



EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

June 22, 2017

GOV. MSG. NO. 1160

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

The Honorable Scott K. Saiki,
Speaker and Members of the
House of Representatives
Twenty-Ninth State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

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

This is to inform you that on June 22, 2017, the following bill was signed into law:

HB90 HD1 SD2

RELATING TO THE NURSING FACILITY
SUSTAINABILITY PROGRAM
ACT 060 (17)

Sincerely,

DAVID Y. IGE
Governor, State of Hawai'i

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. Nursing facilities in the State face major
2 financial challenges in providing quality long-term care for
3 Hawaii residents. These challenges are largely the result of
4 inadequate payments from the medicaid program that do not cover
5 the actual costs of care. Medicaid is jointly financed by the
6 federal and state governments by statutory formula. The federal
7 government pays between fifty per cent and seventy-four per
8 cent, with assistance levels determined by each state's per
9 capita income. States with the lowest per capita income receive
10 higher federal matching rates. Under federal rules, the state
11 share must be public funds that are not federal funds. The
12 legislature finds that public funding to help sustain Hawaii's
13 nursing facilities financially may be accessed through a
14 provider fee.

15 The legislature further finds that provider fees exist in
16 forty-nine states and the District of Columbia as a means of
17 drawing down federal funds to sustain their medicaid programs



1 due to rising state budget deficits, increasing health care
2 costs, and expanding medicaid enrollment. Provider fees, which
3 are collected from specific categories of health care providers
4 that agree to the fee, may be imposed on nineteen different
5 classes of health care services, including inpatient and
6 outpatient hospital and nursing facility services.

7 The legislature additionally finds that, in Hawaii, a
8 provider fee on nursing facilities has resulted in an increase
9 in medicaid payments to private nursing facilities at a time
10 when there are constraints on the State's budget. The
11 additional federal funds obtained via the fee program authorized
12 by the nursing facility sustainability program have helped to
13 reduce the amount of losses incurred by long-term care
14 facilities and maintain access to care for medicaid recipients.

15 The purpose of this Act is to preserve access to health
16 care for medicaid recipients by extending the nursing facility
17 sustainability fee program.

18 SECTION 2. Section 346F-4, Hawaii Revised Statutes, is
19 amended by amending subsection (c) to read as follows:

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



- 1 (1) No less than eighty-eight per cent of the revenue from
2 the nursing facility sustainability fee shall be used
3 to match federal medicaid funds, with the combined
4 total to be used to enhance capitated rates to
5 medicaid managed care health plans for the purpose of
6 increasing medicaid payments to private nursing
7 facilities;
- 8 (2) Twelve per cent of the revenue from the nursing
9 facility sustainability fee may be used by the
10 department for other departmental purposes; and
- 11 (3) All moneys remaining in the special fund on
12 December 30, [~~2017~~] 2019, shall be distributed to
13 nursing facilities within thirty days in the same
14 proportions as received from the nursing facilities."

15 SECTION 3. Section 346F-10, Hawaii Revised Statutes, is
16 amended to read as follows:

17 " ~~[§]~~ **§346F-10** ~~[§]~~ **Enhanced rates to medicaid managed care**
18 **health plans.** In accordance with title 42 Code of Federal
19 Regulations ~~[section]~~ part 438, the department shall use
20 revenues from the nursing facility sustainability fee and
21 federal matching funds to enhance the capitated rates paid to



1 medicaid managed care health plans for [the] state fiscal [year
2 ~~2016-2017~~] years 2017-2018 and 2018-2019, consistent with the
3 following objectives:

4 (1) The rate enhancement shall be used exclusively for
5 increasing reimbursements to private nursing
6 facilities to support the availability of services and
7 to ensure access to care to the medicaid managed care
8 health plan enrollees;

9 (2) The rate enhancement shall be made part of the monthly
10 capitated rates by the department to medicaid managed
11 care health plans, which shall provide documentation
12 to the department and the nursing facility trade
13 association located in Hawaii certifying that the
14 revenues received under paragraph (1) are used in
15 accordance with this section;

16 (3) The rate enhancement shall be actuarially sound and
17 approved by the federal government for federal fund
18 participation; and

19 (4) The department shall modify the fee-for-service
20 reimbursement rates of the nursing facilities to
21 recognize the medicaid portion of the nursing facility



1 sustainability fee as an additional cost of serving
2 medicaid patients, and to provide a uniform percentage
3 increase in preexisting facility-specific rates."

