

**SB189 ENROLLED**



1 SHAR87-2  
2 By Senators Albritton, Melson, Reed  
3 RFD: Finance and Taxation General Fund  
4 First Read: 06-Apr-23  
5 2023 Regular Session



## SB189 Enrolled

1 Enrolled, An Act,

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3 Relating to Medicaid; to amend Section 40-26B-26, Code  
4 of Alabama 1975, to revise the circumstances under which the  
5 Alabama Medicaid Agency may revise the ceiling for the  
6 Medicaid reimbursement rate to nursing facilities during a  
7 given fiscal year; and to make nonsubstantive, technical  
8 revisions to update the existing code language to current  
9 style.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11 Section 1. Section 40-26B-26, Code of Alabama 1975, is  
12 amended to read as follows:

13 "§40-26B-26

14 (a) No revenues resulting from the privilege assessment  
15 established by this article and applied to increases in  
16 covered services or reimbursement levels or other enhancements  
17 of the Medicaid program shall be subject to reduction or  
18 elimination while the privilege assessment is in effect.

19 (b) Every nursing facility participating in the  
20 Medicaid program in the State of Alabama shall be reimbursed  
21 according to the reimbursement methodology contained in  
22 Chapter 560-X-22 of the Alabama ~~Medicaid Agency~~ Administrative  
23 Code ~~(Supp. 12/31/95) on January 31, 1998~~, which methodology  
24 is incorporated by reference herein, except that the following  
25 shall apply:

26 (1) The ceiling for the operating cost center described  
27 in Title Rule 560-X-22-.06 (2) (a) of the Alabama ~~Medicaid~~  
28 ~~Agency~~ Administrative Code ~~(Supp. 12/95)~~ shall be computed at



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29 the median plus five percent.

30 (2) The ceiling for the direct patient care cost center  
31 described in ~~Title Rule~~ 560-X-22-.06 (2) (b) of the Alabama  
32 ~~Medicaid Agency~~ Administrative Code ~~(Supp. 12/95)~~ shall be  
33 computed at the median plus 10 percent, and the provider's  
34 actual allowable reported cost per patient day plus 11  
35 percent, or the established ceiling plus 11 percent, whichever  
36 is less, will be used for each provider's rate computation.

37 (3) The Medicaid Inflation Index described in ~~Title~~  
38 ~~Rule~~ 560-X-22-.07 of the Alabama ~~Medicaid Agency~~  
39 Administrative Code ~~(Supp. 12/95)~~ shall be computed without  
40 regard to the trend factor variance described in ~~Title Rule~~  
41 560-X-22-.07 ~~(5) (4)~~ of the Alabama ~~Medicaid Agency~~  
42 Administrative Code ~~(Supp. 12/95)~~.

43 (4) In calculating the ceiling for the operating cost  
44 center, the direct patient care cost center or the indirect  
45 patient care cost center, any increase in that ceiling over  
46 such ceiling set in the year next preceding, shall not exceed  
47 an amount equal to the product of such ceiling for the  
48 previous year times the sum of the Medicaid Inflation Index,  
49 described in ~~Title Rule~~ 560-X-22-.07 of the Alabama ~~Medicaid~~  
50 ~~Agency~~ Administrative Code ~~(Supp. 12/95)~~, plus four percent.

51 (5) In determining the reimbursement in any fiscal year  
52 to a nursing facility for certain specialized medical  
53 equipment as described in ~~Title Rule~~ 560-X-22-.14 (19) of the  
54 Alabama ~~Medicaid Agency~~ Administrative Code ~~(Supp. 12/95)~~,  
55 there shall be added to the daily Medicaid per diem rate  
56 computed for that fiscal year, without regard to the cost of



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57 such specialized medical equipment, an amount equal to the  
58 actual cost of such specialized medical equipment utilized for  
59 Medicaid residents during the fiscal year next preceding and  
60 divided by the actual number of Medicaid patient days incurred  
61 during that preceding fiscal year. For the purpose of this  
62 subdivision, the terms Medicaid patient days, Medicaid per  
63 diem rate, and fiscal year shall have the meanings assigned to  
64 them in ~~Title Chapter~~ 560-X-22 ~~et seq.~~ of the Alabama ~~Medicaid~~  
65 ~~Agency~~ Administrative Code ~~(Supp. 12/95)~~.

66 (6) For the period that the federal financial  
67 participation under Title XIX of the Social Security Act for  
68 certain intergovernmental transfers is available to the  
69 Alabama Medicaid program, the commissioner of the agency may  
70 pay an enhancement, not to exceed the upper limits for  
71 Medicare nursing facility payments, to rural hospital  
72 connected nursing facilities under governmental authority or  
73 control. Notwithstanding the foregoing, the enhancement shall  
74 not be limited by the provisions of ~~Title Chapter~~ 560-X-22 of  
75 the Alabama ~~Medicaid Agency~~ Administrative Code.

76 (7) Notwithstanding subdivision (3), from October 1,  
77 2011, through September 30, 2014, in applying the inflation  
78 factor, zero percent shall be used to compute overall rates.

