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No

P.L. 2004, CHAPTER 41, *approved June 29, 2004*
Assembly, No. 3051

1 AN ACT concerning nursing home quality of care and amending
2 P.L.2003, c.105.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. Section 3 of P.L.2003, c.105 (C.26:2H-94) is amended to read
8 as follows:

9 3. As used in this act:

10 "Commissioner" means the Commissioner of Health and Senior
11 Services.

12 "Department" means the Department of Health and Senior Services.

13 "Director" means the Director of the Division of Taxation in the
14 Department of the Treasury.

15 "Fund" means the "Nursing Home Quality of Care Improvement
16 Fund" established pursuant to this act.

17 ["High Medicaid occupancy nursing home" means those nursing
18 homes with the highest Medicaid occupancy that will ensure eligibility
19 for the federal waiver of uniformity under federal regulations
20 consistent with this act.

21 "Low Medicaid occupancy nursing home" means the 30% of all
22 nursing homes with the lowest Medicaid occupancy consistent with
23 this act.]

24 "Medicaid" means the Medicaid program established pursuant to
25 P.L.1968, c.413 (C.30:4D-1 et seq.).

26 ["Medicaid occupancy" means the ratio resulting from dividing
27 Medicaid patient days by total patient days paid for by Medicaid,
28 Medicare, private insurance and private payers.

29 "Non-Medicare patient day" means any day that a nursing home is
30 paid for a patient and for which it does not receive a payment or
31 copayment from Medicare for Part A skilled nursing facility care.]

32 "Nursing home" means a long-term care facility licensed pursuant
33 to P.L.1971, c.136 (C.26:2H-1 et seq.), as well as the distinct part of
34 another health care facility or continuing care retirement community
35 that is licensed to provide skilled nursing care services pursuant to
36 P.L.1971, c.136 (C.26:2H-1 et seq.). For the purposes of this act,
37 nursing home shall not include: an acute care hospital; assisted living
38 facility; comprehensive personal care home; residential health care
39 facility; adult day health care facility; alternate family care program;
40 adult family care program; home health care agency; State psychiatric
41 hospital; county health care facility, including, but not limited to,

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 county geriatric center, county nursing home or other county
2 long-term care facility; the New Jersey Firemen's Home; or a health
3 care facility operated by the Department of Military and Veterans'
4 Affairs.

5 (cf: P.L.2003, c.105, s.3)

6

7 2. Section 5 of P.L.2003, c.105 (C.26:2H-96) is amended to read
8 as follows:

9 5. a. Each nursing home shall pay an assessment which, when
10 combined with the aggregate amount of assessments paid by all other
11 nursing homes pursuant to this section shall not exceed 6% of the
12 aggregate amount of annual revenues received by all nursing homes in
13 accordance with 42 C.F.R. s.433.68(f)(3)(I). The assessment shall be
14 comprised of the payments required pursuant to [paragraphs (1)
15 and] paragraph (2) of this subsection. This assessment shall be paid
16 to the Director of the Division of Taxation in the Department of the
17 Treasury. The director, in consultation with the commissioner, shall
18 establish appropriate procedures and forms for the purpose of
19 collecting and recording this assessment. The provisions of the "State
20 Tax Uniform Procedure Law," R.S.54:48-1 et seq., shall apply to the
21 extent that those provisions, including the confidentiality, protest and
22 appeal provisions, are not inconsistent with the provisions of this act.
23 The State shall neither collect the assessment on nursing homes nor
24 distribute increases in Medicaid until both the provider assessment and
25 the plan for distribution of the proceeds of the fund are approved by
26 the federal government.

