

1999 ASSEMBLY BILL 344

May 17, 1999 – Introduced by Representatives KRUSICK, BERCEAU, BLACK, BOCK, BOYLE, CARPENTER, CULLEN, GRONEMUS, HANDRICK, HASENOHRL, J. LEHMAN, MILLER, MUSSER, PLALE, WASSERMAN, WILLIAMS and YOUNG, cosponsored by Senators GROBSCHMIDT, BAUMGART, DARLING, ERPENBACH, PLACHE, ROESSLER, ROSENZWEIG and SCHULTZ, by request of American Association of Retired Persons, ARC Wisconsin, Allied Council of Senior Citizens, Board on Aging and Long Term Care, Coalition of Wisconsin Aging Groups, Service Employees International Union, United Seniors of Wisconsin, and Wisconsin Council on Developmental Disabilities. Referred to Joint committee on Finance.

1 **AN ACT relating to:** increasing medical assistance payment to nursing homes to
 2 supplement wages and fringe benefits for direct care nursing staff, increasing
 3 medical assistance rates of payments for workers providing in-home personal
 4 care services, requiring a report and making appropriations.

Analysis by the Legislative Reference Bureau

Under current law, the department of health and family services (DHFS) must calculate individual rates of payment to nursing homes for care provided to medical assistance recipients by means of a statutory formula that considers various costs, including allowable direct care costs for staff services. Currently, increases in total payments to nursing homes for this care are limited, during fiscal year 1998–99, to \$30,145,200 or 3.5% over that paid for services provided in fiscal year 1997–98, whichever is less.

Currently, a medical assistance recipient may receive nursing services, and may receive personal care services if he or she is not eligible for home health aide services under medicare and, for more than 50 hours of the services in a calendar year, the provider receives prior authorization from DHFS. A medical assistance recipient may also receive home or community-based services under the long-term support community options program or under one of the community integration programs.

This bill provides for a supplement in payment to nursing homes serving medical assistance recipients that is specifically to increase wages and fringe benefits for, or increase staff hours of, registered nurses, licensed practical nurses

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and nurse's assistants. The supplement, from general purpose revenues and federal medicaid moneys, is \$12,200,000 in fiscal year 1999–00 and \$12,200,000 in fiscal year 2000–01. The supplement does not apply to the Wisconsin Veterans Home at King, Wisconsin or to the state centers for the developmentally disabled. DHFS must calculate each nursing home's supplementary payment for each fiscal year by first calculating the nursing home's rate per patient day under the statutory formula and then adding to that amount an amount that is obtained by dividing \$12,200,000 by the number of medical assistance–eligible resident days in all nursing homes, except the Wisconsin Veterans Home at King, Wisconsin and the state centers for the developmentally disabled, that is projected for that fiscal year. A nursing home may spend the supplementary amount only to increase wages and fringe benefits for registered nurses, licensed practical nurses and nurse's assistants or to increase their staff hours if the sum of the nursing home's allowable direct care costs for personnel for fiscal years 1997–98 and 1998–99 plus the supplementary amount does not equal or exceed the sum of the medical assistance standard for allowable direct care costs plus the supplementary amount. DHFS must ensure that the supplement was, in fact, expended for the intended purpose by comparing cost reports from separate years and adjusting that information to account for any changes occurring in patient days, additional payment rate increase and differences in labor costs caused by increased costs for contract labor, rather than employment of in–house staff. If DHFS determines that the supplement was not expended by a nursing home as required, DHFS may recoup some or all of the supplement. Lastly, DHFS is required to report to the legislature concerning the amounts of these supplementary payments for each nursing home to which payment was made. The report must specify each facility ownership type (whether proprietary, nonprofit or government–owned) and must specify the owner of each nursing home to which payment was made.

The bill also provides for a supplement in hourly reimbursement rates for in–home personal care services that are provided to medical assistance recipients. The supplement is an increase of \$1 in the hourly reimbursement rate or \$6,532,700, in fiscal year 1999–2000 and \$7,231,900 in fiscal year 2000–01, whichever is less, from general purpose revenues and federal medicaid moneys.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1. Nonstatutory provisions; health and family services.**

2 (1) FACILITY PAYMENT; WAGES AND FRINGE BENEFITS SUPPLEMENT.

