



Ohio Legislative Service Commission

Bill Analysis

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S.B. 264

129th General Assembly
(As Introduced)

Sens. Jones, Niehaus, Burke, Lehner

BILL SUMMARY

- Revises the law governing quality incentive payments paid to nursing facilities under the Medicaid program.
- Requires the Ohio Department of Job and Family Services (ODJFS), as part of the process of determining the amount of the quality incentive payment to be paid to a nursing facility, to award the facility one point for each accountability measure the facility meets.
- Establishes 23 accountability measures.
- Provides for the per Medicaid day amount of a quality incentive payment to be the product of the number of points a nursing facility is awarded for meeting accountability measures and \$3.29, except that no quality incentive payment is to exceed \$16.44 per Medicaid day.
- Provides for a qualifying nursing facility to receive a quality bonus in addition to its quality incentive payment if the residual budgeted amount for quality incentive payments for the fiscal year is greater than zero.
- Provides that a nursing facility qualifies for a quality bonus if the facility is awarded more than five points for meeting accountability measures.
- Provides that the total quality bonus to be paid to a qualifying nursing facility is to equal the product of the facility's quality bonus per Medicaid day and the number of the facility's Medicaid days.

CONTENT AND OPERATION

Quality incentive payments

The bill revises the law governing quality incentive payments paid to nursing facilities under the Medicaid program.¹ A quality incentive payment is one of the components that make up the total Medicaid rate paid to a nursing facility. Payments for direct care costs, ancillary and support costs, tax costs, and capital costs are other components. Until July 1, 2012, a payment for the franchise permit fee is another component.

The budget act for the current fiscal biennium, Am. Sub. H.B. 153 of the 129th General Assembly, requires the Ohio Department of Job and Family Services (ODJFS), for fiscal year 2013 and thereafter, to award each nursing facility participating in the Medicaid program points for meeting accountability measures in accordance with amendments to be made not later than December 31, 2011, to state law governing quality incentive payments.

Accountability measures

Under the bill, ODJFS is to award a nursing facility one point for each of the following accountability measures the facility meets:

(1) The facility's overall score on its resident satisfaction survey (a customer satisfaction survey conducted or arranged by the Ohio Department of Aging (ODA) that contains the results of information obtained from a nursing facility's residents) is at least 86.

(2) The facility's overall score on its family satisfaction survey (an ODA customer satisfaction survey containing the results of information obtained from the families of a nursing facility's residents) is at least 88.

(3) The facility satisfies the requirements for participation in the Advancing Excellence in America's Nursing Homes campaign which is organized by a national group of entities interested in long-term care for the purpose of helping nursing homes provide quality care to their residents.

(4) The facility did not have a health deficiency with a scope and severity level greater than F or a deficiency that constitutes a substandard quality of care on its most

¹ R.C. 5111.244 (primary) and 5111.222.

recent standard survey or any complaint surveys conducted in the calendar year preceding the fiscal year for which the point is to be awarded.

(5) The facility offers at least 50% of its residents restaurant-style dining, buffet-style dining, family-style dining, open dining, or 24-hour dining for at least one meal each day.

(6) At least 50% of the facility's residents are able to take a bath or shower as often as they choose.

(7) On its resident satisfaction survey, the facility has a score of at least 89 for the question regarding residents' ability to choose when to go to bed in the evening and a score of at least 76 for the question regarding residents' ability to choose when to get out of bed in the morning.

(8) On its family satisfaction survey, the facility has a score of at least 88 for the question regarding residents' ability to choose when to go to bed in the evening and, for the question regarding residents' ability to choose when to get out of bed in the morning, a score of at least 75 for fiscal year 2013 and another amount to be determined by ODJFS thereafter.

(9) At least 75% of the facility's residents have the opportunity (following admission to the facility and before completing or quarterly updating their individual plans of care) to discuss their goals for the care they are to receive at the facility (including their preferences for advance care planning) with a member of the residents' healthcare teams that the facility, residents, and residents' sponsors consider appropriate, the facility records the residents' care goals in their medical records, and the facility uses the residents' care goals in the development of the residents' individual plans of care.

(10) As calculated in accordance with the National Voluntary Consensus Standards for Nursing Homes (which are measures used to determine the quality of care provided by nursing facilities as endorsed by the National Quality Forum), not more than a percentage that ODJFS is to specify of the nursing facility's long-stay residents report severe to moderate pain during the assessment process known as the minimum data set (MDS).