79 (8) Beginning with the setting of Medicaid nursing  
80 facility rates based on the cost reporting period ended June  
81 30, 2020, the current asset value, ~~as~~ described in Rule  
82 560-X-22-.14(11) of the Alabama ~~Medicaid Agency~~ Administrative  
83 Code, ~~for~~ each nursing facility, after applying the July 1,  
84 2020, ~~re~~ basing as provided under Rule 560-X-22-.14(11) of the



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85 Alabama ~~Medicaid~~-Administrative Code, used to calculate  
86 nursing facility rates, shall be recalculated by adding to  
87 each respective nursing facility's current asset value an  
88 amount equal to the product derived by multiplying the June  
89 30, 2020, rebasing as provided under Rule 560-X-22-.14(11) of  
90 the Alabama ~~Medicaid Agency~~-Administrative Code by 41.03%. The  
91 current asset value as adjusted herein, shall be rebased each  
92 subsequent year in accordance with Rule 560-X-22.14 of the  
93 Alabama Administrative Code, and applied to calculate Medicaid  
94 nursing facility rates each subsequent cost reporting year.  
95 Notwithstanding anything to the contrary in the foregoing, for  
96 the purposes of applying the recalculated current asset value  
97 to calculate a nursing facility's Medicaid rate for the cost  
98 reporting year beginning July 1, 2020, any resulting rate  
99 increase shall be effective for services provided on or after  
100 October 1, 2020. No nursing facility Medicaid rate increase  
101 for the recalculation of current asset value described in this  
102 subdivision shall be effective for services provided prior to  
103 October 1, 2020.

104 (9) For purposes of revising or adjusting the ceiling  
105 under Rule 560-X-22-.06(3) of the Alabama Administrative Code,  
106 once the ceiling has been established for a fiscal year, it  
107 shall be final and not subject to revision or adjustment  
108 during that year, except as provided in this subdivision. At  
109 the discretion of the agency, the ceiling may be revised or  
110 adjusted upon either the discovery of a material error or upon  
111 a determination by the commissioner that it is necessary to  
112 increase one or more of the ceilings in the event nursing



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113 facilities are unable to be reimbursed for increases in  
114 allowable costs that were required to be expended by nursing  
115 facilities to meet a nationwide or statewide public health  
116 emergency or because of a new federal or state law or  
117 regulation or a statewide uncontrollable catastrophic event  
118 affecting a majority of nursing facilities, and the resulting  
119 increase in allowable costs would not be reimbursed due to the  
120 annual ceiling increase limitation set forth in Rule  
121 560-X-22-.06(2) of the Alabama Administrative Code. Because  
122 the ceiling rate is based on information provided in the cost  
123 reports, it is to the benefit of each provider to ensure that  
124 the provider's information is correct and accurate. If obvious  
125 errors are detected during the desk audit process, providers  
126 shall be given an opportunity to submit corrected data to the  
127 agency.

128 (c) Payments by the Medicaid program to each nursing  
129 facility for nursing home services shall be sufficient to  
130 cover the costs determined by cost reporting principles  
131 incurred by each such nursing facility in providing care in an  
132 economical and efficient manner and that is adequate to permit  
133 the provision of care and services necessary to attain or  
134 maintain the highest practicable, physical, mental, and  
135 psychosocial well-being of each resident eligible for Alabama  
136 Medicaid nursing home benefits in conformity with applicable  
137 state and federal laws, rules, and regulations and quality and  
138 safety standards.

139 (d) Notwithstanding subsection (b), Medicaid shall be  
140 empowered to create a special reimbursement model to



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141 accommodate enhanced reimbursed care provided in dedicated  
142 ventilator units in nursing facilities that meet special  
143 physical plant requirements such as dedicated emergency power  
144 generation, through-the-wall medical gases and suction,  
145 24-hour per day staffing with trained licensed respiratory  
146 therapists, and medical direction through contract with or  
147 employment of an Alabama licensed physician who is a board  
148 certified pulmonologist.

149 (e)(1) Notwithstanding subsection (b), the Alabama  
150 Medicaid Agency may create a quality incentive program for  
151 nursing facilities that meet certain quality measures during  
152 the scoring year. For the purpose of this subsection, the  
153 scoring year for any year is the cost reporting year beginning  
154 July 1 and ending June 30. The first scoring period shall be  
155 July 1, 2020, through June 30, 2021. The quality incentive  
156 shall be paid to nursing facilities in a lump sum on or before  
157 February 1, following the scoring period ended the immediately  
158 prior June 30. For each scoring year, the Alabama Medicaid  
159 Agency shall establish a quality incentive fund of not less  
160 than \$5,000,000, from which quality incentive awards will be  
161 awarded and paid to those nursing facilities qualifying for a  
162 quality incentive award. Quality incentive scoring for each  
163 scoring period shall be determined from certain measures  
164 selected by the Alabama Medicaid Agency from both of the  
165 following:

166 a. Five of the MDS Quality Measures compiled by the  
167 Centers for Medicare and Medicaid Services (CMS), Department  
168 of Health and Human Services.



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169           b. Three of customer satisfaction survey categories  
170 that are independently gathered and prepared by NRC Health, or  
171 another nationally recognized satisfaction survey company with  
172 experience in the long term care field.

173           (2) The Alabama Medicaid Agency shall determine the  
174 manner that scoring points are awarded, provided that to be  
175 eligible to earn points for any category, a nursing facility  
176 must do either of the following:

177           a. Show improvement in that category during the current  
178 scoring period over the most recent prior scoring period.

179           b. Rank for that category at or above the established  
180 national average."

181           Section 2. This act shall become effective on the first  
182 day of the third month following its passage and approval by  
183 the Governor, or its otherwise becoming law.





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President and Presiding Officer of the Senate

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Speaker of the House of Representatives

SB189  
Senate 25-Apr-23  
I hereby certify that the within Act originated in and passed  
the Senate.

Patrick Harris,  
Secretary.

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House of Representatives  
Passed: 23-May-23

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By: Senator Albritton