

SENATE BILL No. 585

By Committee on Ways and Means

2-8

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. As used in sections 1 through 6, and amendments thereto,
16 unless the context requires otherwise:

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

19 (b) "Skilled nursing care facility" means a licensed nursing facility
20 providing skilled nursing care.

21 (c) "Exempt facility" means a skilled nursing care facility from a non-
22 waived program. Exempt facility shall include the Kansas soldiers' home
23 and the Kansas veterans' home.

24 (d) "Patient day" means a calendar day of care provided to a skilled
25 nursing care facility resident, which includes the day of admission and
26 excludes the day of discharge, except that when admission and discharge
27 occur on the same day, one day of care shall be deemed to exist.

28 (e) "Non-medicare part A day" means those patient days not funded
29 by the medicare program or by a medicare advantage or special needs
30 plan.

31 Sec. 2. (a) Except as otherwise provided in this section and in section
32 6, and amendments thereto, there is hereby imposed and the secretary
33 of aging shall assess a monthly assessment, hereinafter called a quality
34 assurance fee, on each skilled nursing care facility imposed at a rate of
35 \$4.75 per non-medicare part A patient day to finance initiatives designed
36 to maintain or improve the quantity and quality of care in skilled nursing
37 care facilities in Kansas.

38 (b) Each skilled nursing care facility that is an exempt facility is ex-
39 empt from all quality assurance fees imposed pursuant to this section.

40 (c) The secretary of aging shall calculate the monthly amount of the
41 quality assurance fee owed by each skilled nursing care facility by mul-
42 tiplying the total number of days of care provided to non-medicare resi-
43 dents by the skilled nursing care facility for such month, as provided to

1 the secretary of aging pursuant to section 3, and amendments thereto, by
2 the applicable assessment rate for the twelve-month period in which such
3 month occurs.

4 (d) The amount assessed pursuant to this section is due and payable
5 30 days after the end of the month for which it has been assessed. The
6 secretary of aging is authorized to establish delayed payment schedules
7 for skilled nursing care facilities that are unable to make assessment pay-
8 ments when due and payable under this section due to financial difficul-
9 ties, as determined by the secretary of aging.

10 (e) The payment of the quality assurance fee to the secretary of aging
11 pursuant to sections 1 through 6, and amendments thereto, is an allowable
12 cost for medicaid reimbursement purposes. A rate adjustment pursuant
13 to subsection (e)(2) of section 4, and amendments thereto, shall be made,
14 effective on the date of imposition of the assessment, to reimburse the
15 portion of this cost imposed on medicaid days.

16 Sec. 3. (a) Each skilled nursing care facility shall file a report with
17 the department on aging each month that sets forth the total number of
18 days of care such skilled nursing care facility provided to non-medicare
19 residents during the preceding month.

20 (b) Each skilled nursing care facility shall prepare and submit to the
21 secretary of aging any additional information required and requested by
22 the secretary of aging to implement or administer the provisions of sec-
23 tions 1 through 6, and amendments thereto.

24 Sec. 4. (a) There is hereby created in the state treasury the quality
25 assurance fund, which shall be administered by the secretary of aging. All
26 moneys received for the assessments imposed pursuant to section 2, and
27 amendments thereto, including any penalty assessments imposed thereon
28 pursuant to section 5, and amendments thereto, shall be remitted to the
29 state treasurer in accordance with K.S.A. 75-4215, and amendments
30 thereto. Upon receipt of each such remittance, the state treasurer shall
31 deposit the entire amount in the state treasury to the credit of the quality
32 assurance fund. All expenditures from the quality assurance fund shall be
33 made in accordance with appropriation acts upon warrants of the director
34 of accounts and reports issued pursuant to vouchers approved by the
35 secretary of aging or the secretary's designee.

36 (b) All moneys in the quality assurance fund shall be used to finance
37 initiatives to maintain or improve the quantity and quality of skilled nurs-
38 ing care in skilled nursing care facilities in Kansas. No moneys credited
39 to the quality assurance fund shall be transferred to or otherwise revert
40 to the state general fund at any time.

41 (c) Any moneys received by the state of Kansas from the federal gov-
42 ernment as a result of federal financial participation in the state medicaid
43 program that are derived from the quality assurance fee shall be used to

1 finance actions to maintain or increase healthcare in skilled nursing care
2 facilities.

3 (d) An amount equal to not more than 20% of the aggregate quality
4 assurance fee imposed pursuant to section 2, and amendments thereto,
5 including any penalty assessments imposed thereon pursuant to section
6 5, and amendments thereto, plus the corresponding amount of federal
7 matching moneys shall be used for adult care.

