

1 A bill to be entitled
 2 An act relating to Medicaid reimbursement for nursing
 3 home care; amending s. 409.908, F.S.; revising a
 4 parameter to implement a prospective payment
 5 methodology for Medicaid reimbursement rate settings
 6 for nursing home care; providing an effective date.

7
 8 Be It Enacted by the Legislature of the State of Florida:

9
 10 Section 1. Paragraph (b) of subsection (2) of section
 11 409.908, Florida Statutes, is amended to read:

12 409.908 Reimbursement of Medicaid providers.—Subject to
 13 specific appropriations, the agency shall reimburse Medicaid
 14 providers, in accordance with state and federal law, according
 15 to methodologies set forth in the rules of the agency and in
 16 policy manuals and handbooks incorporated by reference therein.
 17 These methodologies may include fee schedules, reimbursement
 18 methods based on cost reporting, negotiated fees, competitive
 19 bidding pursuant to s. 287.057, and other mechanisms the agency
 20 considers efficient and effective for purchasing services or
 21 goods on behalf of recipients. If a provider is reimbursed based
 22 on cost reporting and submits a cost report late and that cost
 23 report would have been used to set a lower reimbursement rate
 24 for a rate semester, then the provider's rate for that semester
 25 shall be retroactively calculated using the new cost report, and

26 full payment at the recalculated rate shall be effected
 27 retroactively. Medicare-granted extensions for filing cost
 28 reports, if applicable, shall also apply to Medicaid cost
 29 reports. Payment for Medicaid compensable services made on
 30 behalf of Medicaid-eligible persons is subject to the
 31 availability of moneys and any limitations or directions
 32 provided for in the General Appropriations Act or chapter 216.
 33 Further, nothing in this section shall be construed to prevent
 34 or limit the agency from adjusting fees, reimbursement rates,
 35 lengths of stay, number of visits, or number of services, or
 36 making any other adjustments necessary to comply with the
 37 availability of moneys and any limitations or directions
 38 provided for in the General Appropriations Act, provided the
 39 adjustment is consistent with legislative intent.

40 (2)

41 (b) Subject to any limitations or directions in the
 42 General Appropriations Act, the agency shall establish and
 43 implement a state Title XIX Long-Term Care Reimbursement Plan
 44 for nursing home care in order to provide care and services in
 45 conformance with the applicable state and federal laws, rules,
 46 regulations, and quality and safety standards and to ensure that
 47 individuals eligible for medical assistance have reasonable
 48 geographic access to such care.

49 1. The agency shall amend the long-term care reimbursement
 50 plan and cost reporting system to create direct care and

51 indirect care subcomponents of the patient care component of the
 52 per diem rate. These two subcomponents together shall equal the
 53 patient care component of the per diem rate. Separate prices
 54 shall be calculated for each patient care subcomponent,
 55 initially based on the September 2016 rate setting cost reports
 56 and subsequently based on the most recently audited cost report
 57 used during a rebasing year. The direct care subcomponent of the
 58 per diem rate for any providers still being reimbursed on a cost
 59 basis shall be limited by the cost-based class ceiling, and the
 60 indirect care subcomponent may be limited by the lower of the
 61 cost-based class ceiling, the target rate class ceiling, or the
 62 individual provider target. The ceilings and targets apply only
 63 to providers being reimbursed on a cost-based system. Effective
 64 October 1, 2018, a prospective payment methodology shall be
 65 implemented for rate setting purposes with the following
 66 parameters:

67 a. Peer Groups, including:

68 (I) North-SMMC Regions 1-9, less Palm Beach and Okeechobee
 69 Counties; and

70 (II) South-SMMC Regions 10-11, plus Palm Beach and
 71 Okeechobee Counties.

72 b. Percentage of Median Costs based on the cost reports
 73 used for September 2016 rate setting:

74 (I) Direct Care Costs 100 percent.

75 (II) Indirect Care Costs 92 percent.