27 [(1) All high or low Medicaid occupancy nursing homes shall pay
28 annually an amount of \$1 per patient day based upon non-Medicare
29 patient days. All other nursing homes shall pay a per diem assessment,
30 to be calculated by dividing the total Statewide maximum allowable
31 assessment permitted under 42 C.F.R. s.433.68(f)(3)(I) less the
32 amount of assessment paid by high and low Medicaid occupancy
33 nursing homes by the total non-Medicare patient days of those nursing
34 homes which are not high or low Medicaid occupancy nursing homes.]
35 (Deleted by amendment, P.L. , c. (pending before the Legislature as
36 this bill)).

37 (2) Notwithstanding any law to the contrary, each nursing home
38 shall pay to the director for deposit into the fund, in accordance with
39 the requirements set forth in this act, an amount for nursing home
40 patient days, excluding Medicare patient days, up to the maximum
41 limit allowed by law less any licensing or other fees which would be
42 considered "health care-related taxes" as defined by 42 C.F.R.
43 s.433.55, including, but not limited to, any fees established by the
44 commissioner as permitted under law.

45 b. The assessment paid under subsection a. of this section shall not
46 include Medicare patient day revenues and receipts from Medicare

1 certified beds.

2 c. The director, in consultation with the commissioner, shall
3 prescribe by regulation the method by which nursing homes shall
4 report information necessary for the director to calculate the
5 assessment.

6 d. The assessment shall not be payable by nursing homes until both
7 the provider assessment and the plan for distribution of the proceeds
8 of the fund are approved by the federal government. Thereafter, the
9 assessment shall be payable after the end of each calendar quarter
10 during which the assessment accrues. Prior written notice of the due
11 date of the assessment shall not be issued until the per diem add-ons
12 pursuant to subsection d. of section 6 of this act have been paid.

13 e. A nursing home shall submit appropriate reports to the director
14 to facilitate the purposes of this act, on a form and in a manner
15 prescribed by the director and within such period of time as the
16 director may require.

17 (cf: P.L.2003, c.105, s.5)

18

19 3. Section 6 of P.L.2003, c.105 (C.26:2H-97) is amended to read
20 as follows:

21 6. The monies collected from the assessment paid by nursing
22 homes pursuant to section 5 of this act shall be dedicated for the
23 purposes provided in this section and shall be allocated through
24 appropriation as follows:

25 a. As soon after the collection of the monies from the assessment
26 as is practicable, the State Treasurer shall authorize the transfer to the
27 General Fund of \$12.875 million for each quarter for which the
28 assessment has been collected, not to exceed \$51.5 million on an
29 annual basis. All of the amounts so transferred to the General Fund
30 shall be allocated for the support of nursing home programs as the
31 commissioner shall designate, provided that of those amounts, a
32 sufficient amount shall be used to fund nursing home rates at State
33 fiscal year 2003 levels or higher and the continued applicability of
34 nursing home rebasing and bed hold payment methodologies in effect
35 during fiscal year 2003;

36 [b. After the transfer set forth in subsection a. of this section, the
37 director shall transfer \$625,000 for each quarter for which the
38 assessment has been collected, not to exceed \$2.5 million on an annual
39 basis, from the fund to such accounts as the commissioner shall
40 designate to establish a grant program for all nursing homes located in
41 this State. The purpose of the grants shall be: to ensure quality care
42 and to promote recruitment and retention of qualified staff; to improve
43 the quality of care for nursing home residents through the increase of
44 direct or indirect care staff at nursing homes; and to increase or
45 improve the use of innovative patient care technologies. The
46 commissioner shall adopt rules and regulations in accordance with the

1 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
2 seq.), to effectuate the purposes of this subsection, but in no way shall
3 this subsection be designed to violate the hold harmless provisions of
4 42 C.F.R. 433.50 et seq.]; (Deleted by amendment, P.L. , c.
5 (pending before the Legislature as this bill)).

