

MAINE STATE LEGISLATURE

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L.D. 1924

DATE: *April 9, 2002*

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STATE OF MAINE
SENATE
120TH LEGISLATURE
SECOND REGULAR SESSION

SENATE AMENDMENT "*B*" to COMMITTEE AMENDMENT "A" to S.P. 722, L.D. 1924, Bill, "An Act to Support a Continuum of Quality Long-term Care Services"

Amend the amendment in Part A by striking out all of section 1 and inserting in its place the following:

'Sec. A-1. 22 MRSA §1708, sub-§3, as amended by PL 1995, c. 696, Pt. A, §§32 and 33, is further amended to read:

3. **Compensation for nursing homes.** A nursing home, as defined under section 1812-A, or any portion of a hospital or institution operated as a nursing home, when the State is liable for payment for care, must be reimbursed at a rate established by the Department of Human Services pursuant to this subsection. The department may not establish a so-called "flat rate." This subsection applies to all funds, including federal funds, paid by any agency of the State to a nursing home for patient care. The department shall establish rules concerning reimbursement that:

A. Take into account the costs of providing care and services in conformity with applicable state and federal laws, rules, regulations and quality and safety standards;

~~A-1.--Include a specific increment to take into account the increased cost of any excise, gross receipts or similar tax that is first imposed by the State on or after January 1, 1993;~~

B. Are reasonable and adequate to meet the costs incurred by efficiently and economically operated facilities;

C. Are consistent with federal requirements relative to

limits on reimbursement under the federal Social Security Act, Title XIX; and

D. Ensure that any calculation of an occupancy percentage or other basis for adjusting the rate of reimbursement for nursing facility services to reduce the amount paid in response to a decrease in the number of residents in the facility or the percentage of the facility's occupied beds excludes all beds that the facility has removed from service for all or part of the relevant fiscal period in accordance with section 304-F. If the excluded beds are converted to residential care beds or another program for which the department provides reimbursement, nothing in this paragraph precludes the department from including those beds for purposes of any occupancy standard applicable to the residential care or other program pursuant to duly adopted rules of the department; and

E. Contain an annual inflation adjustment that:

(1) Recognizes regional variations in labor costs and the rates of increase in labor costs determined pursuant to the principles of reimbursement and establishes at least 4 regions for purposes of annual inflation adjustments; and

(2) Uses the applicable regional inflation factor as established by a national economic research organization selected by the department to adjust costs other than labor costs or fixed costs.

Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.'

Further amend the amendment in Part A by striking out all of section 3 and inserting in its place the following:

'Sec. A-3. Treatment of costs in principles of reimbursement for nursing facilities. The Department of Human Services shall amend the rules regarding principles of reimbursement for nursing facilities. The rules must:

1. Adjustment of interim payments. Upon request of a facility and a showing that there has been a dramatic market change in particular elements in the fixed cost component, adjust that facility's interim payments. This provision applies to fixed cost component elements. The rules for adjustment of interim payments for nursing facilities must apply to reimbursement rates beginning July 1, 2002; and

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Legislature having jurisdiction over health and human services matters and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs the amounts of appropriations and allocations that would be required to fully fund all reimbursable costs for nursing facilities and medical and remedial private nonmedical institutions covered by the department, determined pursuant to the department's principles of reimbursement and the amounts of appropriations and allocations that would be necessary to raise the reimbursement rates for all providers of services reimbursed under the Medicaid program on a fee-for-service basis who are reimbursed below 70% of usual and customary rates to a level equal to 70% of usual customary rates, as long as the rate does not exceed the rate allowed by federal law or regulation. The information in the report regarding nursing facilities and private nonmedical institutions must be presented in a manner that compares the amounts that would be required to fully fund the 2 types of facilities, the amounts that are requested in the Governor's budget bill and the amounts that were appropriated and allocated for each of the 2 years of the biennium in which the report is made.

Sec. F-2. Report on fiscal health of long-term care system. By January 15, 2003, the Department of Human Services, the Maine Health Care Association and providers of home health and other long-term care services shall work together and shall present a report to the joint standing committee of the Legislature having jurisdiction over health and human services matters and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs regarding the fiscal health of the State's long-term care system. The report must include:

1. An analysis of costs and reimbursement in long-term care, including a 5-year retrospective and a projection of costs and reimbursement in the future if the existing principles of reimbursement and the rate setting system are utilized;

2. An analysis of the strengths and weaknesses of the principles of reimbursement and other mechanisms used for setting rates and reimbursement, including analysis of mechanisms used in other states to ensure fair payment to providers, including inflation factors and adjustments for regional variations in labor costs; and

3. An analysis of reimbursement for nursing facilities, including reimbursement for the direct care component, the routine cost component and the fixed cost component, including inflation factors and limitations on expenditures imposed by category of cost or comparison with other facilities.'

Further amend the amendment by striking out all of Part H
and inserting in its place the following:

PART H

Sec. H-1. Transfer of funds. Notwithstanding any provision of
law, the State Controller shall transfer \$66,142 from the Nursing
Facilities Other Special Revenue program within the Department of
Human Services to the General Fund unappropriated surplus no
later than June 30, 2003.

Sec. H-2. Appropriations and allocations. The following
appropriations and allocations are made.

HUMAN SERVICES, DEPARTMENT OF

Nursing Facilities 0148

Initiative: Provides funding to decrease the threshold at
which the department makes occupancy adjustments to nursing
facility reimbursement rates for services provided beginning
January 1, 2003 to 85% for facilities with more than 60 beds
and to 80% for facilities of 60 beds or fewer.

General Fund	2001-02	2002-03
All Other	\$0	\$66,142
Total	\$0	\$66,142

Federal Expenditures Fund	2001-02	2002-03
All Other	\$0	\$130,483
Total	\$0	\$130,483'

Further amend the amendment by relettering or renumbering
any nonconsecutive Part letter or section number to read
consecutively.

FISCAL NOTE

This amendment includes a one-time transfer of \$66,142 from
the Nursing Facility Other Special Revenue program in fiscal year
2002-03. These funds would offset the bill's General Fund
appropriation, resulting in the bill's, as amended, having no net
cost to the General Fund in fiscal year 2002-03. This one-time
transfer would not offset the bill's Federal Expenditures Fund

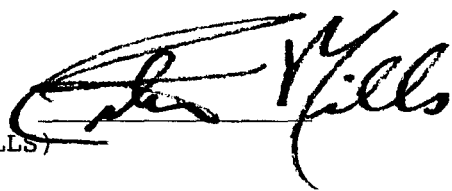
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allocation of \$130,483 in fiscal year 2002-03. It would also not
affect the future year General Fund costs of the bill, estimated
to be \$138,898 in fiscal year 2003-04 and \$145,843 in fiscal year
2004-05.

This amendment also includes language that limits the
decrease in the occupancy adjustment trigger to cases where the
decrease in occupancy is caused by a shortage of available
staff. While this language may decrease the additional costs
resulting from the bill's decrease in the occupancy trigger, the
fiscal impact of this language can not be determined at the
present time.

SUMMARY

This amendment incorporates the substance of Senate
Amendment "A" to Committee Amendment "A." In addition, the
amendment clarifies that the Department of Human Services shall
amend the rules regarding the principles of reimbursement for
nursing facilities regarding fixed costs to apply the existing
occupancy adjustment trigger when the occupancy in either case
drops because of a shortage of available staff for the facility
as determined by the department.

SPONSORED BY: 
(Senator MILLS)

COUNTY: Somerset