

1 A bill to be entitled
 2 An act relating to Medicaid reimbursement for nursing
 3 home care; amending s. 409.908, F.S.; revising a
 4 parameter to implement a prospective payment
 5 methodology for Medicaid reimbursement rate settings
 6 for nursing home care; providing an effective date.

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 8 Be It Enacted by the Legislature of the State of Florida:

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 10 Section 1. Paragraph (b) of subsection (2) of section
 11 409.908, Florida Statutes, is amended to read:

12 409.908 Reimbursement of Medicaid providers.—Subject to
 13 specific appropriations, the agency shall reimburse Medicaid
 14 providers, in accordance with state and federal law, according
 15 to methodologies set forth in the rules of the agency and in
 16 policy manuals and handbooks incorporated by reference therein.
 17 These methodologies may include fee schedules, reimbursement
 18 methods based on cost reporting, negotiated fees, competitive
 19 bidding pursuant to s. 287.057, and other mechanisms the agency
 20 considers efficient and effective for purchasing services or
 21 goods on behalf of recipients. If a provider is reimbursed based
 22 on cost reporting and submits a cost report late and that cost
 23 report would have been used to set a lower reimbursement rate
 24 for a rate semester, then the provider's rate for that semester
 25 shall be retroactively calculated using the new cost report, and

26 full payment at the recalculated rate shall be effected
27 retroactively. Medicare-granted extensions for filing cost
28 reports, if applicable, shall also apply to Medicaid cost
29 reports. Payment for Medicaid compensable services made on
30 behalf of Medicaid-eligible persons is subject to the
31 availability of moneys and any limitations or directions
32 provided for in the General Appropriations Act or chapter 216.
33 Further, nothing in this section shall be construed to prevent
34 or limit the agency from adjusting fees, reimbursement rates,
35 lengths of stay, number of visits, or number of services, or
36 making any other adjustments necessary to comply with the
37 availability of moneys and any limitations or directions
38 provided for in the General Appropriations Act, provided the
39 adjustment is consistent with legislative intent.

40 (2)

41 (b) Subject to any limitations or directions in the
42 General Appropriations Act, the agency shall establish and
43 implement a state Title XIX Long-Term Care Reimbursement Plan
44 for nursing home care in order to provide care and services in
45 conformance with the applicable state and federal laws, rules,
46 regulations, and quality and safety standards and to ensure that
47 individuals eligible for medical assistance have reasonable
48 geographic access to such care.

49 1. The agency shall amend the long-term care reimbursement
50 plan and cost reporting system to create direct care and

51 indirect care subcomponents of the patient care component of the
 52 per diem rate. These two subcomponents together shall equal the
 53 patient care component of the per diem rate. Separate prices
 54 shall be calculated for each patient care subcomponent,
 55 initially based on the September 2016 rate setting cost reports
 56 and subsequently based on the most recently audited cost report
 57 used during a rebasing year. The direct care subcomponent of the
 58 per diem rate for any providers still being reimbursed on a cost
 59 basis shall be limited by the cost-based class ceiling, and the
 60 indirect care subcomponent may be limited by the lower of the
 61 cost-based class ceiling, the target rate class ceiling, or the
 62 individual provider target. The ceilings and targets apply only
 63 to providers being reimbursed on a cost-based system. Effective
 64 October 1, 2018, a prospective payment methodology shall be
 65 implemented for rate setting purposes with the following
 66 parameters:

- 67 a. Peer Groups, including:
 - 68 (I) North-SMMC Regions 1-9, less Palm Beach and Okeechobee
 - 69 Counties; and
 - 70 (II) South-SMMC Regions 10-11, plus Palm Beach and
 - 71 Okeechobee Counties.
- 72 b. Percentage of Median Costs based on the cost reports
 73 used for September 2016 rate setting:
 - 74 (I) Direct Care Costs 100 percent.
 - 75 (II) Indirect Care Costs 92 percent.

