Hospital Association. "What we are seeing is innovation in the area of how to manipulate the payment system."

"It subverts any notion of fairness and equity in developing the rates," said Laurens Sartoris, president of the Virginia Hospital & Healthcare Association. "It's someone going through the backdoor to get special treatment in what amounts to an earmark."

No backdoor maneuvers were involved, said the head of the Massachusetts Hospital Association, defending the change.

"We do not see this as a manipulation of the rules," said Lynn Nicholas. She said the higher payments will help compensate Massachusetts hospitals for a Medicare policy change a few years ago that cost them hundreds of millions of dollars.

Massachusetts Democratic Sen. John Kerry, a co-sponsor of the provision in the health care law that benefited his state's hospitals, was also steadfast.

"When (Medicare) changed the rules five years ago, the rest of the country gained at our expense and Massachusetts took a big hit," Kerry said in a statement. "These new rules just provide some correction."

The American Hospital Association supported the change when the law was being debated. An official there now says hospitals didn't

understand what they were getting with the obscure provision.

The saga of how Massachusetts scored big could come straight from a lobbyist's playbook.

It goes back a few years and twists and turns through Medicare's mind-boggling payment rules.

Those rules include a factor that's used to adjust payments to hospitals for the difference in labor costs around the country. The adjustments cannot lead to any increase in overall Medicare spending, automatically setting up potential winners and losers.

On top of that, another rule says that the labor cost factor for a hospital in an urban area of a state cannot be less than for that state's rural areas.

That's where two small hospitals on Nantucket and Martha's Vineyard, islands off the Massachusetts coast popular with vacationers, come into the picture.

Those hospitals had been operating as "critical access hospitals," reimbursed by Medicare at special rates that usually work out to be top tier.

Then, according to Kuhn, some mainland hospitals persuaded them to reclassify themselves as "rural" hospitals. That put them back under the same payment rules as the mainland hospitals. What followed was a sort of domino effect.

Since labor costs are relatively high on the islands, it raised rural costs in the entire state. In turn, that led to higher payments for urban hospitals. A group of mainland hospitals affiliated with the island hospitals also agreed to reimburse them for any financial losses as a result of the

change.

Changing from "critical access" to "rural" hospitals was totally legitimate, Nicholas said.

"They were fully qualified to do that," she said. "That hurt them individually financially, but because of their relationship with the overall system they were able to subsidize those losses."

Medicare put up roadblocks to the change, and in 2008 it looked like the feds would win out. Then the health care overhaul law turned the tables.

Medicare officials declined to comment. But in another regulation issued this year, the agency expressed concern with what it termed the "manipulation" of its rules to win an 8 percent increase for one state at the expense of others.

The new payment rates take effect Oct. 1.

In addition to Massachusetts and New Jersey, other states that come out ahead - for a variety of reasons - are Alaska, California, Colorado, Connecticut and New Hampshire. Hospitals in Wyoming break even. And Maryland hospitals have long been paid under a different system.

Every other state loses.