

SB189 INTRODUCED



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

Certain nursing facilities provide health care services to Medicaid patients and are reimbursed at specific rates. The Alabama Medicaid Agency, with guidance from state law, sets by rule the methodology used to establish reimbursement rates and the ceiling for those rates.

Under an existing administrative rule of the Alabama Medicaid Agency, once the ceiling is established, the ceiling may not be revised for that fiscal year except for material error.

This bill would authorize the Alabama Medicaid Agency to revise the ceiling during a fiscal year if nursing facilities are unable to be reimbursed for increases in allowable costs that were required to be expended by nursing facilities due to certain unforeseen circumstances.

This bill would also make nonsubstantive, technical revisions to update the existing code language to current style.

A BILL
TO BE ENTITLED
AN ACT



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29
30 Relating to Medicaid; to amend Section 40-26B-26, Code
31 of Alabama 1975, to revise the circumstances under which the
32 Alabama Medicaid Agency may revise the ceiling for the
33 Medicaid reimbursement rate to nursing facilities during a
34 given fiscal year; and to make nonsubstantive, technical
35 revisions to update the existing code language to current
36 style.

37 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

40 "§40-26B-26

41 (a) No revenues resulting from the privilege assessment
42 established by this article and applied to increases in
43 covered services or reimbursement levels or other enhancements
44 of the Medicaid program shall be subject to reduction or
45 elimination while the privilege assessment is in effect.

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

53 (1) The ceiling for the operating cost center described
54 in Title Rule 560-X-22-.06 (2) (a) of the Alabama ~~Medicaid~~
55 ~~Agency~~ Administrative Code ~~(Supp. 12/95)~~ shall be computed at
56 the median plus five percent.



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

64 (3) The Medicaid Inflation Index described in ~~Title~~
65 Rule 560-X-22-.07 of the Alabama ~~Medicaid Agency~~
66 Administrative Code ~~(Supp. 12/95)~~ shall be computed without
67 regard to the trend factor variance described in ~~Title~~ Rule
68 560-X-22-.07 ~~(5)~~ (4) of the Alabama ~~Medicaid Agency~~
69 Administrative Code ~~(Supp. 12/95)~~.

70 (4) In calculating the ceiling for the operating cost
71 center, the direct patient care cost center or the indirect
72 patient care cost center, any increase in that ceiling over
73 such ceiling set in the year next preceding, shall not exceed
74 an amount equal to the product of such ceiling for the
75 previous year times the sum of the Medicaid Inflation Index,
76 described in ~~Title~~ Rule 560-X-22-.07 of the Alabama ~~Medicaid~~
77 ~~Agency~~ Administrative Code ~~(Supp. 12/95)~~, plus four percent.

78 (5) In determining the reimbursement in any fiscal year
79 to a nursing facility for certain specialized medical
80 equipment as described in ~~Title~~ Rule 560-X-22-.14 (19) of the
81 Alabama ~~Medicaid Agency~~ Administrative Code ~~(Supp. 12/95)~~,
82 there shall be added to the daily Medicaid per diem rate
83 computed for that fiscal year, without regard to the cost of
84 such specialized medical equipment, an amount equal to the



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85 actual cost of such specialized medical equipment utilized for
86 Medicaid residents during the fiscal year next preceding and
87 divided by the actual number of Medicaid patient days incurred
88 during that preceding fiscal year. For the purpose of this
89 subdivision, the terms Medicaid patient days, Medicaid per
90 diem rate, and fiscal year shall have the meanings assigned to
91 them in ~~Title Chapter~~ 560-X-22 ~~et seq.~~ of the Alabama ~~Medicaid~~
92 ~~Agency~~ Administrative Code ~~(Supp. 12/95)~~.

93 (6) For the period that the federal financial
94 participation under Title XIX of the Social Security Act for
95 certain intergovernmental transfers is available to the
96 Alabama Medicaid program, the commissioner of the agency may
97 pay an enhancement, not to exceed the upper limits for
98 Medicare nursing facility payments, to rural hospital
99 connected nursing facilities under governmental authority or
100 control. Notwithstanding the foregoing, the enhancement shall
101 not be limited by the provisions of ~~Title Chapter~~ 560-X-22 of
102 the Alabama ~~Medicaid Agency~~ Administrative Code.

103 (7) Notwithstanding subdivision (3), from October 1,
104 2011, through September 30, 2014, in applying the inflation
105 factor, zero percent shall be used to compute overall rates.

