

Amendment - 1st Reading/2nd House-blue - Requested by: Ryan Lynch - (S) Finance and Claims

- 2023

68th Legislature 2023

Drafter: Julie Johnson, 406-444-4024

HB0917.002.001

1 HOUSE BILL NO. 917
2 INTRODUCED BY B. KEENAN, J. ESP, L. JONES, J. GILLETTE
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT IMPLEMENTING THE PROVISIONS OF HOUSE BILL NO. 2;
5 REQUIRING THE EVALUATION OF THE SUPPLEMENTAL PAYMENT METHODOLOGY; ESTABLISHING
6 THE PERFORMANCE-BASED PAYMENT ACCOUNT; REVISING ALLOCATIONS OF PROCEEDS FROM
7 THE COLLECTION OF UTILIZATION FEES; SUSPENDING ADDITIONAL PAYMENTS TO DIRECT CARE
8 WORKERS IF NURSING HOME DAILY RATES EXCEED A CERTAIN AMOUNT; REVISING LICENSING FOR
9 NURSING HOME FACILITY BED CAPACITY RATES DEPENDING ON A FACILITY'S AVERAGE ACTUAL
10 OCCUPIED BED RATE; PROVIDING DIRECTION ON THE USE OF FEDERAL FUNDS; PROVIDING
11 LEGISLATIVE INTENT; ESTABLISHING INTERIM REPORTING REQUIREMENTS; PROVIDING
12 RULEMAKING AUTHORITY; AMENDING SECTIONS 15-60-210, 15-60-211, 50-5-204, AND SECTION 53-4-
13 211, MCA; AND PROVIDING AN EFFECTIVE DATE."

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16
17 NEW SECTION. Section 1. — Evaluation of noncritical access hospital supplemental payment
18 methodology — rules — report. (1) The department of public health and human services shall evaluate
19 supplemental payment methodology, including but not limited to how medicaid rate increases and hospital
20 costs impact the upper payment limit, the integrity of the cost-to-charge ratio calculation, and alternative upper
21 payment limit calculation methods that may result in more precision. The department shall also require
22 hospitals to provide evidence annually of how the upper payment limit payments impact efficiency, economy,
23 quality of care, and access.
24 (2) — Additionally, the department shall adopt rules that define excessive outlier hospital utilization
25 fees and upper payment limits and assess graduated penalties to noncritical access hospitals that fit within that
26 definition.
27 (3) — The department shall report on the activities described in this section to the joint appropriations

1 ~~sube ommittee for health and human services during the 2025 legislative session~~

2

3 **NEW SECTION. Section 1. Legislative intent on rate increases for skilled nursing facilities.**

4 Sixty percent of the base rate increases for skilled nursing facilities must be expended for wage increases to
5 the direct care workforce, except for management staff. The department of public health and human services
6 may assess a payback to skilled nursing facilities that do not meet this benchmark.

7

8 ~~**NEW SECTION. Section 2. — Performance-based payment account.** (1) There is a performance-
9 based payment account in the state special revenue fund as provided in 17-2-102.~~

10 ~~(2) — Any penalties collected by the department of public health and human services from noncritical
11 access hospitals as provided in [section 1] must be deposited in this account.~~

12 ~~(3) — The legislature may only appropriate funds from this account for the following purposes:~~

13 ~~(a) — developing and testing value-based payment methods, results-based contracting, or other
14 payment models that restrain the cost of health and human services while increasing person-centered and
15 family-centered quality outcomes;~~

16 ~~(b) — supplemental payments to noncritical access hospitals that have demonstrated efficiency and
17 cost-control measures and have met the department's supplemental payment standards; or~~

18 ~~(c) — department administrative costs related to either subsections (3)(a) or (3)(b).~~

19

20 ~~**NEW SECTION. Section 3. — Legislative intent on rate increases for skilled nursing facilities.**~~

21 ~~Sixty percent of the base rate increases for skilled nursing facilities must be expended for wage increases to
22 the direct care workforce, except for management staff. The department of public health and human services
23 may assess a payback to skilled nursing facilities that do not meet this benchmark.~~

24

25 **NEW SECTION. Section 2. Child-care subsidies.** (1) For federal funds, including but not limited to
26 the temporary assistance for needy families program and the child care and development block grant, the
27 department of public health and human services shall, to the extent possible, utilize the maximum amount

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1 allowed by federal regulations for child-care subsidies.

