

## CHAPTER 382

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**HUMAN SERVICES - SOCIAL SERVICES**

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## SENATE BILL 00-128

BY SENATORS Lacy, Hernandez, and Weddig;  
also REPRESENTATIVES Dean, Alexander, Allen, Bacon, Coleman, Gagliardi, Hoppe, Keller, Larson, Lawrence, Lee, Miller,  
Mitchell, Morrison, Paschall, Scott, Spradley, Tapia, Taylor, Tochtrop, Vigil, S. Williams, Young, and Zimmerman.

**AN ACT**

CONCERNING THE RATE-SETTING METHODOLOGY FOR REIMBURSEMENT OF NURSING FACILITIES  
PROVIDING SERVICES THROUGH THE MEDICAID PROGRAM.

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

**SECTION 1.** 26-4-410 (1) (a) (I), (1) (b), (1) (c), (2) (b), (4) (b) (II) (A), (4) (b.5), (4) (d) (II) (A), and (4) (e), Colorado Revised Statutes, are amended, and the said 26-4-410 (4) is further amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:

**26-4-410. Providers - nursing facility - nursing facility patient program improvement fund - reimbursement - maximum allowable - quality of care incentive payment program - legislative declaration - repeal.** (1) (a) (I) For the purpose of making payments to private, nonprofit, or proprietary nursing facility providers and intermediate care facilities for the mentally retarded, the state department shall establish a price schedule to be readjusted every twelve months, ~~which~~ THAT shall reimburse, subject to available appropriations, each such provider, as nearly as possible, for its actual or reasonable cost of services rendered, whichever is less, ITS CASE-MIX ADJUSTED NURSING COSTS AS DEFINED IN SECTION 26-4-502.5 (1), and a fair rental allowance for capital-related assets as defined in section 26-4-503 (4). The state department shall adopt rules, ~~and regulations,~~ including uniform accounting or reporting procedures, in order to determine such actual or reasonable cost OF SERVICES AND CASE-MIX ADJUSTED NURSING COSTS and the reimbursement therefor. The provisions of this subparagraph (I) shall not apply to state-operated intermediate care facilities for the mentally retarded.

(b) ~~No provider payment under paragraph (a) of this subsection (1) made on or after July 1, 1985, shall be lower than the provider payment in effect on June 30,~~

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

~~1985, solely as a result of a payment of a fair rental allowance for capital-related assets. For the fiscal year 1986-87 and thereafter, that portion of a provider payment required by this paragraph (b) shall be reduced by fifty percent.~~

~~(c) On and after July 1, 1987, if a provider payment under paragraph (a) of this subsection (1) is greater than the provider payment in effect on June 30, 1985, and such increase is wholly or partly the result of the payment of a fair rental allowance for capital-related assets, then that portion of the increase in the provider payment attributable to the payment of a fair rental allowance for capital-related assets shall be reduced by fifty percent.~~

(2) (b) In addition to such actual or reasonable costs and the reimbursement therefor, the state department shall, subject to available appropriations, include an allowance, equal to the change in the national bureau of labor statistics consumer price index from the preceding year, which is to compensate for fluctuating costs. This amount shall be determined every twelve months when the statewide average cost is determined as set forth by the rules and regulations of the state department BY ADJUSTING FOR INFLATION. THE NURSING FACILITY PROVIDER'S ALLOWABLE COST SHALL BE MULTIPLIED BY THE CHANGE IN THE CONSUMER PRICE INDEX MEASURED FROM THE MIDPOINT OF THE PROVIDER'S COST REPORT PERIOD TO THE MIDPOINT OF THE PROVIDER'S RATE PERIOD. This allowance is applied to all costs, INCLUDING CASE-MIX ADJUSTED NURSING COSTS AS THAT TERM IS DEFINED IN SECTION 26-4-502.5 (1), less interest, up to the reasonable cost established and will be allowed to proprietary, nonprofit, and tax-supported homes; except that such allowance shall not be applied to the costs of state-operated intermediate facilities for the mentally retarded.

