

HOUSE BILL No. 2538

By Committee on Appropriations

4-28

9 AN ACT concerning adult care homes; providing for assessments on cer-
10 tain nursing facilities; prescribing powers, duties and functions for the
11 secretary of aging; creating the quality assurance assessment fund; pro-
12 viding for implementation and administration.
13

14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. (a) As used in sections 1 through 6, and amendments
16 thereto, unless the context requires otherwise:

17 (1) Words and phrases have the meanings respectively ascribed
18 thereto by K.S.A. 39-923 and amendments thereto;

19 (2) “skilled nursing care facility” means a nursing facility providing
20 skilled nursing care;

21 (3) “exempt facility” means a skilled nursing care facility that is part
22 of a continuing care retirement community, a skilled nursing care facility
23 operated by the state, a political subdivision or any agency or instrumen-
24 tality thereof, or a skilled nursing care facility that is a distinct part of a
25 place or facility that is licensed as a general hospital, as defined by K.S.A.
26 65-425, and amendments thereto;

27 (4) “continuing care retirement community” means a provider of a
28 continuum of services, including independent living services, assisted liv-
29 ing services and skilled nursing care, for which at least 80% of the ad-
30 missions for such provider for skilled nursing care shall be individuals that
31 were residing in such provider’s independent or assisted living units.

32 Sec. 2. (a) Except as otherwise provided in this section and in section
33 6, and amendments thereto, there is hereby imposed and the secretary
34 of aging shall assess a monthly assessment on each skilled nursing facility
35 licensed in Kansas an appropriate sum imposed at a rate per non-medi-
36 care Part A patient day established pursuant to this section to finance
37 initiatives designed to maintain or increase the quantity and quality of
38 nursing care in licensed skilled nursing facilities in Kansas. The monthly
39 assessments shall be payable on a quarterly basis in accordance with this
40 section.

41 (b) The secretary of aging shall establish a uniform assessment rate
42 per non-medicare Part A patient day that is equivalent to a percentage of
43 the total annual accrual basis gross revenue for services provided to res-

1 idents of all licensed skilled nursing facilities in Kansas, except that the
2 assessment rate per non-medicare Part A patient day established by the
3 secretary of aging shall not exceed the rate of \$2 per non-medicare Part
4 A patient day. A lower assessment rate per non-medicare Part A patient
5 day shall be assessed to some skilled nursing facilities by the secretary of
6 aging in order to achieve the statistical requirements of the federal centers
7 for medicare and medicaid services for a uniformity waiver under the
8 provisions of 42 C.F.R. 433.68(e)(2). This lower assessment rate shall be
9 determined by the secretary of aging in accordance with and subject to
10 all appropriate and applicable federal laws. For the purposes of this sec-
11 tion, total annual accrual basis gross revenue does not include charitable
12 contributions received by a skilled nursing facility.

13 (c) Each skilled nursing facility that is an exempt facility is exempt
14 from all assessments imposed pursuant to this section.

15 (d) The secretary of aging shall calculate the monthly amount of the
16 assessment owed by each skilled nursing facility by multiplying the total
17 number of days of care provided to non-medicare residents by the skilled
18 nursing facility for such month, as provided to the secretary of aging
19 pursuant to section 3, and amendments thereto, by the applicable as-
20 sessment rate established by the secretary of aging pursuant to this section
21 for the twelve-month period in which such month occurs.

22 (e) The aggregate amount of the three monthly assessments imposed
23 pursuant to this section is due and payable 30 days after the end of the
24 three-month reporting period for which the assessments are imposed pur-
25 suant to this section. The secretary of aging is authorized to establish
26 delayed payment schedules for skilled nursing facilities that are unable to
27 make assessment payments when due and payable under this section due
28 to financial difficulties, as determined by the secretary of aging.

29 (f) The payment of the assessment to the secretary of aging pursuant
30 to sections 1 through 6, and amendments thereto, is an allowable cost for
31 medicaid reimbursement purposes.

32 Sec. 3. (a) Each skilled nursing facility shall file a report with the
33 department on aging each calendar quarter that sets forth the total num-
34 ber of days of care such skilled nursing facility provided to non-medicare
35 residents each month during the preceding three-month period.

36 (b) Each skilled nursing facility shall prepare and submit to the sec-
37 retary of aging any additional information required and requested by the
38 secretary of aging to implement or administer the provisions of sections
39 1 through 6, and amendments thereto.

40 Sec. 4. (a) There is hereby created in the state treasury the quality
41 assurance assessment fund, which shall be administered by the secretary
42 of aging. All moneys received for the assessments imposed pursuant to
43 section 2, and amendments thereto, including any penalty assessments

1 imposed thereon pursuant to section 5, and amendments thereto, shall
2 be remitted to the state treasurer in accordance with K.S.A. 75-4215, and
3 amendments thereto. Upon receipt of each such remittance, the state
4 treasurer shall deposit the entire amount in the state treasury to the credit
5 of the quality assurance assessment fund. All expenditures from the qual-
6 ity assurance assessment fund shall be made in accordance with appro-
7 priation acts upon warrants of the director of accounts and reports issued
8 pursuant to vouchers approved by the secretary of aging or the secretary's
9 designee.

10 (b) All moneys in the quality assurance assessment fund shall be used
11 to finance initiatives designed to maintain or increase the quantity and
12 quality of nursing care in licensed skilled nursing facilities in Kansas. No
13 moneys credited to the quality assurance assessment fund shall be trans-
14 ferred to or otherwise revert to the state general fund at any time.

