



Bob Bennett

Bill Analysis

Legislative Service Commission

S.B. 244

124th General Assembly
(As Introduced)

Sen. Mumper

BILL SUMMARY

- Requires the Ohio Department of Job and Family Services (ODJFS) to increase, for a maximum of five years, the per resident per day rate for other protected costs that ODJFS pays a nursing facility or intermediate care facility for the mentally retarded if certain conditions regarding energy conservation measures are met.
- Establishes the conditions a facility must meet to qualify for the increased rate.
- Establishes the formula ODJFS is to use to determine how much to increase a qualifying facility's rate.
- Provides that a facility's change in ownership does not terminate the facility's eligibility for an increased rate.
- Provides for retroactive rate increases to facilities that would have qualified for the increase within the two-year period prior to the bill's effective date had the bill been in effect at that time.

CONTENT AND OPERATION

Background

Current law requires the Ohio Department of Job and Family Services (ODJFS) to pay the reasonable costs of services that a nursing facility or intermediate care facility for the mentally retarded (ICF/MR) with a Medicaid provider agreement provides to Medicaid recipients.¹

¹ A cost is reasonable if it is an actual cost that is appropriate and helpful to develop and maintain the operation of patient care facilities and activities and does not exceed what a

Nursing facility and ICF/MR services are divided into four different categories, referred to in state law as cost centers. Each cost center has its own Medicaid reimbursement formula. The four cost centers are capital, direct care, indirect care, and other protected costs. The bill requires the Ohio Department of Job and Family Services (ODJFS) to increase the per resident per day rate for other protected costs that ODJFS pays a nursing facility or intermediate care facility for the mentally retarded (ICF/MR) if certain conditions regarding energy conservation measures are met. A facility's rate could be increased for a maximum of five years.

Conditions for an increased Medicaid payment for other protected costs

(sec. 5111.236(B))

To qualify for the increased per resident per day rate for other protected costs, a nursing facility or ICF/MR must satisfy certain requirements. First, the facility must contract with an energy conservation services firm for the purpose of installing, operating, and maintaining energy conservation measures. To meet this requirement, the energy conservation services firm must do all of the following:

(1) Provide the facility documentation showing that the firm has successfully completed in nursing facilities, ICFs/MR, or both at least 15 energy conservation projects that include energy surveys, system design, and energy calculations;

(2) Provide the facility documentation showing that the firm has general liability insurance coverage for at least \$1 million for each occurrence, \$50,000 for fire damage per any one fire, \$5,000 for medical expenses per any one individual, \$1 million for personal and advertising injury, \$2 million for general aggregate, and \$1 million for products completed operations aggregate;

(3) Employ at least one individual who has at least two years of documented experience in energy efficiency and design;

(4) If the firm is a publicly traded corporation, provide the facility a copy of its most recent annual report to shareholders;

(5) If the firm is not a publicly traded corporation, provide the facility a copy of an audited financial statement documenting its financial condition for the most recent year available.

prudent buyer pays for a given item or services. Reasonable costs may vary from provider-to-provider and from time-to-time for the same provider.

The second requirement is that the facility install, operate, and maintain energy conservation measures pursuant to the contract with the energy conservation services firm. Third, the facility must include in an addendum to its Medicaid cost report certification of two things: (1) that the facility possesses the materials that the energy conservation services firm must provide to the facility and (2) the energy savings from the energy conservation measures as analyzed and quantified from actual metering of usage before and after the energy conservation measures are installed and operated. The facility must maintain the materials and information for which certification is required for the amount of time the facility is required to maintain financial, statistical, and medical records supporting its cost reports.² The facility must also make those materials and information available on request to ODJFS or other government entity with authority to audit the facility during the period the facility is required to maintain them.

Formula to determine increased other protected costs payment

(sec. 5111.235 and 5111.236(A) and (C))

A nursing facility or ICF/MR that meets the bill's requirements for an increased per resident per day rate for other protected costs is to receive the increase for the first five fiscal years after the first cost savings calendar year. The first cost savings calendar year is the first calendar year after the base calendar year that the facility's partial utility costs are less than they were for the base calendar year. The base calendar year is the calendar year preceding the calendar year in which the facility installs and begins to operate energy conservation measures. A facility's partial utility costs are the allocated adjusted total for heat, light, and power and water and sewage as reported on its Medicaid cost report schedule regarding other protected costs.

The bill establishes a formula that ODJFS is required to follow to determine how much to increase a qualifying facility's Medicaid payment for other protected costs. The following is the formula and an example of how it would affect a facility with 100 beds and 90% occupancy. In the example, the facility's partial utility costs is \$50,000 for the base calendar year and \$47,000 for the first cost savings calendar year. The amounts used for partial utility costs are hypothetical and may be very high or low in comparison to a facility's actual partial utility costs.

² *A nursing facility or ICF/MR must retain financial, statistical, and medical records supporting its cost reports for the greater of seven years after the cost report is filed, if ODJFS issues an audit, or six years after all appeal rights relating to the audit report are exhausted. (Ohio Administrative Code § 5101:3-3-20.)*

(1) Divide the facility's partial utility costs for the base calendar year by the facility's inpatient days for the base calendar year. ($\$50,000/32,850=1.52$.)³

(2) Divide the facility's partial utility costs for the first cost savings calendar year by the facility's inpatient days for the first cost savings calendar year. ($\$47,000/32,850=1.43$.)

(3) Subtract the quotient obtained under (2) from the quotient obtained under (1). ($1.52-1.43=.09$.)

(4) Divide the difference obtained under (3) by two. ($.09/2=.045$.)

The amount determined under the formula, .045 in the example, is to be added to the amount of the facility's per resident per day rate for other protected costs. For example, a facility whose per resident per day rate for other protected costs is \$8 would have the rate increased to \$8.045. ($8+.045=8.045$.)

Change in ownership

(sec. 5111.236(D))

The bill provides that a change in ownership of a nursing facility or ICF/MR does not terminate the facility's eligibility for an increased per resident per day rate for other protected costs. If the facility continues to meet the requirements for the increase, the new provider is to receive the increase for the balance of the five fiscal years. This means, for example, that the new provider would receive the increase for two years if the previous provider received the increase for three years.

Retroactive increase

(sec. 5111.236(E))

If a nursing facility or ICF/MR would have been eligible for an increased per resident per day rate for other protected costs in the manner the bill provides within the two-year period prior to the bill's effective date had the bill been in effect at that time, ODJFS is required to recalculate the facility's rate for that period and make payments to the provider accordingly. Such retroactive payments

³ A facility's inpatient days are the days during which a resident, regardless of payment source, occupies a bed in the facility that is included in the facility's certified capacity under Medicaid. Therapeutic and hospital leave days for which payment is made are considered inpatient days proportionate to the percentage of the facility's per resident per day rate paid for those days. The 32,850 figure is determined by figuring 90% of 100 beds occupied in a 365-day cost reporting period.

are to be deducted from the five fiscal years the facility is eligible for an increase under the bill.

HISTORY

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Introduced	02-27-02	p. 1529

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