(4) (a.5) CASE-MIX ADJUSTED NURSING COSTS SHALL BE SUBJECT TO THE MAXIMUM ALLOWABLE REIMBURSEMENT LIMITATION ON HEALTH CARE COSTS AS SET FORTH IN SUB-SUBPARAGRAPH (A) OF SUBPARAGRAPH (II) OF PARAGRAPH (b) OF THIS SUBSECTION (4). IN DETERMINING THE MAXIMUM ALLOWABLE REIMBURSEMENT LIMITATION, CASE-MIX ADJUSTED NURSING COSTS SHALL BE NORMALIZED, AS DEFINED IN SECTION 26-4-502.5 (8), FOR EACH NURSING FACILITY PROVIDER BASED UPON THE AVERAGE OF THE PROVIDER'S QUARTERLY CASE-MIX INDICES FOR RESIDENTS DURING THE PROVIDER'S MOST RECENTLY REPORTED COST REPORTING PERIOD.

(b) (II) **Health care - food and case-mix adjusted nursing costs:** (A) Class I facilities: One hundred twenty-five percent of the weighted average actual costs of all class I facilities ADJUSTED FOR FACILITY CASE- MIX WEIGHT;

(b.5) For the purpose of calculating BOTH THE INDIVIDUAL NURSING FACILITY PROVIDER'S RATES AND the maximum allowable reimbursement rates identified in subparagraphs (I) and (II) of paragraph (b) of this subsection (4), ONLY ADMINISTRATIVE costs AS DEFINED IN SECTION 26-4-502 (1.5) shall be imputed to the eighty-fifth percentile for urban facilities with occupancy rates below eighty-five percent.

(d) (II) Notwithstanding any other provision in this article, the following limitations shall apply to rates for reimbursement of nursing facilities:

(A) For all rates effective on or after July 1, 1997, for each class I and class V

facility, any increase in administrative costs shall not exceed six percent per year and FOR EACH CLASS I AND CLASS V FACILITY, any increase in health care services costs shall not exceed eight percent per year, EXCEPT THAT SUCH LIMITATION ON HEALTH CARE SERVICES COSTS SHALL NOT APPLY FOR RATES EFFECTIVE ON OR AFTER JULY 1, 2000, AND PRIOR TO JULY 1, 2002; and

(e) ~~(H)~~ The state department is authorized to utilize a case-mix system for reimbursing some or all of Colorado's class I and class V medicaid nursing facilities. A case-mix reimbursement system reimburses each facility according to the resource consumption in treating its case mix of medicaid residents, which may include such factors as the age, health status, resource utilization, and diagnoses of the facility's medicaid residents.

~~(H) A case-mix reimbursement system shall be instituted if the state department and the joint budget committee of the Colorado general assembly determine prior to implementation that such a reimbursement system will not increase state expenditures for nursing facility care.~~

~~(H) The administrative costs for implementing a case-mix reimbursement system shall be paid from the savings that result from the provisions in paragraph (d) of this subsection (4).~~

~~(IV) The state department and the state board shall promulgate such rules as may be necessary to implement a case-mix reimbursement system.~~

~~(V) The state department shall report to the joint budget committee and to the health, environment, welfare, and institutions committees of the general assembly no later than November 1, 1997, concerning the following:~~

~~(A) The status of the state department's efforts to develop a case-mix reimbursement system;~~

~~(B) The feasibility of implementing a case-mix reimbursement system by July 1, 1998; and~~

~~(C) The impact upon medicaid nursing facility rates caused by the inclusion of medicare costs in medicaid cost reports.~~

(f) EFFECTIVE JULY 1, 2000, A CASE-MIX REIMBURSEMENT COMPONENT, AS DEFINED IN SECTION 26-4-502.5 (3), FOR NURSING COSTS SHALL BE PAID TO CLASS I AND CLASS V NURSING FACILITY PROVIDERS AND IMPLEMENTED AS FOLLOWS:

(I) THE STATE DEPARTMENT SHALL DETERMINE EACH RESIDENT'S CLINICAL AND FUNCTIONAL STATUS AS IDENTIFIED AND REPORTED BY EACH NURSING FACILITY PROVIDER USING THE FEDERAL MEDICARE AND MEDICAID PROGRAM MINIMUM DATA SET ASSESSMENT.

