
A BILL FOR AN ACT

RELATING TO THE NURSING FACILITY SUSTAINABILITY PROGRAM.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 36-27, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) Except as provided in this section, and
4 notwithstanding any other law to the contrary, from time to
5 time, the director of finance, for the purpose of defraying the
6 prorated estimate of central service expenses of government in
7 relation to all special funds, except the:

- 8 (1) Special out-of-school time instructional program fund
9 under section 302A-1310;
- 10 (2) School cafeteria special funds of the department of
11 education;
- 12 (3) Special funds of the University of Hawaii;
- 13 (4) State educational facilities improvement special fund;
- 14 (5) Convention center enterprise special fund under
15 section 201B-8;
- 16 (6) Special funds established by section 206E-6;
- 17 (7) Housing loan program revenue bond special fund;
- 18 (8) Housing project bond special fund;

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- 1 (9) Aloha Tower fund created by section 206J-17;
- 2 (10) Funds of the employees' retirement system created by
- 3 section 88-109;
- 4 (11) Hawaii hurricane relief fund established under chapter
- 5 431P;
- 6 (12) Hawaii health systems corporation special funds and
- 7 the subaccounts of its regional system boards;
- 8 (13) Tourism special fund established under section 201B-
- 9 11;
- 10 (14) Universal service fund established under section 269-
- 11 42;
- 12 (15) Emergency and budget reserve fund under section 328L-
- 13 3;
- 14 (16) Public schools special fees and charges fund under
- 15 section 302A-1130;
- 16 (17) Sport fish special fund under section 187A-9.5;
- 17 (18) Glass advance disposal fee established by section
- 18 342G-82;
- 19 (19) Center for nursing special fund under section 304A-
- 20 2163;
- 21 (20) Passenger facility charge special fund established by
- 22 section 261-5.5;

- 1 (21) Court interpreting services revolving fund under
2 section 607-1.5;
- 3 (22) Hawaii cancer research special fund;
- 4 (23) Community health centers special fund;
- 5 (24) Emergency medical services special fund;
- 6 (25) Rental motor vehicle customer facility charge special
7 fund established under section 261-5.6;
- 8 (26) Shared services technology special fund under section
9 27-43;
- 10 (27) Automated victim information and notification system
11 special fund established under section 353-136 [7];
12 [and]
- 13 [†] (28) [†] Deposit beverage container deposit special fund
14 under section 342G-104 [7]; and
- 15 (29) Nursing facility sustainability program special fund
16 under Act 156, Session Laws of Hawaii 2012,
- 17 shall deduct five per cent of all receipts of all special funds,
18 which deduction shall be transferred to the general fund of the
19 State and become general realizations of the State. All
20 officers of the State and other persons having power to allocate
21 or disburse any special funds shall cooperate with the director
22 in effecting these transfers. To determine the proper revenue
23 base upon which the central service assessment is to be

1 calculated, the director shall adopt rules pursuant to chapter
2 91 for the purpose of suspending or limiting the application of
3 the central service assessment of any fund. No later than
4 twenty days prior to the convening of each regular session of
5 the legislature, the director shall report all central service
6 assessments made during the preceding fiscal year."

7 SECTION 2. Act 156, Session Laws of Hawaii 2012, as
8 amended by Act 142, Session Laws of Hawaii 2013, is amended by
9 amending section 2 as follows:

10 1. By amending subsection (c) of section -4, Hawaii
11 Revised Statutes, to read as follows:

12 "(c) Revenue from the nursing facility sustainability fee
13 shall be used exclusively as follows:

14 (1) No less than eighty-eight per cent of the revenue from
15 the nursing facility sustainability fee shall be used
16 to match federal medicaid funds, with the combined
17 total to be used to enhance capitated rates to
18 medicaid managed care health plans for the purpose of
19 increasing medicaid payments to private nursing
20 facilities;

21 (2) Twelve per cent of the revenue from the nursing
22 facility sustainability fee may be used by the
23 department for other departmental purposes; and

1 (3) All moneys remaining in the special fund on December
2 30, [~~2014~~] 2015, shall be distributed to nursing
3 facilities within thirty days in the same proportions
4 as received from the nursing facilities."

