

2003 DRAFTING REQUEST

Bill

Received: **02/11/2004**

Received By: **dkennedy**

Wanted: **As time permits**

Identical to LRB:

For: **Dale Schultz (608) 266-0703**

By/Representing: **Eileen O'Neill**

This file may be shown to any legislator: **NO**

Drafter: **dkennedy**

May Contact: **Rachel Carabell**

Addl. Drafters:

Subject: **Health - medical assistance**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Schultz@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Medical Assistance hospital payment or reimbursement on "economically and efficiently operated" basis

Instructions:

See Attached

Drafting History:

| <u>Vers.</u> | <u>Drafted</u> | <u>Reviewed</u> | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u> | <u>Jacketed</u> | <u>Required</u> |
|--------------|------------------------|--------------------|------------------------|----------------|------------------------|-----------------|-----------------|
| /? | dkennedy 02/11/2004 | jdye 02/12/2004 | | _____ | | | S&L |
| /1 | | | rschluet 02/12/2004 | _____ | Inorthro 02/12/2004 | | S&L |
| /2 | dkennedy | kfollett | jfrantze | _____ | mbarman | mbarman | S&L |

| <u>Vers.</u> | <u>Drafted</u> | <u>Reviewed</u> | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u> | <u>Jacketed</u> | <u>Required</u> |
|--------------|------------------------|------------------------|------------------------------|----------------|-------------------------------------|------------------------------------|-----------------|
| | 03/02/2004 | 03/03/2004 | 03/03/2004 _____ | | 03/03/2004 mbarman 03/03/2004 | 03/03/2004 lemery 03/03/2004 | |
| /3 | dkennedy 03/03/2004 | kfollett 03/03/2004 | jfrantze 03/04/2004 _____ | | sbasford 03/04/2004 | sbasford 03/04/2004 | |

FE Sent For:

at intro 3/8

<END>

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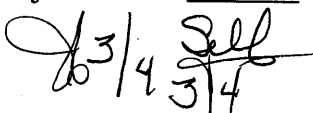
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| /1 | | | rschluet 02/12/2004 | _____ | lnorthro 02/12/2004 | | S&L |
| /2 | dkennedy | kfollett | jfrantze | _____ | mbarman | _____ | |



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| | 03/02/2004 | 03/03/2004 | 03/03/2004 | _____ | 03/03/2004 | 03/03/2004 | |
| | | 13 kjf | | _____ | mbarman | lemery | |
| | | 3/3 | | _____ | 03/03/2004 | 03/03/2004 | |

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| /1 | | | rschluet 02/12/2004 | _____ | Inorthro 02/12/2004 | | S&L |
| /2 | dkennedy | kfollett | jfrantze | _____ | mbarman | _____ | |

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| | | | | _____ | mbarman | | |
| | | | | _____ | 03/03/2004 | | |

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| /1 | | | rschluet 02/12/2004 | | Inorthro 02/12/2004 | | |

Handwritten signatures and dates:
6/3/3 8/1/99
3/3

FE Sent For:

<END>

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|----|----------|------------|--|--|--|--|--|
| /? | dkennedy | 1 2/12 jld | | | | | |
|----|----------|------------|--|--|--|--|--|

Handwritten signatures and initials are present over the Drafting History table. A large signature is written over the 'Proofed' column, and other initials are written over the 'Reviewed' and 'Typed' columns.

FE Sent For:

<END>

Laura
Leitch

Reimbursing economically and efficiently operated hospitals

The following statute amendments would require DHFS to reimburse hospitals for services provided to Medical Assistance recipients at a rate that is reasonable and adequate to meet the costs that must be incurred by an efficiently and economically operated hospital complying with all state and federal laws.

