

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas As Engrossed: H1/31/01 H2/2/01 S3/1/01 S3/5/01

2 83rd General Assembly

A Bill

Act 635 of 2001

3 Regular Session, 2001

HOUSE BILL 1274

4

5 By: Representatives Bevis, Ferguson, Jacobs, Gillespie, Biggs, Willis, Weaver, Altes, Glover, Agee,
6 Prater, Hickinbotham, Hausam, Clemons, R. Smith, White, Jones, Eason, Goss, Creekmore, T. Steele, M.
7 Steele, Dees, King, Carson

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For An Act To Be Entitled

11 AN ACT TO LEVY A QUALITY ASSURANCE FEE UPON
12 NURSING FACILITIES; AND FOR OTHER PURPOSES.

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Subtitle

15 AN ACT TO LEVY A QUALITY ASSURANCE FEE.

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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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21 SECTION 1. Definitions.

22 For purposes of this act:

23 (1) "Director" means the director of the division;

24 (2) "Division" means the Division of Medical Services of the Department
25 of Human Services;

26 (3)(A) "Gross receipts" means gross receipts paid as compensation for
27 services provided to residents of nursing facilities, including but not
28 limited to, client participation.

29 (B) "Gross receipts" does not mean charitable contributions;

30 (4) "Medicaid" means the Medical Assistance Program established by
31 Title XIX of the Social Security Act, as it existed on January 1, 2001 and
32 administered by the division;

33 (5) "Midnight census" means the count of:

34 (A) Each patient occupying a nursing facility bed at midnight of
35 each day;

36 (B) Those beds placed on hold during a period of time not to

1 exceed five consecutive calendar days during which a patient is in a hospital
2 bed; and

3 (C) Those beds placed on hold during a period of time not to
4 exceed fourteen (14) consecutive calendar days during which a patient is on
5 therapeutic home leave;

6 (6) "Multiplier" means the fixed dollar amount used to calculate the
7 quality assurance fee;

8 (7)(A) "Nursing facilities" means any building, structure, agency,
9 institution, or other place which requires payment for the reception,
10 accommodation, board, care, or treatment of more than three (3) unrelated
11 individuals who due to a physical or mental infirmity, are unable to care for
12 themselves;

13 (B) "Nursing facilities" does not mean offices of private
14 physicians and surgeons, boarding homes, residential care facilities,
15 intermediate care facilities for the mentally retarded, hospitals,
16 institutions operated by the federal government or licensed by the Division of
17 Developmental Disabilities Services of the Department of Human Services, or
18 any facility which is conducted by and for those who rely exclusively upon
19 treatment by prayer for healing in accordance with tenets or practices of any
20 recognized religious denomination; and

21 (8) "Patient days" means the number of patients in a nursing facility
22 as determined by the midnight census.

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24 SECTION 2. Calculation of quality assurance fee.

25 (a) There is levied a quality assurance fee on nursing facilities to be
26 calculated in accordance with subsections (b) of this section.

27 (b)(1) The quality assurance fee shall be an amount determined each
28 month by multiplying the patient days as reported by each nursing facility for
29 each day of the month by the multiplier.

30 (2) Each multiplier shall be:

31 (A) Calculated by the division to produce an aggregate
32 annual quality assurance fee payment equal to six percent (6%) of the
33 aggregate annual gross receipts; and.

34 (B) Subject to prospective adjustment as necessary for
35 annual aggregate quality assurance payments to equal six percent (6%) of the
36 aggregate annual gross receipts.

1 (c)(1) Between the effective date of this act and June 30, 2001, the
2 multiplier shall be five dollars and twenty-five cents (\$5.25).

3 (2)(A) On and after July 1, 2001, and annually thereafter the
4 multiplier shall be determined using the patient days and gross receipts
5 reported to the division for a period of at least six (6) months and shall be
6 annualized.

7 (B) The division shall determine the six-month period to be
8 used in order to calculate the multiplier.

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10 SECTION 3. Reporting and collection.

11 (a) On the tenth (10th) day of the first full month following the
12 effective date of this act, and on the tenth (10th) day of each month
13 thereafter, each nursing facility shall file a report with the division
14 listing the patient days for the preceding month.

15 (b) The quality assurance fee shall be due and payable for the previous
16 month by the thirtieth (30th) of each month.

