HOUSE BILL No. 1478

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-18-2; IC 16-28-15.

Synopsis: Enhanced health facility quality assessment fee. Extends the collection of a nursing facility quality assessment fee until June 30, 2014, with changes to the amount collected and the amount dispersed, providing the health facilities with 55% of the money and the state with 45% of the money.

Effective: July 1, 2011.

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January 20, 2011, read first time and referred to Committee on Public Health.

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Introduced

First Regular Session 117th General Assembly (2011)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2010 Regular Session of the General Assembly.

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HOUSE BILL No. 1478

A BILL FOR AN ACT to amend the Indiana Code concerning Medicaid.

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

SECTION 1. IC 16-18-2-69.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 69.3. "Continuing care retirement community", for purposes of IC 16-28-15, has the meaning set forth in IC 16-28-15-2.**

SECTION 2. IC 16-18-2-167, AS AMENDED BY P.L.99-2007, SECTION 153, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 167. (a) "Health facility":

(1) except for purposes of IC 16-28-15, means a building, a structure, an institution, or other place for the reception, accommodation, board, care, or treatment extending beyond a continuous twenty-four (24) hour period in a week of more than four (4) individuals who need or desire such services because of physical or mental illness, infirmity, or impairment; **and**

(2) for purposes of IC 16-28-15, has the meaning set forth in IC 16-28-15-3.

(b) The term does not include the premises used for the reception,

accommodation, board, care, or treatment in a household or family, for compensation, of a person related by blood to the head of the household or family (or to the spouse of the head of the household or family) within the degree of consanguinity of first cousins.

(c) The term does not include any of the following:

(1) Hotels, motels, or mobile homes when used as such.

(2) Hospitals or mental hospitals, except for that part of a hospital that provides long term care services and functions as a health facility, in which case that part of the hospital is licensed under IC 16-21-2, but in all other respects is subject to IC 16-28.

(3) Hospices that furnish inpatient care and are licensed under IC 16-25-3.

(4) Institutions operated by the federal government.

(5) Foster family homes or day care centers.

(6) Schools for individuals who are deaf or blind.

(7) Day schools for individuals with mental retardation.

(8) Day care centers.

(9) Children's homes and child placement agencies.

(10) Offices of practitioners of the healing arts.

(11) Any institution in which health care services and private duty nursing services are provided that is listed and certified by the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc.

(12) Industrial clinics providing only emergency medical services or first aid for employees.

(13) A residential facility (as defined in IC 12-7-2-165).

(14) Maternity homes.

(15) Offices of Christian Science practitioners.

SECTION 3. IC 16-18-2-253.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 253.7. "Nursing facility", for purposes of IC 16-28-15, has the meaning set forth in IC 16-28-15-4.**

SECTION 4. IC 16-28-15 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]:

Chapter 15. Health Facility Quality Assessment Fee

Sec. 1. The imposition of a quality assessment fee under this chapter occurs after July 31, 2011.

Sec. 2. As used in this chapter, "continuing care retirement community" means a health care facility that:

(1) provides independent living services and health facility

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services in a campus setting with common areas;

(2) holds continuing care agreements with at least twenty-five percent (25%) of its residents (as defined in IC 23-2-4-1);

(3) uses the money from the agreements described in subdivision (2) to provide services to the resident before the resident may be eligible for Medicaid under IC 12-15; and

(4) meets the requirements of IC 23-2-4.

Sec. 3. As used in this chapter, "health facility" refers to a health facility that is licensed under this article as a comprehensive care facility.

Sec. 4. As used in this chapter, "nursing facility" means a health facility that is certified for participation in the federal Medicaid program under Title XIX of the federal Social Security Act (42 U.S.C. 1396 et seq.).

Sec. 5. As used in this chapter, "office" refers to the office of Medicaid policy and planning established by IC 12-8-6-1.

Sec. 6. (a) Effective August 1, 2011, the office shall collect a quality assessment fee from each health facility.

(b) The quality assessment fee must apply to all non-Medicare patient days of the health facility. The office shall determine the quality assessment rate per non-Medicare patient day in a manner that collects the maximum amount permitted by federal law as of July 1, 2011, based on the latest nursing facility financial reports and nursing facility quality assessment data collections forms as of July 28, 2010.

(c) The office shall offset the collection of the assessment fee for a health facility:

(1) against a Medicaid payment to the health facility;

(2) against a Medicaid payment to another health facility that is related to the health facility through common ownership or control; or

(3) in another manner determined by the office.

Sec. 7. The office shall implement the waiver approved by the United States Centers for Medicare and Medicaid Services under 42 CFR 433.68(e)(2) that provides for the following:

(1) Nonuniform quality assessment fee rates.

(2) An exemption from collection of a quality assessment fee from the following:

(A) The following continuing care retirement communities:

(i) A continuing care retirement community that was registered with the securities commissioner as a continuing care retirement community on January 1,

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2007, is not required to meet the definition of a continuing care retirement community in section 2 of this chapter.

(ii) A continuing care retirement community that, for the period January 1, 2007, through June 30, 2009, operated independent living units, at least twenty-five percent (25%) of which are provided under contracts that require the payment of a minimum entrance fee of at least twenty-five thousand dollars ($25,000).

(iii) An organization registered under IC 23-2-4 before July 1, 2009, that provides housing in an independent living unit for a religious order.

(iv) A continuing care retirement community that meets the definition set forth in section 2 of this chapter.

(B) A hospital based health facility.

(C) The Indiana Veterans' Home.

Any revision to the state plan amendment or waiver request under this section is subject to and must comply with the provisions of this chapter.

Sec. 8. (a) The money collected from the quality assessment fee may be used only as follows:

(1) Fifty-five percent (55%) to pay the state's share of costs for Medicaid nursing facility services provided under Title XIX of the federal Social Security Act (42 U.S.C. 1396 et seq.).

(2) Forty-five percent (45%) to the state.

(b) The office may establish a method to allow a health facility to enter into an agreement to pay the quality assessment fee collected under this chapter under an installment plan.

Sec. 9. If federal financial participation becomes unavailable to match money collected from the quality assessment fees for the purpose of enhancing reimbursement to nursing facilities for Medicaid services provided under Title XIX of the federal Social Security Act (42 U.S.C. 1396 et seq.), the office shall cease collection of the quality assessment fee under this chapter.

Sec. 10. The office shall adopt rules under IC 4-22-2 necessary to implement this chapter.

Sec. 11. (a) If a health facility fails to pay the quality assessment fee under this chapter not later than ten (10) days after the date the payment is due, the health facility shall pay interest on the quality assessment fee at the same rate as determined under IC 12-15-21-3(6)(A).

(b) The office shall report to the state department each nursing

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facility and each health facility that fails to pay the quality assessment fee under this chapter not later than one hundred twenty (120) days after payment of the quality assessment fee is due.

Sec. 12. (a) The state department shall do the following:

(1) Notify each nursing facility and each health facility reported under section 11 of this chapter that the nursing facility's license or health facility's license under IC 16-28 will be revoked if the quality assessment fee is not paid.

(2) Revoke the nursing facility's license or health facility's license under IC 16-28 if the nursing facility or the health facility fails to pay the quality assessment fee.

(b) An action taken under subsection (a)(2) is governed by:

(1) IC 4-21.5-3-8; or

(2) IC 4-21.5-4.

Sec. 13. The select joint commission on Medicaid oversight, established by IC 2-5-26-3, shall review the implementation of this chapter.

Sec. 14. This chapter expires June 30, 2014.

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