(11) As calculated in accordance with the National Voluntary Consensus Standards for Nursing Homes, not more than an ODJFS-specified percentage of the facility's long-stay, high-risk residents have been assessed during the MDS assessment process as having one or more stage two, three, or four pressure ulcers.

(12) As calculated in accordance with the National Voluntary Consensus Standards for Nursing Homes, not more than an ODJFS-specified percentage of the facility's long-stay residents were physically restrained as reported during the MDS assessment process.

(13) As calculated in accordance with the National Voluntary Consensus Standards for Nursing Homes, less than an ODJFS-specified percentage of the facility's long-stay residents had a urinary tract infection as reported during the MDS assessment process.

(14) The facility uses a tool for tracking residents' admissions to hospitals.

(15) At least 50% of the facility's Medicaid-certified beds are in private rooms.

(16) The facility has accessible resident bathrooms, all of which meet at least two of the following standards, and at least some of which meet all of the following standards:

(a) There are room mirrors (a mirror located in either a resident bathroom or resident's room) that are accessible to residents in wheelchairs, can be adjusted so as to be visible to residents who are seated or standing, or both;

(b) There are room sinks (a sink located in either a resident bathroom or resident's room) that are accessible to residents in wheelchairs and have clearance for wheelchairs;

(c) There are room sinks that have faucets with adaptive or easy-to-use lever or paddle handles.

(17) The facility maintains and provides to its staff and residents a written policy that prohibits the use of overhead paging systems or limits the use of overhead paging systems to emergencies, as defined in the policy.

(18) The facility has a score of at least 90 on its resident satisfaction survey with regard to the question about residents' ability to personalize their rooms with personal belongings.

(19) The facility has a score of at least 95 on its family satisfaction survey with regard to the question about residents' ability to personalize their rooms with personal belongings.

(20) The facility maintains a written policy that requires consistent assignment of nurse aides and specifies the goal of having a resident receive nurse aide care from not

more than eight different nurse aides during a 30-day period and the facility communicates the policy to its staff, residents, and families of residents.

(21) The facility's staff retention rate is at least 75%.

(22) The facility's turnover rate for nurse aides is not higher than 65%.

(23) A nurse aide attends and participates in at least 50% of the resident care conferences in the facility for residents for whom the nurse aide is a primary caregiver.²

Time periods for meeting accountability measures

ODJFS is required to specify the period of time for which a nursing facility must meet an accountability measure to be awarded a point for the measure. This requirement does not apply, however, to any accountability measure for which the bill expressly states the period of time for which the measure must be met. Also, the period of time for which nursing facilities must meet accountability measures (3), (5), (6), (9) to (17), (20), (22), and (23) to be awarded points for fiscal year 2013 cannot be calendar year 2011.³

Adjustments to accountability measures

A nursing facility is not to be awarded points for a fiscal year for the accountability measures regarding scores obtained on a resident satisfaction survey (measures (1), (7), and (18)) unless a resident satisfaction survey was initiated for the facility in the calendar year preceding the fiscal year for which the points are to be awarded. Similarly, a nursing facility is not to be awarded points for a fiscal year for the accountability measures regarding scores obtained on a family satisfaction survey (measures (2), (8), and (19)) unless a family satisfaction survey was initiated for the facility in the calendar year preceding the fiscal year for which the points are to be awarded.

In specifying the percentages to be used for accountability measures regarding the National Voluntary Consensus Standards for Nursing Homes (measures (10), (11), (12), and (13)), ODJFS must provide for at least 50% of nursing facilities to earn points for meeting those measures as determined using the 3.0 version of the MDS.

In determining the minimum score that a nursing facility must obtain to be awarded points in fiscal year 2014 and thereafter for the question on its family satisfaction survey regarding residents' ability to choose when to get out of bed in the

² R.C. 5111.244(A) and (C).

