

By Senator Bean

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1                   A bill to be entitled  
2           An act relating to nursing homes; amending s. 409.908,  
3           F.S.; revising provisions related to the setting of  
4           Medicaid reimbursement rates for nursing homes;  
5           requiring the Agency for Healthcare Administration to  
6           recalculate nursing home reimbursement ceilings every  
7           3 years and to make some adjustments; amending s.  
8           409.9082, F.S.; requiring that an increase in a  
9           nursing home facility's Medicaid rate be allocated  
10          proportionately in accordance with a certain quality  
11          matrix; providing an effective date.

12  
13 Be It Enacted by the Legislature of the State of Florida:

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15           Section 1. Subsection (2) of section 409.908, Florida  
16           Statutes, is amended to read:

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

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33 reports, if applicable, shall also apply to Medicaid cost  
34 reports. Payment for Medicaid compensable services made on  
35 behalf of Medicaid eligible persons is subject to the  
36 availability of moneys and any limitations or directions  
37 provided for in the General Appropriations Act or chapter 216.  
38 Further, nothing in this section shall be construed to prevent  
39 or limit the agency from adjusting fees, reimbursement rates,  
40 lengths of stay, number of visits, or number of services, or  
41 making any other adjustments necessary to comply with the  
42 availability of moneys and any limitations or directions  
43 provided for in the General Appropriations Act, provided the  
44 adjustment is consistent with legislative intent.

45 (2) (a) 1. Reimbursement to nursing homes licensed under part  
46 II of chapter 400 and state-owned-and-operated intermediate care  
47 facilities for the developmentally disabled licensed under part  
48 VIII of chapter 400 must be made prospectively.

49 2. Unless otherwise limited or directed in the General  
50 Appropriations Act, reimbursement to hospitals licensed under  
51 part I of chapter 395 for the provision of swing-bed nursing  
52 home services must be made on the basis of the average statewide  
53 nursing home payment, and reimbursement to a hospital licensed  
54 under part I of chapter 395 for the provision of skilled nursing  
55 services must be made on the basis of the average nursing home  
56 payment for those services in the county in which the hospital  
57 is located. When a hospital is located in a county that does not  
58 have any community nursing homes, reimbursement shall be  
59 determined by averaging the nursing home payments in counties  
60 that surround the county in which the hospital is located.  
61 Reimbursement to hospitals, including Medicaid payment of

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62 Medicare copayments, for skilled nursing services shall be  
63 limited to 30 days, unless a prior authorization has been  
64 obtained from the agency. Medicaid reimbursement may be extended  
65 by the agency beyond 30 days, and approval must be based upon  
66 verification by the patient's physician that the patient  
67 requires short-term rehabilitative and recuperative services  
68 only, in which case an extension of no more than 15 days may be  
69 approved. Reimbursement to a hospital licensed under part I of  
70 chapter 395 for the temporary provision of skilled nursing  
71 services to nursing home residents who have been displaced as  
72 the result of a natural disaster or other emergency may not  
73 exceed the average county nursing home payment for those  
74 services in the county in which the hospital is located and is  
75 limited to the period of time which the agency considers  
76 necessary for continued placement of the nursing home residents  
77 in the hospital.

78 (b) Subject to any limitations or directions in the General  
79 Appropriations Act, the agency shall establish and implement a  
80 state Title XIX Long-Term Care Reimbursement Plan for nursing  
81 home care in order to provide care and services in conformance  
82 with the applicable state and federal laws, rules, regulations,  
83 and quality and safety standards and to ensure that individuals  
84 eligible for medical assistance have reasonable geographic  
85 access to such care.

86 1. The agency shall amend the long-term care reimbursement  
87 plan and cost reporting system to create direct care and  
88 indirect care subcomponents of the patient care component of the  
89 per diem rate. These two subcomponents together shall equal the  
90 patient care component of the per diem rate. Separate cost-based

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91 ceilings shall be calculated for each patient care subcomponent.  
92 The direct care subcomponent of the per diem rate shall be  
93 limited by the cost-based class ceiling, and the indirect care  
94 subcomponent may be limited by the lower of the cost-based class  
95 ceiling, the target rate class ceiling, or the individual  
96 provider target.

