

CHAPTER 232

SOCIAL SERVICES

SENATE BILL 94-110

BY SENATORS Mares, Mendez, Weissmann, and Casey;
also REPRESENTATIVES Morrison, Friednash, Greenwood, Jerke, Kerns, Knox, Lawrence, Nichol, Pierson, Reeser, Reeves, and Strom.

AN ACT**CONCERNING A QUALITY OF CARE INCENTIVE PAYMENT PROGRAM FOR NURSING FACILITY VENDORS.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 26-4-410 (2) (c), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended, and the said 26-4-410 (2) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

26-4-410. Vendors - nursing facility - nursing facility patient program improvement fund - reimbursement - quality of care incentive payment program. (2) (c) The state board shall ~~subject to available appropriations~~, adopt rules and regulations to:

(I) (A) Determine and pay TO PRIVATELY OWNED INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED AND TO NURSING FACILITY VENDORS a reasonable share of the amount by which the reasonable costs of the categories of administration, property, and room and board, excluding food costs, exceed the actual cost in these categories only of each facility OR VENDOR. Such reasonable share shall be defined as twenty-five percent of such amount in such categories for each facility, not to exceed twelve percent of the reasonable cost.

(B) THIS SUBPARAGRAPH (I) IS REPEALED, EFFECTIVE DECEMBER 31, 1994.

(II) (A) DETERMINE AND PAY TO PRIVATELY OWNED INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED A REASONABLE SHARE OF THE AMOUNT BY WHICH THE REASONABLE COSTS OF THE CATEGORIES OF ADMINISTRATION, PROPERTY,

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

AND ROOM AND BOARD, EXCLUDING FOOD COSTS, EXCEED THE ACTUAL COST IN THESE CATEGORIES ONLY. SUCH REASONABLE SHARE SHALL BE DEFINED AS TWENTY-FIVE PERCENT OF SUCH AMOUNT IN SUCH CATEGORIES FOR EACH FACILITY, NOT TO EXCEED TWELVE PERCENT OF THE REASONABLE COST.

(B) DETERMINE AND PAY TO NURSING FACILITY VENDORS A REASONABLE SHARE OF THE AMOUNT BY WHICH THE REASONABLE COSTS OF THE CATEGORIES OF ADMINISTRATION, PROPERTY, AND ROOM AND BOARD, EXCLUDING FOOD COSTS, EXCEED THE ACTUAL COST IN THESE CATEGORIES ONLY OF EACH FACILITY VENDOR. SUCH REASONABLE SHARE SHALL BE DEFINED AS TWELVE AND ONE-HALF PERCENT OF SUCH AMOUNT IN SUCH CATEGORIES FOR EACH FACILITY, NOT TO EXCEED TWELVE PERCENT OF THE REASONABLE COST. AS USED IN THIS SUB-SUBPARAGRAPH (B), "NURSING FACILITY VENDOR" SHALL HAVE THE SAME MEANING AS SET FORTH IN SUBPARAGRAPH (VII) OF PARAGRAPH (c.5) OF SUBSECTION (2) OF THIS SECTION.

(C) THIS SUBPARAGRAPH (II) SHALL TAKE EFFECT JANUARY 1, 1995.

(c.5) (I) THERE IS HEREBY ESTABLISHED A QUALITY OF CARE INCENTIVE PAYMENT PROGRAM FOR THE PURPOSE OF ENCOURAGING IMPROVEMENT IN THE QUALITY OF CARE PROVIDED BY NURSING FACILITY VENDORS. THE SUM OF ALL INCENTIVE PAYMENTS MADE UNDER THE PROGRAM SHALL BE EQUAL TO THE AGGREGATE SUM OF PAYMENTS MADE TO ALL NURSING FACILITY VENDORS UNDER SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (II) OF PARAGRAPH (c) OF THIS SUBSECTION (2).

(II) BEGINNING JANUARY 1, 1995, THE DEPARTMENT SHALL ISSUE INCENTIVE PAYMENTS UNDER THE PROGRAM TO NURSING FACILITY VENDORS THAT MEET THE CRITERIA ESTABLISHED BY THE DEPARTMENT THROUGH RULES AND REGULATIONS. IN DETERMINING WHICH VENDORS SHALL BE ELIGIBLE TO RECEIVE INCENTIVE PAYMENTS, THE DEPARTMENT SHALL CONSIDER THE FOLLOWING FACTORS:

(A) WHETHER THE VENDOR IS DELIVERING A HIGH LEVEL OF QUALITY OF CARE AS MEASURED BY THE NUMBER OF VALIDATED AND PROVEN DEFICIENCIES ON THE VENDOR'S LAST FULL RECERTIFICATION SURVEY;

(B) WHETHER THE VENDOR IS MEETING SUCH OTHER PATIENT CARE STANDARDS AS MAY BE ADOPTED BY THE DEPARTMENT AFTER CONSIDERING THE ADVICE OF THE ADVISORY COMMITTEE CREATED BY SUBPARAGRAPH (VI) OF THIS PARAGRAPH (c.5);

(C) THE NUMBER OF DAYS OF CARE PROVIDED ANNUALLY UNDER THE STATE MEDICAL ASSISTANCE PROGRAM;

(D) THE RESIDENT CARE CHARACTERISTICS; AND

(E) THE FACILITY SIZE AND LOCATION.

(III) THE DEPARTMENT SHALL PROMULGATE RULES AND REGULATIONS ESTABLISHING THE DOLLAR AMOUNTS OF INCENTIVE PAYMENTS AVAILABLE THROUGH THE PROGRAM. INCENTIVE PAYMENTS MAY BE GRADUATED IN AMOUNT IN ORDER TO PROVIDE HIGHER PAYMENTS TO THOSE NURSING FACILITY VENDORS WHICH PROVIDE A COMPARATIVELY HIGHER DEGREE OF QUALITY CARE.

