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1971 Assembly Bill 1474

**Date published:
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CHAPTER 217, Laws of 1971

AN ACT to amend 49.18 (1) (b), 49.19 (1) (c), 49.20 (2) and 49.61 (1m);
and to repeal and recreate 49.45 (6m) of the statutes; and to

repeal section 528 (9) of chapter 125, laws of 1971, relating to reimbursement for skilled nursing home care for patients in certain facilities.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 49.18 (1) (b) of the statutes, as affected by chapter 125, laws of 1971, is amended to read:

49.18 (1) (b) For the purposes of this section, "aid to the blind" means money payments, or vendor payments as prescribed by the department, to such blind person, to another individual when such individual has been appointed by a court of competent jurisdiction as a legal representative of the needy blind person or to another individual who has been designated by the county welfare agency in cases approved by the state department to receive payment of the aid, or medical care in behalf of or any type of remedial care recognized under this section or s. 49.46 in behalf of blind individuals who are needy, but does not include any such payments to or care in behalf of any individual who is an inmate of a public institution (except as a patient in a medical institution) or any individual who is a patient in an institution for tuberculosis or mental diseases. Beginning July 1, 1953, no payment of aid to the blind shall be made to any individual in a private or public institution unless a standard-setting authority has been designated or established which shall be responsible for establishing and maintaining standards for such institution. Such individuals shall not be barred from receiving general aid under ss. 49.02 and 49.03. Aid to the blind shall also be granted to blind dependent persons residing voluntarily in county or city homes and the department shall make claim for federal reimbursement therefor when federal funds are made available for that purpose and pay the same to the county. The rate of payment for skilled nursing care provided under ~~ss. 49.18 this section shall not exceed the applicable Title XIX rate for skilled nursing care in that same county in accord with s. 49.45 (6m) be determined by the county under guidelines established by the department pursuant to s. 49.45 (6m).~~ Payment for limited care shall not exceed 90% of the applicable Title XIX skilled care rate. Payment for personal care shall not exceed ~~75%~~ 80% of the applicable Title XIX skilled care rate.

SECTION 2. 49.19 (1) (c) of the statutes, as affected by chapter 125, laws of 1971, is amended to read:

49.19 (1) (c) "Aid to families with dependent children" means money payments with respect to, or vendor payments as prescribed by the department, or medical care in behalf of or any type of remedial care recognized under subs. (1) to (10) or s. 49.46 or necessary burial expenses as defined in sub. (5) in behalf of a dependent child or dependent children including such aid to meet the needs of the relative with whom any dependent child is living and the spouse of such relative if living with him and if such relative is the child's parent and the child is a dependent child by reason of the physical or mental incapacity of a parent or payments made to another individual not a relative enumerated under par. (a), pursuant to federal regulations, when such individual has been appointed by a court of competent jurisdiction as a legal representative of the dependent child or when such individual who may be a caseworker has been designated by the county welfare department to receive payment of the aid or cash payments to recipients who are engaged in an approved work relief or training project. The rate of payment for skilled nursing care provided under ~~ss. 49.19 this section shall not exceed the applicable Title XIX rate for skilled~~

~~nursing care in that same county in accord with s. 49.45 (6m) be determined by the county under guidelines established by the department pursuant to s. 49.45 (6m).~~ Payment for limited care shall not exceed 90% of the applicable Title XIX skilled care rate. Payment for personal care shall not exceed ~~75%~~ 80% of the applicable Title XIX skilled care rate.

SECTION 3. 49.20 (2) of the statutes, as affected by chapter 125, laws of 1971, is amended to read:

49.20 (2) The term "old-age assistance" means money payments, or vendor payments as prescribed by the department, to such aged, dependent person, to another individual when such individual has been appointed by a court of competent jurisdiction as a legal representative of such needy aged person or to another individual who has been designated by the county welfare agency in cases approved by the state department to receive payment of aid or medical care in behalf of or any type of remedial care recognized under ss. 49.20 to 49.37 or 49.46 or in behalf of needy individuals who are 65 years of age or older (or 60 years or older in the event of the change in the federal law as provided in s. 49.22 (1)) but does not include any such payments or care in behalf of any individual who is an inmate of a public institution (except as a patient in a medical institution) or any individual who is a patient in an institution for tuberculosis. Beginning July 1, 1953, no payment of old-age assistance shall be made to any individual in a private or public institution unless a standard-setting authority has been designated or established which shall be responsible for establishing and maintaining standards for such institutions. Such individuals shall not be barred from receiving general aid under ss. 49.02 and 49.03. Old-age assistance shall also be granted to aged dependent persons residing voluntarily in county or city homes and the department shall make claim for federal reimbursement therefor when federal funds are made available for that purpose and pay the same to the county. The rate of payment for skilled nursing care provided under ~~ss. 49.20 this section shall not exceed the applicable Title XIX rate for skilled nursing care in that same county in accord with s. 49.45 (6m) be determined by the county, under guidelines established by the department pursuant to s. 49.45 (6m).~~ Payment for limited care shall not exceed 90% of the applicable Title XIX skilled care rate. Payment for personal care shall not exceed ~~75%~~ 80% of the applicable Title XIX skilled care rate.

