

First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 11-0628.01 Debbie Haskins

SENATE BILL 11-125

SENATE SPONSORSHIP

White, Guzman, Jahn, Tochtrop

HOUSE SPONSORSHIP

Sonnenberg, Pace

Senate Committees

Health and Human Services
Finance
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING MEDICAID NURSING FACILITY PROVIDER FEES, AND, IN**
102 **CONNECTION THEREWITH, INCREASING THE CAP ON THE**
103 **MEDICAID NURSING FACILITY PROVIDER FEE, CHANGING THE**
104 **PRIORITY OF USES FOR SUPPLEMENTAL PAYMENTS FROM THE**
105 **MEDICAID NURSING FACILITY CASH FUND, AND MAKING AN**
106 **APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

SENATE
3rd Reading Unamended
April 28, 2011

SENATE
Amended 2nd Reading
April 27, 2011

Effective with fiscal year 2011-12, the bill increases the cap on the provider fee on health care items or services provided by nursing home facility providers for purposes of obtaining federal financial participation under medicaid from a maximum of \$7.50 to a maximum of \$12 per nonmedicare-resident day.

The bill reorders the priority in which the supplemental payments to the nursing home facility providers are made by adding acuity or case-mix of the residents as the second priority for supplemental payments and making the general fund cap payment the last priority. The bill also identifies more precisely the health care item or service for which each supplemental payment is made.

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

2 **SECTION 1.** 25.5-6-203 (1) (a) (II) and (2), Colorado Revised
3 Statutes, are amended to read:

4 **25.5-6-203. Nursing facilities - provider fees - federal waiver**
5 **- fund created - rules - repeal.** (1) (a) (II) For the fiscal year YEARS
6 commencing July 1, 2009, ~~the provider fee shall not exceed seven dollars~~
7 ~~and fifty cents per nonmedicare-resident day. For the fiscal year~~
8 ~~commencing~~ AND July 1, 2010, ~~and each fiscal year thereafter,~~ the
9 provider fee shall not exceed seven dollars and fifty cents per
10 nonmedicare-resident day. FOR THE FISCAL YEAR COMMENCING JULY 1,
11 2011, ANDEACH FISCAL YEAR THEREAFTER, THE PROVIDER FEE SHALL NOT
12 EXCEED TWELVE DOLLARS PER NONMEDICARE-RESIDENT DAY plus
13 inflation based on the national skilled nursing facility market basket index
14 as determined by the secretary of the department of health and human
15 services pursuant to 42 U.S.C. sec. 1395yy (e) (5) or any successor index.

16 (2) (a) All provider fees collected pursuant to this section by the
17 state department shall be transmitted to the state treasurer, who shall
18 credit the same to the medicaid nursing facility cash fund, which fund is
19 hereby created and referred to in this section as the "fund".

1 (b) (I) All moneys in the fund shall be subject to federal matching
2 as authorized under federal law and subject to annual appropriation by the
3 general assembly for the purpose of paying the administrative costs of
4 implementing section 25.5-6-202 and this section and to pay the
5 supplemental medicaid payments TO OFFSET PAYMENT OF THE PROVIDER
6 FEE established under section 25.5-6-202 (7).

7 (II) Following the payment of the amounts described in
8 subparagraph (I) of this paragraph (b), the moneys remaining in the fund
9 shall be subject to federal matching as authorized under federal law and
10 subject to annual appropriation by the general assembly for the purpose
11 of paying the supplemental medicaid payments FOR ACUITY OR CASE-MIX
12 OF RESIDENTS established under section ~~25.5-6-202 (9) (b) (H)~~ 25.5-6-202
13 (2).

14 ~~(H.3)~~ (III) (A) Except as provided in sub-subparagraph (B) of this
15 subparagraph ~~(H.3)~~ (III), after the payment of the amounts described in
16 subparagraphs (I) and (II) of this paragraph (b), the moneys remaining in
17 the fund shall be subject to federal matching as authorized under federal
18 law and subject to annual appropriation by the general assembly for the
19 purpose of paying the supplemental medicaid payments FOR HIGHER
20 QUALITY PERFORMANCE established under section 25.5-6-202 (5).

21 (B) Notwithstanding any other provision of this paragraph (b), the
22 supplemental medicaid payments established pursuant to section
23 25.5-6-202 (5) shall not be less than ten percent of the supplemental
24 medicaid payments established under section 25.5-6-202 (7) in the prior
25 state fiscal year.