8 (e) (1) The remaining amount in the quality assurance fund which
9 shall not be less than 80% of the aggregate quality assurance fee imposed
10 pursuant to section 2, and amendments thereto, including any penalty
11 assessments imposed thereon pursuant to section 5, and amendments
12 thereto, plus the corresponding amount of federal matching moneys shall
13 be used only for:

14 (A) Enhancements to the property component of the medicaid rate
15 through implementation of a fair rental value payment system;

16 (B) rate enhancements for cognitively impaired residents using the
17 cognitive performance scale;

18 (C) rate enhancements for cost containment;

19 (D) removal of the 85% occupancy penalty;

20 (E) an additional inflationary allowance in addition to the current
21 nursing home market basket inflationary adjustment in the direct health
22 care cost center; and

23 (F) a pass-through for the Medicaid portion of property taxes.

24 (2) The remaining amount shall not be used directly or indirectly to
25 replace existing state expenditures for payments to skilled nursing care
26 facilities for providing services pursuant to the state medicaid program.
27 Of the amount allocated pursuant to this subsection to increase or sup-
28 plement the rates paid to skilled nursing care facilities for providing ser-
29 vices pursuant to the state medicaid program, a rate adjustment shall first
30 be made to reimburse the portion of the assessment imposed on medicaid
31 patient days. The remainder shall be used to provide an increase to the
32 rates in effect on July 1, 2008, paid to skilled nursing care facilities for
33 providing services pursuant to the state medicaid program.

34 (f) On or before the 10th day of each month, the director of accounts
35 and reports shall transfer from the state general fund to the quality as-
36 surance fund interest earnings based on:

37 (1) The average daily balance of moneys in the quality assurance fund
38 for the preceding month; and

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

41 Sec. 5. If a skilled nursing care facility fails to pay the full amount of
42 the quality assurance fee imposed pursuant to section 2, and amendments
43 thereto, when due and payable, including any extensions of time granted

1 under that section, the secretary of aging shall assess a penalty in the
2 amount of the lesser of \$500 per day or 2% of the quality assurance fee
3 owed for the current fiscal year.

4 Sec. 6. (a) The secretary of aging shall assess and collect quality as-
5 surance fees imposed pursuant to section 2, and amendments thereto,
6 including any penalty assessments imposed thereon pursuant to section
7 5, and amendments thereto, from skilled nursing care facilities on and
8 after July 1, 2008, except that no fees or penalties shall be assessed under
9 sections 1 through 6, and amendments thereto, until:

10 (1) An amendment to the state plan for medicaid, which increases
11 the rates of payments made to skilled nursing care facilities for providing
12 services pursuant to the federal medicaid program and which is proposed
13 for approval for purposes of sections 1 through 6, and amendments
14 thereto, is approved by the federal government; and

15 (2) the skilled nursing care facilities have been compensated retro-
16 actively at the increased rate for services provided pursuant to the federal
17 medicaid program for the period commencing on and after July 1, 2008.

18 (b) The secretary of aging shall implement and administer the pro-
19 visions of sections 1 through 6, and amendments thereto, in a manner
20 consistent with applicable federal medicaid laws and regulations. The sec-
21 retary of aging shall seek any necessary approvals by the federal govern-
22 ment that are required for the implementation of sections 1 through 6,
23 and amendments thereto.

24 (c) The provisions of sections 1 through 6, and amendments thereto,
25 shall be null and void and shall have no force and effect if either of the
26 following occur:

27 (1) The medicaid plan amendment, which increases the rates of pay-
28 ments made to skilled nursing care facilities for providing services pur-
29 suant to the federal medicaid program and which is proposed for approval
30 for purposes of sections 1 through 6, and amendments thereto, is not
31 approved by the federal centers for medicare and medicaid services; or

32 (2) the rates of payments made to skilled nursing care facilities for
33 providing services pursuant to the federal medicaid program are reduced
34 below the rates calculated on June 30, 2008, increased by revenues in the
35 quality assurance fund and matched by federal financial participation.

36 Sec. 7. If the provisions of sections 1 through 6, and amendments
37 thereto, are repealed or become null and void and have no further force
38 and effect, all moneys in the quality assurance fund which were paid
39 under the provisions of sections 1 through 6, and amendments thereto,
40 shall be returned to the skilled nursing care facilities which paid such
41 moneys on the basis on which such payments were assessed and paid
42 pursuant to sections 1 through 6, and amendments thereto.

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