17 (c) The payment of the quality assurance fee by the nursing facilities
18 shall be reported as an allowable cost for Medicaid reimbursement purposes.

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20 SECTION 4. Administration.

21 (a) The administration of this act shall be exercised by the director
22 and shall be subject to the provisions of the Arkansas Administrative
23 Procedure Act, as amended.

24 (b)(1) The division, in accordance with the Arkansas Administrative
25 Procedure Act, shall promulgate rules and regulations and prescribe forms for:

26 (A) The proper imposition and collection of the quality
27 assurance fee;

28 (B)(i) The enforcement of this act including, but not
29 limited to, license non-renewal, letters of caution, sanctions, or fines.

30 (ii) The fine shall be at least ten thousand dollars
31 (\$10,000) but no more than twenty thousand dollars (\$20,000). The fine and
32 outstanding quality assurance fee shall accrue interest at the maximum rate
33 permitted by law from the date the quality assurance fee is due until payment
34 of the quality assurance fee and the fine;

35 (C) The format for reporting by all nursing homes the total
36 patient days and gross receipts; and

1 (D) The administration of the provisions of this act.

2 (2) The rules and regulations shall not grant any exceptions to,
3 or exceptions from, the quality assurance fee.

4 (c)(1) The quality assurance fee assessed and collected pursuant to
5 this act shall be assessed and deposited as a designated account within the
6 Arkansas Medicaid Program Trust Fund as established under Arkansas Code 19-5-
7 985.

8 (2) The designated account shall be separate and distinct from
9 the general fund and shall be supplementary to the Arkansas Medicaid Program
10 Trust Fund.

11 (3) Funds in the account derived from nursing facilities that are
12 not operated by a governmental entity shall not be used to replace other
13 general revenues appropriated and funded by the General Assembly or other
14 revenues used to support Medicaid.

15 (4) This designated account shall be exempt from budgetary cuts,
16 reductions, or eliminations caused by a deficiency of general revenues.

17 (5) Earnings on investments from this designated account shall
18 remain a part of the designated account and shall not be deposited in the
19 general fund.

20 (d)(1) Except as necessary to reimburse any funds borrowed to
21 supplement funds in the designated account, the designated account monies in
22 the trust fund and the matching federal financial participation under Title
23 XIX of the Social Security Act for expenditures from the Arkansas Medicaid
24 Program Trust Fund, shall only be used to reimburse additional costs paid to
25 Medicaid certified nursing facilities under Arkansas' State Medicaid Long Term
26 Care Cost Reimbursement Methodologies.

27 (2) No nursing facility shall be guaranteed, expressly or
28 otherwise, that any additional monies paid to the nursing facility will equal
29 or exceed the amount of its quality assurance fee.

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31 SECTION 5. If any section of this act or the application of this act
32 shall be adjudged by any court of competent jurisdiction to be invalid, the
33 judgment shall not affect, impair, or invalidate the remainder of this act,
34 but shall be confined in its operation to the provision directly involved in
35 the controversy in which the judgment shall have been rendered, and the
36 applicability of the provision to other persons or circumstances shall not be

1 affected.

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3 SECTION 6. The nursing facility shall not list the quality assurance
4 fee as a separate charge on the billing statement to its patients because the
5 quality assurance fee's calculation is based in part on the aggregate annual
6 gross receipts of the nursing facility.

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8 SECTION 7. Emergency clause. It is found and determined by the General
9 Assembly that nursing facilities are struggling to attain the resources
10 necessary to provide persons in the nursing facilities with the proper
11 services they rightfully deserve. The imposition of the fee will allow
12 nursing facilities to provide quality patient care enhancements, and
13 therefore, ensure the safety of and a healthy environment for patients in
14 nursing facilities. Therefore, an emergency is declared to exist and this act
15 being immediately necessary for the preservation of the public peace, health
16 and safety shall become effective on the date of its approval by the Governor.
17 If the bill is neither approved nor vetoed by the Governor, it shall become
18 effective on the expiration of the period of time during which the Governor
19 may veto the bill. If the bill is vetoed by the Governor and the veto is
20 overridden, it shall become effective on the date the last house overrides the
21 veto.

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/s/ Bevi s

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APPROVED: 3/9/2001

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