



Senate

General Assembly

File No. 456

February Session, 2004

Substitute Senate Bill No. 565

Senate, April 5, 2004

The Committee on Public Health reported through SEN. MURPHY of the 16th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING A NURSING FACILITY USER FEE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) (a) For purposes of this
2 section, a "nursing facility" means a chronic and convalescent nursing
3 home or rest home with nursing supervision licensed by the
4 Department of Public Health.

5 (b) The Department of Social Services shall assess a user fee of
6 fourteen dollars per patient day on the revenues of each nursing
7 facility that is not exempt pursuant to subsection (e) of this section.
8 Patient days shall include all days for patients who are paying
9 privately or whose care is paid for by private insurance or by the
10 Medicaid program, but does not include days for patients whose care
11 is covered by Medicare. The cost of the user fee shall be an allowable
12 cost for the purpose of Medicaid reimbursement.

13 (c) Notwithstanding the provisions of subdivision (4) of subsection

14 (f) of section 17-340 of the general statutes, as amended, and in
 15 conformance with the requirements of subsection (a) of section 17b-340
 16 of the general statutes, as amended, all amounts collected by the
 17 department pursuant to this section and all federal matching funds for
 18 such amounts, shall be used solely to promote the well-being of the
 19 residents of nursing facilities, improve working conditions for staff
 20 and protect the financial stability of nursing facilities through
 21 increased reimbursement to nursing facilities, as follows:

22 (1) Rebasing of nursing facility costs to the cost year ending
 23 September 30, 2003;

24 (2) Efficiency incentives to reward cost-effective facilities;

25 (3) Enhanced wages and benefits to enable nursing facilities to
 26 attract and retain qualified staff or to increase staff; and

27 (4) An annual inflation adjustment equal to the actual inflation of
 28 costs for nursing facilities.

29 (d) The department shall publish an annual accounting of funds
 30 received under this user fee program, the amount of federal matching
 31 funds associated with the user fee and the ways in which these funds
 32 were utilized to improve the adequacy of payments to nursing
 33 facilities.

34 (e) On or before October 1, 2004, the Commissioner of Social
 35 Services shall request approval from the Centers for Medicare and
 36 Medicaid Services for a waiver of federal requirements for broad-
 37 based user fees, to exempt certain nursing facilities. The waiver request
 38 shall comply with the requirements of 42 CFR 433.68(e).

This act shall take effect as follows:	
Section 1	<i>from passage</i>

PH Joint Favorable Subst.

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect
Department of Social Services	GF - See Below

Municipal Impact: None

Explanation

This bill assesses a user fee on the revenue generated by nursing facilities based upon patient days and would result in a significant revenue gain for the state. Patient days are defined to include all days paid for either privately or through the Medicaid program on the behalf of clients. The fee is set at 14-dollars per patient day. Medicare patient days are exempted from the user fee. There is also a potential significant cost to the state depending upon how the funds resulting from the user fee are redistributed to nursing homes. The Department of Social Services is required to collect the fee.

Currently there are 248 nursing home facilities with 30,500 licensed beds providing two levels of care: 1) chronic and convalescent nursing homes (CCNH); and 2) rest homes with nursing supervision (RHNS). There are three sources of revenue for nursing homes: 1) Medicaid; 2) Medicare; and 3) client funds. Client funds generally come from the following sources: the client’s estate and assets; long-term care insurance policies; and ongoing retirement benefits such as Social Security payments. Once a client’s assets have been exhausted, payments for services will be continued under the state’s Medicaid program. In addition, retirement benefits will be “applied” towards the costs of staying in a nursing home (less a personal needs allowance).

