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S T A T E   O F   R H O D E   I S L A N D

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2025

A N   A C T

RELATING TO HUMAN SERVICES -- MEDICAL ASSISTANCE

Introduced By: Senators Thompson, Pearson, Murray, Quezada, Bissaillon, LaMountain, and Valverde

Date Introduced: February 26, 2025

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

SECTION 1. Section 40-8-19 of the General Laws in Chapter 40-8 entitled "Medical Assistance" is hereby amended to read as follows:

40-8-19. Rates of payment to nursing facilities.

(a) **Rate reform.**

(1) The rates to be paid by the state to nursing facilities licensed pursuant to chapter 17 of title 23, and certified to participate in Title XIX of the Social Security Act for services rendered to Medicaid-eligible residents, shall be reasonable and adequate to meet the costs that must be incurred by efficiently and economically operated facilities in accordance with 42 U.S.C. § 1396a(a)(13). The executive office of health and human services (“executive office”) shall promulgate or modify the principles of reimbursement for nursing facilities in effect as of July 1, 2011, to be consistent with the provisions of this section and Title XIX, 42 U.S.C. § 1396 et seq., of the Social Security Act.

(2) The executive office shall review the current methodology for providing Medicaid payments to nursing facilities, including other long-term care services providers, and is authorized to ~~modify the principles of reimbursement to replace the current cost-based methodology rates with rates based on a price-based methodology~~ revert the principles of reimbursement from the current price-based methodology back to a cost-based methodology to be paid to all facilities with recognition of the acuity of patients and the relative Medicaid occupancy, and to include the following elements to be developed by the executive office:

1 (i) A direct-care rate adjusted for resident acuity;
2 (ii) An indirect-care and other direct-care rate comprised of a base per diem for all facilities;
3 (iii) Revision of rates as necessary based on increases in direct and indirect costs beginning
4 October 2024 utilizing data from the most recent finalized year of facility cost report. The per diem
5 rate components deferred in subsections (a)(2)(i) and (a)(2)(ii) of this section shall be adjusted
6 accordingly to reflect changes in direct and indirect care costs since the previous rate review;
7 (iv) Application of a fair-rental value system;
8 (v) Application of a pass-through system; and
9 (vi) Adjustment of rates by the change in a recognized national nursing home inflation
10 index to be applied on October 1 of each year, beginning October 1, 2012. This adjustment will not
11 occur on October 1, 2013, October 1, 2014, or October 1, 2015, but will occur on April 1, 2015.
12 The adjustment of rates will also not occur on October 1, 2017, October 1, 2018, October 1, 2019,
13 and October 2022. Effective July 1, 2018, rates paid to nursing facilities from the rates approved
14 by the Centers for Medicare and Medicaid Services and in effect on October 1, 2017, both fee-for-
15 service and managed care, will be increased by one and one-half percent (1.5%) and further
16 increased by one percent (1%) on October 1, 2018, and further increased by one percent (1%) on
17 October 1, 2019. Effective October 1, 2022, rates paid to nursing facilities from the rates approved
18 by the Centers for Medicare and Medicaid Services and in effect on October 1, 2021, both fee-for-
19 service and managed care, will be increased by three percent (3%). In addition to the annual nursing
20 home inflation index adjustment, there shall be a base rate staffing adjustment of one-half percent
21 (0.5%) on October 1, 2021, one percent (1.0%) on October 1, 2022, and one and one-half percent
22 (1.5%) on October 1, 2023. The inflation index shall be applied without regard for the transition
23 factors in subsections (b)(1) and (b)(2). For purposes of October 1, 2016, adjustment only, any rate
24 increase that results from application of the inflation index to subsections (a)(2)(i) and (a)(2)(ii)
25 shall be dedicated to increase compensation for direct-care workers in the following manner: Not
26 less than 85% of this aggregate amount shall be expended to fund an increase in wages, benefits,
27 or related employer costs of direct-care staff of nursing homes. For purposes of this section, direct-
28 care staff shall include registered nurses (RNs), licensed practical nurses (LPNs), certified nursing
29 assistants (CNAs), certified medical technicians, housekeeping staff, laundry staff, dietary staff, or
30 other similar employees providing direct-care services; provided, however, that this definition of
31 direct-care staff shall not include: (i) RNs and LPNs who are classified as "exempt employees"
32 under the federal Fair Labor Standards Act (29 U.S.C. § 201 et seq.); or (ii) CNAs, certified medical
33 technicians, RNs, or LPNs who are contracted, or subcontracted, through a third-party vendor or
34 staffing agency. By July 31, 2017, nursing facilities shall submit to the secretary, or designee, a

certification that they have complied with the provisions of this subsection (a)(2)(vi) with respect to the inflation index applied on October 1, 2016. Any facility that does not comply with the terms of such certification shall be subjected to a clawback, paid by the nursing facility to the state, in the amount of increased reimbursement subject to this provision that was not expended in compliance with that certification.

(vii) The executive office shall establish an incentive-based add-on or other incentive mechanism to reward facilities that meet certain performance, quality, or staffing benchmarks, as determined by the executive office.