Section 49.45(3)(e)1. is amended to read:

The department ~~may~~ shall develop, implement, and periodically update methods for reimbursing hospitals for allowable services or commodities provided a recipient. The methods ~~may~~ shall include ~~standards and criteria for limiting any given hospital's total reimbursement or payment to that which would be provided to an economically and efficiently operated facility~~ provide a reimbursement rate for each hospital that is reasonable and adequate to meet the costs that must be incurred by efficiently and economically operated facilities in order to provide care and services in conformity with applicable state and federal laws, regulations, and quality and safety standards. This method does not apply to hospitals reimbursed based on costs. Hospitals may, in addition to the implemented reimbursement rate, receive supplemental payments as provided by state or federal law.

what
does?

Section 49.45(3)(e)4. is amended to read:

*determined under
sub. 1.*

If the department maintains a retrospective reimbursement system under subd. 1 for specific provided services or commodities, total reimbursement for allowable services, care or commodities provided recipients during the hospital's fiscal year may not exceed the ~~lower of the hospital's charges for the services or the actual and reasonable allowable costs to the hospital of providing the services~~, plus any disproportionate share funding the hospital is qualified to receive under 42 USC 1396r-4.

How
is
this
diff.
from
d. 1.
?

2/5/03 From Laura Leitch: Section 49.45(3)(e) does not specify reimbursement to hospitals based on costs (e.g., critical access, psych inpt, rural providers) - is done by X-ref.

THURSDAY

2003 - 2004 LEGISLATURE

4251/1
LRB-4167/1

DAK: jif:pg

Kit + JLD

2003 BILL

REGENERATE

1 AN ACT to amend 49.45 (2) (b) 2., 49.45 (3) (e) 1. and 49.45 (3) (e) 4. of the statutes;

2 relating to: hospital payment or reimbursement ~~and contracts for services~~

3 under Medical Assistance ~~and making an appropriation.~~

Analysis by the Legislative Reference Bureau

Under current law, the Department of Health and Family Services (DHFS) is authorized to develop, implement, and periodically update methods for reimbursing or paying hospitals for allowable services or commodities that are provided to Medical Assistance (MA) recipients. The methods may include standards and criteria that limit reimbursement or payment to that which would be provided to an economically and efficiently operated facility. If DHFS reimburses hospitals retrospectively under these methods, total reimbursement for allowable services, care, or commodities may not exceed the lower of the hospital's charges or the actual and reasonable allowable costs to the hospital of providing the services, plus any federal disproportionate share funding that the hospital is qualified to receive.

This bill requires, rather than authorizes, DHFS to develop, implement, and update the methods for reimbursing or paying hospitals for MA services or commodities. The bill changes the methods standard that is related to an economically and efficiently operated facility to one under which the reimbursement or payment rate for each hospital must be reasonable and adequate to meet costs that must be incurred by efficiently and economically operated facilities in order to provide care and services in conformity with state and federal law. The bill also specifies that hospitals may receive federally or state authorized supplemental

BILL

payments in addition to the reimbursement or payment under the methods. The methods do not apply to hospitals that are reimbursed based on costs. If DHFS reimburses hospitals retrospectively under the methods, total reimbursement may not exceed the hospital's charges for the services, plus any federal disproportionate share funding.

Currently, DHFS may contract with any organization to administer MA benefits, including prepaid health care. This bill requires that any contract that includes provision of prepaid health care benefits require that prepaid payments be made on an actuarially sound basis that is consistent with federal law.

This bill increases the general purpose revenues appropriation account within DHFS for the state share of MA benefits by \$205,000,000 for fiscal year 2004-05 and specifies that this money may not be expended to expand MA eligibility or program benefits.

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.** 49.45 (2) (b) 2. of the statutes is amended to read:

2 49.45 (2) (b) 2. Contract with any organization whether or not organized for
3 profit to administer, in full or in part, the benefits under the ~~medical assistance~~
4 ~~program~~ Medical Assistance including prepaid health care. Any contract that
5 includes provision of prepaid health care benefits shall require that prepaid
6 payments to the organization be made on an actuarially sound basis that is
7 consistent with 42 USC 1396b (m) (2) (A) (iii). The department shall accept bids on
8 contracts for administrative services and services evaluating the ~~medical assistance~~
9 ~~program~~ Medical Assistance as provided in ch. 16, but may accept the contract
10 deemed most advantageous for claims processing services; or contract with any
11 insurer authorized under the insurance code of this state to insure the program in
12 full or in part and on behalf of the department. The department shall submit a report
13 each December 31 to the governor, the joint committee on finance and the chief clerk
14 of each house of the legislature, for distribution to the appropriate standing