6 c. The State Treasurer, in consultation with the commissioner, shall
7 distribute to nursing homes all remaining monies in the fund, in
8 accordance with the provisions of this section, including any federal
9 Medicaid funds received pursuant to this act, in order to enhance the
10 quality of care for the residents of those facilities, which may include
11 training, recruitment and improvement of wages and benefits for
12 nursing home direct care employees;

13 d. The monies identified in subsection c. of this section shall be
14 allocated in the following manner:

15 (1) sufficient monies from these funds shall be used to recognize
16 the assessment as an allowable cost for Medicaid reimbursement
17 purposes; and

18 (2) the remaining portion of these funds not allocated under
19 paragraph (1) of this subsection shall be made as a uniform per diem
20 add-on for all Medicaid days provided by nursing facilities.

21 The Medicaid payments to nursing homes provided for under this
22 subsection shall not violate the hold harmless provisions set forth at 42
23 C.F.R. s.433.50 et seq.;

24 e. Beginning immediately and continuing for a period of 24 months
25 following the enactment of this act, any monies received by facilities
26 pursuant to this act that are expended in the furtherance of increasing
27 recruitment and retention of employees and increasing the wages of
28 caregivers shall not be subject to the nursing screen or direct patient
29 care screens within the routine cost limits imposed by the nursing
30 home rate setting regulations, in accordance with federal regulations
31 and in such a manner so as to not violate the hold harmless provisions
32 set forth at 42 C.F.R. s.433.50 et seq.

33 During this 24-month period it is recommended that nursing homes
34 increase the nursing and direct care staffing ratio to above the State
35 minimum requirement. Within 24 months of the enactment of this act,
36 the commissioner shall develop, with the advice of industry
37 representatives, consumer organizations and the caregivers' union,
38 increased mandatory State ratios for direct patient care and nursing
39 staffing, to significantly improve nursing and patient care staffing
40 ratios, subject to the availability of funding;

41 f. The commissioner or his designee shall certify the amounts to be
42 provided to each nursing home in accordance with the formulas
43 established by the commissioner for Medicaid reimbursement.

44 (cf: P.L.2003, c.105, s.6)

45

46 4. Section 7 of P.L.2003, c.105 (C.26:2H-98) is amended to read

1 as follows:

2 7. The commissioner shall:

3 a. apply for: a State plan amendment to secure federal financial
4 participation for State Medicaid expenditures under the federal
5 Medicaid program pursuant to 42 U.S.C. s.1396b(w)(3)(B); and a
6 waiver of the uniformity requirements contained in 42 C.F.R.
7 s.433.68(e)(2)(i); and

8 b. prescribe such procedures and forms, and take such other
9 actions, as the commissioner determines necessary to carry out the
10 provisions of this act, including, but not limited to, such actions as are
11 necessary to ensure that the State receives its maximum share of
12 federal financial participation for State Medicaid expenditures under
13 the federal Medicaid program.

14 (cf: P.L.2003, c.105, s.7)

15

16 5. This act shall take effect immediately.

17

18

19

STATEMENT

20

21 This bill makes various amendments to the "Nursing Home Quality
22 of Care Improvement Fund Act" (N.J.S.A.26:2H-92 et seq.) to ensure
23 compliance with applicable federal requirements that will enable the
24 State to receive its maximum share of federal Medicaid matching
25 funds.

26

27

28

29 Deletes certain nursing home payment requirements under "Nursing
30 Home Quality of Care Improvement Fund Act."

ASSEMBLY, No. 3051

STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED JUNE 17, 2004

Sponsored by:

Assemblyman HERBERT CONAWAY, JR.

