



GOV. MSG. NO. 1160

EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

June 6, 2016

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Twenty-Eighth State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Joseph M. Souki,
Speaker and Members of the
House of Representatives
Twenty-Eighth State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Souki, and Members of the Legislature:

This is to inform you that on June 6, 2016, the following bill was signed into law:

SB2213 SD2 HD1 CD1

RELATING TO THE NURSING FACILITY
SUSTAINABILITY PROGRAM
ACT 059 (16)

Sincerely,

A handwritten signature in black ink that reads "David Y. Ige".

DAVID Y. IGE
Governor, State of Hawai'i

Approved by the Governor

on JUN 6 2016

THE SENATE
TWENTY-EIGHTH LEGISLATURE, 2016
STATE OF HAWAII

ACT 059
S.B. NO. 2213
S.D. 2
H.D. 1
C.D. 1

A BILL FOR AN ACT

RELATING TO THE NURSING FACILITY SUSTAINABILITY PROGRAM.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Act 156, Session Laws of Hawaii 2012, as
2 amended by section 2 of Act 142, Session Laws of Hawaii 2013, as
3 amended by section 1 of Act 124, Session Laws of Hawaii 2014, as
4 amended by section 1 of Act 69, Session Laws of Hawaii 2015, is
5 amended by amending section 2 as follows:

6 1. By amending subsection (c) of § -4, Hawaii Revised
7 Statutes, to read:

8 "(c) Revenue from the nursing facility sustainability fee
9 shall be used exclusively as follows:

10 (1) No less than eighty-eight per cent of the revenue from
11 the nursing facility sustainability fee shall be used
12 to match federal medicaid funds, with the combined
13 total to be used to enhance capitated rates to
14 medicaid managed care health plans for the purpose of
15 increasing medicaid payments to private nursing
16 facilities;



1 (2) Twelve per cent of the revenue from the nursing
2 facility sustainability fee may be used by the
3 department for other departmental purposes; and

4 (3) All moneys remaining in the special fund on
5 December 30, [~~2016,~~] 2017, shall be distributed to
6 nursing facilities within thirty days in the same
7 proportions as received from the nursing facilities."

8 2. By amending § -10, Hawaii Revised Statutes, to read:

9 "§ -10 Enhanced rates to medicaid managed care health
10 plans. In accordance with title 42 Code of Federal Regulations
11 section 438, the department shall use revenues from the nursing
12 facility sustainability fee and federal matching funds to
13 enhance the capitated rates paid to medicaid managed care health
14 plans for the state fiscal year [~~2015-2016,~~] 2016-2017,
15 consistent with the following objectives:

16 (1) The rate enhancement shall be used exclusively for
17 increasing reimbursements to private nursing
18 facilities to support the availability of services and
19 to ensure access to care to the medicaid managed care
20 health plan enrollees;



- 1 (2) The rate enhancement shall be made part of the monthly
2 capitated rates by the department to medicaid managed
3 care health plans, which shall provide documentation
4 to the department and the nursing facility trade
5 [associations] association located in Hawaii
6 certifying that the revenues received under paragraph
7 (1) are used in accordance with this section;
- 8 (3) The rate enhancement shall be actuarially sound and
9 approved by the federal government for federal fund
10 participation; and
- 11 (4) The department shall modify the fee-for-service
12 reimbursement rates of the nursing facilities to
13 recognize the medicaid portion of the nursing facility
14 sustainability fee as an additional cost of serving
15 medicaid patients, and to provide a uniform percentage
16 increase in pre-existing facility-specific rates."
- 17 3. By amending subsection (a) of § -13, Hawaii Revised
18 Statutes, to read:
- 19 "(a) Collection of the nursing facility sustainability fee
20 under section -5 shall be discontinued if:



- 1 (1) The waiver in section -7 or the enhanced capitation
- 2 rates in section -10 have not been approved by the
- 3 Centers for Medicare and Medicaid Services;
- 4 (2) The department reduces funding for nursing facility
- 5 services below the state appropriation in effect on
- 6 June 30, [~~2015~~] 2016;
- 7 (3) The department or any other state agency uses the
- 8 money in the special fund for any use other than the
- 9 uses permitted pursuant to this chapter; or
- 10 (4) Federal financial participation to match the nursing
- 11 facility sustainability fee becomes unavailable under
- 12 federal law. In such case, the department shall
- 13 terminate the collection of the fee beginning on the
- 14 effective date of the federal statutory, regulatory,
- 15 or interpretive change."

16 SECTION 2. Act 156, Session Laws of Hawaii 2012, as
 17 amended by section 3 of Act 142, Session Laws of Hawaii 2013, as
 18 amended by section 2 of Act 124, Session Laws of Hawaii 2014, as
 19 amended by section 2 of Act 69, Session Laws of Hawaii 2015, is
 20 amended by amending section 5 to read as follows:



1 "SECTION 5. This Act shall take effect on July 1, 2012,
 2 and shall be repealed on June 30, [~~2016~~] 2017; provided that
 3 section -4, Hawaii Revised Statutes, established by section 2
 4 of this Act, and the amendment made to section 36-30(a), Hawaii
 5 Revised Statutes, in section 3 of this Act, shall be repealed on
 6 December 31, [~~2016~~] 2017; and provided further that the
 7 amendment made to section 36-30(a), Hawaii Revised Statutes, in
 8 section 3 of this Act shall not be repealed when section 36-30,
 9 Hawaii Revised Statutes, is reenacted on June 30, 2015, pursuant
 10 to section 34 of Act 79, Session Laws of Hawaii 2009."

11 SECTION 3. Act 124, Session Laws of Hawaii 2014, as
 12 amended by Act 69, Session Laws of Hawaii 2015, is amended by
 13 amending section 7 to read as follows:

14 "SECTION 7. This Act shall take effect on June 29, 2014;
 15 provided that:

- 16 (1) Section 5 shall take effect on July 1, 2014;
- 17 (2) The amendments made to sections 36-27(a) and 36-30(a),
 18 Hawaii Revised Statutes, in sections 3 and 4 of this
 19 Act shall not be repealed when sections 36-27 and
 20 36-30, Hawaii Revised Statutes, are reenacted on



1 June 30, 2015, pursuant to section 34 of Act 79,
2 Session Laws of Hawaii 2009; and
3 (3) The amendments made to sections 36-27(a) and 36-30(a),
4 Hawaii Revised Statutes, in sections 3 and 4 of this
5 Act shall be repealed on December 31, [~~2016-~~] 2017."

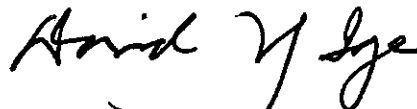
6 SECTION 4. There is appropriated out of the nursing
7 facility sustainability program special fund the sum of
8 \$14,000,000 or so much thereof as may be necessary for fiscal
9 year 2016-2017 for uses consistent with the nursing facility
10 sustainability program special fund.

11 The sum appropriated shall be expended by the department of
12 human services for the purposes of this Act.

13 SECTION 5. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 6. This Act shall take effect on July 1, 2016;
16 provided that sections 1 and 2 shall take effect on June 29,
17 2016.

APPROVED this 6 day of JUN , 2016



GOVERNOR OF THE STATE OF HAWAII