4 SECTION 4. Section 346F-13, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) Collection of the nursing facility sustainability fee
7 under section 346F-5 shall be discontinued if:

- 8 (1) The waiver in section 346F-7 or the enhanced
9 capitation rates in section 346F-10 have not been
10 approved by the Centers for Medicare and Medicaid
11 Services;
- 12 (2) The department reduces funding for nursing facility
13 services below the state appropriation in effect on
14 June 30, [~~2016~~] 2018;
- 15 (3) The department or any other state agency uses the
16 money in the special fund for any use other than the
17 uses permitted pursuant to this chapter; or
- 18 (4) Federal financial participation to match the nursing
19 facility sustainability fee becomes unavailable under
20 federal law. In such case, the department shall
21 terminate the collection of the fee beginning on the



1 effective date of the federal statutory, regulatory,
2 or interpretive change."

3 SECTION 5. Act 156, Session Laws of Hawaii 2012, section
4 5, as amended by section 3 of Act 142, Session Laws of Hawaii
5 2013, as amended by section 2 of Act 124, Session Laws of Hawaii
6 2014, as amended by section 2 of Act 69, Session Laws of Hawaii
7 2015, and as amended by section 2 of Act 59, Session Laws of
8 Hawaii 2016, is amended to read as follows:

9 "SECTION 5. This Act shall take effect on July 1, 2012,
10 and shall be repealed on June 30, [~~2017;~~] 2019; provided that
11 section -4, Hawaii Revised Statutes, established by section 2
12 of this Act, and the amendment made to section 36-30(a), Hawaii
13 Revised Statutes, in section 3 of this Act, shall be repealed on
14 December 31, [~~2017; and provided further that the amendment made~~
15 ~~to section 36-30(a), Hawaii Revised Statutes, in section 3 of~~
16 ~~this Act shall not be repealed when section 36-30, Hawaii~~
17 ~~Revised Statutes, is reenacted on June 30, 2015, pursuant to~~
18 ~~section 34 of Act 79, Session Laws of Hawaii 2009.] 2019."~~

19 SECTION 6. Act 124, Session Laws of Hawaii 2014, section
20 7, as amended by Act 69, Session Laws of Hawaii 2015, and as



1 amended by Act 59, Session Laws of Hawaii 2016, is amended to
2 read as follows:

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

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

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

12 [~~(3)~~] (2) The amendments made to sections 36-27(a) and
13 36-30(a), Hawaii Revised Statutes, in sections 3 and 4
14 of this Act shall be repealed on December 31, [~~2017-~~]
15 2019."

16 SECTION 7. There is appropriated out of the nursing
17 facility sustainability program special fund the sum of
18 \$14,000,000 or so much thereof as may be necessary for fiscal
19 year 2017-2018 and the same sum or so much thereof as may be
20 necessary for fiscal year 2018-2019 for uses consistent with the
21 nursing facility sustainability program special fund.



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

3 SECTION 8. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 9. This Act shall take effect on June 29, 2017;
6 provided that section 7 shall take effect on July 1, 2017.

APPROVED this 22 day of JUN, 2017



GOVERNOR OF THE STATE OF HAWAII



HB No. 90, HD 1, SD 2

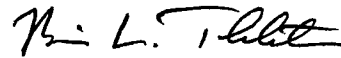
THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 2, 2017
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Twenty-Ninth Legislature of the State of Hawaii, Regular Session of 2017.



Joseph M. Souki
Speaker
House of Representatives



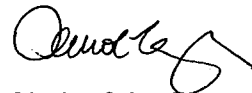
Brian L. Takeshita
Chief Clerk
House of Representatives

THE SENATE OF THE STATE OF HAWAII

Date: April 7, 2017
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Third Reading in the
Senate of the Twenty-ninth Legislature of the State of Hawaii, Regular Session of 2017.


President of the Senate


Clerk of the Senate