District 7 (Burlington and Camden)

Assemblywoman BONNIE WATSON COLEMAN

District 15 (Mercer)

Co-Sponsored by:

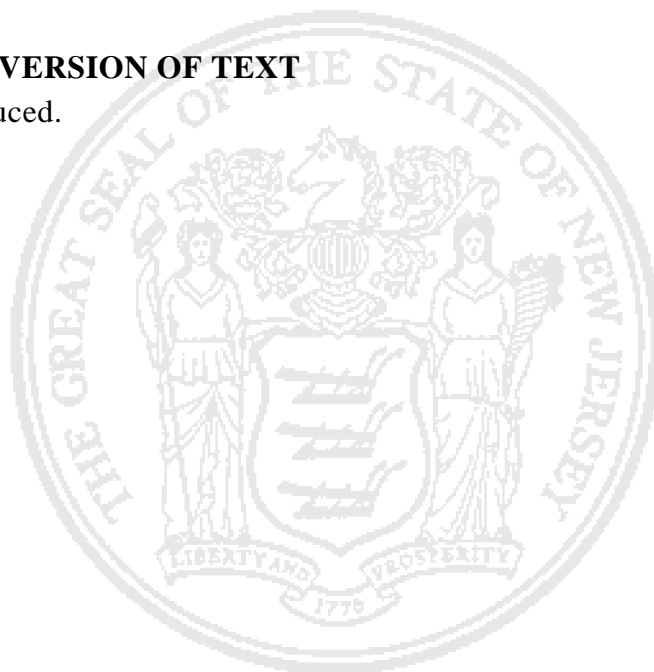
**Assemblywomen Weinberg, Greenstein, Assemblyman Stack, Senators
Kenny and Asselta**

SYNOPSIS

Deletes certain nursing home payment requirements under "Nursing Home Quality of Care Improvement Fund Act."

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/25/2004)

1 AN ACT concerning nursing home quality of care and amending
2 P.L.2003, c.105.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State
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8 as follows:

9 3. As used in this act:

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11 Services.

12 "Department" means the Department of Health and Senior Services.

13 "Director" means the Director of the Division of Taxation in the
14 Department of the Treasury.

15 "Fund" means the "Nursing Home Quality of Care Improvement
16 Fund" established pursuant to this act.

17 ["High Medicaid occupancy nursing home" means those nursing
18 homes with the highest Medicaid occupancy that will ensure eligibility
19 for the federal waiver of uniformity under federal regulations
20 consistent with this act.

21 "Low Medicaid occupancy nursing home" means the 30% of all
22 nursing homes with the lowest Medicaid occupancy consistent with
23 this act.]

24 "Medicaid" means the Medicaid program established pursuant to
25 P.L.1968, c.413 (C.30:4D-1 et seq.).

26 ["Medicaid occupancy" means the ratio resulting from dividing
27 Medicaid patient days by total patient days paid for by Medicaid,
28 Medicare, private insurance and private payers.

29 "Non-Medicare patient day" means any day that a nursing home is
30 paid for a patient and for which it does not receive a payment or
31 copayment from Medicare for Part A skilled nursing facility care.]

32 "Nursing home" means a long-term care facility licensed pursuant
33 to P.L.1971, c.136 (C.26:2H-1 et seq.), as well as the distinct part of
34 another health care facility or continuing care retirement community
35 that is licensed to provide skilled nursing care services pursuant to
36 P.L.1971, c.136 (C.26:2H-1 et seq.). For the purposes of this act,
37 nursing home shall not include: an acute care hospital; assisted living
38 facility; comprehensive personal care home; residential health care
39 facility; adult day health care facility; alternate family care program;
40 adult family care program; home health care agency; State psychiatric
41 hospital; county health care facility, including, but not limited to,
42 county geriatric center, county nursing home or other county
43 long-term care facility; the New Jersey Firemen's Home; or a health

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 care facility operated by the Department of Military and Veterans'
2 Affairs.
3 (cf: P.L.2003, c.105, s.3)

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5 2. Section 5 of P.L.2003, c.105 (C.26:2H-96) is amended to read
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11 accordance with 42 C.F.R. s.433.68(f)(3)(I). The assessment shall be
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13 and] paragraph (2) of this subsection. This assessment shall be paid
14 to the Director of the Division of Taxation in the Department of the
15 Treasury. The director, in consultation with the commissioner, shall
16 establish appropriate procedures and forms for the purpose of
17 collecting and recording this assessment. The provisions of the "State
18 Tax Uniform Procedure Law," R.S.54:48-1 et seq., shall apply to the
19 extent that those provisions, including the confidentiality, protest and
20 appeal provisions, are not inconsistent with the provisions of this act.
21 The State shall neither collect the assessment on nursing homes nor
22 distribute increases in Medicaid until both the provider assessment and
23 the plan for distribution of the proceeds of the fund are approved by
24 the federal government.

