

House File 784 - Introduced

HOUSE FILE _____
BY COMMITTEE ON HUMAN
RESOURCES

(SUCCESSOR TO HSB 156)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to nursing facility financial assistance related
2 to certain renovation and construction and regulatory
3 compliance, providing for a standing appropriation, and
4 providing an effective date.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
6 TLSB 2004HV 82
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1 1 Section 1. NEW SECTION. 249K.1 PURPOSE == INTENT.
1 2 The purpose of this chapter is to provide a mechanism to
1 3 support the appropriate number of nursing facility beds for
1 4 the state's citizens and to financially assist nursing
1 5 facilities in remaining compliant with applicable regulations.
1 6 It is the intent of this chapter that the administrative
1 7 burden on both the state and nursing facilities be minimal.
1 8 Sec. 2. NEW SECTION. 249K.2 DEFINITIONS.
1 9 As used in this chapter, unless the context otherwise
1 10 requires:
1 11 1. "Complete replacement" means completed construction on
1 12 a new nursing facility to replace an existing licensed and
1 13 certified facility. The replacement facility shall be located
1 14 in the same geographical service area as the facility that is
1 15 replaced and shall have the same number or fewer licensed beds
1 16 than the original facility.
1 17 2. "Department" means the department of human services.
1 18 3. "Iowa Medicaid enterprise" means Iowa Medicaid
1 19 enterprise as defined in section 249J.3.
1 20 4. "Major renovations" means construction or facility
1 21 improvements to a nursing facility in which the total amount
1 22 expended exceeds one million five hundred thousand dollars.
1 23 5. "Medical assistance" or "medical assistance program"
1 24 means the medical assistance program created pursuant to
1 25 chapter 249A.
1 26 6. "New construction" means the construction of a new
1 27 nursing facility which does not replace an existing licensed
1 28 and certified facility and requires the provider to obtain a
1 29 certificate of need pursuant to chapter 135, division VI.
1 30 7. "Nondirect care component" means the portion of the
1 31 reimbursement rate under the medical assistance program
1 32 attributable to administrative, environmental, property, and
1 33 support care costs reported on the provider's financial and
1 34 statistical report.
1 35 8. "Nursing facility" means a nursing facility as defined
2 1 in section 135C.1.
2 2 9. "Provider" means a current or future owner or operator
2 3 of a nursing facility that provides medical assistance program
2 4 services.
2 5 10. "Rate determination letter" means the letter that is
2 6 distributed quarterly by the Iowa Medicaid enterprise to each
2 7 nursing facility, which is based on previously submitted
2 8 financial and statistical reports from each nursing facility.
2 9 Sec. 3. NEW SECTION. 249K.3 GENERAL PROVISIONS ==
2 10 INSTANT RELIEF == NONDIRECT CARE LIMIT EXCEPTION.
2 11 1. A provider that constructs a complete replacement,
2 12 makes major renovations to or newly constructs a nursing
2 13 facility may be entitled to the rate relief and exceptions
2 14 provided under this chapter. The total period during which a
2 15 provider may participate in any relief shall not exceed two

2 16 years. The total period during which a provider may
2 17 participate in any nondirect care limit exception shall not
2 18 exceed ten years. A provider seeking assistance under this
2 19 chapter may request both instant relief and the nondirect care
2 20 limit exception.

2 21 2. If the provider requests instant relief, the following
2 22 provisions shall apply:

2 23 a. The provider shall submit a written request for instant
2 24 relief to the Iowa Medicaid enterprise explaining the nature,
2 25 timing, and goals of the project and the time period during
2 26 which the relief is requested. The written request shall
2 27 clearly state if the provider is also requesting the nondirect
2 28 care limit exception. The written request for instant relief
2 29 shall be submitted no earlier than thirty days prior to the
2 30 placement of the provider's assets in service. The written
2 31 request for relief shall provide adequate details to calculate
2 32 the estimated value of relief including but not limited to the
2 33 total cost of the project, the estimated annual depreciation
2 34 expenses using generally accepted accounting principles, the
2 35 estimated useful life based upon existing medical assistance
3 1 and Medicare provisions, and a copy of the most current
3 2 depreciation schedule. If interest expenses are included, a
3 3 copy of the general terms of the debt service and the
3 4 estimated annual amount of the interest expenses shall be
3 5 submitted with the written request for relief.

3 6 b. The following shall apply to the value of relief
3 7 amount:

3 8 (1) If interest expenses are disclosed, the amount of
3 9 these expenses shall be added to the value of relief.

3 10 (2) The calculation of the estimated value of relief shall
3 11 take into consideration the removal of existing assets and
3 12 debt service.