(II) FOR THE PURPOSE OF DETERMINING EACH PROVIDER'S CASE-MIX INDEX, THE DEPARTMENT SHALL USE THE RESOURCE UTILIZATION GROUPS CLASSIFICATION SYSTEM, NURSING WEIGHTS ONLY. IN CLASSIFYING RESIDENTS, AN INDEX MAXIMIZATION APPROACH SHALL BE USED. NURSING WEIGHTS SHALL BE CALCULATED

BASED UPON STANDARD NURSING TIME STUDIES AND WEIGHTED BY COLORADO SPECIFIC NURSING SALARY RATIOS AND FACILITY POPULATION DISTRIBUTION AS DEFINED IN SECTION 26-4-502.5 (9) AND (4).

(III) AN AVERAGE CASE-MIX INDEX SHALL BE DETERMINED FOR EACH NURSING FACILITY PROVIDER'S MEDICAID RECIPIENTS ON A QUARTERLY BASIS.

(IV) THE STATE BOARD SHALL PROMULGATE SUCH RULES AS ARE NECESSARY TO IMPLEMENT THE CASE-MIX REIMBURSEMENT SYSTEM PURSUANT TO THIS PARAGRAPH (f).

**SECTION 2.** 26-4-502 (3), Colorado Revised Statutes, is amended to read:

**26-4-502. Special definitions relating to nursing facility reimbursement.** As used in this part 5, and for purposes of section 26-4-410, unless the context otherwise requires:

(3) "Reasonable cost of services" means the actual cost of providing health care services and food costs to the ninetieth percentile and administration, property, and room and board costs, excluding capital-related assets, as defined in section 26-4-503 (4), and excluding food costs, to the eighty-fifth percentile of medicaid patients in participating nursing homes. Any portion of staff costs directly attributable to administration shall be reimbursed to the eighty-fifth percentile. Food costs shall not include the costs of real or personal property, staff, preparation, or other items related to the food program. The dollar amount per patient day will be established every twelve months in accordance with the rules and regulations of the medical services board. MAXIMUM ALLOWABLE REIMBURSEMENT AS DETERMINED UNDER SECTION 26-4-410 (4) (a).

**SECTION 3.** Part 5 of article 4 of title 26, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**26-4-502.5. Definitions relating to reimbursement of case-mix adjusted nursing costs.** AS USED IN THIS PART 5, AND FOR THE PURPOSES OF SECTION 26-4-410, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "CASE-MIX ADJUSTED NURSING COSTS" MEANS THOSE COSTS COMPRISING THE COMPENSATION, SALARIES, BONUSES, WORKER'S COMPENSATION, EMPLOYER-CONTRIBUTED TAXES, AND OTHER EMPLOYMENT BENEFITS ATTRIBUTABLE TO A NURSING FACILITY PROVIDER'S DIRECT CARE NURSING STAFF WHETHER EMPLOYED DIRECTLY OR AS CONTRACT EMPLOYEES, INCLUDING BUT NOT LIMITED TO REGISTERED NURSES, LICENSED PRACTICAL NURSES, AND NURSE'S AIDES.

(2) "CASE-MIX INDEX" MEANS A NUMERIC SCORE ASSIGNED TO EACH NURSING FACILITY RESIDENT BASED UPON THE RESIDENT'S PHYSICAL AND MENTAL CONDITION THAT REFLECTS THE AMOUNT OF RELATIVE RESOURCES REQUIRED TO PROVIDE CARE TO THAT RESIDENT.

(3) "CASE-MIX REIMBURSEMENT COMPONENT" MEANS THAT PORTION OF THE NURSING FACILITY PROVIDER'S MEDICAID RATE COMPRISED OF CASE-MIX ADJUSTED NURSING COSTS.

(4) "FACILITY POPULATION DISTRIBUTION" MEANS THE NUMBER OF COLORADO NURSING FACILITY RESIDENTS THAT ARE CLASSIFIED INTO EACH RESOURCE UTILIZATION GROUP AS OF A SPECIFIC POINT IN TIME.

(5) "INDEX MAXIMIZATION" MEANS CLASSIFYING A RESIDENT WHO COULD BE ASSIGNED TO MORE THAN ONE CATEGORY TO THE CATEGORY WITH THE HIGHEST CASE-MIX INDEX.