- 76 (III) Operating Costs 86 percent.
- 77 c. Floors:
- 78 (I) Direct Care Component 95 percent.
- 79 (II) Indirect Care Component 92.5 percent.
- 80 (III) Operating Component None.
- 81 d. Pass-through Payments Real Estate and
- 82 Personal Property
- 83 Taxes and Property Insurance.
- 84 e. Quality Incentive Program Payment
- 85 Pool 9 ~~6~~ percent of September
- 86 2016 non-property related
- 87 payments of included facilities.
- 88 f. Quality Score Threshold to Quality for Quality
- 89 Incentive
- 90 Payment 20th percentile of included facilities.
- 91 g. Fair Rental Value System Payment Parameters:
- 92 (I) Building Value per Square Foot based on 2018 RS Means.
- 93 (II) Land Valuation 10 percent of Gross Building value.
- 94 (III) Facility Square Footage Actual Square Footage.
- 95 (IV) Moveable Equipment Allowance \$8,000 per bed.
- 96 (V) Obsolescence Factor 1.5 percent.
- 97 (VI) Fair Rental Rate of Return 8 percent.
- 98 (VII) Minimum Occupancy 90 percent.
- 99 (VIII) Maximum Facility Age 40 years.
- 100 (IX) Minimum Square Footage per Bed..... 350.

101 (X) Maximum Square Footage for Bed.....500.
 102 (XI) Minimum Cost of a renovation/replacements\$500 per bed.
 103 h. Ventilator Supplemental payment of \$200 per Medicaid
 104 day of 40,000 ventilator Medicaid days per fiscal year.
 105 2. The direct care subcomponent shall include salaries and
 106 benefits of direct care staff providing nursing services
 107 including registered nurses, licensed practical nurses, and
 108 certified nursing assistants who deliver care directly to
 109 residents in the nursing home facility, allowable therapy costs,
 110 and dietary costs. This excludes nursing administration, staff
 111 development, the staffing coordinator, and the administrative
 112 portion of the minimum data set and care plan coordinators. The
 113 direct care subcomponent also includes medically necessary
 114 dental care, vision care, hearing care, and podiatric care.
 115 3. All other patient care costs shall be included in the
 116 indirect care cost subcomponent of the patient care per diem
 117 rate, including complex medical equipment, medical supplies, and
 118 other allowable ancillary costs. Costs may not be allocated
 119 directly or indirectly to the direct care subcomponent from a
 120 home office or management company.
 121 4. On July 1 of each year, the agency shall report to the
 122 Legislature direct and indirect care costs, including average
 123 direct and indirect care costs per resident per facility and
 124 direct care and indirect care salaries and benefits per category
 125 of staff member per facility.

126 5. Every fourth year, the agency shall rebase nursing home
127 prospective payment rates to reflect changes in cost based on
128 the most recently audited cost report for each participating
129 provider.

130 6. A direct care supplemental payment may be made to
131 providers whose direct care hours per patient day are above the
132 80th percentile and who provide Medicaid services to a larger
133 percentage of Medicaid patients than the state average.

134 7. For the period beginning on October 1, 2018, and ending
135 on September 30, 2021, the agency shall reimburse providers the
136 greater of their September 2016 cost-based rate or their
137 prospective payment rate. Effective October 1, 2021, the agency
138 shall reimburse providers the greater of 95 percent of their
139 cost-based rate or their rebased prospective payment rate, using
140 the most recently audited cost report for each facility. This
141 subparagraph shall expire September 30, 2023.

142 8. Pediatric, Florida Department of Veterans Affairs, and
143 government-owned facilities are exempt from the pricing model
144 established in this subsection and shall remain on a cost-based
145 prospective payment system. Effective October 1, 2018, the
146 agency shall set rates for all facilities remaining on a cost-
147 based prospective payment system using each facility's most
148 recently audited cost report, eliminating retroactive
149 settlements.

150

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151 It is the intent of the Legislature that the reimbursement plan
152 achieve the goal of providing access to health care for nursing
153 home residents who require large amounts of care while
154 encouraging diversion services as an alternative to nursing home
155 care for residents who can be served within the community. The
156 agency shall base the establishment of any maximum rate of
157 payment, whether overall or component, on the available moneys
158 as provided for in the General Appropriations Act. The agency
159 may base the maximum rate of payment on the results of
160 scientifically valid analysis and conclusions derived from
161 objective statistical data pertinent to the particular maximum
162 rate of payment. The agency shall base the rates of payments in
163 accordance with the minimum wage requirements as provided in the
164 General Appropriations Act.

165 Section 2. This act shall take effect October 1, 2023.