25 [(1) All high or low Medicaid occupancy nursing homes shall pay
26 annually an amount of \$1 per patient day based upon non-Medicare
27 patient days. All other nursing homes shall pay a per diem assessment,
28 to be calculated by dividing the total Statewide maximum allowable
29 assessment permitted under 42 C.F.R. s.433.68(f)(3)(I) less the
30 amount of assessment paid by high and low Medicaid occupancy
31 nursing homes by the total non-Medicare patient days of those nursing
32 homes which are not high or low Medicaid occupancy nursing homes.]
33 (Deleted by amendment, P.L. , c. (pending before the Legislature as
34 this bill)).

35 (2) Notwithstanding any law to the contrary, each nursing home
36 shall pay to the director for deposit into the fund, in accordance with
37 the requirements set forth in this act, an amount for nursing home
38 patient days, excluding Medicare patient days, up to the maximum
39 limit allowed by law less any licensing or other fees which would be
40 considered "health care-related taxes" as defined by 42 C.F.R.
41 s.433.55, including, but not limited to, any fees established by the
42 commissioner as permitted under law.

43 b. The assessment paid under subsection a. of this section shall not
44 include Medicare patient day revenues and receipts from Medicare
45 certified beds.

46 c. The director, in consultation with the commissioner, shall

1 prescribe by regulation the method by which nursing homes shall
2 report information necessary for the director to calculate the
3 assessment.

4 d. The assessment shall not be payable by nursing homes until both
5 the provider assessment and the plan for distribution of the proceeds
6 of the fund are approved by the federal government. Thereafter, the
7 assessment shall be payable after the end of each calendar quarter
8 during which the assessment accrues. Prior written notice of the due
9 date of the assessment shall not be issued until the per diem add-ons
10 pursuant to subsection d. of section 6 of this act have been paid.

11 e. A nursing home shall submit appropriate reports to the director
12 to facilitate the purposes of this act, on a form and in a manner
13 prescribed by the director and within such period of time as the
14 director may require.

15 (cf: P.L.2003, c.105, s.5)

16

17 3. Section 6 of P.L.2003, c.105 (C.26:2H-97) is amended to read
18 as follows:

19 6. The monies collected from the assessment paid by nursing
20 homes pursuant to section 5 of this act shall be dedicated for the
21 purposes provided in this section and shall be allocated through
22 appropriation as follows:

23 a. As soon after the collection of the monies from the assessment
24 as is practicable, the State Treasurer shall authorize the transfer to the
25 General Fund of \$12.875 million for each quarter for which the
26 assessment has been collected, not to exceed \$51.5 million on an
27 annual basis. All of the amounts so transferred to the General Fund
28 shall be allocated for the support of nursing home programs as the
29 commissioner shall designate, provided that of those amounts, a
30 sufficient amount shall be used to fund nursing home rates at State
31 fiscal year 2003 levels or higher and the continued applicability of
32 nursing home rebasing and bed hold payment methodologies in effect
33 during fiscal year 2003;

34 [b. After the transfer set forth in subsection a. of this section, the
35 director shall transfer \$625,000 for each quarter for which the
36 assessment has been collected, not to exceed \$2.5 million on an annual
37 basis, from the fund to such accounts as the commissioner shall
38 designate to establish a grant program for all nursing homes located in
39 this State. The purpose of the grants shall be: to ensure quality care
40 and to promote recruitment and retention of qualified staff; to improve
41 the quality of care for nursing home residents through the increase of
42 direct or indirect care staff at nursing homes; and to increase or
43 improve the use of innovative patient care technologies. The
44 commissioner shall adopt rules and regulations in accordance with the
45 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
46 seq.), to effectuate the purposes of this subsection, but in no way shall

1 this subsection be designed to violate the hold harmless provisions of
2 42 C.F.R. 433.50 et seq.];] (Deleted by amendment, P.L. , c.
3 (pending before the Legislature as this bill)).

