

SENATE BILL No. 5

DIGEST OF INTRODUCED BILL

Citations Affected: P.L.18-2006, SECTION 1.

Synopsis: Nursing facility quality assessment fee. Extends collection of the nursing facility quality assessment until August 1, 2009.

Effective: July 1, 2007.

Miller

January 8, 2007, read first time and referred to Committee on Health and Provider Services.

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First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

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SENATE BILL No. 5



A BILL FOR AN ACT concerning Medicaid.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. P.L.18-2006, SECTION 1, IS AMENDED TO READ
- 2 AS FOLLOWS [EFFECTIVE JULY 1, 2007]: SECTION 1. (a) As used
- 3 in this SECTION, "health facility" refers to a health facility that is
- 4 licensed under IC 16-28 as a comprehensive care facility.
- 5 (b) As used in this SECTION, "nursing facility" means a health
- 6 facility that is certified for participation in the federal Medicaid
- 7 program under Title XIX of the federal Social Security Act (42 U.S.C.
- 8 1396 et seq.).
- 9 (c) As used in this SECTION, "office" refers to the office of
- 10 Medicaid policy and planning established by IC 12-8-6-1.
- 11 (d) As used in this SECTION, "total annual revenue" does not
- 12 include revenue from Medicare services provided under Title XVIII of
- 13 the federal Social Security Act (42 U.S.C. 1395 et seq.).
- 14 (e) Effective August 1, 2003, the office shall collect a quality
- 15 assessment from each nursing facility that has:
 - 16 (1) a Medicaid utilization rate of at least twenty-five percent
 - 17 (25%); and
 - 18 (2) at least seven hundred thousand dollars (\$700,000) in annual



1 Medicaid revenue, adjusted annually by the average annual
2 percentage increase in Medicaid rates.

3 (f) If the United States Centers for Medicare and Medicaid Services
4 determines not to approve payments under this SECTION using the
5 methodology described in subsection (e), the office shall revise the
6 state plan amendment and waiver request submitted under subsection
7 (l) as soon as possible to demonstrate compliance with 42 CFR
8 433.68(e)(2)(ii). The revised state plan amendment and waiver request
9 must provide for the following:

10 (1) Effective August 1, 2003, collection of a quality assessment
11 by the office from each nursing facility.

12 (2) Effective August 1, 2003, collection of a quality assessment
13 by the department of state revenue from each health facility that
14 is not a nursing facility.

15 (3) An exemption from collection of a quality assessment from
16 the following:

17 (A) A continuing care retirement community.

18 (B) A health facility that only receives revenue from Medicare
19 services provided under 42 U.S.C. 1395 et seq.

20 (C) A health facility that has less than seven hundred fifty
21 thousand dollars (\$750,000) in total annual revenue, adjusted
22 annually by the average annual percentage increase in
23 Medicaid rates.

24 (D) The Indiana Veterans' Home.

25 Any revision to the state plan amendment or waiver request under this
26 subsection is subject to and must comply with the provisions of this
27 SECTION.

28 (g) If the United States Centers for Medicare and Medicaid Services
29 determines not to approve payments under this SECTION using the
30 methodology described in subsections (e) and (f), the office shall revise
31 the state plan amendment and waiver request submitted under
32 subsection (l) as soon as possible to demonstrate compliance with 42
33 CFR 433.68(e)(2)(ii) and to provide for collection of a quality
34 assessment from health facilities effective August 1, 2003. In amending
35 the state plan amendment and waiver request under this subsection, the
36 office may modify the parameters described in subsection (f)(3).
37 However, if the office determines a need to modify the parameters
38 described in subsection (f)(3), the office shall modify the parameters
39 in order to achieve a methodology and result as similar as possible to
40 the methodology and result described in subsection (f). Any revision of
41 the state plan amendment and waiver request under this subsection is
42 subject to and must comply with the provisions of this SECTION.

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1 (h) The money collected from the quality assessment may be used
 2 only to pay the state's share of the costs for Medicaid services provided
 3 under Title XIX of the federal Social Security Act (42 U.S.C. 1396 et
 4 seq.) as follows:

- 5 (1) Twenty percent (20%) as determined by the office.
 6 (2) Eighty percent (80%) to nursing facilities.

