

Enrolled House Bill 4162

Sponsored by COMMITTEE ON RULES (at the request of Representative Jennifer Williamson)

CHAPTER

AN ACT

Relating to long term care facility assessment; creating new provisions; amending sections 19, 23, 24 and 31, chapter 736, Oregon Laws 2003; repealing section 26, chapter 608, Oregon Laws 2013; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 19, chapter 736, Oregon Laws 2003, is amended to read:

Sec. 19. (1) A long term care facility that fails to file a report or pay an assessment under section 16, [of this 2003 Act] **chapter 736, Oregon Laws 2003**, by the date the report or payment is due shall be subject to a penalty of \$500 per day of delinquency. [*The total amount of penalties imposed under this section for each reporting period may not exceed five percent of the assessment for the reporting period for which penalties are being imposed.*]

(2) Penalties imposed under this section shall be collected by the Department of Human Services and deposited in the Department of Human Services Account established under ORS 409.060.

(3) Penalties paid under this section are in addition to and not in lieu of the assessment imposed under section 16, [of this 2003 Act] **chapter 736, Oregon Laws 2003**.

SECTION 2. Section 23, chapter 736, Oregon Laws 2003, as amended by section 8, chapter 757, Oregon Laws 2005, section 11, chapter 780, Oregon Laws 2007, and section 19, chapter 608, Oregon Laws 2013, is amended to read:

Sec. 23. Sections 15 to 22, chapter 736, Oregon Laws 2003, apply to long term care facility assessments imposed in calendar quarters beginning on or after November 26, 2003, and before July 1, [2020] **2026**.

SECTION 3. Section 31, chapter 736, Oregon Laws 2003, as amended by section 9, chapter 757, Oregon Laws 2005, section 14, chapter 780, Oregon Laws 2007, section 49, chapter 11, Oregon Laws 2009, and section 21, chapter 608, Oregon Laws 2013, is amended to read:

Sec. 31. Sections 15 to 22, 24 and 29, chapter 736, Oregon Laws 2003, are repealed on January 2, [2021] **2028**.

SECTION 4. Section 24, chapter 736, Oregon Laws 2003, as amended by section 11, chapter 757, Oregon Laws 2005, section 12, chapter 780, Oregon Laws 2007, and sections 20 and 24, chapter 608, Oregon Laws 2013, is amended to read:

Sec. 24. (1) The Long Term Care Facility Quality Assurance Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Long Term Care Facility Quality Assurance Fund shall be credited to the fund.

(2) Amounts in the Long Term Care Facility Quality Assurance Fund are continuously appropriated to the Department of Human Services for the purposes of paying refunds due under section

20, chapter 736, Oregon Laws 2003, and funding long term care facilities, as defined in section 15, chapter 736, Oregon Laws 2003, that are a part of the Oregon Medicaid reimbursement system.

(3) Funds in the Long Term Care Facility Quality Assurance Fund and the matching federal financial participation under Title XIX of the Social Security Act may be used to fund Medicaid-certified long term care facilities using only the reimbursement methodology described in subsection (4) of this section to achieve a rate of reimbursement greater than the rate in effect on June 30, 2003.

[(4) The reimbursement methodology used to make additional payments to Medicaid-certified long term care facilities includes but is not limited to:]

(4)(a) The department shall make additional payments to Medicaid-certified long term care facilities using a reimbursement methodology that includes, but is not limited to, all of the following:

[(a)] **(A)** Rebasing on July 1 of each year;

[(b)] **(B)** Continuing the use of the pediatric rate;

[(c)] **(C)** Continuing the use of the complex medical needs additional payment; and

[(d)] **(D)** Discontinuing the use of the relationship percentage, except when calculating the pediatric rate in *[paragraph (b) of this subsection]* **subparagraph (B) of this paragraph.**

[(5)(a) The department shall reimburse costs using the methodology described in subsection (4) of this section at a rate not lower than a percentile of allowable costs for the period for which the reimbursement is made.]

(b) In addition to the reimbursement methodology described in paragraph (a) of this subsection, the department may adopt and implement rates applicable to patients with complex medical needs for which the reimbursement methodology described in paragraph (a) of this subsection is insufficient.

[(b)] **(5)** For the period beginning July 1, *[2013]* **2018**, and ending June 30, *[2016]* **2026**, the department shall reimburse costs at a rate not lower than the *[63rd]* **62nd** percentile of rebased allowable costs for that period.

[(c) For each three-month period beginning on or after July 1, 2016, in which the reduction in bed capacity in Medicaid-certified long term care facilities is less than 1,500 in bed capacity statewide that existed on the effective date of this 2013 Act, the department shall reimburse costs at a rate not lower than the percentile of allowable costs according to the following schedule:]

[(A) 62nd percentile for a reduction of 1,350 or more beds.]

[(B) 61st percentile for a reduction of 1,200 or more beds but less than 1,350 beds.]

[(C) 60th percentile for a reduction of 1,050 or more beds but less than 1,200 beds.]

[(D) 59th percentile for a reduction of 900 or more beds but less than 1,050 beds.]

[(E) 58th percentile for a reduction of 750 or more beds but less than 900 beds.]

[(F) 57th percentile for a reduction of 600 or more beds but less than 750 beds.]

[(G) 56th percentile for a reduction of 450 or more beds but less than 600 beds.]

[(H) 55th percentile for a reduction of 300 or more beds but less than 450 beds.]

[(I) 54th percentile for a reduction of 150 or more beds but less than 300 beds.]

[(J) 53rd percentile for a reduction of 1 to 149 beds.]

[(6) A reduction in the percentile ceiling of allowable costs reimbursed under subsection (5) of this section is not subject to ORS 410.555.]

SECTION 5. (1) In addition to the reimbursement methodology described in section 24, chapter 736, Oregon Laws 2003, the Department of Human Services shall pay long term care facilities an additional \$9.75 per resident who receives medical assistance if:

(a) The long term care facility is Medicaid certified;

(b) The long term care facility submitted to the department an acquisition plan to purchase long term care bed capacity under section 15, chapter 608, Oregon Laws 2013, on or after October 1, 2013, and on or before June 30, 2016; and

(c) The department finds the long term care facility meets quality standards adopted by the department.

(2) The department shall continue making the payments described in subsection (1) of this section for a period of four years from the date on which the department approved an acquisition plan under section 15, chapter 608, Oregon Laws 2013.

SECTION 6. Section 26, chapter 608, Oregon Laws 2013, is repealed.

SECTION 7. Section 5 of this 2018 Act, the amendments to sections 19, 23, 24 and 31, chapter 736, Oregon Laws 2003, by sections 1 to 4 of this 2018 Act and the repeal of section 26, chapter 608, Oregon Laws 2013, by section 6 of this 2018 Act become operative July 1, 2018.

SECTION 8. Section 5 of this 2018 Act is repealed on January 2, 2021.

SECTION 9. This 2018 Act takes effect on the 91st day after the date on which the 2018 regular session of the Seventy-ninth Legislative Assembly adjourns sine die.

Passed by House February 23, 2018

.....
Timothy G. Sekerak, Chief Clerk of House

.....
Tina Kotek, Speaker of House

Passed by Senate March 1, 2018

.....
Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2018

Approved:

.....M,....., 2018

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2018

.....
Dennis Richardson, Secretary of State