
SENATE BILL 5341

State of Washington

58th Legislature

2003 Regular Session

By Senators Winsley, Kline, Thibaudeau, Carlson, Parlette and Kohl-Welles

Read first time 01/22/2003. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to a quality maintenance fee levied on nursing
2 facilities; amending RCW 74.46.200 and 74.46.421; reenacting and
3 amending RCW 43.84.092; adding new sections to chapter 74.46 RCW;
4 adding new sections to chapter 43.131 RCW; adding a new chapter to
5 Title 82 RCW; and declaring an 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) "Gross income" has the same meaning as the term is defined in
10 RCW 82.04.080.

11 (2) "Patient days" shall not include medicare patient days.

12 (3) "Multiplier" means the fixed dollar amount used to calculate
13 the quality maintenance fee.

14 (4) "Nursing facility" has the same meaning as the term is defined
15 in RCW 74.46.020.

16 NEW SECTION. **Sec. 2.** (1) Without exemptions, there is levied and
17 there shall be collected a quality maintenance fee on nursing

1 facilities to be calculated in accordance with subsection (2) of this
2 section.

3 (2)(a) The quality maintenance fee shall be an amount determined
4 each quarter by multiplying the patient days as reported by each
5 nursing facility for each day of the quarter by the multiplier.

6 (b) Each multiplier shall be calculated by the department to
7 produce an aggregate annual quality maintenance fee payment equal to
8 six percent of the aggregate annual gross income for all nursing
9 facilities. The multiplier shall be subject to prospective adjustment
10 as necessary so that the annual aggregate quality maintenance payments
11 do not exceed six percent of the aggregate annual gross income for all
12 nursing facilities.

13 (3)(a) Between the effective date of this act and June 30, 2004,
14 the multiplier shall be nine dollars and twenty-five cents.

15 (b) Beginning July 1, 2004, and annually thereafter, the multiplier
16 shall be determined using the patient days and gross income reported to
17 the department under section 3 of this act. The department shall use
18 at least six months of data from each nursing facility that shall then
19 be annualized.

20 NEW SECTION. **Sec. 3.** Each nursing facility shall file a report
21 with the department listing the patient days and gross income for the
22 immediately preceding calendar year. The report shall be filed with
23 the department by April 30th of each year beginning April 30, 2004.
24 The quality maintenance fee, determined by the department in accordance
25 with section 2 of this act, shall be due and payable in accordance with
26 RCW 82.32.045(1). The department has authority to impose penalties in
27 accordance with RCW 82.32.050.

28 NEW SECTION. **Sec. 4.** The quality maintenance fee assessed and
29 collected under this act, and any penalties imposed and collected
30 pursuant to RCW 82.32.050, shall be deposited in the nursing facility
31 medicaid trust fund account created in section 6 of this act.

32 NEW SECTION. **Sec. 5.** The department may adopt rules, in
33 accordance with chapter 34.05 RCW, if necessary to implement this
34 chapter.

1 NEW SECTION. **Sec. 6.** (1) The nursing facility medicaid trust fund
2 account is created in the state treasury. All receipts from the
3 assessed and collected quality maintenance fees, any penalties imposed
4 and collected, and the federal financial participation amounts derived
5 from the assessed fees paid by the nursing facilities must be deposited
6 in the account. Money in the account may be spent only after
7 appropriation. Expenditures from the account may only be used for the
8 purposes of this section.

9 (2) The nursing facility medicaid trust fund account shall be: (a)
10 Separate and distinct from the state's general fund; (b) supplementary
11 to the base level of the Washington state medicaid program funds
12 appropriated by the legislature to maintain the state's nursing
13 facility medicaid program. To determine the base level of the nursing
14 facility medicaid program funds, the amount appropriated for nursing
15 facilities in the 2001-03 biennial appropriations act shall be used and
16 will establish the base level amount. The base level amount shall be
17 adjusted annually by an inflation factor that shall be equal to the
18 inflation factor used to annually update the medicare skilled nursing
19 facility payment rates; (c) exempt from budgetary cuts, reductions, or
20 eliminations caused by general revenue shortfalls; and (d)
21 supplementary to any increases in state general funds resulting from
22 any increase in the federal financial participation percentage amounts.