³ R.C. 5111.244(D).

morning (the second part of accountability measure (8)), ODJFS is required to provide for the score to be the average score that nursing facilities earn for that measure on the family satisfaction survey initiated in calendar year 2012.⁴

Amount of quality incentive payment

The per Medicaid day amount of a quality incentive payment to be paid to a nursing facility is to be the product of (1) the number of points the facility is awarded for meeting accountability measures and (2) \$3.29. However, no quality incentive payment is to exceed \$16.44 per Medicaid day.⁵ A Medicaid day is a day during which a resident who is a Medicaid recipient eligible for nursing facility services occupies a bed in a nursing facility that is included in the nursing facility's Medicaid-certified capacity.⁶

Customer satisfaction surveys

The bill revises current law governing the annual customer satisfaction surveys of long-term care facilities, including nursing facilities, that ODA is required to conduct or arrange. Continuing law provides that the results of a survey may include information obtained from residents, their families, or both. Under the bill, a survey that is to include information obtained from nursing facility residents must include the questions regarding the scores obtained on a resident satisfaction survey for which a nursing facility may obtain points under the accountability measures (measures (7) and (18), which pertain to resident choice in when to go to and get out of bed and the ability to personalize rooms). And, a survey that is to include information obtained from the families of nursing facility residents must include the questions regarding the scores obtained on a family satisfaction survey for which a nursing facility may obtain points under the accountability measures (measures (8) and (19), which also pertain to resident choice in when to go to and get out of bed and ability to personalize rooms).⁷

Rules

Continuing law requires the ODJFS Director to adopt rules as necessary to implement the state law governing quality incentive payments. The bill permits the

⁴ R.C. 5111.224(D).

⁵ R.C. 5111.224(B).

⁶ R.C. 5111.20 (not in the bill).

⁷ R.C. 173.47.

rules to specify what is meant by "some" as that word is used in the accountability measure regarding resident bathrooms (measure (16)).⁸

Quality bonuses

The bill provides for qualifying nursing facilities to receive quality bonuses for a fiscal year if the residual budgeted amount for quality incentive payments for the fiscal year is greater than zero.⁹ The residual budgeted amount for quality incentive payments for a fiscal year is the amount determined for a fiscal year as follows:

- (1) Multiply the total number of Medicaid days in the fiscal year by \$16.44;
- (2) Determine the total amount of quality incentive payments that is to be paid to all nursing facilities for the fiscal year;
- (3) Subtract the amount determined under (2) from the product calculated under (1).

A nursing facility is to qualify for a quality bonus for a fiscal year if the facility is awarded more than five points for the fiscal year for meeting accountability measures. The total quality bonus to be paid to a qualifying nursing facility for a fiscal year is to equal the product of (1) the quality bonus per Medicaid day for the fiscal year determined for the facility and (2) the number of the facility's Medicaid days in the fiscal year. A nursing facility's quality bonus per Medicaid day for a fiscal year is the product of (1) the facility's quality bonus points for the fiscal year (an amount determined by subtracting five from the number of points awarded to the facility for meeting accountability measures) and (2) the quality bonus per point for the fiscal year. The quality bonus per point for a fiscal year is to be determined as follows:

- (1) Determine the number of each qualifying nursing facility's point days for the fiscal year (an amount determined by multiplying a facility's quality bonus points by the number of the facility's Medicaid days);
- (2) Determine the sum of all qualifying nursing facility's point days for the fiscal year;
- (3) Divide the residual budgeted amount for quality incentive payments for the fiscal year by the sum determined under (2).

⁸ R.C. 5111.244(E).

⁹ R.C. 5111.245 (primary) and 5111.222.

The bill provides that the calculation of a nursing facility's bonus payment is not subject to appeal under the Administrative Procedure Act (R.C. Chapter 119.). The ODJFS Director is permitted to adopt rules as necessary to implement the bonus payments.

Nursing facilities' total Medicaid rates

The bill revises the law that identifies the components of nursing facilities' Medicaid payments. Current law requires that the *payments* that ODJFS must agree to make to a nursing facility pursuant to a Medicaid provider agreement is to equal the sum of the nursing facility's direct care costs, ancillary and support costs, tax costs, capital costs, and quality incentive payments. The bill requires instead that the *total rate* that ODJFS must agree to pay for a fiscal year to a nursing facility is to equal the sum of those costs and payments. The bill provides that the quality bonus is in addition to, but not part of, a nursing facility's total rate.¹⁰

Effective date

The bill's provisions take effect July 1, 2012.¹¹ That is the first day of fiscal year 2013.

HISTORY

ACTION	DATE
Introduced	11-28-11

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¹⁰ R.C. 5111.222.

¹¹ Section 5.