7 (i) After:

8 (1) the amendment to the state plan and waiver request submitted
 9 under this SECTION is approved by the United States Centers for
 10 Medicare and Medicaid Services; and
 11 (2) the office calculates and begins paying enhanced
 12 reimbursement rates set forth in this SECTION;
 13 the office and the department of state revenue shall begin the collection
 14 of the quality assessment set under this SECTION. The office and the
 15 department of state revenue shall establish a method to allow a facility
 16 to enter into an agreement to pay the quality assessment collected
 17 under this SECTION subject to an installment plan.

18 (j) If federal financial participation becomes unavailable to match
 19 money collected from the quality assessments for the purpose of
 20 enhancing reimbursement to nursing facilities for Medicaid services
 21 provided under Title XIX of the federal Social Security Act (42 U.S.C.
 22 1396 et seq.), the office and department of state revenue shall cease
 23 collection of the quality assessment under this SECTION.

24 (k) To implement this SECTION, the:

- 25 (1) office shall adopt rules under IC 4-22-2; and
 26 (2) office and department of state revenue shall adopt joint rules
 27 under IC 4-22-2.

28 (l) Not later than July 1, 2003, the office shall do the following:

- 29 (1) Request the United States Department of Health and Human
 30 Services under 42 CFR 433.72 to approve waivers of 42 CFR
 31 433.68(c) and 42 CFR 433.68(d) by demonstrating compliance
 32 with 42 CFR 433.68(e)(2)(ii).
 33 (2) Submit any state Medicaid plan amendments to the United
 34 States Department of Health and Human Services that are
 35 necessary to implement this SECTION.

36 (m) After approval of the waivers and state Medicaid plan
 37 amendment applied for under subsection (l), the office and the
 38 department of state revenue shall implement this SECTION effective
 39 July 1, 2003.

40 (n) The select joint commission on Medicaid oversight, established
 41 by IC 2-5-26-3, shall review the implementation of this SECTION. The
 42 office may not make any change to the reimbursement for nursing

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1 facilities unless the select joint commission on Medicaid oversight
2 recommends the reimbursement change.

3 (o) A nursing facility or a health facility may not charge the facility's
4 residents for the amount of the quality assessment that the facility pays
5 under this SECTION.

6 (p) The office may withdraw a state plan amendment under
7 subsection (e), (f), or (g) only if the office determines that failure to
8 withdraw the state plan amendment will result in the expenditure of
9 state funds not funded by the quality assessment.

10 (q) If a health facility fails to pay the quality assessment under this
11 SECTION not later than ten (10) days after the date the payment is due,
12 the health facility shall pay interest on the quality assessment at the
13 same rate as determined under IC 12-15-21-3(6)(A).

14 (r) The following shall be provided to the state department of health:

15 (1) The office shall report each nursing facility that fails to pay
16 the quality assessment under this SECTION not later than one
17 hundred twenty (120) days after payment of the quality
18 assessment is due.

19 (2) The department of state revenue shall report each health
20 facility that is not a nursing facility that fails to pay the quality
21 assessment under this SECTION not later than one hundred
22 twenty (120) days after payment of the quality assessment is due.

23 (s) The state department of health shall do the following:

24 (1) Notify each nursing facility and each health facility reported
25 under subsection (r) that the nursing facility's or health facility's
26 license under IC 16-28 will be revoked if the quality assessment
27 is not paid.

28 (2) Revoke the nursing facility's or health facility's license under
29 IC 16-28 if the nursing facility or the health facility fails to pay
30 the quality assessment.

31 (t) An action taken under subsection (s)(2) is governed by:

32 (1) IC 4-21.5-3-8; or

33 (2) IC 4-21.5-4.

34 (u) The office shall report the following information to the select
35 joint commission on Medicaid oversight established by IC 2-5-26-3 at
36 every meeting of the commission:

37 (1) Before the quality assessment is approved by the United States
38 Centers for Medicare and Medicaid Services:

39 (A) an update on the progress in receiving approval for the
40 quality assessment; and

41 (B) a summary of any discussions with the United States
42 Centers for Medicare and Medicaid Services.

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- 1 (2) After the quality assessment has been approved by the United
- 2 States Centers for Medicare and Medicaid Services:
- 3 (A) an update on the collection of the quality assessment;
- 4 (B) a summary of the quality assessment payments owed by a
- 5 nursing facility or a health facility; and
- 6 (C) any other relevant information related to the
- 7 implementation of the quality assessment.
- 8 (v) This SECTION expires August 1, ~~2007~~. **2009**.

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