97 2. The direct care subcomponent shall include salaries and  
98 benefits of direct care staff providing nursing services  
99 including registered nurses, licensed practical nurses, and  
100 certified nursing assistants who deliver care directly to  
101 residents in the nursing home facility. This excludes nursing  
102 administration, staff development, the staffing coordinator, and  
103 the administrative portion of the minimum data set and care plan  
104 coordinators. The direct care subcomponent also includes  
105 medically necessary dental care, vision care, hearing care, and  
106 podiatric care.

107 3. All other patient care costs shall be included in the  
108 indirect care cost subcomponent of the patient care per diem  
109 rate. Costs may not be allocated directly or indirectly to the  
110 direct care subcomponent from a home office or management  
111 company.

112 4. On July 1 of each year, the agency shall report to the  
113 Legislature direct and indirect care costs, including average  
114 direct and indirect care costs per resident per facility and  
115 direct care and indirect care salaries and benefits per category  
116 of staff member per facility.

117 5. In order to offset the cost of general and professional  
118 liability insurance, the agency shall amend the plan to allow  
119 for interim rate adjustments to reflect increases in the cost of

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120 general or professional liability insurance for nursing homes.  
121 This provision shall be implemented to the extent existing  
122 appropriations are available.

123 6. After July 1, 2017, the agency shall set nursing home  
124 rates based only on audited cost reports and may not make  
125 retroactive rate adjustments.

126 a. The property component of the reimbursement rates shall  
127 be calculated based on the Fair Rental Value System developed by  
128 Navigant Consulting, Inc., as part of the study pursuant to  
129 Specific Appropriation 186 of the 2016-2017 General  
130 Appropriations Act.

131 b. Newly constructed facilities shall be paid the average  
132 reimbursement rate of the geographic and size grouping in which  
133 they are located.

134 c. Newly licensed providers pursuant to changes of  
135 ownership shall be paid the reimbursement rate of the previous  
136 licensee.

137 d. The agency shall recalculate nursing home reimbursement  
138 ceilings and rates every 3 years and shall adjust the rates in  
139 the intervening years with an appropriate inflation adjustment.

140  
141 It is the intent of the Legislature that the reimbursement plan  
142 achieve the goal of providing access to health care for nursing  
143 home residents who require large amounts of care while  
144 encouraging diversion services as an alternative to nursing home  
145 care for residents who can be served within the community. The  
146 agency shall base the establishment of any maximum rate of  
147 payment, whether overall or component, on the available moneys  
148 as provided for in the General Appropriations Act. The agency

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149 may base the maximum rate of payment on the results of  
150 scientifically valid analysis and conclusions derived from  
151 objective statistical data pertinent to the particular maximum  
152 rate of payment.

153 Section 2. Subsection (4) of section 409.9082, Florida  
154 Statutes, is amended to read:

155 409.9082 Quality assessment on nursing home facility  
156 providers; exemptions; purpose; federal approval required;  
157 remedies.—

158 (4) The purpose of the nursing home facility quality  
159 assessment is to ensure continued quality of care. Collected  
160 assessment funds shall be used to obtain federal financial  
161 participation through the Medicaid program to make Medicaid  
162 payments for nursing home facility services up to the amount of  
163 nursing home facility Medicaid rates as calculated in accordance  
164 with the approved state Medicaid plan in effect on December 31,  
165 2007. The quality assessment and federal matching funds shall be  
166 used exclusively for the following purposes and in the following  
167 order of priority:

168 (a) To reimburse the Medicaid share of the quality  
169 assessment as a pass-through, Medicaid-allowable cost;

170 (b) To increase to each nursing home facility's Medicaid  
171 rate, as needed, an amount that restores rate reductions  
172 effective on or after January 1, 2008, as provided in the  
173 General Appropriations Act; and

174 (c) To increase each nursing home facility's Medicaid rate  
175 that accounts for the portion of the total assessment not  
176 included in paragraphs (a) and (b) which begins a phase-in to a  
177 pricing model for the operating cost component. This increase

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178 shall be allocated proportionately to each nursing home facility  
179 based on the Quality Matrix without a lower threshold developed  
180 by Navigant Consulting, Inc., as part of the study pursuant to  
181 Specific Appropriation 186 of the 2016-2017 General  
182 Appropriations Act.

183 Section 3. This act shall take effect July 1, 2017.