106 (8) Beginning with the setting of Medicaid nursing
107 facility rates based on the cost reporting period ended June
108 30, 2020, the current asset value, ~~as~~ described in Rule
109 560-X-22-.14(11) of the Alabama ~~Medicaid Agency~~ Administrative
110 Code, ~~for~~ for each nursing facility, after applying the July 1,
111 2020, ~~re~~ rebasing as provided under Rule 560-X-22-.14(11) of the
112 Alabama ~~Medicaid~~ Administrative Code, used to calculate



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113 nursing facility rates, shall be recalculated by adding to
114 each respective nursing facility's current asset value an
115 amount equal to the product derived by multiplying the June
116 30, 2020, rebasing as provided under Rule 560-X-22-.14(11) of
117 the Alabama ~~Medicaid Agency~~ Administrative Code by 41.03%. The
118 current asset value as adjusted herein, shall be rebased each
119 subsequent year in accordance with Rule 560-X-22.14 of the
120 Alabama Administrative Code, and applied to calculate Medicaid
121 nursing facility rates each subsequent cost reporting year.
122 Notwithstanding anything to the contrary in the foregoing, for
123 the purposes of applying the recalculated current asset value
124 to calculate a nursing facility's Medicaid rate for the cost
125 reporting year beginning July 1, 2020, any resulting rate
126 increase shall be effective for services provided on or after
127 October 1, 2020. No nursing facility Medicaid rate increase
128 for the recalculation of current asset value described in this
129 subdivision shall be effective for services provided prior to
130 October 1, 2020.

131 (9) For purposes of revising or adjusting the ceiling
132 under Rule 560-X-22-.06(3) of the Alabama Administrative Code,
133 once the ceiling has been established for a fiscal year, it
134 shall be final and not subject to revision or adjustment
135 during that year, except as provided in this subdivision. At
136 the discretion of the agency, the ceiling may be revised or
137 adjusted upon either the discovery of a material error or upon
138 a determination by the commissioner that it is necessary to
139 increase one or more of the ceilings in the event nursing
140 facilities are unable to be reimbursed for increases in



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141 allowable costs that were required to be expended by nursing
142 facilities to meet a nationwide or statewide public health
143 emergency or because of a new federal or state law or
144 regulation or a statewide uncontrollable catastrophic event
145 affecting a majority of nursing facilities, and the resulting
146 increase in allowable costs would not be reimbursed due to the
147 annual ceiling increase limitation set forth in Rule
148 560-X-22-.06(2) of the Alabama Administrative Code. Because
149 the ceiling rate is based on information provided in the cost
150 reports, it is to the benefit of each provider to ensure that
151 the provider's information is correct and accurate. If obvious
152 errors are detected during the desk audit process, providers
153 shall be given an opportunity to submit corrected data to the
154 agency.

155 (c) Payments by the Medicaid program to each nursing
156 facility for nursing home services shall be sufficient to
157 cover the costs determined by cost reporting principles
158 incurred by each such nursing facility in providing care in an
159 economical and efficient manner and that is adequate to permit
160 the provision of care and services necessary to attain or
161 maintain the highest practicable, physical, mental, and
162 psychosocial well-being of each resident eligible for Alabama
163 Medicaid nursing home benefits in conformity with applicable
164 state and federal laws, rules, and regulations and quality and
165 safety standards.

166 (d) Notwithstanding subsection (b), Medicaid shall be
167 empowered to create a special reimbursement model to
168 accommodate enhanced reimbursed care provided in dedicated



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169 ventilator units in nursing facilities that meet special
170 physical plant requirements such as dedicated emergency power
171 generation, through-the-wall medical gases and suction,
172 24-hour per day staffing with trained licensed respiratory
173 therapists, and medical direction through contract with or
174 employment of an Alabama licensed physician who is a board
175 certified pulmonologist.

176 (e) (1) Notwithstanding subsection (b), the Alabama
177 Medicaid Agency may create a quality incentive program for
178 nursing facilities that meet certain quality measures during
179 the scoring year. For the purpose of this subsection, the
180 scoring year for any year is the cost reporting year beginning
181 July 1 and ending June 30. The first scoring period shall be
182 July 1, 2020, through June 30, 2021. The quality incentive
183 shall be paid to nursing facilities in a lump sum on or before
184 February 1, following the scoring period ended the immediately
185 prior June 30. For each scoring year, the Alabama Medicaid
186 Agency shall establish a quality incentive fund of not less
187 than \$5,000,000, from which quality incentive awards will be
188 awarded and paid to those nursing facilities qualifying for a
189 quality incentive award. Quality incentive scoring for each
190 scoring period shall be determined from certain measures
191 selected by the Alabama Medicaid Agency from both of the
192 following:

193 a. Five of the MDS Quality Measures compiled by the
194 Centers for Medicare and Medicaid Services (CMS), Department
195 of Health and Human Services.

196 b. Three of customer satisfaction survey categories



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197 that are independently gathered and prepared by NRC Health, or
198 another nationally recognized satisfaction survey company with
199 experience in the long term care field.

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

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

206 b. Rank for that category at or above the established
207 national average."

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