

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003
4

As Engrossed: S3/17/03

A Bill

SENATE BILL 971

5 By: Senators Laverty, Broadway
6 By: Representative J. Johnson
7
8

For An Act To Be Entitled

10 AN ACT TO LEVY A QUALITY PROGRAM ASSESSMENT UPON
11 CERTAIN HEALTH CARE FACILITIES; AND FOR OTHER
12 PURPOSES.
13

Subtitle

15 TO LEVY A QUALITY PROGRAM ASSESSMENT
16 UPON CERTAIN HEALTH CARE FACILITIES.
17
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

SECTION 1. Definitions.

21 For purposes of this act:

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

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

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

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

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

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

34 (A) Each patient occupying a ten (10) bed intermediate care for
35 the mentally retarded facility bed at midnight of each day;
36



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

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

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

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

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

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

24
25 SECTION 2. Calculation of quality program assessment.

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

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

33 (2) Each multiplier shall be:

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

1 (B) Subject to prospective adjustment as necessary for
2 annual aggregate quality program assessment payments to equal six percent
3 (6%) of the aggregate annual gross receipts.

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

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

10
11 SECTION 3. Reporting and collection.

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

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

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

21
22 SECTION 4. Administration.

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

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

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

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

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

35 (iii) The fine and outstanding quality program
36 assessments shall accrue interest at the maximum rate permitted by law from

1 the date the quality program assessment is due until payment of the quality
2 program assessment and the fine;

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

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

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

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

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

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

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

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

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

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

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

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9 SECTION 6. The ten (10) bed intermediate care for the mentally
10 retarded facility shall not list the quality program assessment as a separate
11 charge on the billing statement to its patients because the quality program
12 assessment’s calculation is based in part on the aggregate annual gross
13 receipts of the ten (10) bed intermediate care for the mentally retarded
14 facility.”

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

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

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/s/ Laverty