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NURSING CARE FACILITY MODIFICATIONS
2024 GENERAL SESSION
STATE OF UTAH
Chief Sponsor: Stephen L. Whyte
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill modifies provisions related to nursing care facilities.

Highlighted Provisions:

This bill:

- removes statutorily prescribed penalties and interest imposed on nursing care facilities for failure to pay an assessment;
- grants to the Division of Integrated Healthcare rulemaking authority to require nursing care facilities to pay a penalty for failure to timely pay an assessment; and
- makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26B-3-403, as renumbered and amended by Laws of Utah 2023, Chapter 306

26B-3-404, as renumbered and amended by Laws of Utah 2023, Chapter 306

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **26B-3-403** is amended to read:

26B-3-403 . Collection, remittance, and payment of nursing care facilities assessment.

(1) (a) Beginning July 1, 2004, an assessment is imposed upon each nursing care facility in the amount designated in Subsection (1)(c).

(b) (i) The department shall establish by rule, a uniform rate per non-Medicare

- 29 patient day that may not exceed 6% of the total gross revenue for services
30 provided to patients of all nursing care facilities licensed in this state.
- 31 (ii) For purposes of Subsection (1)(b)(i), total revenue does not include charitable
32 contribution received by a nursing care facility.
- 33 (c) The department shall calculate the assessment imposed under Subsection (1)(a) by
34 multiplying the total number of patient days of care provided to non-Medicare
35 patients by the nursing care facility, as provided to the department pursuant to
36 Subsection (3)(a), by the uniform rate established by the department pursuant to
37 Subsection (1)(b).
- 38 (2) (a) The assessment imposed by this part is due and payable on a monthly basis on or
39 before the last day of the month next succeeding each monthly period.
- 40 (b) The collecting agent for this assessment shall be the department which is vested with
41 the administration and enforcement of this part, including the right to audit records of
42 a nursing care facility related to patient days of care for the facility.
- 43 (c) The department shall forward proceeds from the assessment imposed by this part to
44 the state treasurer for deposit in the expendable special revenue fund as specified in
45 Section 26B-1-332.
- 46 (3) Each nursing care facility shall, on or before the end of the month next succeeding each
47 calendar monthly period, file with the department:
- 48 (a) a report which includes:
- 49 (i) the total number of patient days of care the facility provided to non-Medicare
50 patients during the preceding month;
- 51 (ii) the total gross revenue the facility earned as compensation for services provided
52 to patients during the preceding month; and
- 53 (iii) any other information required by the department; and
- 54 (b) a return for the monthly period, and shall remit with the return the assessment
55 required by this part to be paid for the period covered by the return.
- 56 (4) Each return shall contain information and be in the form the department prescribes by
57 rule.
- 58 (5) The assessment as computed in the return is an allowable cost for Medicaid
59 reimbursement purposes.
- 60 (6) The department may by rule, extend the time for making returns and paying the
61 assessment.
- 62 (7) Each nursing care facility that fails to pay any assessment required to be paid to the

63 state, within the time required by this part, or that fails to file a return as required by this
64 part, shall pay, in addition to the assessment[;] and penalties[-and interest] as provided
65 in Section 26B-3-404.

66 Section 2. Section **26B-3-404** is amended to read:

67 **26B-3-404 . Penalties .**

68 [~~(1) The penalty for failure to file a return or pay the assessment due within the time~~
69 ~~prescribed by this part is the greater of \$50, or 1% of the assessment due on the return.]~~

70 [~~(2) For failure to pay within 30 days of a notice of deficiency of assessment required to be~~
71 ~~paid, the penalty is the greater of \$50 or 5% of the assessment due.]~~

72 [~~(3) The penalty for underpayment of the assessment is as follows:]~~

73 [~~(a) If any underpayment of assessment is due to negligence, the penalty is 25% of the~~
74 ~~underpayment.]~~

75 [~~(b) If the underpayment of the assessment is due to intentional disregard of law or rule,~~
76 ~~the penalty is 50% of the underpayment.]~~

77 [~~(4) For intent to evade the assessment, the penalty is 100% of the underpayment.]~~

78 [~~(5) The rate of interest applicable to an underpayment of an assessment under this part or~~
79 ~~an unpaid penalty under this part is 12% annually.]~~

80 (1) The division shall require a nursing care facility that fails to pay an assessment due
81 under this part to pay to the division, in addition to the assessment, a penalty determined
82 by the division.

83 [~~(6)~~] (2) The department may waive the imposition of a penalty for good cause.

84 (3) The division shall make rules in accordance with Title 63G, Chapter 3, Utah
85 Administrative Rulemaking Act, prescribing the administration and requirements for this
86 section.

87 Section 3. **Effective date.**

88 This bill takes effect on May 1, 2024.