4 c. The State Treasurer, in consultation with the commissioner, shall
5 distribute to nursing homes all remaining monies in the fund, in
6 accordance with the provisions of this section, including any federal
7 Medicaid funds received pursuant to this act, in order to enhance the
8 quality of care for the residents of those facilities, which may include
9 training, recruitment and improvement of wages and benefits for
10 nursing home direct care employees;

11 d. The monies identified in subsection c. of this section shall be
12 allocated in the following manner:

13 (1) sufficient monies from these funds shall be used to recognize
14 the assessment as an allowable cost for Medicaid reimbursement
15 purposes; and

16 (2) the remaining portion of these funds not allocated under
17 paragraph (1) of this subsection shall be made as a uniform per diem
18 add-on for all Medicaid days provided by nursing facilities.

19 The Medicaid payments to nursing homes provided for under this
20 subsection shall not violate the hold harmless provisions set forth at 42
21 C.F.R. s.433.50 et seq.;

22 e. Beginning immediately and continuing for a period of 24 months
23 following the enactment of this act, any monies received by facilities
24 pursuant to this act that are expended in the furtherance of increasing
25 recruitment and retention of employees and increasing the wages of
26 caregivers shall not be subject to the nursing screen or direct patient
27 care screens within the routine cost limits imposed by the nursing
28 home rate setting regulations, in accordance with federal regulations
29 and in such a manner so as to not violate the hold harmless provisions
30 set forth at 42 C.F.R. s.433.50 et seq.

31 During this 24-month period it is recommended that nursing homes
32 increase the nursing and direct care staffing ratio to above the State
33 minimum requirement. Within 24 months of the enactment of this act,
34 the commissioner shall develop, with the advice of industry
35 representatives, consumer organizations and the caregivers' union,
36 increased mandatory State ratios for direct patient care and nursing
37 staffing, to significantly improve nursing and patient care staffing
38 ratios, subject to the availability of funding;

39 f. The commissioner or his designee shall certify the amounts to be
40 provided to each nursing home in accordance with the formulas
41 established by the commissioner for Medicaid reimbursement.

42 (cf: P.L.2003, c.105, s.6)

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44 4. Section 7 of P.L.2003, c.105 (C.26:2H-98) is amended to read
45 as follows:

46 7. The commissioner shall:

1 a. apply for: a State plan amendment to secure federal financial
2 participation for State Medicaid expenditures under the federal
3 Medicaid program pursuant to 42 U.S.C. s.1396b(w)(3)(B); and a
4 waiver of the uniformity requirements contained in 42 C.F.R.
5 s.433.68(e)(2)(i); and

6 b. prescribe such procedures and forms, and take such other
7 actions, as the commissioner determines necessary to carry out the
8 provisions of this act, including, but not limited to, such actions as are
9 necessary to ensure that the State receives its maximum share of
10 federal financial participation for State Medicaid expenditures under
11 the federal Medicaid program.

12 (cf: P.L.2003, c.105, s.7)

13

14 5. This act shall take effect immediately.

15

16

17

STATEMENT

18

19 This bill makes various amendments to the "Nursing Home Quality
20 of Care Improvement Fund Act" (N.J.S.A.26:2H-92 et seq.) to ensure
21 compliance with applicable federal requirements that will enable the
22 State to receive its maximum share of federal Medicaid matching
23 funds.