15 (c) Any moneys received by the state of Kansas from the federal gov-
16 ernment as a result of federal financial participation in the state medicaid
17 program that are derived from the assessments paid pursuant to sections
18 1 through 6, and amendments thereto, shall be used to finance initiatives
19 designed to maintain or increase the quantity and quality of nursing care
20 in licensed skilled nursing facilities in Kansas.

21 (d) An amount equal to not more than 20% of the aggregate assess-
22 ments imposed pursuant to section 2, and amendments thereto, including
23 any penalty assessments imposed thereon pursuant to section 5, and
24 amendments thereto, plus the corresponding amount of federal matching
25 moneys shall be used for adult care other than maintaining and increasing
26 the quality of nursing care in licensed skilled nursing facilities in Kansas.

27 (e) The remaining amount in the quality assurance assessment fund
28 which shall not be less than 80% of the aggregate assessments imposed
29 pursuant to section 2, and amendments thereto, including any penalty
30 assessments imposed thereon pursuant to section 5, and amendments
31 thereto, plus the corresponding amount of federal matching moneys shall
32 be used only to increase or supplement the rates paid to skilled nursing
33 facilities for providing services pursuant to the state medicaid program
34 and shall not be used directly or indirectly to replace existing state ex-
35 penditures for payments to skilled nursing facilities for providing services
36 pursuant to the state medicaid program. Of the amount allocated pur-
37 suant to this subsection to increase or supplement the rates paid to skilled
38 nursing facilities for providing services pursuant to the state medicaid
39 program, such amount shall first be used to fully reimburse the tax im-
40 posed on non-medicare Part A patient days and thereafter any remainder
41 of such amount shall be used to provide an equal inflationary percentage
42 increase to the rates in effect on July 1, 2005, paid to skilled nursing
43 facilities for providing services pursuant to the state medicaid program.

1 (f) Of the amount designated pursuant to subsection (d), an amount
2 equal to not more than 25% of the moneys allocated for purposes other
3 than skilled nursing facility rate increases or supplements shall be used
4 to finance health care professional education provided by community col-
5 leges in Kansas.

6 (g) On or before the 10th day of each month, the director of accounts
7 and reports shall transfer from the state general fund to the quality as-
8 surance assessment fund interest earnings based on:

9 (1) The average daily balance of moneys in the quality assurance as-
10 sessment fund for the preceding month; and

11 (2) the net earnings rate of the pooled money investment portfolio
12 for the preceding month.

13 Sec. 5. If a skilled nursing facility fails to pay the full amount of an
14 assessment imposed pursuant to section 2, and amendments thereto,
15 when due and payable, including any extensions of time granted under
16 that section, the secretary of aging shall assess a penalty determined pur-
17 suant to this section. Each late payment penalty shall be set under a
18 schedule of penalties which shall be established by the secretary of aging.

19 Sec. 6. (a) The secretary of aging shall determine the applicable rate
20 of assessments pursuant to section 2, and amendments thereto, for skilled
21 nursing facilities not later than July 1 of each year for the 12 months
22 commencing on that July 1. The secretary of aging shall assess and collect
23 assessments imposed pursuant to section 2, and amendments thereto,
24 including any penalty assessments imposed thereon pursuant to section
25 5, and amendments thereto, from skilled nursing facilities on and after
26 July 1, 2005, except that no assessments or late payment penalties shall
27 be assessed under sections 1 through 6, and amendments thereto, until:

28 (1) An amendment to the state plan for medicaid, which increases
29 the rates of payments made to skilled nursing facilities for providing serv-
30 ices pursuant to the federal medicaid program and which is proposed for
31 approval for purposes of sections 1 through 6, and amendments thereto,
32 is approved by the federal government; and

33 (2) the skilled nursing facilities have been compensated retroactively
34 at the increased rate for services provided pursuant to the federal med-
35 icaid program for the period commencing on and after July 1, 2005.

36 (b) The secretary of aging shall implement and administer the pro-
37 visions of sections 1 through 6, and amendments thereto, in a manner
38 consistent with applicable federal medicaid laws and regulations. The sec-
39 retary of aging shall seek any necessary approvals by the federal govern-
40 ment that are required for the implementation of sections 1 through 6,
41 and amendments thereto.

42 (c) The provisions of sections 1 through 6, and amendments thereto,
43 shall be null and void and shall have no force and effect if either of the

1 following occur:

2 (1) The uniformity waiver or the medicaid plan amendment, which
3 increases the rates of payments made to skilled nursing facilities for pro-
4 viding services pursuant to the federal medicaid program and which is
5 proposed for approval for purposes of sections 1 through 6, and amend-
6 ments thereto, is not approved by the federal centers for medicare and
7 medicaid services; or

8 (2) the rates of payments made to skilled nursing facilities for pro-
9 viding services pursuant to the federal medicaid program are reduced
10 below the rates calculated on June 30, 2005, increased by revenues in the
11 quality assurance assessment fund and matched by federal financial
12 participation.

13 Sec. 7. If the provisions of sections 1 through 6, and amendments
14 thereto, are repealed or become null and void and have no further force
15 and effect pursuant to section 6, and amendments thereto, all moneys in
16 the quality assurance assessment fund which were paid under the provi-
17 sions of sections 1 through 6, and amendments thereto, shall be returned
18 to the skilled nursing facilities which paid such moneys on the basis on
19 which such payments were assessed and paid pursuant to sections 1
20 through 6, and amendments thereto.

21 Sec. 8. This act shall take effect and be in force from and after its
22 publication in the statute book.