
SECOND SUBSTITUTE SENATE BILL 5341

State of Washington

58th Legislature

2003 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Winsley, Kline, Thibaudeau, Carlson, Parlette and Kohl-Welles)

READ FIRST TIME 04/04/03.

1 AN ACT Relating to a quality maintenance fee levied on nursing
2 facilities; adding new sections to chapter 74.46 RCW; adding a new
3 chapter to Title 82 RCW; creating a new section; providing effective
4 dates; providing a contingent expiration date; and declaring an
5 emergency.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** The definitions in this section apply
8 throughout this chapter unless the context clearly requires otherwise.

9 (1) "Department" means the department of revenue.

10 (2) "Gross income" means all revenue, without deduction, that is
11 derived from the performance of nursing services, otherwise known as
12 routine daily care revenue. "Gross income" does not include other
13 patient revenue, other operating revenue, or nonoperating revenue.

14 (3) "Other patient revenue" means income from sales of medical
15 supplies for patient care and from performing other than routine
16 services for patient care.

17 (4) "Other operating revenue" means income from nonpatient care
18 services to patients, as well as sales and activities to persons other
19 than patients. It is derived in the course of operating the facility,

1 such as providing personal laundry service for patients, or from other
2 sources such as meals, telephones, gift shops, and vending machine
3 commissions.

4 (5) "Nonoperating revenue" means income from activities not
5 relating directly to the day-to-day operations of an organization.
6 "Nonoperating revenue" includes such items as gains on disposal of a
7 facility's assets, dividends, and interest from security investments,
8 gifts, grants, and endowments.

9 (6) "Patient day" means a calendar day of care provided to a
10 nursing facility resident, excluding a medicare patient day. Patient
11 days include the day of admission and exclude the day of discharge;
12 except that, when admission and discharge occur on the same day, one
13 day of care shall be deemed to exist.

14 (7) "Medicare patient day" means a patient day for medicare
15 beneficiaries on a medicare Part A stay and a patient day for persons
16 who have opted for managed care coverage using their medicare benefit.

17 (8) "Nonexempt nursing facility" means a nursing facility that is
18 not exempt from the quality maintenance fee under section 4 of this
19 act.

20 (9) "Nursing facility" has the same meaning as the term is defined
21 in RCW 18.51.010.

22 (10) "Nursing facility operator" means a person who engages in the
23 business of operating a nursing facility or facilities within this
24 state.

25 NEW SECTION. **Sec. 2.** (1) In addition to any other tax, a quality
26 maintenance fee is imposed on every nonexempt nursing facility in this
27 state. The quality maintenance fee is six dollars and fifty cents per
28 patient day.

29 (2) Each operator of a nonexempt nursing facility shall file a
30 return with the department on a quarterly basis. The return is due
31 within thirty days after the end of each calendar quarter. The return
32 shall include the following:

33 (a) The number of patient days for nonexempt nursing facilities
34 operated by that person in that quarter; and

35 (b) Remittance of the nonexempt nursing facility operator's quality
36 maintenance fee for that quarter.

1 NEW SECTION. **Sec. 3.** All of chapter 82.32 RCW, except RCW
2 82.32.045 and 82.32.270, applies to the fee imposed by this chapter, in
3 addition to any other provisions of law for the payment and enforcement
4 of the fee imposed by this chapter. The department may adopt rules, in
5 accordance with chapter 34.05 RCW, as necessary to provide for the
6 effective administration of this chapter.

7 NEW SECTION. **Sec. 4.** (1) The legislature finds that payment of
8 the quality maintenance fee imposed by section 2 of this act may cause
9 an undue financial hardship to operators of certain nursing facilities,
10 and intends to exempt such facilities from the fee to the extent
11 permissible under the federal medicaid program.

12 (2) By July 1st of each year, each nursing facility operator shall
13 file a report with the department of social and health services listing
14 the patient days and the gross income for the prior calendar year for
15 each nursing facility that he or she operates.

16 (3) By August 1, 2003, the department of social and health services
17 shall submit for approval to the federal department of health and human
18 services a request for a waiver pursuant to 42 C.F.R. 443.68. The
19 waiver shall identify the nursing facilities that the department
20 proposes to exempt from the quality maintenance fee. Those facilities
21 shall include:

22 (a) Nursing facilities operated by any agency of the state of
23 Washington;

24 (b) Nursing facilities operated by a public hospital district; and

25 (c) As many nursing facilities with low numbers of medicaid-funded
26 residents as, within the judgment of the department, may be exempted
27 from the fee while still maximizing the likelihood that the waiver
28 request will be granted.

29 (4) The department of social and health services shall notify the
30 department of revenue and the nursing facility operator of the nursing
31 facilities that would be exempted from the quality maintenance fee
32 pursuant to the waiver request submitted to the federal department of
33 health and human services. The nursing facilities included in the
34 waiver request may withhold payment of the fee pending final action by
35 the federal government on the request for waiver.

36 (5) If the request for waiver is approved, the department of social
37 and health services shall notify the department of revenue and the

1 nursing facility operator that no quality maintenance fee is due from
2 the facility. If the request for waiver is denied, nursing facility
3 operators who have withheld payment of the fee shall pay all such fees
4 as have been withheld.

5 (6) The department of social and health services shall take
6 whatever action is necessary to continue the waiver from the federal
7 government.

8 (7) The department of social and health services may adopt such
9 rules, in accordance with chapter 34.05 RCW, as necessary to provide
10 for effective administration of this section and section 5 of this act.

11 NEW SECTION. **Sec. 5.** The department of social and health services
12 shall prospectively add the cost of the quality maintenance fee under
13 section 2 of this act to the nursing facility component rate allocation
14 calculated after application of all other provisions of RCW 74.46.521.

15 NEW SECTION. **Sec. 6.** (1) Sections 1 through 5 of this act shall
16 expire on the earliest of:

17 (a) The effective date that federal medicaid matching funds are
18 substantially reduced or that a federal sanction is imposed due to the
19 quality maintenance fee under section 2 of this act, as such date is
20 certified by the secretary of social and health services;

21 (b) The effective date that federal medicaid matching funds are
22 substantially reduced due to the quality maintenance fee under section
23 2 of this act, as determined by a permanent injunction, court order, or
24 final court decision; or

25 (c) The effective date of a permanent injunction, court order, or
26 final court decision that prohibits in whole or in part the collection
27 of the quality maintenance fee under section 2 of this act.

28 (2) The expiration of sections 1 through 5 of this act shall not be
29 construed as affecting any existing right acquired or liability or
30 obligation incurred under those sections or under any rule or order
31 adopted under those sections, nor as affecting any proceeding
32 instituted under those sections.

33 NEW SECTION. **Sec. 7.** If any provision of this act or its
34 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other
2 persons or circumstances is not affected.

3 NEW SECTION. **Sec. 8.** (1) Sections 1 through 3 of this act
4 constitute a new chapter in Title 82 RCW.

5 (2) Sections 4 and 5 of this act are each added to chapter 74.46
6 RCW.

7 NEW SECTION. **Sec. 9.** This act is necessary for the immediate
8 preservation of the public peace, health, or safety, or support of the
9 state government and its existing public institutions, and takes effect
10 July 1, 2003, except for section 4 of this act which takes effect June
11 1, 2003.

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