2 (2) All state special revenue and state general fund appropriations to the department of public
3 health and human services for child-care subsidies may only be used for child-care subsidies.

4 (3) Should excess child-care subsidy funds exist, the department shall provide geographically
5 targeted child-care subsidies in high cost of living or high cost of care areas by increasing the federal poverty
6 level eligibility beyond 150% or increasing provider rates. The department may also use excess child-care
7 subsidy funds, not to exceed 10% of the total available amount and as allowed by federal regulations, to fund
8 initiatives that increase child-care provider acceptance of child-care subsidies and family enrollment in the child-
9 care subsidy program.

10

11 NEW SECTION. SECTION 3. BUDGET SUBMISSION. WHEN SUBMITTING THE BUDGET FOR THE 2027

12 BIENNIUM, THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES SHALL SUBMIT A LINE-ITEM BUDGET TO THE

13 SECOND LEVEL OF DETAIL FOR EACH OF THE STATE-OWNED HEALTH CARE FACILITIES UNDER ITS SUPERVISION.

14

15 NEW SECTION. SECTION 4. STAFFING AT DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES.

16 BEGINNING JULY 1, 2023, AND EACH QUARTER OF THE 2025 BIENNIUM, THE DEPARTMENT OF PUBLIC HEALTH AND

17 HUMAN SERVICES SHALL SUBMIT TO THE CHILDREN, FAMILIES, HEALTH, AND HUMAN SERVICES INTERIM COMMITTEE AND

18 THE HEALTH AND HUMAN SERVICES BUDGET COMMITTEE THE FOLLOWING INFORMATION FOR STAFFING AT THE STATE-

19 OWNED HEALTH CARE FACILITIES UNDER ITS SUPERVISION:

20 (1) A LIST OF ALL JOB CLASSIFICATIONS AT EACH INSTITUTION BY JOB TITLE;

21 (2) THE NUMBER OF FTE ASSIGNED TO EACH JOB CLASSIFICATION;

22 (3) THE NUMBER OF STATE EMPLOYEES EMPLOYED IN EACH JOB CLASSIFICATION;

23 (4) THE NUMBER OF CONTRACT OR TRAVELING STAFF EMPLOYED IN EACH JOB CLASSIFICATION;

24 (5) THE NUMBER OF POSITIONS IN EACH JOB CLASSIFICATION THAT ARE NOT FILLED BY EITHER A STATE

25 EMPLOYEE OR CONTRACT STAFF AND THEREFORE ARE TRULY VACANT POSITIONS;

26 (6) THE TOTAL NUMBER OF NEW HIRES AND TERMINATIONS IN EACH JOB CLASSIFICATION; AND

27 (7) A NARRATIVE EXPLAINING HOW THE DEPARTMENT CONDUCTED RECRUITMENT EFFORTS TO FILL VACANT

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1 POSITIONS AT EACH HEALTH CARE FACILITY.

2

3 **Section 5.** Section 15-60-210, MCA, is amended to read:

4 **"15-60-210. (Temporary) Disposition of fee.** (1) Except as provided in subsection (2), all proceeds
5 from the collection of utilization fees, including penalties and interest, must, in accordance with the provisions of
6 17-2-124, be deposited in the general fund.

7 (2) Utilization fees, including penalties and interest, collected from the Montana mental health
8 nursing care center must be allocated as follows:

9 (a) 30% to the state general fund; and

10 (b) 70% to the prevention and stabilization account in the state special revenue fund established
11 pursuant to 53-6-1101 to the credit of the department of public health and human services to finance,
12 administer, and provide health and human services. (Void on occurrence of contingency—sec. 18, Ch. 746, L.
13 1991—see chapter compiler's comment.) "

14

15 **Section 6.** Section 15-60-211, MCA, is amended to read:

16 **"15-60-211. State special revenue account.** (1) There is a nursing facility utilization fee account in
17 the state special revenue fund as provided in 17-2-102.

18 (2) (a) All money collected under 15-60-102 (1)(b) through (1)(d) must be deposited in this
19 account.

20 (b) Money collected under 15-60-102 (1)(b) must be used by the department of public health and
21 human services for the purpose of maintaining the average price paid for medicaid nursing facility services at
22 the fiscal year 2017 level under the price-based reimbursement system used to establish medicaid payment
23 rates to nursing homes.