3 13 (3) The calculation of the estimated value of relief shall
3 14 be demonstrated as an amount per patient day to be added to
3 15 the nondirect care component for the relevant period. The
3 16 estimated annual patient days for this calculation shall be
3 17 determined based upon budgeted amounts or the most recent
3 18 annual total as demonstrated on the provider's Medicaid
3 19 financial and statistical report. For the purposes of
3 20 calculating the per diem relief, total patient days shall be
3 21 the greater of the estimated annual patient days or
3 22 eighty-five percent of the facility's estimated licensed
3 23 capacity.

3 24 (4) The combination of the nondirect care component and
3 25 the estimated value of relief shall not exceed one hundred and
3 26 ten percent of the nondirect care median for the relevant
3 27 period. If a nondirect care limit exception has been
3 28 requested and granted, the combination of the nondirect care
3 29 component and the estimated value of relief shall not exceed
3 30 one hundred twenty percent of the nondirect care median for
3 31 the relevant period.

3 32 c. Instant relief granted under this subsection shall
3 33 begin the first day of the calendar quarter following
3 34 placement of the provider's assets in service. If the
3 35 required information to calculate the instant relief, as
4 1 specified in paragraph "a", is not submitted prior to the
4 2 first day of the calendar quarter following placement of the
4 3 provider's assets in service, instant relief shall instead
4 4 begin on the first day of the calendar quarter following
4 5 receipt of the required information.

4 6 d. Instant relief granted under this subsection shall be
4 7 terminated at the time of the provider's subsequent biannual
4 8 rebasing when the submission of the annual cost report for the
4 9 provider includes the new replacement costs and the annual
4 10 property costs reflect the new assets.

4 11 e. During the period in which instant relief is granted,
4 12 the Iowa Medicaid enterprise shall recalculate the value of
4 13 the instant relief based on allowable costs and patient days
4 14 reported on the annual financial and statistical report. For
4 15 purposes of calculating the per diem relief, total patient
4 16 days shall be the greater of actual annual patient days or
4 17 eighty-five percent of the facility's licensed capacity. The
4 18 actual value of relief shall be added to the nondirect care
4 19 component for the relevant period, not to exceed one hundred
4 20 ten percent of the nondirect care median for the relevant
4 21 period or not to exceed one hundred twenty percent of the
4 22 nondirect care median for the relevant period if the nondirect
4 23 care limit exception is requested and granted. The provider's
4 24 quarterly rates for the relevant period shall be retroactively
4 25 adjusted to reflect the revised nondirect care rate. All
4 26 claims with dates of service from the date that instant relief

4 27 is granted to the date that the instant relief is terminated
4 28 shall be repriced to reflect the actual value of the instant
4 29 relief per diem utilizing a mass adjustment.

4 30 3. If the provider requests the nondirect care limit
4 31 exception, all of the following shall apply:

4 32 a. The nondirect care limit for the rate setting period
4 33 shall be increased to one hundred and twenty percent of the
4 34 median for the relevant period.

4 35 b. The exception period shall not exceed a period of two
5 1 years. If the provider is requesting only the nondirect care
5 2 limit exception, the request shall be submitted within sixty
5 3 days of the release of the July 1 rate determination letters
5 4 following each biannual rebasing cycle, and shall be effective
5 5 the first day of the month following receipt of the request.
5 6 If applicable, the provider shall identify any time period in
5 7 which instant relief was granted and shall indicate how many
5 8 times the instant relief or nondirect care limit exception was
5 9 granted previously.

5 10 Sec. 4. NEW SECTION. 249K.4 PRELIMINARY EVALUATION.

5 11 1. A provider preparing cost or other feasibility
5 12 projections for a request for relief or an exception pursuant
5 13 to section 249K.3 may submit a request for preliminary
5 14 evaluation.

5 15 2. The request shall contain all of the information
5 16 required for the type of assistance sought pursuant to section
5 17 249K.3.

5 18 3. The provider shall estimate the timing of the
5 19 initiation and completion of the project to allow the
5 20 department to respond with estimates of both instant relief
5 21 and the nondirect care limit exception.

5 22 4. The department shall respond to a request for
5 23 preliminary evaluation under this section within thirty days
5 24 of receipt of the request. A preliminary evaluation does not
5 25 guarantee approval of instant relief or the nondirect care
5 26 limit exception upon submission of a formal request. A
5 27 preliminary evaluation provides only an estimate of value of
5 28 the instant relief or nondirect care limit exception based
5 29 only on the projections.

5 30 Sec. 5. NEW SECTION. 249K.5 PARTICIPATION CRITERIA.