5 2. By amending section -10, Hawaii Revised Statutes, to
6 read as follows:

7 "§ -10 **Enhanced rates to medicaid managed care health**
8 **plans.** In accordance with title 42 Code of Federal Regulations
9 section 438, the department shall use revenues from the nursing
10 facility sustainability fee and federal matching funds to
11 enhance the capitated rates paid to medicaid managed care health
12 plans for the state fiscal year [~~2013-2014~~] 2014-2015 consistent
13 with the following objectives:

14 (1) The rate enhancement shall be used exclusively for
15 increasing reimbursements to private nursing
16 facilities to support the availability of services and
17 to ensure access to care to the medicaid managed care
18 health plan enrollees;

19 (2) The rate enhancement shall be made part of the monthly
20 capitated rates by the department to medicaid managed
21 care health plans, which shall provide documentation
22 to the department and the nursing facility trade
23 associations located in Hawaii certifying that the

1 revenues received under paragraph (1) are used in
2 accordance with this section;

3 (3) The rate enhancement shall be actuarially sound and
4 approved by the federal government for federal fund
5 participation; and

6 (4) The department shall modify the fee-for-service
7 reimbursement rates of the nursing facilities to
8 recognize the medicaid portion of the nursing facility
9 sustainability fee as an additional cost of serving
10 medicaid patients, and to provide a uniform percentage
11 increase in pre-existing facility-specific rates."

12 3. By amending subsection (a) of section -13, Hawaii
13 Revised Statutes, to read as follows:

14 "(a) Collection of the nursing facility sustainability fee
15 under section -5 shall be discontinued if:

16 (1) The waiver in section -7 or the enhanced capitation
17 rates in section -10 have not been approved by the
18 Centers for Medicare and Medicaid Services;

19 (2) The department reduces funding for nursing facility
20 services below the state appropriation in effect on
21 June 30, [~~2013,~~] 2014;

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1 (3) The department or any other state agency uses the
2 money in the special fund for any use other than the
3 uses permitted pursuant to this chapter; or

4 (4) Federal financial participation to match the nursing
5 facility sustainability fee becomes unavailable under
6 federal law. In such case, the department shall
7 terminate the collection of the fee beginning on the
8 effective date of the federal statutory, regulatory,
9 or interpretive change."

10 SECTION 3. Act 156, Session Laws of Hawaii 2012, as
11 amended by Act 142, Session Laws of Hawaii 2013, is amended by
12 amending section 5 to read as follows:

13 "SECTION 5. This Act shall take effect on July 1, 2012,
14 and shall be repealed on June 30, [~~2014,~~] 2015; provided that
15 section [~~-4(e),~~] -4, Hawaii Revised Statutes, established by
16 section 2 of this Act, shall be repealed on December 31, [~~2014,~~]
17 2015."

18 SECTION 4. There is appropriated out of the nursing
19 facility sustainability program special fund the sum of
20 \$12,000,000 or so much thereof as may be necessary for fiscal
21 year 2014-2015 with such moneys to be used for the purposes of
22 the nursing facility sustainability program special fund.

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1 The sum appropriated shall be expended by the department of
2 human services for the purposes of this Act.

3 SECTION 5. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 6. This Act, upon its approval, shall take effect
6 on June 29, 2014; provided that section 4 shall take effect on
7 July 1, 2014.

8
9 INTRODUCED BY:  _____

10 BY REQUEST

11 JAN 21 2014

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Report Title:

Nursing Facility Sustainability Program; Special Fund;
Appropriation

Description:

Continues the Nursing Facility Sustainability Program by extending the sunset date of the Act to June 30, 2015, updating the referral dates in the statute, and appropriating funds from the Nursing Facility Sustainability Program Special Fund for fiscal year 2014-2015. Exempts the Nursing Facility Sustainability Program Special Fund from the central service assessment.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET

DEPARTMENT: Human Services

TITLE: A BILL FOR AN ACT RELATING TO THE NURSING FACILITY SUSTAINABILITY PROGRAM.

