

2020 -- H 7665

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LC004634
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

A N A C T

RELATING TO HUMAN SERVICES -- MEDICAL ASSISTANCE

Introduced By: Representatives Amore, O'Brien, Barros, Messier, and Kazarian

Date Introduced: February 26, 2020

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 40-8-19 of the General Laws in Chapter 40-8 entitled "Medical
2 Assistance" is hereby amended to read as follows:

3 **40-8-19. Rates of payment to nursing facilities.**

4 (a) Rate reform.

5 (1) The rates to be paid by the state to nursing facilities licensed pursuant to chapter 17 of
6 title 23, and certified to participate in Title XIX of the Social Security Act for services rendered to
7 Medicaid-eligible residents, shall be reasonable and adequate to meet the costs that must be
8 incurred by efficiently and economically operated facilities in accordance with 42 U.S.C. §
9 1396a(a)(13). The executive office of health and human services ("executive office") shall
10 promulgate or modify the principles of reimbursement for nursing facilities in effect as of July 1,
11 2011, to be consistent with the provisions of this section and Title XIX, 42 U.S.C. § 1396 et seq.,
12 of the Social Security Act.

13 (2) The executive office shall review the current methodology for providing Medicaid
14 payments to nursing facilities, including other long-term-care services providers, and is authorized
15 to modify the principles of reimbursement to replace the current cost-based methodology rates with
16 rates based on a price-based methodology to be paid to all facilities with recognition of the acuity
17 of patients and the relative Medicaid occupancy, and to include the following elements to be
18 developed by the executive office:

19 (i) A direct-care rate adjusted for resident acuity;

1 (ii) An indirect-care rate comprised of a base per diem for all facilities;

2 (iii) A rerearray of costs for all facilities every three (3) years beginning October, 2015, that
3 may or may not result in automatic per diem revisions;

4 (iv) Application of a fair-rental value system;

5 (v) Application of a pass-through system; and

6 (vi) Adjustment of rates by the change in a recognized national nursing home inflation
7 index to be applied on October 1 of each year, beginning October 1, 2012. This adjustment will not
8 occur on October 1, 2013, October 1, 2014, or October 1, 2015, but will occur on April 1, 2015.
9 The adjustment of rates will also not occur on October 1, 2017, October 1, 2018, and October 1,
10 2019. Effective July 1, 2018, rates paid to nursing facilities from the rates approved by the Centers
11 for Medicare and Medicaid Services and in effect on October 1, 2017, both fee-for-service and
12 managed care, will be increased by one and one-half percent (1.5%) and further increased by one
13 percent (1%) on October 1, 2018, and further increased by one percent (1%) on October 1, 2019.
14 The inflation index shall be applied without regard for the transition factors in subsections (b)(1)
15 and (b)(2). For purposes of October 1, 2016, adjustment only, any rate increase that results from
16 application of the inflation index to subsections (a)(2)(i) and (a)(2)(ii) shall be dedicated to increase
17 compensation for direct-care workers in the following manner: Not less than 85% of this aggregate
18 amount shall be expended to fund an increase in wages, benefits, or related employer costs of direct-
19 care staff of nursing homes. For purposes of this section, direct-care staff shall include registered
20 nurses (RNs), licensed practical nurses (LPNs), certified nursing assistants (CNAs), certified
21 medical technicians, housekeeping staff, laundry staff, dietary staff, or other similar employees
22 providing direct-care services; provided, however, that this definition of direct-care staff shall not
23 include: (i) RNs and LPNs who are classified as "exempt employees" under the Federal Fair Labor
24 Standards Act (29 U.S.C. § 201 et seq.); or (ii) CNAs, certified medical technicians, RNs, or LPNs
25 who are contracted, or subcontracted, through a third-party vendor or staffing agency. By July 31,
26 2017, nursing facilities shall submit to the secretary, or designee, a certification that they have
27 complied with the provisions of this subsection (a)(2)(vi) with respect to the inflation index applied
28 on October 1, 2016. Any facility that does not comply with terms of such certification shall be
29 subjected to a clawback, paid by the nursing facility to the state, in the amount of increased
30 reimbursement subject to this provision that was not expended in compliance with that certification.

31 (b) Transition to full implementation of rate reform. For no less than four (4) years after
32 the initial application of the price-based methodology described in subsection (a)(2) to payment
33 rates, the executive office of health and human services shall implement a transition plan to
34 moderate the impact of the rate reform on individual nursing facilities. Said transition shall include

1 the following components:

2 (1) No nursing facility shall receive reimbursement for direct-care costs that is less than
3 the rate of reimbursement for direct-care costs received under the methodology in effect at the time
4 of passage of this act; for the year beginning October 1, 2017, the reimbursement for direct-care
5 costs under this provision will be phased out in twenty-five-percent (25%) increments each year
6 until October 1, 2021, when the reimbursement will no longer be in effect; and

7 (2) No facility shall lose or gain more than five dollars (\$5.00) in its total, per diem rate the
8 first year of the transition. An adjustment to the per diem loss or gain may be phased out by twenty-
9 five percent (25%) each year; except, however, for the years beginning October 1, 2015, there shall
10 be no adjustment to the per diem gain or loss, but the phase out shall resume thereafter; and

11 (3) The transition plan and/or period may be modified upon full implementation of facility
12 per diem rate increases for quality of care-related measures. Said modifications shall be submitted
13 in a report to the general assembly at least six (6) months prior to implementation.

14 (4) Notwithstanding any law to the contrary, for the twelve-month (12) period beginning
15 July 1, 2015, Medicaid payment rates for nursing facilities established pursuant to this section shall
16 not exceed ninety-eight percent (98%) of the rates in effect on April 1, 2015. Consistent with the
17 other provisions of this chapter, nothing in this provision shall require the executive office to restore
18 the rates to those in effect on April 1, 2015, at the end of this twelve-month (12) period.

19 (5) Effective July 1, 2020, rates paid to nursing facilities approved by the Centers for
20 Medicare and Medicaid Services and in effect on October 1, 2019, both fee-for-service and
21 managed care, will be increased by ten percent (10%).

22 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO HUMAN SERVICES -- MEDICAL ASSISTANCE

1 This act would provide, effective July 1, 2020, rates paid to nursing facilities approved by
2 the Centers for Medicare and Medicaid Services and in effect on October 1, 2019, both fee-for-
3 service and managed care, will be increased by ten percent (10%).

4 This act would take effect upon passage.

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