23 (3)(a) The nursing facility medicaid trust fund account shall be
24 used only to prospectively pay, under section 8 of this act, each
25 nursing facility the medicaid proportionate amount of the quality
26 maintenance fee paid under this act, to the extent permitted under
27 section 1903(w) of the social security act and to fund:

28 (i) The nursing facility medicaid payment method improvements made
29 by the fifty-eighth legislature; or

30 (ii) The nursing facility rate stabilization component created in
31 section 7 of this act.

32 (b) Should the state fail to appropriate funds in an amount that is
33 sufficient to maintain the base level funding for nursing facilities,
34 including the annual inflation adjustment amounts, as described in
35 subsection (2) of this section, all funds collected and held in the
36 nursing facility medicaid trust fund account shall be distributed to
37 the nursing facility rate stabilization component established in
38 section 7 of this act.

1 (4) The funds in the nursing facility medicaid trust fund account
2 shall not be used for any purpose other than that expressly allowed
3 under this section.

4 (5) All funds collected and maintained in the nursing facility
5 medicaid trust fund account shall accrue interest. The accrued
6 interest amounts shall be available and expended in accordance with
7 this act.

8 (6) If the operation of the nursing facility medicaid trust fund
9 account is terminated for any reason, any and all amounts remaining in
10 the nursing facility medicaid trust fund account shall be immediately
11 disbursed to each contractor in an amount that is representative of the
12 contractor's percentage of the total annual assessed fee amount.

13 (7) No nursing facility is guaranteed, expressly or otherwise, that
14 any additional money paid to the nursing facility will equal or exceed
15 the amount of its quality maintenance fee.

16 NEW SECTION. **Sec. 7.** (1) Effective July 1, 2003, and consistent
17 with the provisions of section 6 of this act, a new nursing facility
18 rate component shall be created and referred to as the nursing facility
19 rate stabilization component.

20 (2)(a) As long as the base level funding adjusted for inflation has
21 been maintained by the state under section 6 of this act, the nursing
22 facility rate stabilization component shall include quality maintenance
23 fee amounts that may remain in the nursing facility medicaid trust fund
24 account after the nursing facility medicaid payment method improvements
25 as enacted by the fifty-eighth legislature have been funded.

26 (b) If the state has not maintained its base level funding
27 adjusted for inflation under section 6 of this act, then the nursing
28 facility rate stabilization component shall consist of all funds
29 collected and held in the nursing facility medicaid trust fund account.

30 (3) By June 1st of each year, the department shall determine
31 whether the state will maintain its base level funding, adjusted for
32 inflation, under section 6 of this act.

33 (a) If the department determines that the state will meet its base
34 level funding adjusted for inflation, then by the first day of the
35 third quarter of each rate year, the department will estimate, based on
36 census and medicaid payments made to date, whether any funds will
37 remain in the nursing facility medicaid trust fund account by June 30th

1 of each rate year after meeting the funding obligations of the nursing
2 facility medicaid payment method improvements. If the department
3 determines that funds will be remaining in the nursing facility
4 medicaid trust fund account as of June 30th of the applicable rate
5 year, the department shall divide the total amount of the anticipated
6 unexpended funds by the total number of medicaid patient days. The
7 result shall be a per patient day rate amount that shall be added to
8 the total medicaid rate that shall be paid beginning on the first day
9 of the third quarter of the applicable rate year until the nursing
10 facility medicaid trust fund account is fully expended.

11 (b) If the department determines that the state will not meet its
12 base level funding adjusted for inflation, then the department shall
13 divide the total amount of the funds held in the nursing facility
14 medicaid trust fund account by the total number of medicaid patient
15 days. The result shall be a per patient day rate amount that shall be
16 added to each nursing facility's total medicaid rate that shall be paid
17 beginning on July 1st of each applicable rate year until the nursing
18 facility medicaid trust fund account is fully expended.