PURPOSE: To continue the Nursing Facility Sustainability Program, established by Act 156, Session Laws of Hawaii 2012, as amended by Act 142, Session Laws of Hawaii 2013, by extending the sunset date of Act 156, Session Laws of Hawaii 2012, updating the referral dates in the statute, and appropriating funding out of the Nursing Facility Sustainability Program Special Fund for fiscal year 2014-2015. Establish an exemption for the Nursing Facility Sustainability Program Special Fund for central services expenses assessed under section 36-27, Hawaii Revised Statutes (HRS).

MEANS: Amend section 36-27(a), HRS, and amend sections 2 and 5 of Act 156, Session Laws of Hawaii 2012, as amended by Act 142, Session Laws of Hawaii 2013.

JUSTIFICATION: Act 156, Session Laws of Hawaii 2012, established the Nursing Facility Sustainability Program and the Nursing Facility Sustainability Program Special Fund. The Special Fund receives moneys from the nursing facility sustainability fees and federal Medicaid matching funds. The Special Fund is used to increase reimbursements to the nursing facilities. Act 142, Session Laws of Hawaii 2013, amended Act 156 by extending the repeal date by a year. Act 156, as amended by Act 142, is to be repealed on June 30, 2014. This bill proposes to extend the Nursing Facility Sustainability Program for another year.

Under this program, the fees levied on non-governmental nursing facilities are used to increase reimbursement to nursing facilities, with a greater benefit to those providing proportionately more services to Medicaid recipients. These additional moneys increase the sustainability of nursing facilities in Hawaii to continue as a critical part of the long-term care safety-net.

In fiscal year 2012-2013, the nursing facilities were assessed \$11,535,405 in sustainability fees and received \$21,086,740 in additional reimbursement. In fiscal year 2013-2014 it is anticipated that the nursing facilities will be assessed \$11,436,642 and will receive \$20,906,201 in additional reimbursement.

The DHS utilized the 12 percent of the sustainability fees authorized for use by the DHS to restore the three percent reduction in reimbursement rates for the nursing facilities. In fiscal year 2012-2013, the DHS retained \$1,384,248 of the sustainability fees and when combined with federal matching funds resulted in the DHS being able to provide the nursing facilities approximately \$2.9 million in increased reimbursement. For fiscal year 2013-2014, it is estimated that the DHS will retain approximately \$1.37 million in sustainability fees to improve services to Medicaid recipients and increase reimbursement to the nursing facilities by \$2.8 million.

The 2012 Legislature, in conference committee, added an exemption for the Nursing Facility Sustainability Program Special Fund from the departmental administrative expenses assessed under section 36-30, HRS. This ensures that any moneys received in fees are only used to increase the sustainability of nursing facilities in Hawaii and to benefit Medicaid

program recipients. The exemption from section 36-27, HRS, for central services expenses, however, was not added at the same time.

This bill proposes to also exempt the Nursing Facility Sustainability Program Special Fund from the central services expenses assessed under section 36-27, HRS.

Without these two exemptions from the departmental administrative expenses and central services expenses assessments, the Nursing Facility Sustainability Program would have to pay \$500,000 in central services expenses assessed under section 36-27 and \$982,000 for departmental administrative expenses assessed under section 36-30 for fiscal year 2013-2014. This is a total of \$1,482,000 that the Department would not be able use to sustain nursing facilities and improve services to Medicaid recipients.

Impact on the public: Hawaii residents benefit by having more sustainable nursing facilities and thereby have increased access to necessary long-term care. Long-term care services for low-income, vulnerable residents will be increased and improved.

Impact on the department and other agencies: The Department of Human Services will benefit by receiving some additional funds to support its programs. The Department of Budget and Finance will not be able to charge the Special Fund for central services expenses.

GENERAL FUND:

None.

OTHER FUNDS:

\$12,000,000 Nursing Facility Sustainability Program Special Fund.

PPBS PROGRAM
DESIGNATION:

HMS 401.

OTHER AFFECTED
AGENCIES:

Department of Budget and Finance.

EFFECTIVE DATE:

June 29, 2014.

Appropriation effective July 1, 2014.