SECTION 4. 49.45 (6m) of the statutes, as created by chapter 125, laws of 1971, is repealed and recreated to read:

49.45 (6m) PAYMENT TO NURSING HOMES. (a) Reimbursement for skilled nursing home care provided to nursing home patients under s. 20.435 (4) (c) and (o) shall be made according to the following schedule:

1. A state-wide daily rate.
2. A regional adjustment not to exceed a certain dollar amount above or below the state-wide rate.
3. A supplement to a facility that has a remaining debt retirement cost in excess of \$10,000 per bed and based on the actual interest costs up to a rate of 8% annually. Public and private gifts and grants shall not be included in determining the per bed cost. Per bed per day debt retirement costs shall be based on actual debt retirement payments less principal plus allowable straight-line depreciation. Construction costs exceeding cost standards under the Hill-Burton Act, or not related to nursing care shall not be included in the determination of eligibility under this provision. An adjustment shall be granted only for that remaining debt retirement in excess of \$10,000 per bed. This provision is

applicable only to facilities in operation as of July 1, 1972, except that facilities commencing operation after that date may be granted this supplement by the department. These supplements shall be reviewed and adjusted annually.

4. A financial supplement for patients needing maximum care as determined by the department.

5. Upon the approval of the program medical director, an additional daily supplement of not to exceed 40% of the daily rate can be made on his evaluation of exceptional care needs for not more than 75 patients state-wide at any time.

6. A reduction not to exceed a specified amount for any home which is exempt from the payment of property taxes.

7. A financial supplement not to exceed a designated percentage of the state-wide base rate for homes providing nursing care in quality and quantity above state standards but limited to maximum standards, or a rate reduction not to exceed a designated percentage of the state-wide base rate for homes providing nursing care in quality and quantity below average state standards.

8. The specific dollar amounts for each component set forth above in subds. 1, 2, 4 and 6, and the designated percentage for the component set forth in subd. 7 shall be established in the biennial budget, except that the joint committee on finance shall adjust the state-wide rate annually. The department of health and social services shall report such figures to the joint committee on finance no later than March 1 of each odd-numbered year.

(b) No payments may be made to skilled nursing homes which hold only provisional licenses.

(c) Ancillary services shall be an allowable cost if not billed for as a separate item, but the facility's established practice of billing for ancillary charges as of July 1, 1971, shall not be changed without approval of the department.

(d) The department shall take into account all pertinent federal regulations in establishing reimbursement under this section.

(e) Counties may make payments for skilled nursing care provided under ss. 49.18, 49.19, 49.20 and 49.61 at 100% of the reimbursement rate provided in this subsection if the following conditions are met:

1. The nursing home is certified by the department to meet all the physical and operational requirements for reimbursement under the medical assistance (Title XIX) program and this subsection and will continue to meet all of such requirements;

2. The department will review or has a written agreement with the county agency to review the status and care needs of the patients in accordance with federal and state regulations and requirements;

4. The department shall make the final determinations in regard to establishing all the adjustments and supplements to the base rate that are provided for in this subsection. The county shall obtain the department's approval prior to any final agreement for reimbursement with a facility for care. Counties may make payments for skilled nursing care at 95% of reimbursement rate provided in this subsection if the home meets all the state requirements for providing such care and all the conditions of this paragraph except subd. 1.

(g) The applicable Title XIX skilled care rate as used in ss. 49.18 (1) (b), 49.19 (1) (c), 49.20 (2) and 49.61 (1m) shall mean the rate determined by the department for each county in accordance with par. (a) 1 and 2.

(h) The governor shall appoint an appeal board, consisting of 7 members for 2-year terms. Members shall include 2 representatives of the nursing home industry, which shall be rotated among the representatives of the different types of homes in the industry, individuals who through their experience and training are knowledgeable in the determination of wage rates and labor markets, the nursing care and needs of individuals, and the interest of the general public. The appeal board shall review petitions from nursing homes providing Title XIX, state skilled, limited and personal care, for modifications to any reimbursement rate under this subsection for such homes. Upon the findings and recommendations of the appeal board, the secretary of health and social services shall grant such modifications, which may exceed maximums under this section but may not exceed any applicable federal maximums. The board may, upon the presentation of facts, recommend modifications of a home's care rate where demonstrated substantial inequities exist including those resulting from the following, without limitation because of enumeration:

1. Wages, salaries and related benefit costs.
2. Historical capital construction costs.
3. Exceptional care factors.

(i) For the purposes of this subsection and as a condition of reimbursement under this subsection, every skilled nursing home shall:

1. Adopt the uniform accounting system prescribed by the department;
2. Provide the department with a certified annual audit report at the home's expense; and
3. Cooperate with the department in establishing costs for reimbursement purposes.

