

ARKANSAS SENATE
84th General Assembly - Regular Session, 2003
Amendment Form

Subtitle of Senate Bill No. 971

"TO LEVY A QUALITY PROGRAM ASSESSMENT UPON CERTAIN HEALTH CARE
FACILITIES."

Amendment No. 1 to Senate Bill No. 971.

Amend Senate Bill No. 971 as originally introduced:

Page 1, delete Section 1. of the bill, and substitute new sections to read as follows:

"SECTION 1. Definitions.

For purposes of this act:

(1) "Director" means the director of the division;

(2) "Division" means the Division of Medical Services of the Department of Human Services;

(3)(A) "Gross receipts" means gross receipts paid as compensation for services provided to residents of a ten (10) bed intermediate care for the mentally retarded facility including, but not limited to, client participation.

(B) "Gross receipts" does not mean charitable contributions;

(4) "Medicaid" means the Medical Assistance Program established by Title XIX of the Social Security Act, as in effect on January 1, 2003, and administered by the division;

(5) "Midnight census" means the count of:

(A) Each patient occupying a ten (10) bed intermediate care for the mentally retarded facility bed at midnight of each day;

(B) Those beds placed on hold during a period of time not to exceed five (5) consecutive calendar days during which a patient is in a hospital bed; and

(C) Those beds placed on hold during a period of time not to exceed fourteen (14) consecutive calendar days during which a patient is on therapeutic home leave;

(6) "Multiplier" means the fixed dollar amount used to calculate the quality program assessment;

(7) "Resident days" means the number of patients in a ten (10) bed intermediate care for the mentally retarded facility as determined by the midnight census; and

(8)(A) "Ten (10) bed intermediate care for the mentally retarded facility" means a facility licensed by the Office of Long-Term Care and an intermediate care facility for the mentally retarded in the under fifteen



(15) bed category;

(B) "Ten (10) bed intermediate care for the mentally retarded facility" does not mean offices of private physicians and surgeons, boarding homes, residential care facilities, intermediate care facilities for the mentally retarded, hospitals, institutions operated by the federal government or licensed by the Division of Developmental Disabilities Services of the Department of Human Services, or any facility which is conducted by and for those who rely exclusively upon treatment by prayer for healing in accordance with tenets or practices of any recognized religious denomination.

SECTION 2. Calculation of quality program assessment.

(a) There is levied a quality program assessment on ten (10) bed intermediate care for the mentally retarded facilities to be calculated in accordance with subsections (b) of this section.

(b)(1) The quality program assessment shall be an amount determined each month by multiplying the patient days as reported by each ten (10) bed intermediate care for the mentally retarded facility for each day of the month by the multiplier.

(2) Each multiplier shall be:

(A) Calculated by the division to produce an aggregate annual quality program assessment payment equal to six percent (6%) of the aggregate annual gross receipts; and

(B) Subject to prospective adjustment as necessary for annual aggregate quality program assessment payments to equal six percent (6%) of the aggregate annual gross receipts.

(c)(1) On and after July 1, 2003, and annually thereafter, the multiplier shall be determined using the patient days and gross receipts reported to the division for a period of at least six (6) months and shall be annualized.

(2) The division shall determine the six-month period to be used in order to calculate the multiplier.

SECTION 3. Reporting and collection.

(a) On the tenth day of the first full month following the effective date of this act, and on the tenth day of each month thereafter, each ten (10) bed intermediate care for the mentally retarded facility shall file a report with the division listing the patient days for the preceding month.

(b) The quality program assessment shall be due and payable for the previous month by the thirtieth of each month.

(c) The payment of the quality program assessment by the ten (10) bed intermediate care for the mentally retarded facilities shall be reported as an allowable cost for Medicaid reimbursement purposes.

SECTION 4. Administration.

(a) The administration of this act shall be exercised by the director and shall be subject to the provisions of the Arkansas Administrative Procedure Act.

(b)(1) The division, in accordance with the Arkansas Administrative Procedure Act, shall promulgate rules and regulations and prescribe forms for:

(A) The proper imposition and collection of the quality program assessment;

(B)(i) The enforcement of this act including, but not limited to, license non renewal, letters of caution, sanctions, or fines.

(ii) The fine shall be at least five hundred dollars (\$500) but no more than one thousand dollars (\$1,000).

(iii) The fine and outstanding quality program assessments shall accrue interest at the maximum rate permitted by law from the date the quality program assessment is due until payment of the quality program assessment and the fine;

(C) The format for reporting by all ten (10) bed intermediate care for the mentally retarded facilities, the total patient days and gross receipts; and

(D) The administration of the provisions of this act.

(2) The rules and regulations shall not grant any exceptions to, or exceptions from, the quality program assessment.

(c)(1) The quality program assessment charged and collected under this act shall be deposited within a newly established account.

(2) The designated account shall be separate and distinct from the general fund and shall be supplementary to the Arkansas Medicaid Program Trust Fund.

(3) Funds in the account derived from ten (10) bed intermediate care for the mentally retarded facilities that are not operated by a governmental entity shall not be used to replace other general revenues appropriated and funded by the General Assembly or other revenues used to support Medicaid.

(4) This designated account shall be exempt from budgetary cuts, reductions, or eliminations caused by a deficiency of general revenues.

(5) Earnings on investments from this designated account shall remain a part of the designated account and shall not be deposited in the general fund.

(d)(1) Except as necessary to reimburse any funds borrowed to supplement funds in the designated account, the designated account moneys in the trust fund and the matching federal financial participation under Title XIX of the Social Security Act for expenditures from the Arkansas Medicaid Program Trust Fund, shall only be used to reimburse additional costs paid to Medicaid certified ten (10) bed intermediate care for the mentally retarded facilities under Arkansas' State Medicaid Long-Term Care Cost Reimbursement Methodologies.

(2) No ten (10) bed intermediate care for the mentally retarded facility shall be guaranteed, expressly or otherwise, that any additional moneys paid to the facility will equal or exceed the amount of its quality program assessment.

SECTION 5. If any section of this act or the application of this act shall be adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect, impair, or invalidate the remainder of this act, but shall be confined in its operation to the provision directly involved in the controversy in which the judgment shall have been rendered, and the applicability of the provision to other persons or circumstances shall not be affected.

SECTION 6. The ten (10) bed intermediate care for the mentally retarded facility shall not list the quality program assessment as a separate

charge on the billing statement to its patients because the quality program assessment's calculation is based in part on the aggregate annual gross receipts of the ten (10) bed intermediate care for the mentally retarded facility."

SECTION 7. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that ten (10) bed intermediate care for the mentally retarded facilities are struggling to attain the resources necessary to provide persons in the facilities with the proper services; that a quality program assessment will provide a desperately needed source of revenues for those facilities; that the imposition of the assessment will allow those facilities to provide quality patient care enhancements; and that this act is immediately necessary to ensure the safety of and a healthy environment for patients in those facilities. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on:

- (1) The date of its approval by the Governor;
- (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill;
or
- (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

The Amendment was read the first time, rules suspended and read the second time and _____

By: Senator Laverty
EAN/VJF - 031320031352
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Secretary