

Committee Substitute for Senate Bill No. 8-A

An act relating to Medicaid; creating s. 409.9082, F.S.; providing definitions; providing for a quality assessment to be imposed upon nursing home facility providers; requiring the Agency for Health Care Administration to calculate the quality assessment rate annually; providing requirements for reporting and collecting the assessment; exempting certain nursing home facility providers from the assessment; providing for certain providers to pay a lower assessment; specifying the purposes of the assessment and an order of priority; requiring that the agency seek federal authorization to implement the act; specifying circumstances requiring discontinuance of the quality assessment; authorizing the agency to impose certain penalties against providers that fail to pay the assessment; requiring the agency to adopt rules; providing an effective date.

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

Section 1. Section 409.9082, Florida Statutes, is created to read:

409.9082 Quality assessment on nursing home facility providers; exemptions; purpose; federal approval required; remedies.—

(1) As used in this section, the term:

(a) “Net patient service revenue” means gross revenues from services provided to nursing home facility patients, less reductions from gross revenue resulting from an inability to collect payment of charges. Such reductions include bad debts; contractual adjustments; uncompensated care; administrative, courtesy, and policy discounts and adjustments; and other such revenue deductions.

(b) “Nursing home facility” means a facility licensed under part II of chapter 400.

(c) “Resident day” means a calendar day of care provided to a nursing home facility resident, including the day of admission and excluding the day of discharge, except that, when admission and discharge occur on the same day, 1 day of care is deemed to exist.

(d) “Medicare Part A resident days” means those patient days funded by the Medicare program or by a Medicare Advantage or special needs plan.

(e) “Skilled nursing facility units of acute care hospitals” means the Medicare-certified skilled nursing beds located in hospitals licensed under chapter 395.

(2) Effective April 1, 2009, there is imposed upon each nursing home facility a quality assessment. The aggregated amount of assessments for all nursing home facilities in a given year shall be an amount not exceeding 5.5 percent of the total aggregate net patient service revenue of assessed facilities. The agency shall calculate the quality assessment rate annually on a

per-resident-day basis, exclusive of those resident days funded by the Medicare program, as reported by the facilities. The per-resident-day assessment rate shall be uniform except as prescribed in subsection (3). Each facility shall report monthly to the agency its total number of resident days, exclusive of Medicare Part A resident days, and shall remit an amount equal to the assessment rate times the reported number of days. The agency shall collect, and each facility shall pay, the quality assessment each month. The agency shall collect the assessment from nursing home facility providers by no later than the 15th of the next succeeding calendar month. The agency shall notify providers of the quality assessment and provide a standardized form to complete and submit with payments. The collection of the nursing home facility quality assessment shall commence no sooner than 5 days after the agency's initial payment of the Medicaid rates containing the elements prescribed in subsection (4). Nursing home facilities may not create a separate line-item charge for the purpose of passing through the assessment to residents.

(3)(a) The following nursing home facility providers are exempt from the quality assessment:

1. Nursing home facilities that are licensed under part II of chapter 400 and located on the campus of continuing care retirement communities operating pursuant to a certificate of authority under chapter 651;

2. Nursing home facilities that have 45 or fewer beds; and

3. The skilled nursing facility units of acute care hospitals licensed by the agency under chapter 395.

(b) The agency may apply a lower quality assessment rate to high-volume Medicaid nursing facilities. The agency shall apply the lower rate to the fewest number of such facilities necessary to meet federal Medicaid waiver requirements.

(c) The agency may apply a lower quality assessment rate to high-patient-volume nursing facilities. The agency shall apply the lower rate to the fewest number of such facilities necessary to meet federal Medicaid waiver requirements.

(4) The purpose of the nursing home facility quality assessment is to ensure continued quality of care. Collected assessment funds shall be used to obtain federal financial participation through the Medicaid program to make Medicaid payments for nursing home facility services up to the amount of nursing home facility Medicaid rates as calculated in accordance with the approved state Medicaid plan in effect on December 31, 2007. The quality assessment and federal matching funds shall be used exclusively for the following purposes and in the following order of priority:

(a) To reimburse the Medicaid share of the quality assessment as a pass-through, Medicaid-allowable cost;

(b) To increase to each nursing home facility's Medicaid rate, as needed, an amount that restores the rate reductions implemented January 1, 2008, and January 1, 2009;

(c) To increase to each nursing home facility's Medicaid rate, as needed, an amount that restores any rate reductions for the 2008-2009 fiscal year; and

(d) To increase each nursing home facility's Medicaid rate that accounts for the portion of the total assessment not included in paragraphs (a)-(c) which begins a phase-in to a pricing model for the operating cost component.

(5) The agency shall seek necessary federal approval in the form of waivers and state plan amendments in order to implement the provisions of this section.

(6) The quality assessment shall terminate and the agency shall discontinue the imposition, assessment, and collection of the nursing facility quality assessment if any of the following occur:

(a) The agency does not obtain necessary federal approval for the nursing home facility quality assessment or the payment rates required by subsection (4); or

(b) The weighted average Medicaid rate paid to nursing home facilities is reduced below the weighted average Medicaid rate to nursing home facilities in effect on December 31, 2008, plus any future annual amount of the quality assessment and the applicable matching federal funds.

Upon termination of the quality assessment, all collected assessment revenues, less any amounts expended by the agency, shall be returned on a pro rata basis to the nursing facilities that paid them.

(7) The agency may seek any of the following remedies for failure of any nursing home facility provider to pay its assessment timely:

(a) Withholding any medical assistance reimbursement payments until such time as the assessment amount is recovered;

(b) Suspension or revocation of the nursing home facility license; and

(c) Imposition of a fine of up to \$1,000 per day for each delinquent payment, not to exceed the amount of the assessment.

(8) The agency shall adopt rules necessary to administer this section.

Section 2. This act shall take effect upon becoming a law.

Approved by the Governor January 27, 2009.

Filed in Office Secretary of State January 27, 2009.