(6) "MINIMUM DATA SET" MEANS A SET OF SCREENING, CLINICAL AND FUNCTIONAL STATUS ELEMENTS THAT ARE USED IN THE ASSESSMENT OF A NURSING FACILITY PROVIDER'S RESIDENTS UNDER THE FEDERAL MEDICARE AND MEDICAID PROGRAMS.

(7) "NORMALIZATION RATIO" MEANS THE STATEWIDE AVERAGE CASE-MIX INDEX DIVIDED BY THE FACILITY'S COST REPORT PERIOD CASE-MIX INDEX.

(8) "NORMALIZED" MEANS MULTIPLYING THE NURSING FACILITY PROVIDER'S PER DIEM CASE-MIX ADJUSTED NURSING COST BY ITS CASE-MIX INDEX NORMALIZATION RATIO FOR THE PURPOSE OF MAKING THE PER DIEM COST COMPARABLE AMONG FACILITIES BASED UPON A COMMON CASE-MIX IN ORDER TO DETERMINE THE MAXIMUM ALLOWABLE REIMBURSEMENT LIMITATION.

(9) "NURSING SALARY RATIOS" MEANS THE RELATIVE DIFFERENCE IN HOURLY WAGES OF REGISTERED NURSES, LICENSED PRACTICAL NURSES, AND NURSE'S AIDES.

(10) "NURSING WEIGHTS" MEANS NUMERIC SCORES ASSIGNED TO EACH CATEGORY OF THE RESOURCE UTILIZATION GROUPS THAT MEASURE THE RELATIVE AMOUNT OF RESOURCES REQUIRED TO PROVIDE NURSING CARE TO A NURSING FACILITY PROVIDER'S RESIDENTS.

(11) "RESOURCE UTILIZATION GROUPS" MEANS THE SYSTEM FOR GROUPING A NURSING FACILITY'S RESIDENTS ACCORDING TO THEIR CLINICAL AND FUNCTIONAL STATUS AS IDENTIFIED FROM DATA SUPPLIED BY THE FACILITY'S MINIMUM DATA SET AS PUBLISHED BY THE HEALTH CARE FINANCING ADMINISTRATION OF THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES.

**SECTION 4.** 26-4-503 (7) and (8), Colorado Revised Statutes, are amended to read:

**26-4-503. Definitions relating to reimbursement of rental allowance for capital-related assets.** As used in this part 5, unless the context otherwise requires:

(7) "Index" means the ~~Dodge~~ R. S. MEANS construction systems cost index or an equivalent index that is based upon a survey of prices of common building materials and wage rates for nursing home construction.

(8) "Rental rate" means the average annualized COMPOSITE rate for ~~twenty-year~~ UNITED STATES treasury bonds issued by the United States for the preceding year FOR PERIODS OF TEN YEARS AND LONGER PLUS TWO PERCENT; except that the rental rate shall not exceed ~~nine percent for fiscal year 1985-86, eleven percent for fiscal year 1986-87, and ten percent for fiscal year 1987-88~~ TEN AND THREE-QUARTERS PERCENT NOR FALL BELOW EIGHT AND ONE-QUARTER PERCENT.

**SECTION 5. Appropriation - adjustments to the 2000 long bill.** (1) For the implementation of this act, appropriations made in the annual general appropriation act for the fiscal year beginning July 1, 2000, shall be adjusted as follows:

(a) The general fund appropriation to the department of health care policy and financing, medical services premiums, is decreased by one million eight hundred thirteen thousand six hundred ten dollars (\$1,813,610).

(b) The federal funds reflected in the appropriation to the department of health care policy and financing, medical services premiums, is decreased by one million eight hundred thirteen thousand six hundred eleven dollars (\$1,813,611).

(2) In addition to any other appropriation, there is hereby appropriated, from any moneys in the general fund not otherwise appropriated, to the department of health care policy and financing, medical services premiums, for the fiscal year beginning July 1, 2000, the sum of one million eight hundred thirteen thousand six hundred ten dollars (\$1,813,610), or so much thereof as may be necessary, for the implementation of this act. In addition to said appropriation, the general assembly anticipates that, for the fiscal year beginning July 1, 2000, the department of health care policy and financing will receive the sum of one million eight hundred thirteen thousand six hundred eleven dollars (\$1,813,611) in federal funds for the implementation of this act.

**SECTION 6. 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: June 2, 2000