

S.B. NO. 2871

JAN 27 2016

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

6 (1) By amending subsection (c) of section -4, Hawaii
7 Revised Statutes, to read as follows:

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 to
12 match federal medicaid funds, with the combined total to
13 be used to enhance capitated rates to medicaid managed
14 care health plans for the purpose of increasing medicaid
15 payments to private nursing facilities;

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

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1 (3) All moneys remaining in the special fund on December 30,
2 [2016~~7~~] 2017, shall be distributed to nursing facilities
3 within thirty days in the same proportions as received
4 from the nursing facilities."

5 (2) By amending section -10, Hawaii Revised Statutes, to
6 read as follows:

7 "§ -10 **Enhanced rates to medicaid managed care health**
8 **plans.** In accordance with title 42 Code of Federal Regulations
9 section 438, the department shall use revenues from the nursing
10 facility sustainability fee and federal matching funds to enhance
11 the capitated rates paid to medicaid managed care health plans for
12 the state fiscal year [2015-2016~~7~~] 2016-2017, consistent with the
13 following objectives:

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

19 (2) The rate enhancement shall be made part of the monthly
20 capitated rates by the department to medicaid managed
21 care health plans, which shall provide documentation to
22 the department and the nursing facility trade

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1 associations located in Hawaii certifying that the
2 revenues received under paragraph (1) are used in
3 accordance with this section;

4 (3) The rate enhancement shall be actuarially sound and
5 approved by the federal government for federal fund
6 participation and

7 (4) The department shall modify the fee-for-service
8 reimbursement rates of the nursing facilities to
9 recognize the medicaid portion of the nursing facility
10 sustainability fee as an additional cost of serving
11 medicaid patients, and to provide a uniform percentage
12 increase in pre-existing facility specific rates."

13 (3) By amending subsection (a) of section -13, Hawaii
14 Revised Statutes, to read as follows:

15 "(a) Collection of the nursing facility sustainability fee
16 under section -5 shall be discontinued if:

17 (1) The waiver in section -7 or the enhanced capitation
18 rates in section -10 have not been approved by the
19 Centers for Medicare and Medicaid Services;

20 (2) The department reduces funding for nursing facility
21 services below the state appropriation in effect on June
22 30, [~~2015~~] 2016;

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1 (3) The department or any other state agency uses the money
2 in the special fund for any use other than the uses
3 permitted pursuant to this chapter; or

4 (4) Federal financial participation to match the nursing
5 facility sustainability fee becomes unavailable under
6 federal law. In such case, the department shall
7 terminate the collection of the fee beginning on the
8 effective date of the federal statutory, regulatory, or
9 interpretive change."

10 SECTION 2. Act 156, Session Laws of Hawaii 2012, as amended
11 by section 3 of Act 142, Session Laws of Hawaii 2013, as amended
12 by section 2 of Act 124, Session Laws of Hawaii 2014, and as
13 amended by section 2 of Act 69, Session Laws of Hawaii 2015, is
14 amended by amending section 5 to read as follows:

15 "SECTION 5. This Act shall take effect on July 1, 2012, and
16 shall be repealed on June 30, [~~2016~~] 2017; provided that section
17 -4, Hawaii Revised Statutes, established by section 2 of this
18 Act, and the amendment made to section 36-30(a), Hawaii Revised
19 Statutes, in section 3 of this Act, shall be repealed on December
20 31, [~~2016~~] 2017; and provided further that the amendment made to
21 section 36-30(a), Hawaii Revised Statutes, in section 3 of this
22 Act shall not be repealed when section 36-30, Hawaii Revised

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1 Statutes, is reenacted on June 30, 2015, pursuant to section 34 of
2 Act 79, Session Laws of Hawaii 2009."

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

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

8 (1) Section 5 shall take effect on July 1, 2014;

9 (2) The amendments made to sections 36-27(a) and 36-30(a),
10 Hawaii Revised Statutes, in sections 3 and 4 of this Act
11 shall not be repealed when sections 36-27 and 36-30,
12 Hawaii Revised Statutes, are reenacted on June 30, 2015.
13 pursuant to section 34 of Act 79, Session Laws of Hawaii
14 2009; and

15 (3) The amendments made to sections 36-27(a) and 36-30(a),
16 Hawaii Revised Statutes, in sections 3 and 4 of this Act
17 shall be repealed on December 31, [~~2016-~~] 2017."