(viii) The executive office shall conduct a comprehensive re-array of Medicaid rates every three (3) years, beginning October 1, 2025. This re-array shall use data from the most recent finalized cost reports to ensure that reimbursement reflects current direct and indirect care costs, patient acuity levels, and Medicaid occupancy rates.

(3)(i) Commencing on October 1, 2021, and continuing until October 1, 2025, eighty percent (80%) of any rate increase that results from application of the inflation index to subsections (a)(2)(i) and (a)(2)(ii) of this section shall be dedicated to increase compensation for all eligible direct-care workers in the following manner on October 1, of each year.

(ii) Commencing on October 1, 2025, eighty percent (80%) of any rate increase that results from application of the inflation index to subsections (a)(2)(i), (a)(2)(ii), and (a)(2)(iii) of this section shall be dedicated to increase compensation for all eligible direct-care workers in the following manner on October 1, of each year.

~~(i)~~(iii) For purposes of this subsection, compensation increases shall include base salary or hourly wage increases, benefits, other compensation, and associated payroll tax increases for eligible direct-care workers. This application of the inflation index shall apply for Medicaid reimbursement in nursing facilities for both managed care and fee-for-service. For purposes of this subsection, direct-care staff shall include registered nurses (RNs), licensed practical nurses (LPNs), certified nursing assistants (CNAs), certified medication technicians, licensed physical therapists, licensed occupational therapists, licensed speech-language pathologists, mental health workers who are also certified nurse assistants, physical therapist assistants, housekeeping staff, laundry staff, dietary staff, or other similar employees providing direct-care services; provided, however that this definition of direct-care staff shall not include:

(A) RNs and LPNs who are classified as “exempt employees” under the federal Fair Labor Standards Act (29 U.S.C. § 201 et seq.); or

(B) CNAs, certified medication technicians, RNs, or LPNs who are contracted or subcontracted through a third-party vendor or staffing agency.

(4)(i) By July 31, 2021, and July 31 of each year thereafter, nursing facilities shall submit to the secretary or designee a certification that they have complied with the provisions of subsection (a)(3) of this section with respect to the inflation index applied on October 1. The executive office of health and human services (EOHHS) shall create the certification form nursing facilities must complete with information on how each individual eligible employee's compensation increased, including information regarding hourly wages prior to the increase and after the compensation increase, hours paid after the compensation increase, and associated increased payroll taxes. A collective bargaining agreement can be used in lieu of the certification form for represented employees. All data reported on the compliance form is subject to review and audit by EOHHS. The audits may include field or desk audits, and facilities may be required to provide additional supporting documents including, but not limited to, payroll records.

(ii) Any facility that does not comply with the terms of certification shall be subjected to a clawback and twenty-five percent (25%) penalty of the unspent or impermissibly spent funds, paid by the nursing facility to the state, in the amount of increased reimbursement subject to this provision that was not expended in compliance with that certification.

(iii) In any calendar year where no inflationary index is applied, eighty percent (80%) of the base rate staffing adjustment in that calendar year pursuant to subsection (a)(2)(vi) of this section shall be dedicated to increase compensation for all eligible direct-care workers in the manner referenced in subsections (a)(3)(i), (a)(3)(i)(A), and (a)(3)(i)(B) of this section.

(b) **Transition to full implementation of rate reform.** For no less than four (4) years after the initial application of the price-based methodology described in subsection (a)(2) to payment rates, the executive office of health and human services shall implement a transition plan to moderate the impact of the rate reform on individual nursing facilities. The transition shall include the following components:

(1) No nursing facility shall receive reimbursement for direct-care costs that is less than the rate of reimbursement for direct-care costs received under the methodology in effect at the time of passage of this act; for the year beginning October 1, 2017, the reimbursement for direct-care costs under this provision will be phased out in twenty-five-percent (25%) increments each year until October 1, 2021, when the reimbursement will no longer be in effect; and

(2) No facility shall lose or gain more than five dollars ($5.00) in its total, per diem rate the first year of the transition. An adjustment to the per diem loss or gain may be phased out by twenty-five percent (25%) each year; except, however, for the years beginning October 1, 2015, there shall be no adjustment to the per diem gain or loss, but the phase out shall resume thereafter; and

(3) The transition plan and/or period may be modified upon full implementation of facility

1 per diem rate increases for quality of care-related measures. Said modifications shall be submitted
2 in a report to the general assembly at least six (6) months prior to implementation.
3 (4) Notwithstanding any law to the contrary, for the twelve-month (12) period beginning
4 July 1, 2015, Medicaid payment rates for nursing facilities established pursuant to this section shall
5 not exceed ninety-eight percent (98%) of the rates in effect on April 1, 2015. Consistent with the
6 other provisions of this chapter, nothing in this provision shall require the executive office to restore
7 the rates to those in effect on April 1, 2015, at the end of this twelve-month (12) period.
8 SECTION 2. This act shall take effect upon passage.

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EXPLANATION

BY THE LEGISLATIVE COUNCIL

OF

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1 This act would direct the executive office of health and human services (EOHHS) to revert
2 the principles of reimbursement from the current price-based methodology back to a cost-based
3 methodology for providing Medicaid payment to Nursing facilities. It would also allow for the
4 office to establish an incentive-based mechanism to reward facilities that meet certain benchmarks.
5 This act would take effect upon passage.

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