5 31 1. The Iowa Medicaid enterprise shall administer this
5 32 chapter. The department of human services shall adopt rules,
5 33 pursuant to chapter 17A, to administer this chapter.

5 34 2. A provider requesting instant relief or a nondirect
5 35 care limit exception under this chapter shall meet one of the
6 1 following criteria:

6 2 a. The nursing facility for which relief or an exception
6 3 is requested is in violation of life safety code requirements
6 4 and changes are necessary to meet regulatory compliance.

6 5 b. The nursing facility for which relief or an exception
6 6 is requested is proposing development of a home and
6 7 community-based services waiver program service that meets the
6 8 following requirements:

6 9 (1) The service is provided on the direct site and is a
6 10 nonnursing service.

6 11 (2) The service is provided in an underserved area, which
6 12 may include a rural area, and the nursing facility provides
6 13 documentation of this.

6 14 (3) The service meets all federal and state requirements.

6 15 (4) The service is adult day care, consumer directed
6 16 attendant care, assisted living, day habilitation, home
6 17 delivered meals, personal emergency response, or respite.

6 18 3. In addition to any other factors to be considered in
6 19 determining if a provider is eligible to participate under
6 20 this chapter, the Iowa Medicaid enterprise shall consider all
6 21 of the following:

6 22 a. The history of the provider's regulatory compliance.

6 23 b. The historical access to nursing facility services for
6 24 medical assistance program beneficiaries.

6 25 c. The provider's dedication to and participation in
6 26 quality of care, considering all quality programs in which the
6 27 provider has participated.

6 28 d. The provider's plans to facilitate person-directed
6 29 care.

6 30 e. The provider's plans to facilitate dementia units and
6 31 specialty post-acute services.

6 32 4. a. Any relief or exception granted under this chapter
6 33 is temporary and shall be immediately terminated if all of the
6 34 participation requirements under this chapter are not met.

6 35 b. If a provider's medical assistance program or Medicare
7 1 certification is revoked, any existing exception or relief
7 2 shall be terminated and the provider shall not be eligible to

7 3 request subsequent relief or an exception under this chapter.
7 4 5. Following a change in ownership, relief or an exception
7 5 previously granted shall continue and future rate calculations
7 6 shall be determined under the provisions of 441 IAC 81.6(12)
7 7 relating to termination or change of ownership of a nursing
7 8 facility.

7 9 Sec. 6. Section 8.57, subsection 6, Code 2007, is amended
7 10 by adding the following new paragraph:
7 11 NEW PARAGRAPH. gg. There is appropriated from the rebuild
7 12 Iowa infrastructure fund to the department of human services
7 13 each fiscal year beginning July 1, 2007, five million dollars,
7 14 to administer chapter 249K.

7 15 Sec. 7. IMPLEMENTATION == LIMITATION.

7 16 1. Chapter 249K, as enacted by this Act, shall only be
7 17 implemented if the department of human services receives
7 18 approval from the centers for Medicare and Medicaid services
7 19 of the United States department of health and human services
7 20 for a medical assistance state plan amendment. If approval is
7 21 received, the chapter shall not be implemented retroactively
7 22 to the effective date of this Act, but shall be implemented
7 23 only on or after the date of approval.

7 24 2. The Iowa Medicaid enterprise shall only approve instant
7 25 relief or a nondirect care limit exception under chapter 249K,
7 26 as enacted by this Act, to the extent funding is available.

7 27 Sec. 8. EFFECTIVE DATE. This Act, being deemed of
7 28 immediate importance, takes effect upon enactment.

7 29 EXPLANATION

7 30 This bill provides for financial assistance to nursing
7 31 facility providers. A provider may request either instant
7 32 relief, which is a per-patient day amount to be added to the
7 33 current direct care component, or a nondirect care limit
7 34 exception, which is an increase in the nondirect care limit
7 35 for the relevant period to 120 percent of the median for the
8 1 relevant period. The assistance may be requested by a
8 2 provider who constructs a complete replacement, makes major
8 3 renovations, or newly constructs a nursing facility. The
8 4 total period during which a provider may participate in any
8 5 relief is a maximum of two years. The total period during
8 6 which a provider may participate in the nondirect care limit
8 7 exception is a maximum of 10 years. The bill also provides
8 8 for the requesting of a preliminary evaluation for providers
8 9 preparing cost or other feasibility projections. The
8 10 provisions are to be administered by the department of human
8 11 services. The bill provides participation criteria, provides
8 12 an appropriation from the rebuild Iowa infrastructure fund for
8 13 the fiscal years beginning July 1, 2007, to administer the
8 14 program, and provides for contingent implementation and only
8 15 to the extent funding is available. The bill takes effect
8 16 upon enactment.

8 17 LSB 2004HV 82

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