BILL

1 ~~committees under s. 13.172 (3), regarding the effectiveness of the management~~
2 ~~information system for monitoring and analyzing medical assistance expenditures.~~

3 **SECTION 2.** 49.45 (3) (e) 1. of the statutes is amended to read:

4 49.45 (3) (e) 1. The department ~~may~~ shall develop, implement and periodically
5 update methods for reimbursing or paying hospitals for allowable services or
6 commodities provided a recipient. The methods ~~may include standards and criteria~~
7 ~~for limiting any given hospital's total reimbursement or payment to that which~~
8 ~~would be provided to an economically and efficiently operated facility~~ shall provide
9 a reimbursement or payment rate for each hospital that is reasonable and adequate
10 to meet the costs that must be incurred by efficiently and economically operated
11 facilities in order to provide care and services in conformity with applicable state
12 statutes and rules and federal statutes and regulations, and quality and safety
13 standards, except that these methods do not apply to hospitals, including critical
14 access hospitals, that are reimbursed based on costs. In addition to the
15 reimbursement rate specified under this subdivision, hospitals may receive
16 supplemental payments as provided by state statutes or rules or federal statutes or
17 regulations.

18 **SECTION 3.** 49.45 (3) (e) 4. of the statutes is amended to read:

19 49.45 (3) (e) 4. If the department maintains a retrospective reimbursement
20 system under subd. 1. for specific provided services or commodities, total
21 reimbursement determined under subd. 1. for allowable services, care, or
22 commodities provided recipients during the hospital's fiscal year may not exceed the
23 ~~lower of the hospital's charges for the services or the actual and reasonable allowable~~
24 ~~costs to the hospital of providing the services, plus any disproportionate share~~
25 funding that the hospital is qualified to receive under 42 USC 1396r-4.

BILL**SECTION 4. Nonstatutory provisions.**

(1) MEDICAL ASSISTANCE INCREASE. The amount by which the appropriation account under section 20.435 (4) (b) of the statutes is increased for state fiscal year 2004-05 under SECTION 5 (1) of this act may not be expended to expand eligibility or program benefits of Medical Assistance, as defined in section 49.43 (8) of the statutes.

SECTION 5. Appropriation changes.

(1) MEDICAL ASSISTANCE INCREASE. In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of health and family services under section 20.435 (4) (b) of the statutes, as affected by the acts of 2003, the dollar amount is increased by \$205,000,000 for fiscal year 2004-05 to provide the state share of Medical Assistance benefits administered under section 49.45 of the statutes.

(END)

TELEPHONE DRAFTING INSTRUCTIONS

Drafting instructions received by Debora Kennedy.

DATE:

3/2/04

**CONVERSATION
WITH:**

Debra Eileen

OF:

Sen. Schultz's Office

TELEPHONE NO:

**REGARDING LRB #
OR DRAFT TOPIC:**

03-4251/1

INSTRUCTIONS:

Redraft

*Add same language for purposes of
reimbursing nursing homes*



WEDNESDAY
State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-4251/2
DAK:kjf&jld

D-NOTE

2003 BILL

1 AN ACT to amend 49.45 (3) (e) 1. and 49.45 (3) (e) 4. of the statutes; relating to:
2 hospital payment or reimbursement under Medical Assistance.

and nursing home

Analysis by the Legislative Reference Bureau

Under current law, the Department of Health and Family Services (DHFS) is authorized to develop, implement, and periodically update methods for reimbursing or paying hospitals for allowable services or commodities that are provided to Medical Assistance (MA) recipients. The methods may include standards and criteria that limit reimbursement or payment to that which would be provided to an economically and efficiently operated facility. If DHFS reimburses hospitals retrospectively under these methods, total reimbursement for allowable services, care, or commodities may not exceed the lower of the hospital's charges or the actual and reasonable allowable costs to the hospital of providing the services, plus any federal disproportionate share funding that the hospital is qualified to receive.