- 76 (III) Operating Costs 86 percent.
- 77 c. Floors:
- 78 (I) Direct Care Component 95 percent.
- 79 (II) Indirect Care Component 92.5 percent.
- 80 (III) Operating Component None.
- 81 d. Pass-through Payments Real Estate and
- 82 Personal Property
- 83 Taxes and Property Insurance.
- 84 e. Quality Incentive Program Payment
- 85 Pool 9 ~~6~~ percent of September
- 86 2016 non-property related
- 87 payments of included facilities.
- 88 f. Quality Score Threshold to Quality for Quality
- 89 Incentive
- 90 Payment 20th percentile of included facilities.
- 91 g. Fair Rental Value System Payment Parameters:
- 92 (I) Building Value per Square Foot based on 2018 RS Means.
- 93 (II) Land Valuation 10 percent of Gross Building value.
- 94 (III) Facility Square Footage Actual Square Footage.
- 95 (IV) Moveable Equipment Allowance \$8,000 per bed.
- 96 (V) Obsolescence Factor 1.5 percent.
- 97 (VI) Fair Rental Rate of Return 8 percent.
- 98 (VII) Minimum Occupancy 90 percent.
- 99 (VIII) Maximum Facility Age 40 years.
- 100 (IX) Minimum Square Footage per Bed..... 350.

101 (X) Maximum Square Footage for Bed.....500.

102 (XI) Minimum Cost of a renovation/replacements\$500 per
103 bed.

104 h. Ventilator Supplemental payment of \$200 per Medicaid
105 day of 40,000 ventilator Medicaid days per fiscal year.

106 2. The direct care subcomponent shall include salaries and
107 benefits of direct care staff providing nursing services
108 including registered nurses, licensed practical nurses, and
109 certified nursing assistants who deliver care directly to
110 residents in the nursing home facility, allowable therapy costs,
111 and dietary costs. This excludes nursing administration, staff
112 development, the staffing coordinator, and the administrative
113 portion of the minimum data set and care plan coordinators. The
114 direct care subcomponent also includes medically necessary
115 dental care, vision care, hearing care, and podiatric care.

116 3. All other patient care costs shall be included in the
117 indirect care cost subcomponent of the patient care per diem
118 rate, including complex medical equipment, medical supplies, and
119 other allowable ancillary costs. Costs may not be allocated
120 directly or indirectly to the direct care subcomponent from a
121 home office or management company.

122 4. On July 1 of each year, the agency shall report to the
123 Legislature direct and indirect care costs, including average
124 direct and indirect care costs per resident per facility and
125 direct care and indirect care salaries and benefits per category

126 of staff member per facility.

127 5. Every fourth year, the agency shall rebase nursing home
 128 prospective payment rates to reflect changes in cost based on
 129 the most recently audited cost report for each participating
 130 provider.

131 6. A direct care supplemental payment may be made to
 132 providers whose direct care hours per patient day are above the
 133 80th percentile and who provide Medicaid services to a larger
 134 percentage of Medicaid patients than the state average.

135 7. For the period beginning on October 1, 2018, and ending
 136 on September 30, 2021, the agency shall reimburse providers the
 137 greater of their September 2016 cost-based rate or their
 138 prospective payment rate. Effective October 1, 2021, the agency
 139 shall reimburse providers the greater of 95 percent of their
 140 cost-based rate or their rebased prospective payment rate, using
 141 the most recently audited cost report for each facility. This
 142 subparagraph shall expire September 30, 2023.

143 8. Pediatric, Florida Department of Veterans Affairs, and
 144 government-owned facilities are exempt from the pricing model
 145 established in this subsection and shall remain on a cost-based
 146 prospective payment system. Effective October 1, 2018, the
 147 agency shall set rates for all facilities remaining on a cost-
 148 based prospective payment system using each facility's most
 149 recently audited cost report, eliminating retroactive
 150 settlements.

151
 152 It is the intent of the Legislature that the reimbursement plan
 153 achieve the goal of providing access to health care for nursing
 154 home residents who require large amounts of care while
 155 encouraging diversion services as an alternative to nursing home
 156 care for residents who can be served within the community. The
 157 agency shall base the establishment of any maximum rate of
 158 payment, whether overall or component, on the available moneys
 159 as provided for in the General Appropriations Act. The agency
 160 may base the maximum rate of payment on the results of
 161 scientifically valid analysis and conclusions derived from
 162 objective statistical data pertinent to the particular maximum
 163 rate of payment. The agency shall base the rates of payments in
 164 accordance with the minimum wage requirements as provided in the
 165 General Appropriations Act.

166 Section 2. This act shall take effect October 1, 2023.