

ARKANSAS SENATE
87th General Assembly - Regular Session, 2009
Amendment Form

Subtitle of Senate Bill No. 354

"AN ACT TO ESTABLISH A PROVIDER FEE FOR INTERMEDIATE CARE FACILITIES
FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES AND DESIGNATE THE
REVENUES COLLECTED AS SPECIAL REVENUE."

Amendment No. 1 to Senate Bill No. 354.

Amend Senate Bill No. 354 as originally introduced:

Add Representatives Abernathy, Adcock, Allen, T. Baker, Betts, Blount, T. Bradford, J. Brown, M. Burris, Carnine, Cash, Cooper, D. Creekmore, Davis, J. Dickinson, Dunn, Everett, Gaskill, George, R. Green, Hardy, Harrelson, Hawkins, House, Hoyt, D. Hutchinson, Kerr, Kidd, Lea, Lovell, Lowery, Maloch, Maxwell, McCrary, McLean, Moore, Nix, Overbey, Perry, Pierce, Powers, Ragland, Rainey, Reep, J. Roebuck, J. Rogers, T. Rogers, Sample, Saunders, Shelby, G. Smith, L. Smith, Stewart, Tyler, Webb, Wells, B. Wilkins, Williams, Wills, Word as cosponsors of the bill

AND

Page 1, delete lines 12 through 18 from the Title and substitute the following:

"AN ACT TO ESTABLISH A PROVIDER FEE FOR INTERMEDIATE CARE FACILITIES FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES; AND FOR OTHER PURPOSES."

AND

Delete the subtitle in its entirety and substitute:

"AN ACT TO ESTABLISH A PROVIDER FEE FOR INTERMEDIATE CARE FACILITIES FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES."

Delete everything after the ENACTING clause and substitute the following:

"SECTION 1. Arkansas Code Title 20, Chapter 48 is amended to add an additional subchapter to read as follows:

20-48-901. Definitions.

As used in this subchapter:

(1)(A) "Gross receipts" means all compensation paid to intermediate care facilities for individuals with developmental disabilities for services provided to residents including, without limitation, client



participation.

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

(2)(A) "Intermediate care facility for individuals with developmental disabilities" means a residential institution maintained for the care and training of persons with developmental disabilities, including without limitation mental retardation;

(B) "Intermediate care facility for individuals with developmental disabilities" has the same meaning as "intermediate care facility for the mentally retarded" or "ICF/MR" under federal law.

(C) "Intermediate care facility for individuals with developmental disabilities" does not include:

(i) Offices of private physicians and surgeons;
(ii) Residential care facilities;
(iii) Assisted living facilities;
(iv) Hospitals;
(v) Institutions operated by the federal government;
(vi) Life care facilities;
(vii) Nursing facilities; or
(viii) A facility which is conducted by and for those who rely exclusively upon treatment by prayer for healing in accordance with tenets or practices of a recognized religious denomination; and

(3) "Medicaid" means the medical assistance program established by Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq., as it existed on January 1, 2009, and administered by the Division of Medical Services of the Department of Human Services.

20-48-902. Calculation of provider fee.

(a)(1) There is levied a provider fee on intermediate care facilities for individuals with developmental disabilities to be calculated in accordance with this section.

(2)(A) The provider fee shall be an amount calculated by the Division of Medical Services of the Department of Human Services to produce an aggregate provider fee payment equal to six percent (6%) of the aggregate gross receipts of all intermediate care facilities for individuals with developmental disabilities.

(B) Aggregate provider fees shall not equal or exceed an amount measured on a state fiscal year basis that may cause a reduction in federal financial participation in Medicaid.

(b)(1)(A) The provider fee of an intermediate facility for individuals with developmental disabilities shall be payable in monthly payments.

(B) Each monthly payment shall be due and payable for the previous month by the thirtieth day of each month.

(2) The Division of Medical Services of the Department of Human Services shall seek approval from the Centers for Medicare and Medicaid Services to treat the provider fee of an intermediate care facility for individuals with developmental disabilities as an allowable cost for Medicaid reimbursement purposes.

(c) No intermediate care facility for individuals with developmental disabilities shall be guaranteed, expressly or otherwise, that any additional moneys paid to the intermediate care facility for individuals with developmental disabilities will equal or exceed the amount of its provider

fee.

(d)(1) The Division of Medical Services of the Department of Human Services shall insure that the rate of assessment of the provider fee established in this section maximizes federal funding to the fullest extent possible.

(2) If the division determines that the rate of assessment of the provider fee established in this section equals or exceeds the maximum rate of assessment that federal law allows without reduction in federal financial participation in Medicaid, the division shall lower the rate of assessment of the provider fee to a rate that maximizes federal funding to the fullest extent possible.

20-49-903. Administration.

(a) The Director of the Division of Medical Services of the Department of Human Services shall administer this subchapter and shall be subject to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(b)(1) In accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq., the Division of Medical Services of the Department of Human Services shall promulgate rules and prescribe forms for:

(A) The proper imposition and collection of the provider fee;

(B)(i) The enforcement of the subchapter, including without limitation license or certification nonrenewal, letters of caution, sanctions, or fines.

(ii)(a) The fine for failure to comply with payment and reporting requirements shall be at least one thousand dollars (\$1,000) but no more than one thousand five hundred dollars (\$1,500).

(b) The fine and if applicable, the outstanding balance of the provider fee, shall accrue interest at the maximum rate permitted by law from the date the fine and, if applicable, the provider fee, is due until payment of the outstanding balance of the fine and if applicable, the provider fee;

(C) The format for reporting gross receipts; and

(D) The administration of this subchapter.

(2) The rules shall not grant any exceptions to, or exceptions from, the provider fee.

20-49-904. Use of funds.

(a)(1) The provider fee assessed and collected under this subchapter shall be deposited in a designated account within the Arkansas Medicaid Program Trust Fund.

(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) The designated account moneys in the trust fund and the matching federal financial participation under Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq., as it existed on January 1, 2009, shall be used only for:

(A) Continued operation of and rate increases for:

(i) Intermediate care facilities for individuals with developmental disabilities;

(ii) Developmental Day Treatment Clinic Services

provided to persons with developmental disabilities by providers licensed by the Division of Developmental Disabilities of the Department of Human Services under § 20-48-101 et seq.; and

(iii) Services provided to persons with developmental disabilities under the Alternative Community Services Waiver Program by providers certified to provide waiver services by the Division of Developmental Disabilities of the Department of Human Services;

(B) Expansion of the Alternative Community Services Waiver Program to serve more persons with developmental disabilities than is approved under the waiver program as of March 1, 2009;

(C) The Division of Medical Services of the Department of Human Services; and

(D) Public guardianship of adults.

(b)(1) The designated account moneys in the trust fund from the provider fee on intermediate care facilities for individuals with developmental disabilities that are unused at the end of a fiscal year shall be carried forward.

(2) The designated account moneys in the trust fund from the provider fee on intermediate care facilities for individuals with developmental disabilities may not be used to supplant other local, state, or federal funds."

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

By: Senator Laverty

MGF/KSW - 02-25-2009 08:43

MGF199

Secretary