19 (4) The nursing facility rate stabilization component is not
20 subject to minimum occupancy requirements, medians, lids, or any other
21 limitations contained in the rate setting part of chapter 74.46 RCW,
22 Part E.

23 NEW SECTION. **Sec. 8.** (1) Beginning July 1, 2003, there shall be
24 a new rate allocation component that shall correspond to the quality
25 maintenance fee amounts paid by a nursing facility.

26 (2) By July 1, 2003, and by each subsequent July 1st, the
27 department shall determine each medicaid nursing facility's quality
28 maintenance fee amount that will be paid to the department of revenue.
29 In making this determination, the department shall consult with
30 department of revenue staff and calculate the quality maintenance fee
31 amounts for each medicaid nursing facility using the method described
32 in section 2 of this act.

33 (3) Based on the amount of the quality maintenance fee amount that
34 each medicaid nursing facility is required to pay, the department shall
35 then determine the per resident day amount that is proportionate to the
36 nursing facility's medicaid resident days to total actual days during

1 the applicable reporting period. This per medicaid resident day amount
2 shall be the quality maintenance fee component rate allocation that
3 shall be paid to each medicaid nursing facility on a prospective basis.

4 **Sec. 9.** RCW 43.84.092 and 2002 c 242 s 2, 2002 c 114 s 24, and
5 2002 c 56 s 402 are each reenacted and amended to read as follows:

6 (1) All earnings of investments of surplus balances in the state
7 treasury shall be deposited to the treasury income account, which
8 account is hereby established in the state treasury.

9 (2) The treasury income account shall be utilized to pay or receive
10 funds associated with federal programs as required by the federal cash
11 management improvement act of 1990. The treasury income account is
12 subject in all respects to chapter 43.88 RCW, but no appropriation is
13 required for refunds or allocations of interest earnings required by
14 the cash management improvement act. Refunds of interest to the
15 federal treasury required under the cash management improvement act
16 fall under RCW 43.88.180 and shall not require appropriation. The
17 office of financial management shall determine the amounts due to or
18 from the federal government pursuant to the cash management improvement
19 act. The office of financial management may direct transfers of funds
20 between accounts as deemed necessary to implement the provisions of the
21 cash management improvement act, and this subsection. Refunds or
22 allocations shall occur prior to the distributions of earnings set
23 forth in subsection (4) of this section.

24 (3) Except for the provisions of RCW 43.84.160, the treasury income
25 account may be utilized for the payment of purchased banking services
26 on behalf of treasury funds including, but not limited to, depository,
27 safekeeping, and disbursement functions for the state treasury and
28 affected state agencies. The treasury income account is subject in all
29 respects to chapter 43.88 RCW, but no appropriation is required for
30 payments to financial institutions. Payments shall occur prior to
31 distribution of earnings set forth in subsection (4) of this section.

32 (4) Monthly, the state treasurer shall distribute the earnings
33 credited to the treasury income account. The state treasurer shall
34 credit the general fund with all the earnings credited to the treasury
35 income account except:

36 (a) The following accounts and funds shall receive their
37 proportionate share of earnings based upon each account's and fund's