This bill requires, rather than authorizes, DHFS to develop, implement, and update the methods for reimbursing or paying hospitals for MA services or commodities. The bill changes the methods standard that is related to an economically and efficiently operated facility to one under which the reimbursement or payment rate for each hospital must be reasonable and adequate to meet costs that must be incurred by efficiently and economically operated facilities in order to provide care and services in conformity with state and federal law. The bill also specifies that hospitals may receive federally or state authorized supplemental payments in addition to the reimbursement or payment under the methods. The methods do not apply to hospitals that are reimbursed based on costs. If DHFS

BILL

reimburses hospitals retrospectively under the methods, total reimbursement may not exceed the hospital's charges for the services, plus any federal disproportionate share funding.

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. 49.45 (3) (e) [✓]1. of the statutes is amended to read:

2 49.45 (3) (e) 1. The department ~~may~~ shall develop, implement and periodically
3 update methods for reimbursing or paying hospitals for allowable services or
4 commodities provided a recipient. The methods ~~may include standards and criteria~~
5 ~~for limiting any given hospital's total reimbursement or payment to that which~~
6 ~~would be provided to an economically and efficiently operated facility~~ shall provide
7 a reimbursement or payment rate for each hospital that is reasonable and adequate
8 to meet the costs that must be incurred by efficiently and economically operated
9 facilities in order to provide care and services in conformity with applicable state
10 statutes and rules and federal statutes and regulations, and quality and safety
11 standards, except that these methods do not apply to hospitals, including critical
12 access hospitals, that are reimbursed based on costs. In addition to the
13 reimbursement rate specified under this subdivision, hospitals may receive
14 supplemental payments as provided by state statutes or rules or federal statutes or
15 regulations.

16 SECTION 2. 49.45 (3) (e) [✓]4. of the statutes is amended to read:

17 49.45 (3) (e) 4. If the department maintains a retrospective reimbursement
18 system under subd. 1. for specific provided services or commodities, total
19 reimbursement determined under subd. 1. for allowable services, care, or

BILL

1 commodities provided recipients during the hospital's fiscal year may not exceed the
2 ~~lower of the hospital's charges for the services or the actual and reasonable allowable~~
3 ~~costs to the hospital of providing the services,~~ plus any disproportionate share
4 funding that the hospital is qualified to receive under 42 USC 1396r-4.

(END)

5

INSERT
3-4

J. NOVE

INSERT ANAL

Currently, DHFS pays nursing homes for services or commodities provided to MA recipients under an annually updated prospective payment system. The system must implement standards that are necessary and proper for providing patient care and that meet certain quality and safety standards. Further, the system must reflect, among other things, standards established by DHFS that are based upon allowable costs incurred by nursing homes, as available from information compiled by DHFS concerning the overall financial operations of the nursing homes.

This bill requires that the prospective payment system, under which DHFS makes MA payments to nursing homes, implement standards that, instead of being necessary and proper for providing patient care, are reasonable and adequate to meet the costs that must be incurred by efficiently and economically operated facilities in order to provide care in conformity with applicable state statutes and rules, federal statutes and regulations, and quality and safety standards. The bill also requires that the system reflect standards established by DHFS for costs of economically and efficiently operated nursing homes, based on the information DHFS compiles concerning the nursing homes' overall financial operations. Lastly, the bill specifies that nursing homes may receive payments that are supplemental to the prospective payment system, as provided by state statutes or rules or federal statutes or regulations.

