

H.B. NO. 1097

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

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

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

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

15 (3) All moneys remaining in the special fund on
16 December 30, [~~2017,~~] 2018, shall be distributed to
17 nursing facilities within thirty days in the same
18 proportions as received from the nursing facilities."

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1 SECTION 2. Section 346F-10, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[+] §346F-10 [+] **Enhanced rates to medicaid managed care**
4 **health plans.** In accordance with title 42 Code of Federal
5 Regulations section 438, the department shall use revenues from
6 the nursing facility sustainability fee and federal matching
7 funds to enhance the capitated rates paid to medicaid managed
8 care health plans for the state fiscal year [~~2016-2017,~~] 2017-
9 2018, consistent with the following objectives:

- 10 (1) The rate enhancement shall be used exclusively for
11 increasing reimbursements to private nursing
12 facilities to support the availability of services and
13 to ensure access to care to the medicaid managed care
14 health plan enrollees;
- 15 (2) The rate enhancement shall be made part of the monthly
16 capitated rates by the department to medicaid managed
17 care health plans, which shall provide documentation
18 to the department and the nursing facility trade
19 association located in Hawaii certifying that the
20 revenues received under paragraph (1) are used in
21 accordance with this section;

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

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

10 SECTION 3. Section 346F-13, Hawaii Revised Statutes, is
11 amended by amending subsection (a) to read as follows:

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

14 (1) The waiver in section 346F-7 or the enhanced
15 capitation rates in section 346F-10 have not been
16 approved by the Centers for Medicare and Medicaid
17 Services;

18 (2) The department reduces funding for nursing facility
19 services below the state appropriation in effect on
20 June 30, [~~2016~~] 2017;

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1 (3) The department or any other state agency uses the
2 money in the special fund for any use other than the
3 uses 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,
9 or interpretive change."

10 SECTION 4. Act 156, Session Laws of Hawaii 2012, as
11 amended by section 3 of Act 142, Session Laws of Hawaii 2013, as
12 amended by section 2 of Act 124, Session Laws of Hawaii 2014, as
13 amended by section 2 of Act 69, Session Laws of Hawaii 2015, and
14 as amended by section 3 of Act 59, Session Laws of Hawaii 2016,
15 is amended by amending section 5 to read as follows:

16 "SECTION 5. This Act shall take effect on July 1, 2012,
17 and shall be repealed on June 30, [~~2017,~~] 2018; provided that
18 section -4, Hawaii Revised Statutes, established by section 2
19 of this Act, and the amendment made to section 36-30(a), Hawaii
20 Revised Statutes, in section 3 of this Act, shall be repealed on
21 December 31, [~~2017; and provided further that the amendment made~~
22 ~~to section 36-30(a), Hawaii Revised Statutes, in section 3 of~~

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1 ~~this Act shall not be repealed when section 36-30, Hawaii~~
2 ~~Revised Statutes, is reenacted on June 30, 2015, pursuant to~~
3 ~~section 34 of Act 79, Session Laws of Hawaii 2009.] 2018."~~

4 SECTION 5. Act 124, Session Laws of Hawaii 2014, as
5 amended by Act 69, Session Laws of Hawaii 2015, and as amended
6 by Act 59, Session Laws of Hawaii 2016, is amended by amending
7 section 7 to read as follows:

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

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

11 [~~(2) The amendments made to sections 36-27(a) and 36-30(a),~~
12 ~~Hawaii Revised Statutes, in sections 3 and 4 of this~~
13 ~~Act shall not be repealed when sections 36-27 and 36-~~
14 ~~30, Hawaii Revised Statutes, are reenacted on June 30,~~
15 ~~2015, pursuant to section 34 of Act 79 Session Laws of~~
16 ~~Hawaii 2009; and~~

17 ~~(3)] (2) The amendments made to sections 36-27(a) and 36-~~
18 ~~30(a), Hawaii Revised Statutes, in sections 3 and 4 of~~
19 ~~this Act, shall be repealed on December 31, [2017-]~~
20 ~~2018."~~

21 SECTION 6. There is appropriated out of the nursing
22 facility sustainability program special fund the sum of

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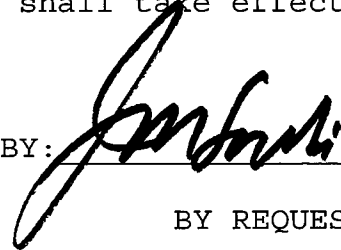
1 \$14,000,000 or so much thereof as may be necessary for fiscal
2 year 2017-2018 for uses consistent with the nursing facility
3 sustainability program special fund.

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

6 SECTION 7. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 8. This Act, upon its approval, shall take effect
9 on June 29, 2017; provided that section 6 shall take effect on
10 July 1, 2017.

11 INTRODUCED BY:



12 BY REQUEST

13 JAN 23 2017

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Report Title:

Nursing Facility Sustainability Program; Appropriation

Description:

Continues the nursing facility sustainability program for one additional year. Appropriates funds out of the nursing facility sustainability program special fund for fiscal year 2017-2018.

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, Act 69, Session Laws of Hawaii 2015, and Act 59, Session Laws of Hawaii 2016 by extending the sunset date of the Act to June 30, 2018, updating the referral dates in the statute, appropriating funding out of the Nursing Facility Sustainability Program Special Fund for fiscal year 2016-2017, and making technical amendments to ensure that the Special Fund is, through December 31, 2018, exempted from the central service expenses assessment and the administrative expenses assessment under sections 36-27(a) and 36-30(a), Hawaii Revised Statutes, respectively.

MEANS: Amend sections 346F-4(c), 346F-10, and 346F-13(a), Hawaii Revised Statutes, section 5 of Act 156, Session Laws of Hawaii 2012, as amended by Act 142, Session Laws of Hawaii 2013, Act 124, Session Laws of Hawaii 2014, Act 69, Session Laws of Hawaii 2015, and Act 59, Session Laws of Hawaii 2016, and section 7 of Act 124, Session Laws of Hawaii 2014, as amended by Act 69, Session Laws of Hawaii 2015, and adding 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, Act 69, Session Laws of Hawaii 2015, and Act 59, Session Laws of Hawaii 2016 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 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.

Twelve percent of the revenues from the fees collected is used by the Department to increase and improve services for Medicaid program recipients.

The Nursing Facility Sustainability Program will be repealed on June 30, 2017, with funding provisions to be repealed on December 31, 2017.

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

Technical Amendments:

This bill extends the Nursing Facility Sustainability Program for one year past the repeal date of June 30, 2017, and extends the Special Fund for an additional six months thereafter. Therefore, unless the proposed technical amendments are adopted, the exemptions from the central service expenses and administrative expenses assessments will be lost when paragraphs 36-27(a)(32) and 36-30(a)(26), Hawaii Revised Statutes, are repealed on December 31, 2017, and the Special Fund will then be subject to those assessments. The DHS estimates that the Special Fund would be subject to the central service expenses assessment for the period January 1, 2018 through December 31, 2018, in the amount of \$2,500,000, and the

administrative expenses assessment for the same period in the amount of \$500,000.

Impact on the public: Hawaii residents benefit by having more sustainable nursing facilities and, thereby, having 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 some 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: June 29, 2017.