1 average daily balance for the period: The capitol building
2 construction account, the Cedar River channel construction and
3 operation account, the Central Washington University capital projects
4 account, the charitable, educational, penal and reformatory
5 institutions account, the common school construction fund, the county
6 criminal justice assistance account, the county sales and use tax
7 equalization account, the data processing building construction
8 account, the deferred compensation administrative account, the deferred
9 compensation principal account, the department of retirement systems
10 expense account, the drinking water assistance account, the drinking
11 water assistance administrative account, the drinking water assistance
12 repayment account, the Eastern Washington University capital projects
13 account, the education construction fund, the emergency reserve fund,
14 the federal forest revolving account, the health services account, the
15 public health services account, the health system capacity account, the
16 personal health services account, the state higher education
17 construction account, the higher education construction account, the
18 highway infrastructure account, the industrial insurance premium refund
19 account, the judges' retirement account, the judicial retirement
20 administrative account, the judicial retirement principal account, the
21 local leasehold excise tax account, the local real estate excise tax
22 account, the local sales and use tax account, the medical aid account,
23 the mobile home park relocation fund, the multimodal transportation
24 account, the municipal criminal justice assistance account, the
25 municipal sales and use tax equalization account, the natural resources
26 deposit account, the nursing facility medicaid trust fund account, the
27 oyster reserve land account, the perpetual surveillance and maintenance
28 account, the public employees' retirement system plan 1 account, the
29 public employees' retirement system combined plan 2 and plan 3 account,
30 the public facilities construction loan revolving account beginning
31 July 1, 2004, the public health supplemental account, the Puyallup
32 tribal settlement account, the regional transportation investment
33 district account, the resource management cost account, the site
34 closure account, the special wildlife account, the state employees'
35 insurance account, the state employees' insurance reserve account, the
36 state investment board expense account, the state investment board
37 commingled trust fund accounts, the supplemental pension account, the
38 Tacoma Narrows toll bridge account, the teachers' retirement system

1 plan 1 account, the teachers' retirement system combined plan 2 and
2 plan 3 account, the tobacco prevention and control account, the tobacco
3 settlement account, the transportation infrastructure account, the
4 tuition recovery trust fund, the University of Washington bond
5 retirement fund, the University of Washington building account, the
6 volunteer fire fighters' and reserve officers' relief and pension
7 principal fund, the volunteer fire fighters' and reserve officers'
8 administrative fund, the Washington fruit express account, the
9 Washington judicial retirement system account, the Washington law
10 enforcement officers' and fire fighters' system plan 1 retirement
11 account, the Washington law enforcement officers' and fire fighters'
12 system plan 2 retirement account, the Washington school employees'
13 retirement system combined plan 2 and 3 account, the Washington state
14 health insurance pool account, the Washington state patrol retirement
15 account, the Washington State University building account, the
16 Washington State University bond retirement fund, the water pollution
17 control revolving fund, and the Western Washington University capital
18 projects account. Earnings derived from investing balances of the
19 agricultural permanent fund, the normal school permanent fund, the
20 permanent common school fund, the scientific permanent fund, and the
21 state university permanent fund shall be allocated to their respective
22 beneficiary accounts. All earnings to be distributed under this
23 subsection (4)(a) shall first be reduced by the allocation to the state
24 treasurer's service fund pursuant to RCW 43.08.190.

25 (b) The following accounts and funds shall receive eighty percent
26 of their proportionate share of earnings based upon each account's or
27 fund's average daily balance for the period: The aeronautics account,
28 the aircraft search and rescue account, the county arterial
29 preservation account, the department of licensing services account, the
30 essential rail assistance account, the ferry bond retirement fund, the
31 grade crossing protective fund, the high capacity transportation
32 account, the highway bond retirement fund, the highway safety account,
33 the motor vehicle fund, the motorcycle safety education account, the
34 pilotage account, the public transportation systems account, the Puget
35 Sound capital construction account, the Puget Sound ferry operations
36 account, the recreational vehicle account, the rural arterial trust
37 account, the safety and education account, the special category C
38 account, the state patrol highway account, the transportation equipment

1 fund, the transportation fund, the transportation improvement account,
2 the transportation improvement board bond retirement account, and the
3 urban arterial trust account.

4 (5) In conformance with Article II, section 37 of the state
5 Constitution, no treasury accounts or funds shall be allocated earnings
6 without the specific affirmative directive of this section.

7 **Sec. 10.** RCW 74.46.200 and 1980 c 177 s 20 are each amended to
8 read as follows:

9 (1) Allowable costs shall be reduced by the contractor whenever the
10 item, service, or activity covered by such costs generates revenue or
11 financial benefits other than through the contractor's normal billing
12 for care services; except that, unrestricted grants, gifts, and
13 endowments, and interest therefrom, will not be deducted from the
14 allowable costs of a nonprofit facility.