24 (c) All money collected under 15-60-102 (1)(c) and (1)(d) must be used by the department of
25 public health and human services for the purpose of:

26 (i) increasing the average price paid for medicaid nursing facility services above the fiscal year 2017
27 level under the price-based reimbursement system used to establish medicaid payment rates to nursing homes;

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1 and

2 (ii) ~~in each year of the biennium beginning July 1, 2017 2023, providing a wage increase of 50~~
3 ~~cents per an hour to certified nursing assistants working in nursing facilities, provided in increments of 25 cents~~
4 ~~per an hour every 6 months.~~

5 ~~(iii) For fiscal years beginning July 1, 2023, and July 1, 2024, if the daily medicaid provider rate s~~
6 ~~paid to nursing homes is greater than or equal to \$270.75, the payment provided for in subsection (2)(c)(ii) is~~
7 ~~not made.~~

8 ~~(3) Money remaining in this account at the end of a fiscal year may not be expended or transferred~~
9 ~~for any other purpose and is subject to appropriation by a subsequent legislature for purposes consistent with~~
10 ~~subsection (2)."~~

11

12 **Section 7.** Section 50-5-204, MCA, is amended to read:

13 **~~"50-5-204. Issuance and renewal of licenses -- inspections.~~** (1) ~~After receipt of a new application~~
14 ~~and notice that the facility is ready to be inspected, the department or its authorized agent shall conduct an~~
15 ~~initial inspection of the facility within 45 days.~~

16 (2) ~~After receipt of an application for renewal of a license, the department or its authorized agent~~
17 ~~shall inspect the facility without prior notice to the operator or staff.~~

18 (3) ~~(a) If the department determines that the facility meets minimum standards and the proposed or~~
19 ~~existing staff is qualified, the department shall issue a license for a period of 1 to 3 years in duration.~~

20 ~~(b) A nursing home facility must have an a ctual occup ied bed count of at least 65% of it s~~
21 ~~licensed bed capacity by July 1, 2025. If a nursing home facility does not have an actual occupied bed count of~~
22 ~~at least 65% of its licensed bed capacity by July 1, 2025, the facility must relicense for no more than 120% of its~~
23 ~~average actual occupied bed count for the last calendar year.~~

24 (4) ~~If minimum standards are not met, the department may issue a provisional license for less than~~
25 ~~1 year if operation will not result in undue hazard to patients or residents or if the demand for accommodations~~
26 ~~offered is not met in the community.~~

27 (5) ~~The minimum standards that home health agencies must meet in order to be licensed must be~~

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1 ~~as outlined in 42 U.S.C. 1395x(o), as amended, and in rules implementing it that add minimum standards.~~
2 ~~(6) — The department may inspect a licensed health care facility whenever it considers it necessary.~~
3 ~~The entire premises of a licensed facility must be open to inspection, and access to all records must be granted~~
4 ~~at all reasonable times."~~

5

6 **Section 5.** Section 53-4-211, MCA, is amended to read:

7 **"53-4-211. Administration of programs funded under temporary assistance for needy families**

8 **block grant.** (1) The department is authorized and is charged with the general administration and supervision

9 of programs funded under the temporary assistance for needy families block grant under the powers, duties,

10 and functions as prescribed in chapter 2 of this title.

11 (2) The state of Montana shall maintain a fiscal effort equivalent to at least 75% of its historic state
12 expenditures, as defined in 42 U.S.C. 609(a)(7)(B)(iii), governing maintenance of effort necessary to draw down
13 the temporary assistance to needy families block grant.

14 (3) The department shall administer funds in accordance with federal regulations, including for
15 initiatives and services that strengthen families, increase family self-sufficiency, and reduce family dependence
16 on government programs. These initiatives and services may include those related to career development,
17 training, and job search support, increasing child support cooperation, promoting and supporting marriage and
18 two-parent households, and responsible fatherhood and positive parenting skills. The department shall, as
19 appropriate, coordinate or consult with the legislature and other state agencies to ensure that these initiatives
20 and services are the most impactful, are nonduplicative, and are the best at achieving the outcomes sought by
21 the department."

22

23 ~~**NEW SECTION. Section 9. — Codification instruction.** [Sections 1 through 3] are intended to be~~
24 ~~codified as an integral part of Title 50, chapter 2, and the provisions of Title 50, chapter 2, apply to [sections 1~~
25 ~~through 3].~~

26

27 ~~**NEW SECTION. Section 6. Effective date.** [This act] is effective July 1, 2023.~~

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- END -

AMEND