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3051

STATE OF NEW JERSEY

DATED: JUNE 22, 2004

The Assembly Budget Committee reports favorably Assembly Bill No. 3051.

Assembly Bill No. 3051 makes various amendments to the "Nursing Home Quality of Care Improvement Fund Act" (N.J.S.A.26:2H-92 et seq.) to ensure compliance with applicable federal requirements that will enable the State to receive its maximum share of federal Medicaid matching funds.

FISCAL IMPACT:

The Executive branch has not provided any fiscal information on this bill.

SENATE, No. 1710

STATE OF NEW JERSEY
211th LEGISLATURE

INTRODUCED JUNE 14, 2004

Sponsored by:

Senator BERNARD F. KENNY, JR.

District 33 (Hudson)

Senator NICHOLAS ASSELTA

District 1 (Cape May, Atlantic and Cumberland)

SYNOPSIS

Deletes certain nursing home payment requirements under "Nursing Home Quality of Care Improvement Fund Act."

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/18/2004)

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42 county geriatric center, county nursing home or other county
43 long-term care facility; the New Jersey Firemen's Home; or a health

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Matter underlined thus is new matter.

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42 commissioner as permitted under law.

43 b. The assessment paid under subsection a. of this section shall not
44 include Medicare patient day revenues and receipts from Medicare
45 certified beds.

46 c. The director, in consultation with the commissioner, shall

1 prescribe by regulation the method by which nursing homes shall
2 report information necessary for the director to calculate the
3 assessment.

4 d. The assessment shall not be payable by nursing homes until both
5 the provider assessment and the plan for distribution of the proceeds
6 of the fund are approved by the federal government. Thereafter, the
7 assessment shall be payable after the end of each calendar quarter
8 during which the assessment accrues. Prior written notice of the due
9 date of the assessment shall not be issued until the per diem add-ons
10 pursuant to subsection d. of section 6 of this act have been paid.

11 e. A nursing home shall submit appropriate reports to the director
12 to facilitate the purposes of this act, on a form and in a manner
13 prescribed by the director and within such period of time as the
14 director may require.

15 (cf: P.L.2003, c.105, s.5)

16

17 3. Section 6 of P.L.2003, c.105 (C.26:2H-97) is amended to read
18 as follows:

19 6. The monies collected from the assessment paid by nursing
20 homes pursuant to section 5 of this act shall be dedicated for the
21 purposes provided in this section and shall be allocated through
22 appropriation as follows:

23 a. As soon after the collection of the monies from the assessment
24 as is practicable, the State Treasurer shall authorize the transfer to the
25 General Fund of \$12.875 million for each quarter for which the
26 assessment has been collected, not to exceed \$51.5 million on an
27 annual basis. All of the amounts so transferred to the General Fund
28 shall be allocated for the support of nursing home programs as the
29 commissioner shall designate, provided that of those amounts, a
30 sufficient amount shall be used to fund nursing home rates at State
31 fiscal year 2003 levels or higher and the continued applicability of
32 nursing home rebasing and bed hold payment methodologies in effect
33 during fiscal year 2003;

34 [b. After the transfer set forth in subsection a. of this section, the
35 director shall transfer \$625,000 for each quarter for which the
36 assessment has been collected, not to exceed \$2.5 million on an annual
37 basis, from the fund to such accounts as the commissioner shall
38 designate to establish a grant program for all nursing homes located in
39 this State. The purpose of the grants shall be: to ensure quality care
40 and to promote recruitment and retention of qualified staff; to improve
41 the quality of care for nursing home residents through the increase of
42 direct or indirect care staff at nursing homes; and to increase or
43 improve the use of innovative patient care technologies. The
44 commissioner shall adopt rules and regulations in accordance with the
45 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
46 seq.), to effectuate the purposes of this subsection, but in no way shall

1 this subsection be designed to violate the hold harmless provisions of
2 42 C.F.R. 433.50 et seq.];] (Deleted by amendment, P.L. , c.
3 (pending before the Legislature as this bill)).