18 SECTION 4. There is appropriated out of the nursing facility
19 sustainability program special fund the sum of \$14,000,000 or so
20 much thereof as may be necessary for fiscal year 2016-2017 for
21 uses consistent with the nursing facility sustainability program
22 special fund.


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

3 SECTION 5. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 6. This Act, upon its approval, shall take effect on
6 July 1, 2016; provided that sections 1, 2, and 3 of this Act shall
7 take effect on June 29, 2016.

INTRODUCED BY:


BY REQUEST

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Report Title:

Nursing Facility Sustainability Program; Appropriation

Description:

Continues the Nursing Facility Sustainability Program for one year. Appropriates funds out of the Nursing Facility Sustainability Program Special Fund for fiscal year 2016-2017.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET

DEPARTMENT: Human Services

TITLE: A BILL FOR AN ACT RELATING TO THE NURSING FACILITY SUSTAINABILITY PROGRAM.

PURPOSE: To continue the Nursing Facility Sustainability Program, established by Act 156, Session Laws of Hawaii 2012, as amended by Act 142, Session Laws of Hawaii 2013, Act 124, Session Laws of Hawaii 2014, and Act 69, Session Laws of Hawaii 2015, by extending the sunset date of the Act to June 30, 2017, updating the referral dates in the statute, and appropriating funding out of the Nursing Facility Sustainability Program Special Fund for fiscal year 2016-2017.

MEANS: Amend sections 2 and 5 of Act 156, Session Laws of Hawaii 2012, as amended by Act 142, Session Laws of Hawaii 2013, as amended by Act 124, Session Laws of Hawaii 2014, and as amended by Act 69, Session Laws of Hawaii 2015; amend section 7 of Act 124, Session Laws of Hawaii 2014, as amended by Act 69, Session Laws of Hawaii 2015; and add appropriation language.

JUSTIFICATION: Act 156, Session Laws of Hawaii 2012, as amended by Act 142, Session Laws of Hawaii 2013, Act 124, Session Laws of Hawaii 2014, and Act 69, Session Laws of Hawaii 2015 established a Nursing Facility Sustainability Program and the Nursing Facility Sustainability Program Special Fund (the Special Fund). The Special Fund receives moneys from the nursing facility sustainability fee, which is used to receive federal Medicaid matching funds under the Medicaid Section 1115 Demonstration Waiver and is used to increase reimbursements to the nursing facilities through capitation payments. The Nursing Facility Sustainability Program will be repealed on

June 30, 2016, with funding provisions to be repealed on December 31, 2016.

This bill proposes to extend the Nursing Facility Sustainability Program and the Special Fund for another year.

The Nursing Facility Sustainability Program levies a fee on non-governmental nursing facilities and uses that revenue largely to leverage federal funds and increase reimbursement to nursing facilities through capitation payment, with a greater benefit to those providing proportionately more services to Medicaid recipients and the uninsured. These additional moneys will increase the sustainability of nursing facilities in Hawaii to continue as a critical part of the safety net.

The twelve percent of the revenues from the fees collected are to be used by the Department to increase and improve services for Medicaid program recipients.

Impact on the public: Hawaii residents benefit by having more sustainable nursing facilities and, thereby, have increased access to necessary long term care services. Health care services for low-income, vulnerable residents will be increased and improved.

Impact on the department and other agencies: The Department of Human Services will benefit by receiving additional funds to support its programs.

GENERAL FUND:	None.
OTHER FUNDS:	\$14,000,000 Nursing Facility Sustainability Program Special Fund.
PPBS PROGRAM DESIGNATION:	HMS 401.
OTHER AFFECTED	

AGENCIES: None.

EFFECTIVE DATE: July 1, 2016; Sections 1, 2, and 3,
effective June 29, 2016.