15 (2) Where goods or services are sold, the amount of the reduction
16 shall be the actual cost relating to the item, service, or activity.
17 In the absence of adequate documentation of cost, it shall be the full
18 amount of the revenue received. Where financial benefits such as
19 purchase discounts or rebates are received, the amount of the reduction
20 shall be the amount of the discount or rebate.

21 (3) This section does not apply to the nursing facility rate
22 stabilization component under section 7 of this act.

23 **Sec. 11.** RCW 74.46.421 and 2001 1st sp.s. c 8 s 4 are each amended
24 to read as follows:

25 (1) The purpose of part E of this chapter is to determine nursing
26 facility medicaid payment rates that, in the aggregate for all
27 participating nursing facilities, are in accordance with the biennial
28 appropriations act.

29 (2)(a) The department shall use the nursing facility medicaid
30 payment rate methodologies described in this chapter to determine
31 initial component rate allocations for each medicaid nursing facility.

32 (b) The initial component rate allocations shall be subject to
33 adjustment as provided in this section in order to assure that the
34 statewide average payment rate to nursing facilities is less than or
35 equal to the statewide average payment rate specified in the biennial
36 appropriations act.

1 (3) Nothing in this chapter shall be construed as creating a legal
2 right or entitlement to any payment that (a) has not been adjusted
3 under this section or (b) would cause the statewide average payment
4 rate to exceed the statewide average payment rate specified in the
5 biennial appropriations act.

6 (4)(a) The statewide average payment rate for any state fiscal year
7 under the nursing facility payment system, weighted by patient days,
8 shall not exceed the annual statewide weighted average nursing facility
9 payment rate identified for that fiscal year in the biennial
10 appropriations act.

11 (b) If the department determines that the weighted average nursing
12 facility payment rate calculated in accordance with this chapter is
13 likely to exceed the weighted average nursing facility payment rate
14 identified in the biennial appropriations act, then the department
15 shall adjust all nursing facility payment rates proportional to the
16 amount by which the weighted average rate allocations would otherwise
17 exceed the budgeted rate amount. Any such adjustments shall only be
18 made prospectively, not retrospectively, and shall be applied
19 proportionately to each component rate allocation for each facility.

20 (5) The quality maintenance fee component rate allocation
21 calculated under section 8 of this act is not subject to adjustment
22 under this section.

23 NEW SECTION. Sec. 12. A new section is added to chapter 43.131
24 RCW to read as follows:

25 The nursing facility medicaid trust fund account shall be
26 terminated on June 30, 2005, as provided in section 13 of this act.

27 NEW SECTION. Sec. 13. A new section is added to chapter 43.131
28 RCW to read as follows:

29 The following acts or parts of acts, as now existing or hereafter
30 amended, are each repealed, effective June 30, 2006:

31 (1) Section 1 of this act;

32 (2) Section 2 of this act;

33 (3) Section 3 of this act;

34 (4) Section 4 of this act;

35 (5) Section 5 of this act;

36 (6) Section 6 of this act;

- 1 (7) Section 7 of this act;
- 2 (8) Section 8 of this act;
- 3 (9) Section 9 of this act;
- 4 (10) Section 10 of this act; and
- 5 (11) Section 11 of this act.

6 NEW SECTION. **Sec. 14.** If any provision of this act or its
7 application to any person or circumstance is held invalid, the
8 remainder of the act or the application of the provision to other
9 persons or circumstances is not affected.

10 NEW SECTION. **Sec. 15.** (1) Sections 1 through 5 of this act
11 constitute a new chapter in Title 82 RCW.

12 (2) Sections 6 through 8 of this act are each added to chapter
13 74.46 RCW and codified with the subchapter heading of "nursing facility
14 medicaid trust fund account."

15 NEW SECTION. **Sec. 16.** This act is necessary for the immediate
16 preservation of the public peace, health, or safety, or support of the
17 state government and its existing public institutions, and takes effect
18 immediately.

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