

**Senate File 542 - Introduced**

SENATE FILE 542  
BY COMMITTEE ON HUMAN  
RESOURCES

(SUCCESSOR TO SSB 1232)

**A BILL FOR**

1 An Act relating to reimbursement for dually eligible Medicare  
2 and Medicaid members receiving the Medicare hospice benefit  
3 and Medicaid-only members electing the hospice benefit in a  
4 nursing facility.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. DUALY ELIGIBLE MEDICARE AND MEDICAID MEMBERS  
2 AND MEDICAID-ONLY MEMBERS RECEIVING HOSPICE BENEFIT IN A  
3 NURSING FACILITY — ELIMINATION OF PASS-THROUGH PAYMENT.

4 1. The department of human services shall request federal  
5 approval from the centers for Medicare and Medicaid services of  
6 the United States department of health and human services for  
7 a section 1115 demonstration waiver to allow for the payment  
8 of the nursing facility room and board expenses for a dually  
9 eligible Medicare and Medicaid member receiving the Medicare  
10 hospice benefit or a Medicaid-only member electing the member's  
11 hospice benefit, to allow Medicaid managed care organizations  
12 and the Medicaid fee-for-service payment system to reimburse  
13 the nursing facility directly for the room and board expenses  
14 at no less than ninety-five percent of the nursing facility's  
15 Medicaid fee-for-service rate rather than indirectly as a  
16 pass-through payment from the hospice services provider.  
17 The department of human services shall report receipt of  
18 such approval to the chairpersons and ranking members of  
19 the appropriations committees of the house and senate, the  
20 co-chairpersons and ranking members of the joint appropriations  
21 subcommittee on health and human services, and the legislative  
22 services agency.

23 2. The department of human services shall adopt rules  
24 pursuant to chapter 17A to administer this section and  
25 specifically to allow Medicaid managed care organizations and  
26 the department's fee-for-service Medicaid payment system to  
27 reimburse a nursing facility directly for the room and board  
28 expenses at no less than ninety-five percent of the nursing  
29 facility's Medicaid fee-for-service rate as provided in this  
30 section.

31 EXPLANATION

32 The inclusion of this explanation does not constitute agreement with  
33 the explanation's substance by the members of the general assembly.

34 This bill requires the department of human services (DHS)  
35 to request federal approval from the centers for Medicare and

1 Medicaid services of the United States department of health and  
2 human services for a section 1115 demonstration waiver to allow  
3 for the payment of the nursing facility room and board expenses  
4 for a dually eligible Medicare and Medicaid member receiving  
5 the Medicare hospice benefit or a Medicaid-only member electing  
6 the member's hospice benefit, to allow Medicaid managed care  
7 organizations (MCOs) and the Medicaid fee-for-service (FFS)  
8 payment system to reimburse the nursing facility directly for  
9 the room and board expenses at no less than 95 percent of the  
10 nursing facility's Medicaid FFS rate rather than indirectly  
11 as a pass-through payment from the hospice services provider.  
12 The bill requires DHS to report receipt of such approval to  
13 the chairpersons and ranking members of the appropriations  
14 committees of the house and senate, the co-chairpersons and  
15 ranking members of the joint appropriations subcommittee  
16 on health and human services, and the legislative services  
17 agency. The bill requires DHS to adopt administrative rules  
18 to administer the bill and specifically to allow Medicaid MCOs  
19 and the department's FFS Medicaid payment system to reimburse a  
20 nursing facility directly for the room and board expenses at  
21 no less than 95 percent of the nursing facility's Medicaid FFS  
22 rate as provided in the bill.

23 Currently, the Medicare hospice benefit covers the costs of  
24 palliative care for an individual who is terminally ill in the  
25 individual's home or in a nursing facility. Medicare does not  
26 have a long-term custodial nursing facility benefit, so if an  
27 individual elects the Medicare hospice benefit in a nursing  
28 facility, the individual's room and board are not covered by  
29 Medicare and the individual or a third-party payor must pay for  
30 the costs of the room and board. For those individuals dually  
31 eligible for Medicare and Medicaid who elect the Medicare  
32 hospice benefit, Medicare is financially responsible for the  
33 hospice care and the Medicaid program is the third-party payor  
34 responsible for the nursing facility room and board expense.  
35 For the nursing facility room and board care, the Medicaid

1 program must provide for payment in an amount equal to at least  
2 95 percent of the Medicaid daily nursing facility base rate  
3 (the rate the state Medicaid program pays for nursing facility  
4 services furnished to an individual who has not elected to  
5 receive hospice care). Historically, the Medicaid program  
6 has paid the hospice provider for the nursing facility room  
7 and board expenses of dually eligible individuals who elect  
8 the hospice benefit, and the hospice provider has then passed  
9 this payment on to the nursing facility under a contract with  
10 the nursing facility. Current practice is for most hospice  
11 providers to pay 100 percent of the nursing facility base rate  
12 to the nursing facility.

13 Pursuant to 2018 Iowa Acts, chapter 1038, DHS was directed to  
14 review the hospice benefit for dually eligible individuals in  
15 a nursing facility and report options for elimination of the  
16 pass-through payments to the chairperson and ranking members  
17 of the joint appropriations subcommittee on health and human  
18 services, the legislative service agency, and the legislative  
19 caucus staffs on or before October 1, 2018. DHS submitted  
20 the report that included four options. The bill reflects  
21 option 1 of the report which is budget neutral with regard to  
22 the dually eligible members and would require DHS to request  
23 federal approval to allow Medicaid managed care organizations  
24 and the Medicaid fee-for-service payment system to pay the  
25 nursing facility directly for the nursing facility room and  
26 board costs, and eliminate the pass-through payment utilizing  
27 the hospice provider.