



State of Tennessee

PUBLIC CHAPTER NO. 377

SENATE BILL NO. 185

By Overbey, Massey, Yager

Substituted for: House Bill No. 142

By Johnson

AN ACT to amend Tennessee Code Annotated, Title 68 and Title 71, relative to nursing homes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 71-5-1002, is amended by deleting subdivision (h)(1) in its entirety and substituting instead the following:

(1) To make expenditures for nursing facility services under the TennCare program for FY 2017-2018 at the full rates for the specified fiscal year as set in accordance with § 71-5-105(a)(3)(B)-(D);

SECTION 2. Tennessee Code Annotated, Section 71-5-1003, is amended by deleting subdivision (c) in its entirety and substituting instead the following:

(c) The total aggregated amount of assessments for all nursing facilities from July 1, 2017, through June 30, 2018, shall equal four and three-quarters percent (4.75%) of the net patient service revenue. The total aggregated amount of assessment for all nursing facilities, and the annual assessment determined for each nursing facility, shall be established on July 1st of each year. Once established, neither amount shall vary during each fiscal year. Each nursing facility shall have an annual assessment amount that shall be determined as follows:

(1) Any licensed nursing home that is licensed on July 1, 2017, for fifty (50) beds or fewer shall pay an assessment rate equal to three percent (3%) of net patient service revenue, divided by all non-medicare days. The facility shall pay the per diem rate for each of its non-medicare days;

(2) Any licensed nursing home that on July 1, 2017, operates as part of a continuing care retirement community shall pay an assessment rate equal to three percent (3%) of net patient service revenue, divided by all non-medicare days. The facility shall pay the per diem rate for each of its non-medicare days;

(3) Any licensed nursing home providing fifty thousand (50,000) or greater medicaid patient days for the twelve (12) months ending December 31 of the prior year shall pay an assessment of two thousand two hundred twenty-five dollars (\$2,225) per licensed bed per year. The facility shall pay the per bed rate on all beds licensed as of July 1 of each year. This annual nursing home assessment fee, the high-volume medicaid threshold, or both can be modified if necessary to meet the redistribution test of 42 CFR 433.68(e)(2);

(4) Any new nursing home facility that is initially licensed and commences operations after July 1, 2017, shall pay in FY 2017-2018 a prorated assessment equal to two thousand two hundred twenty-five dollars (\$2,225) per licensed bed per year, prorated to accrue from the date the nursing facility became certified to participate in TennCare. The change in ownership of an existing licensed facility shall not meet the requirements of this subdivision (c)(4);

(5) Any licensed nursing home not meeting the criteria of subdivisions (c)(1)-(4) shall pay an equal per facility annual assessment amount at such amount as is necessary to ensure that the total aggregated amount of assessment for all nursing

facilities from July 1, 2017, through June 30, 2018, shall equal four and three-quarters percent (4.75%) of the net patient service revenue, when such total aggregated assessment amount is established on July 1st of each year;

(6) Any excess collections of per facility annual assessments above the targeted four and three-quarters percent (4.75%) of the net patient service revenue shall be retained in the nursing home assessment trust fund account created under this part. Should actual collections of per facility annual assessments not equal the targeted four and three-quarters percent (4.75%) of the net patient service revenue, any shortfall may be made up from funds in the nursing home assessment trust fund account created under this part, or from other appropriations to the TennCare program; and

(7) Any facility that ceases to be licensed by the department of health shall not be required to pay assessment fees accruing after the date of its licensure termination.

SECTION 3. Tennessee Code Annotated, Section 71-5-1004, is amended by deleting the section in its entirety and substituting instead the following:

(a) Upon enactment of the assessment fee pursuant to this part, the bureau of TennCare shall make increased payments to nursing facilities for FY 2017-2018 as part of a transition to a full acuity-based reimbursement system.

(b)(1) During FY 2017-2018, the bureau of TennCare shall make a supplemental transitional payment to nursing facilities for the transition to an acuity-based reimbursement system, which exceeds the amount of nursing home medicaid rates, in the aggregate, as calculated in accordance with the approved state medicaid plan in effect on July 1, 2017.

(2) The total aggregated amount of funds available for this supplemental payment shall be equal to the difference between:

(A) The aggregated amount of nursing home trust fund assessments scheduled to be paid by all nursing homes during FY 2017-2018; and

(B) The total amount of nursing home privilege tax paid by all nursing homes during FY 2013-2014.

(c) The supplemental transitional payments shall be allocated as follows, in consultation with the Tennessee Health Care Association:

(1) Thirty-three and one third percent (33 $\frac{1}{3}$ %) allocated in the same manner as the FY 2014-2015 acuity payment;

(2) Thirty-three and one third percent (33 $\frac{1}{3}$ %) allocated strictly based on medicaid day-weighted CMI score; and

(3) Thirty-three and one third percent (33 $\frac{1}{3}$ %) allocated based on quality measures adopted by the bureau of TennCare and the Tennessee Health Care Association.

SECTION 4. Tennessee Code Annotated, Section 71-5-1005, is amended by adding at the end of subsection (b) the following language:

However, § 71-5-1413 shall constitute the exclusive authority for rulemaking by the bureau of TennCare regarding the transition to an acuity-based nursing home reimbursement system when both acuity and quality supplemental transition payments as described in § 71-5-1004 are transitioned into the medicaid per diem rates of that nursing home reimbursement system.

SECTION 5. Tennessee Code Annotated, Section 71-5-1006, is amended by deleting in subsection (c)(1) the date "July 1, 2016" and substituting instead "July 1, 2017".

SECTION 6. Tennessee Code Annotated, Section 71-5-1413, is amended by deleting subsection (e) and substituting instead the following:

(e) When both acuity and quality supplemental transition payments as described in § 71-5-1004 are transitioned into the medicaid per diem rates of the nursing home

reimbursement system, the bureau of TennCare is authorized to adopt rules necessary to implement a new nursing home reimbursement system, subject to the following limitations:

(1) Any rules promulgated by the bureau of TennCare under this subsection (e) shall be developed in consultation with the comptroller of the treasury and with the Tennessee Health Care Association; and

(2) Any rules or regulations shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5; provided, however, that the bureau of TennCare shall not promulgate emergency rules under this subsection (e) as authorized in § 4-5-208.

SECTION 7. This act shall take effect July 1, 2017, the public welfare requiring it.

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PASSED: May 4, 2017


RANDY McNALLY
SPEAKER OF THE SENATE


BETH HARWELL, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 18th day of May 2017


BILL HASLAM, GOVERNOR