3 (a) Notwithstanding the limitations on facility payment rate increases in

4 section 49.45 (6m) (ag) 8. of the statutes, in order to permit a facility, as defined in

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1 section 49.45 (6m) (a) 3. of the statutes, to increase wages and fringe benefits for, or
2 increase staff hours of, registered nurses, licensed practical nurses and nurse's
3 assistants, the department of health and family services shall supplement facility
4 payment rates under section 49.45 (6m) (av) of the statutes by an amount not to
5 exceed \$12,200,000 in state fiscal year 1999–2000 and \$12,200,000 in state fiscal
6 year 2000–01. The department shall calculate each facility's supplementary
7 payment for each fiscal year under this subsection by first calculating the facility's
8 rate per patient day under section 49.45 (6m) (av) of the statutes and then adding
9 to this amount an amount that is obtained by dividing \$12,200,000 by the number
10 of medical assistance–eligible resident days in all facilities in the state except those
11 specified in paragraph (b) that is projected for that fiscal year. The payments shall
12 be calculated as of July 1, 1999, and July 1, 2000, respectively.

13 (b) Paragraph (a) does not apply to a center for the developmentally disabled,
14 as defined in section 51.01 (3) of the statutes, or to the Wisconsin Veterans Home at
15 King, Wisconsin.

16 (c) A facility for which the sum of the allowable direct care costs for services of
17 facility personnel, as described under section 49.45 (6m) (am) 1. d. and e. of the
18 statutes and as indicated by cost reports of the facility for the period during state
19 fiscal years 1997–98 and 1998–99, plus the supplement under paragraph (a), does
20 not meet or exceed the sum of the standard for payment under section 49.45 (6m) (ar)
21 1. a. of the statutes, plus the supplement, shall use the amount of the supplement
22 for the purpose specified in paragraph (a).

23 (d) In order to ensure that a supplement provided to a facility under paragraph
24 (a) was expended in accordance with paragraph (c), the department of health and
25 family services shall, for facility cost reports covering the period during state fiscal

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1 year 1999–2000, as compared with reports covering the period during state fiscal
2 year 1998–99, and for facility cost reports covering the period during state fiscal year
3 2000–01, as compared with reports covering the period during state fiscal year
4 1999–2000, adjust the information to account for all of the following:

5 1. Any changes occurring in patient days.

6 2. Any payment rate increase applicable to the facility that is in effect
7 beginning July 1, 1999, and is other than the supplement under paragraph (a).

8 3. Differences in labor costs caused by increased costs for contract labor, as
9 opposed to employment of in–house staff.

10 (e) If the department of health and family services determines that a
11 supplement under paragraph (a) provided to a facility to which paragraph (c) applies
12 was not expended as required under paragraph (c), the department may recoup some
13 or all of the supplement.

14 (2) SUPPLEMENT; IN-HOME PERSONAL CARE SERVICES. The department of health
15 and family services shall supplement hourly reimbursement rates under section
16 49.45 (42) of the statutes for workers providing in–home personal care services to
17 medical assistance recipients by \$1 or in an amount not to exceed \$6,532,700, in state
18 fiscal year 1999–2000 and in an amount not to exceed \$7,231,900 in state fiscal year
19 2000–01, whichever is less.

20 (3) REPORT ON FACILITY PAYMENT SUPPLEMENT. By December 31, 2000, the
21 department of health and family services shall submit, in the manner provided
22 under section 13.172 (2) of the statutes, a report concerning the amounts of payment
23 made under the supplement under subsection (1). The report shall include both a
24 cumulative statewide total and shall separately indicate the payment amounts made
25 for registered nurses, licensed practical nurses and nurse’s assistants and, within

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1 these separate categories, the separate payment amounts made for direct care
2 wages, fringe benefits or hours for all of the following:

3 (a) Each facility in the state for which payment was made.

4 (b) Each facility ownership type, whether proprietary; nonprofit;
5 county-owned; or other government-owned, including municipally owned.

6 (c) The owner of each facility for which payment was made under paragraph
7 (a).

8 **SECTION 2. Appropriation changes; health and family services.**

9 (1) FACILITY PAYMENT; WAGES AND FRINGE BENEFITS SUPPLEMENT. In the schedule
10 under section 20.005 (3) of the statutes for the appropriation to the department of
11 health and family services under section 20.435 (5) (b) of the statutes, as affected by
12 the acts of 1999, the dollar amount is increased by \$5,000,000 for fiscal year 1999–00
13 and the dollar amount is increased by \$5,000,000 for fiscal year 2000–01 to permit
14 the supplement provided under SECTION 1 (1) of this act.

15 **SECTION 3. Appropriation changes; health and family services.**

16 (1) SUPPLEMENT; IN-HOME PERSONAL CARE SERVICES. In the schedule under section
17 20.005 (3) of the statutes for the appropriation to the department of health and family
18 services under section 20.455 (5) (b) of the statutes, as affected by the acts of 1999,
19 the dollar amount is increased by \$2,691,600 for fiscal year 1999–00 and the dollar
20 amount is increased by \$2,985,300 for fiscal year 2000–01 to increase funding to
21 permit the supplement provided under SECTION 1 (2) of this act.

22 **SECTION 4. Effective date.**