In 2003, there were 10.24 million patient days generating revenue for nursing homes from all sources of payers. Of this amount, 13 percent of the payments are provided by Medicare, 68 percent are provided by Medicaid and the remaining 19 percent are paid by private sources. The bill assesses a 14-dollar user fee on all patient days except Medicare. This user fee would result in \$126.4 million in revenue for the state from an assessment upon 9 million patient days. This revenue gain would be reduced due to potential exemptions of certain nursing facilities. The bill requires the Commissioner of Social Services to request approval from the federal government to waive the fee for certain facilities. The bill does not provide standards for such an exemption; therefore the loss of revenue is indeterminable at this time.

The bill also requires that all amounts collected by the department and all federal matching funds for such amounts be used to promote and protect the financial stability of nursing facilities and provides criteria for increased reimbursement. The bill does not specify how these funds would be redistributed to nursing homes and no appropriation is provided in the bill or in sHB 5033, "An Act Making Adjustments for the Biennium Ending June 30th, 2005 and Making Appropriations Therefore" (as favorably reported by the Appropriations Committee).

There would be additional administrative costs incurred by the Department of Social Services as they would be required to promulgate regulations needed to implement the user fee, assess and collect the fee from nursing homes, and account for the revenue received.

OLR Bill Analysis

sSB 565

AN ACT CONCERNING A NURSING FACILITY USER FEE**SUMMARY:**

This bill establishes a user fee on nursing facilities. It requires the Department of Social Services (DSS) to assess \$14 per patient day on the revenues of each non-exempt nursing facility. It applies to chronic and convalescent nursing homes or rest homes with nursing supervision licensed by the Department of Public Health.

The bill requires DSS, by October 1, 2004, to seek approval from the federal Centers for Medicare and Medicaid Services (CMS) for a waiver of federal requirements concerning broad-based user fees in order to exempt certain nursing facilities from the user fee. The waiver must comply with federal regulations on permissible health care-related taxes.

The bill requires that all fees DSS collects through this user fee and all federal matching funds it receives be used solely to promote nursing facility residents' well-being, improve staff working conditions, and protect the nursing facilities' financial stability through increased reimbursement. DSS must publish an annual accounting of these funds.

EFFECTIVE DATE: Upon passage

NURSING FACILITY USER FEE

For purposes of assessing the user fee, the bill specifies that patient days include all days for patients who are paying privately or whose care is paid by private insurance or Medicaid. It excludes days for patients covered by Medicare. The cost of the user fee is an allowable cost for Medicaid reimbursement, making it eligible for federal matching funds.

USE OF THE USER FEE AND FEDERAL MATCHING FUNDS

The bill requires that the fees and federal matching funds collected be used, regardless of any reimbursement limits that may exist in law, for:

1. rebasing nursing facilities costs to the cost year ending September 30, 2003;
2. incentives to reward cost-effective facilities;
3. enhanced wages and benefits so nursing facilities can attract, retain, and increase qualified staff; and
4. an annual inflation adjustment equal to the facilities' actual cost inflation.

DSS must annually publish an accounting of the funds received under the user fee, the amount of federal matching funds associated with the fee, and the ways these funds were used to improve the adequacy of payments to nursing facilities.

BACKGROUND

Medicaid Rules on Provider Taxes

States that have imposed nursing home provider taxes have generally done so to provide financial relief to the nursing home industry in a time of Medicaid cutbacks. Essentially, the state imposes the tax and then uses what it collects to increase nursing home rates or make other monetary enhancements. In general, any rate increases or other Medicaid-funded enhancements (e. g. , wage increases for staff) are eligible for a federal Medicaid matching payment (usually 50%).

Since the Medicaid program provides a large share of the nursing home industry's operating revenues, the program's oversight agency, CMS, must generally sign off on state nursing home provider taxes. When deciding whether to approve a tax, CMS must make sure the tax is broad-based, uniform, and does not violate the law's hold-harmless provisions.

Federal regulations require provider taxes to be broad-based. To meet this criterion, a state must impose it on all health care items or services or on the providers of these items and services.

COMMITTEE ACTION

Public Health Committee

Joint Favorable Substitute
Yea 16 Nay 6