4 c. The State Treasurer, in consultation with the commissioner, shall
5 distribute to nursing homes all remaining monies in the fund, in
6 accordance with the provisions of this section, including any federal
7 Medicaid funds received pursuant to this act, in order to enhance the
8 quality of care for the residents of those facilities, which may include
9 training, recruitment and improvement of wages and benefits for
10 nursing home direct care employees;

11 d. The monies identified in subsection c. of this section shall be
12 allocated in the following manner:

13 (1) sufficient monies from these funds shall be used to recognize
14 the assessment as an allowable cost for Medicaid reimbursement
15 purposes; and

16 (2) the remaining portion of these funds not allocated under
17 paragraph (1) of this subsection shall be made as a uniform per diem
18 add-on for all Medicaid days provided by nursing facilities.

19 The Medicaid payments to nursing homes provided for under this
20 subsection shall not violate the hold harmless provisions set forth at 42
21 C.F.R. s.433.50 et seq.;

22 e. Beginning immediately and continuing for a period of 24 months
23 following the enactment of this act, any monies received by facilities
24 pursuant to this act that are expended in the furtherance of increasing
25 recruitment and retention of employees and increasing the wages of
26 caregivers shall not be subject to the nursing screen or direct patient
27 care screens within the routine cost limits imposed by the nursing
28 home rate setting regulations, in accordance with federal regulations
29 and in such a manner so as to not violate the hold harmless provisions
30 set forth at 42 C.F.R. s.433.50 et seq.

31 During this 24-month period it is recommended that nursing homes
32 increase the nursing and direct care staffing ratio to above the State
33 minimum requirement. Within 24 months of the enactment of this act,
34 the commissioner shall develop, with the advice of industry
35 representatives, consumer organizations and the caregivers' union,
36 increased mandatory State ratios for direct patient care and nursing
37 staffing, to significantly improve nursing and patient care staffing
38 ratios, subject to the availability of funding;

39 f. The commissioner or his designee shall certify the amounts to be
40 provided to each nursing home in accordance with the formulas
41 established by the commissioner for Medicaid reimbursement.

42 (cf: P.L.2003, c.105, s.6)

43

44 4. Section 7 of P.L.2003, c.105 (C.26:2H-98) is amended to read
45 as follows:

46 7. The commissioner shall:

1 a. apply for: a State plan amendment to secure federal financial
2 participation for State Medicaid expenditures under the federal
3 Medicaid program pursuant to 42 U.S.C. s.1396b(w)(3)(B); and a
4 waiver of the uniformity requirements contained in 42 C.F.R.
5 s.433.68(e)(2)(i); and

6 b. prescribe such procedures and forms, and take such other
7 actions, as the commissioner determines necessary to carry out the
8 provisions of this act, including, but not limited to, such actions as are
9 necessary to ensure that the State receives its maximum share of
10 federal financial participation for State Medicaid expenditures under
11 the federal Medicaid program.

12 (cf: P.L.2003, c.105, s.7)

13

14 5. This act shall take effect immediately.

15

16

17

STATEMENT

18

19 This bill makes various amendments to the "Nursing Home Quality
20 of Care Improvement Fund Act" (N.J.S.A.26:2H-92 et seq.) to ensure
21 compliance with applicable federal requirements that will enable the
22 State to receive its maximum share of federal Medicaid matching
23 funds.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 1710

STATE OF NEW JERSEY

DATED: JUNE 23, 2004

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 1710.

This bill makes various amendments to the "Nursing Home Quality of Care Improvement Fund Act" (N.J.S.A.26:2H-92 et seq.) to ensure compliance with applicable federal requirements that will enable the State to receive its maximum share of federal Medicaid matching funds.

FISCAL IMPACT

The Executive branch has not provided any fiscal information on this bill.