SECTION 5. 49.61 (1m) of the statutes, as affected by chapter 125, laws of 1971, is amended to read:

49.61 (1m) DEFINITION OF AID; INSTITUTION INMATES. In this section, "aid to the totally and permanently disabled" means money payments, or vendor payments as prescribed by the department, to such totally and permanently disabled person, to another individual when such individual has been appointed by a court of competent jurisdiction as a legal representative of such needy disabled person or to another individual who has been designated by the county welfare agency in cases approved by the department to receive payment of the aid, or medical care in behalf of, or any type of remedial care recognized under this section or s. 49.46 in behalf of, needy individuals more than 18 and less than 65 years of age who are totally and permanently disabled, but does not include any such payments to or care in behalf of any individual who is an inmate of a public institution (except as a patient in a medical institution) or any individual who is a patient in an institution for tuberculosis or mental diseases. No payment of aid to totally and permanently disabled persons shall be made to any individual in a private or public institution unless a standard-setting authority has been designated or established which is responsible for establishing and maintaining standards for such institutions. Such individuals shall not be barred from receiving general aid under ss. 49.02 and 49.03.

Aid to the totally and permanently disabled shall be granted to totally and permanently disabled dependent persons residing voluntarily in county or city homes and the department shall make claim for federal reimbursement therefor when federal funds are made available for that purpose and pay the same to the county. The rate of payment for skilled nursing care provided under ~~under s. 49.61~~ this section shall not exceed the applicable Title XIX rate for skilled nursing care in that same county in accord with s. 49.45 (6m) be determined by the county under guidelines established by the department pursuant to s. 49.45 (6m). Payment for limited care shall not exceed 90% of the applicable Title XIX skilled care rate. Payment for personal care shall not exceed ~~75%~~ 80% of the applicable Title XIX skilled care rate.

SECTION 6. Section 528 (9) of chapter 125, laws of 1971, is repealed.

SECTION 7. IMPLEMENTATION OF THE NURSING HOME REIMBURSEMENT SYSTEM. (1) (a) The department of health and social services shall develop the rules and procedures necessary to implement the reimbursement system contained in section 49.45 (6m) of the statutes, as affected by this act. Implementation, including the departmentally established guidelines under sections 49.18 (1) (b), 49.19 (1) (c), 49.20 (2) and 49.61 (1m), of the system shall take effect upon approval of the joint committee on finance, but no later than July 1, 1972.

(b) Until such time as section 49.45 (6m) is implemented, reimbursement rates to nursing homes shall be at the rate in effect prior to November 5, 1971. Upon implementation of the formula on July 1, 1972, retroactive adjustments shall be made in accordance with the new formula.

(2) (a) The reimbursement rate to nursing homes reimbursed under section 20.435 (4) (c) and (o) of the statutes for the 1971-73 biennium shall not be less than 100% of the most recent rate paid prior to November 5, 1971.

(b) If the provisions of the federal economic stabilization act affecting nursing homes are no longer in effect, no increases in rates shall be granted without prior approval of the joint committee on finance. The committee may establish limitations on the maximum rate increase allowable under section 49.45 (6m) of the statutes.

(3) (a) For the fiscal year 1971-72, the base rate established by section 49.45 (6m) (a) 1 of the statutes shall be \$13.80. This rate is subject to review annually by the joint committee on finance.

(b) For the 1971-73 biennium, the regional adjustment established by section 49.45 (6m) (a) 2 of the statutes shall not exceed \$2 per day above or \$1 per day below the state-wide rate. The adjustment shall be based on the comparative differences among the counties' mean wage rates for nurses aids, licensed practical nurses and registered nurses in all health care facilities in the county. Adjustments also shall be made where adjoining counties in part or in whole are in the same labor market or are affected by higher wage rates in labor markets in adjoining states. Counties or homes whose mean wage rates for such personnel substantially exceed the mean wage rate for regions in the highest adjustment category shall have a further adjustment to the base rate not to exceed \$1.

(c) For the 1971-73 biennium, the supplement established by section 49.45 (6m) (a) 4 shall be \$2 per patient per day.

(d) For the 1971-73 biennium, the rate reduction established by section 49.45 (6m) (a) 6 of the statutes shall be 75 cents per day.

(e) For the 1971-73 biennium, the supplement established by section 49.45 (6m) (a) 7 of the statutes for those homes providing care above standards shall not exceed 15% of the base rate, and for those homes providing care below state standards the rate reduction established shall not exceed a 5% reduction in the base rate.