(IV) (A) FOR THE PERIOD BEGINNING JANUARY 1, 1995, AND ENDING JUNE 30, 1995, THE DEPARTMENT SHALL ASSESS ALL NURSING FACILITY VENDORS IN ACCORDANCE WITH THE CRITERIA ADOPTED PURSUANT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH (c.5) FOR THE PURPOSE OF IDENTIFYING THOSE VENDORS THAT ARE ELIGIBLE TO RECEIVE QUALITY INCENTIVE PAYMENTS. BASED ON SUCH ASSESSMENT, THE DEPARTMENT SHALL ISSUE QUALITY INCENTIVE PAYMENTS TO A MINIMUM OF FORTY-FIVE PERCENT OF ALL SUCH VENDORS.

(B) BEGINNING JULY 1, 1995, AND ON JULY 1 OF EACH FISCAL YEAR THEREAFTER, THE DEPARTMENT SHALL REASSESS ALL NURSING FACILITY VENDORS IN ACCORDANCE WITH THE CRITERIA ADOPTED PURSUANT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH (c.5) FOR THE PURPOSE OF IDENTIFYING THOSE VENDORS THAT ARE ELIGIBLE TO RECEIVE QUALITY INCENTIVE PAYMENTS. BASED ON SUCH ASSESSMENT, THE DEPARTMENT SHALL ISSUE ANNUAL QUALITY INCENTIVE PAYMENTS.

(V) IN THE EVENT A NURSING FACILITY VENDOR IS DENIED AN INCENTIVE PAYMENT UNDER THIS PARAGRAPH (c.5), THE VENDOR SHALL BE AFFORDED AN OPPORTUNITY FOR A HEARING IN ACCORDANCE WITH THE PROVISIONS OF SECTION 24-4-105, C.R.S., AS ADMINISTERED UNDER SECTION 25.5-1-107 (2), C.R.S., AND THE RULES AND REGULATIONS PROMULGATED BY THE DEPARTMENT WHICH GOVERN AGGRIEVED PROVIDER APPEALS OF RATE DETERMINATIONS, WITHOUT FIRST MEETING THE REQUIREMENT OF INFORMAL RECONSIDERATION BY THE DEPARTMENT.

(VI) (A) THERE IS HEREBY CREATED AN ADVISORY COMMITTEE OF NINE PERSONS TO STUDY AND MAKE RECOMMENDATIONS TO THE STATE DEPARTMENT ON THE APPROPRIATE METHOD OF MEASURING A "HIGH LEVEL OF QUALITY CARE" FOR THE PURPOSE OF MAKING PAYMENTS TO VENDORS UNDER THIS PARAGRAPH (c.5). THE COMMITTEE SHALL BE APPOINTED BY THE EXECUTIVE DIRECTOR OF THE STATE DEPARTMENT AND SHALL BE COMPOSED OF ONE REPRESENTATIVE FROM SUCH DEPARTMENT, TWO INDIVIDUALS WHO REPRESENT THE INTERESTS OF CONSUMERS, ONE REPRESENTATIVE OF THE STATE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, AND ONE REPRESENTATIVE FROM THE STATE LONG-TERM CARE OMBUDSMAN OFFICE. THE REMAINING FOUR MEMBERS SHALL BE SELECTED FROM A LIST OF NOMINEES RECOMMENDED BY PROPRIETARY AND NONPROPRIETARY FACILITIES AS FOLLOWS: TWO REPRESENTATIVES FROM THE LONG-TERM CARE FACILITY ASSOCIATION FOR PROPRIETARY FACILITIES; AND TWO REPRESENTATIVES OF THE LONG-TERM CARE FACILITY ASSOCIATION FOR NONPROPRIETARY FACILITIES. THE COMMITTEE MEMBERS SHALL SERVE WITHOUT COMPENSATION. APPOINTMENTS SHALL BE MADE FOR TERMS OF TWO YEARS. VACANCIES WHICH OCCUR DURING ANY TERM SHALL BE FILLED BY THE EXECUTIVE DIRECTOR FOR THE REMAINDER OF SUCH TERM.

(B) THIS SUBPARAGRAPH (VI) IS REPEALED, EFFECTIVE JULY 1, 2000. PRIOR TO SAID REPEAL, THE ADVISORY COMMITTEE SHALL BE REVIEWED AS PROVIDED FOR IN SECTION 2-3-1203, C.R.S.

(VII) AS USED IN THIS PARAGRAPH (c.5), "NURSING FACILITY VENDOR" MEANS A FACILITY VENDOR WHICH MEETS THE STATE NURSING HOME LICENSING STANDARDS IN SECTION 25-1-107 (1) (I) OR (1) (II), C.R.S., IS MAINTAINED PRIMARILY FOR THE CARE AND TREATMENT OF INPATIENTS UNDER THE DIRECTION OF A PHYSICIAN, AND MEETS THE REQUIREMENTS IN 42 U.S.C. SEC. 1396d FOR CERTIFICATION AS A

QUALIFIED PROVIDER OF NURSING FACILITY SERVICES.

SECTION 2. 2-3-1203 (3), Colorado Revised Statutes, 1980 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

2-3-1203. Sunset review of advisory committees. (3) The following dates are the dates for which the statutory authorization for the designated advisory committees is scheduled for repeal:

(m) JULY 1, 2000: THE QUALITY OF CARE ADVISORY COMMITTEE, APPOINTED PURSUANT TO SECTION 26-4-410 (2) (c.5) (VI), C.R.S.

SECTION 3. Effective date. This act shall take effect July 1, 1994.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 25, 1994