26 ~~(H.5)~~ (IV) Following the payment of the amounts described in
27 subparagraphs (I) to ~~(H.3)~~ (III) of this paragraph (b), the moneys

1 remaining in the fund shall be subject to federal matching as authorized
2 under federal law and subject to annual appropriation by the general
3 assembly for the purpose of paying the supplemental medicaid payments
4 FOR RESIDENTS WHO HAVE MODERATELY TO VERY SEVERE MENTAL
5 HEALTH CONDITIONS, COGNITIVE DEMENTIA, OR ACQUIRED BRAIN INJURY
6 established under section 25.5-6-202 (6).

7 ~~(H.7) (A) Notwithstanding any other provision of law to the~~
8 ~~contrary, for the 2009-10 state fiscal year only, money in the medicaid~~
9 ~~nursing facility cash fund may be used to reimburse the general fund for~~
10 ~~increased reimbursements due to House Bill 08-1114, enacted in 2008,~~
11 ~~paid to nursing facilities for services provided to hospice patients during~~
12 ~~the 2009-10 fiscal year for services provided during the 2008-09 fiscal~~
13 ~~year.~~

14 ~~(B) This subparagraph (H.7) is repealed, effective July 1, 2011.~~

15 (V) FOLLOWING THE PAYMENT OF THE AMOUNTS DESCRIBED IN
16 SUBPARAGRAPHS (I) TO (IV) OF THIS PARAGRAPH (b), THE MONEYS
17 REMAINING IN THE FUND SHALL BE SUBJECT TO FEDERAL MATCHING AS
18 AUTHORIZED UNDER FEDERAL LAW AND SUBJECT TO ANNUAL
19 APPROPRIATION BY THE GENERAL ASSEMBLY FOR THE PURPOSE OF PAYING
20 THE SUPPLEMENTAL MEDICAID PAYMENTS FOR THE AMOUNT BY WHICH
21 THE AVERAGE STATEWIDE PER DIEM RATE EXCEEDS THE GENERAL FUND
22 SHARE ESTABLISHED UNDER SECTION 25.5-6-202 (9) (b) (II).

23 ~~(HH)~~ (VI) Any moneys in the fund not expended for ~~these~~ THE
24 purposes SPECIFIED IN THIS SECTION may be invested by the state treasurer
25 as provided by law. All interest and income derived from the investment
26 and deposit of moneys in the fund shall be credited to the fund. Any
27 unexpended and unencumbered moneys remaining in the fund at the end

1 of any fiscal year shall remain in the fund and shall not be credited or
2 transferred to the general fund or any other fund but may be appropriated
3 by the general assembly to pay nursing facility providers in future fiscal
4 years.

5 **SECTION 2. Adjustments in 2011 long bill.** For the
6 implementation of this act, appropriations made in the annual general
7 appropriation act for the fiscal year beginning July 1, 2011, to the
8 department of health care policy and financing, shall be adjusted as
9 follows:

10 (1) The appropriation to the executive director's office, for general
11 professional services and special projects, is increased by sixty thousand
12 dollars (\$60,000). Of said sum, thirty thousand dollars (\$30,000) shall
13 be from the general fund and thirty thousand dollars (\$30,000) shall be
14 from federal funds.

15 (2) The appropriation to the medical services premiums section is
16 increased by thirty million nine hundred ninety-four thousand four
17 hundred eleven dollars (\$30,994,411). Of said sum, fifteen million four
18 hundred ninety-seven thousand two hundred six dollars (\$15,497,206)
19 shall be cash funds from the medicaid nursing facility cash fund created
20 in section 25.5-6-203 (2) (a), Colorado Revised Statutes, and fifteen
21 million four hundred ninety-seven thousand two hundred five dollars
22 (\$15,497,205) shall be from federal funds.

23 **SECTION 3. Act subject to petition - effective date.** This act
24 shall take effect at 12:01 a.m. on the day following the expiration of the
25 ninety-day period after final adjournment of the general assembly (August
26 10, 2011, if adjournment sine die is on May 11, 2011); except that, if a
27 referendum petition is filed pursuant to section 1 (3) of article V of the

1 state constitution against this act or an item, section, or part of this act
2 within such period, then the act, item, section, or part shall not take effect
3 unless approved by the people at the general election to be held in
4 November 2012 and shall take effect on the date of the official
5 declaration of the vote thereon by the governor.