

ACT 69

H.B. NO. 582

A Bill for an Act Relating to the Nursing Facility Sustainability Program.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Act 156, Session Laws of Hawaii 2012, as amended by section 2 of Act 142, Session Laws of Hawaii 2013, as amended by section 1 of

Act 124, Session Laws of Hawaii 2014, as applicable, is amended by amending section 2 as follows:

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

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

- (1) No less than eighty-eight per cent of the revenue from the nursing facility sustainability fee shall be used to match federal medicaid funds, with the combined total to be used to enhance capitated rates to medicaid managed care health plans for the purpose of increasing medicaid payments to private nursing facilities;
- (2) Twelve per cent of the revenue from the nursing facility sustainability fee may be used by the department for other departmental purposes; and
- (3) All moneys remaining in the special fund on December 30, ~~[2015,]~~ 2016, shall be distributed to nursing facilities within thirty days in the same proportions as received from the nursing facilities.”

2. By amending subsection (c) of § -5, Hawaii Revised Statutes, to read:

“(c) The nursing facility sustainability fee shall not exceed four per cent of net patient service revenue and shall be calculated and paid on a per resident day basis~~[-], unless the facility qualifies for an exemption identified in subsection (d)(1).~~ The per resident daily fee shall be ~~[the same amount]~~ \$13.46 for each affected facility, except ~~[as prescribed]~~ for facilities described in subsection (d)(2) [-], which instead shall pay a per resident daily fee of \$5.85.”

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

“§ -10 **Enhanced rates to medicaid managed care health plans.** In accordance with title 42 Code of Federal Regulations section 438, the department shall use revenues from the nursing facility sustainability fee and federal matching funds to enhance the capitated rates paid to medicaid managed care health plans for the state fiscal year ~~[2014-2015]~~ 2015-2016, consistent with the following objectives:

- (1) The rate enhancement shall be used exclusively for increasing reimbursements to private nursing facilities to support the availability of services and to ensure access to care to the medicaid managed care health plan enrollees;
- (2) The rate enhancement shall be made part of the monthly capitated rates by the department to medicaid managed care health plans, which shall provide documentation to the department and the nursing facility trade associations located in Hawaii certifying that the revenues received under paragraph (1) are used in accordance with this section;
- (3) The rate enhancement shall be actuarially sound and approved by the federal government for federal fund participation; and
- (4) The department shall modify the fee-for-service reimbursement rates of the nursing facilities to recognize the medicaid portion of the nursing facility sustainability fee as an additional cost of serving medicaid patients, and to provide a uniform percentage increase in pre-existing facility-specific rates.”

4. By amending subsection (a) of § -13, Hawaii Revised Statutes, to read:

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

- (1) The waiver in section -7 or the enhanced capitation rates in section -10 have not been approved by the Centers for Medicare and Medicaid Services;
- (2) The department reduces funding for nursing facility services below the state appropriation in effect on June 30, ~~[2014;]~~ 2015;
- (3) The department or any other state agency uses the money in the special fund for any use other than the uses permitted pursuant to this chapter; or
- (4) Federal financial participation to match the nursing facility sustainability fee becomes unavailable under federal law. In such case, the department shall terminate the collection of the fee beginning on the effective date of the federal statutory, regulatory, or interpretive change."

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

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

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

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

- (1) Section 5 shall take effect on July 1, 2014;
- (2) The amendments made to sections 36-27(a) and 36-30(a), Hawaii Revised Statutes, in sections 3 and 4 of this Act shall not be repealed when sections 36-27 and 36-30, Hawaii Revised Statutes, are reenacted on June 30, 2015, pursuant to section 34 of Act 79, Session Laws of Hawaii 2009; and
- (3) The amendments made [in] to sections 36-27(a) and 36-30(a), Hawaii Revised Statutes, in sections 3 and 4 of this Act shall be repealed on December 31, [2015; and sections 36-27 and 36-30, Hawaii Revised Statutes, shall be reenacted in the form provided in section 34 of Act 79, Session Laws of Hawaii 2009.] 2016."

SECTION 4. There is appropriated out of the nursing facility sustainability program special fund the sum of \$14,000,000 or so much thereof as may be necessary for fiscal year 2015-2016 for uses consistent with the nursing facility sustainability program special fund.

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

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

SECTION 6. This Act shall take effect on July 1, 2015; provided that sections 1, 2, and 3 of this Act shall take effect on June 29, 2015.

(Approved May 29, 2015.)