INSERT 3-4

SECTION 49.45 (6m) (ag) (intro.) of the statutes, as affected by 2003 Wisconsin

Act 33, is amended to read:

49.45 (6m) (ag) (intro.) Payment for care provided in a facility under this subsection made under s. 20.435 (4) (b), (gp), (pa), (o), (w), or (wm) shall, except as provided in pars. (bg), (bm), and (br), be determined according to a prospective payment system updated annually by the department. The payment system shall implement standards that are ~~necessary and proper for providing patient care and that meet~~ reasonable and adequate to meet the costs that must be incurred by efficiently and economically operated facilities in order to provide care in conformity with this subsection, with applicable state statutes and rules, and with federal statutes and regulations, and with quality and safety standards established under subch. II of ch. 50 and ch. 150. In addition to the prospective payment system

1 specified under this subsection, facilities may receive supplemental payments as
2 provided by state statutes or rules or federal statutes or regulations. The payment
3 system shall reflect all of the following:

History: 1971 c. 40 s. 93; 1971 c. 42, 125; 1971 c. 213 s. 5; 1971 c. 215, 217, 307; 1973 c. 62, 90, 147; 1973 c. 333 ss. 106g, 106h, 106j, 201w; 1975 c. 39; 1975 c. 223 s. 28; 1975 c. 224 ss. 54h, 56 to 59m; 1975 c. 383 s. 4; 1975 c. 411; 1977 c. 29, 418; 1979 c. 34 ss. 837f to 838, 2102 (20) (a); 1979 c. 102, 177, 221, 355; 1981 c. 20 ss. 839 to 854, 2202 (20) (r); 1981 c. 93, 317; 1983 a. 27 ss. 1046 to 1062m, 2200 (42); 1983 a. 245, 447, 527; 1985 a. 29 ss. 1026m to 1031d, 3200 (23), (56), 3202 (27); 1985 a. 120, 176, 269; 1985 a. 332 ss. 91, 251 (5), 253; 1985 a. 340; 1987 a. 27 ss. 989r to 1000s, 2247, 3202 (24); 1987 a. 186, 307, 339, 399; 1987 a. 403 s. 256; 1987 a. 413; 1989 a. 6; 1989 a. 31 ss. 1402 to 1452g, 2909g, 2909i; 1989 a. 107, 173, 310, 336, 351, 359; 1991 a. 22, 39, 80, 250, 269, 315, 316; 1993 a. 16 ss. 1362g to 1403, 3883; 1993 a. 27, 107, 112, 183, 212, 246, 269, 335, 356, 437, 446, 469; 1995 a. 20; 1995 a. 27 ss. 2947 to 3002r, 7299, 9126 (19), 9130 (4), 9145 (1); 1995 a. 191, 216, 225, 289, 303, 398, 417, 457; 1997 a. 3, 13, 27, 114, 175, 191, 237, 252, 293; 1999 a. 9, 63, 103, 180, 185; 2001 a. 13, 16, 35, 38, 57, 67, 104, 109; 2003 a. 33.

4 ~~SECTION 2~~ 49.45 (6m) (ag) 2. of the statutes is amended to read:

5 49.45 (6m) (ag) 2. Standards established by the department for costs of
6 economically and efficiently operated facilities that shall be based upon allowable
7 costs incurred by facilities in the state as available from information submitted
8 under par. (c) 3. and compiled by the department.

NOTE: NOTE: Subd. 2. is shown as amended eff. 7-1-04 by 2003 Wis. Act 33. Prior to 7-1-04 it reads:NOTE:

9 2. Standards established by the department that shall be based upon allowable costs incurred by facilities in the state as available from information submitted
10 under par. (c) 3. and compiled by the department.

History: 1971 c. 40 s. 93; 1971 c. 42, 125; 1971 c. 213 s. 5; 1971 c. 215, 217, 307; 1973 c. 62, 90, 147; 1973 c. 333 ss. 106g, 106h, 106j, 201w; 1975 c. 39; 1975 c. 223 s. 28; 1975 c. 224 ss. 54h, 56 to 59m; 1975 c. 383 s. 4; 1975 c. 411; 1977 c. 29, 418; 1979 c. 34 ss. 837f to 838, 2102 (20) (a); 1979 c. 102, 177, 221, 355; 1981 c. 20 ss. 839 to 854, 2202 (20) (r); 1981 c. 93, 317; 1983 a. 27 ss. 1046 to 1062m, 2200 (42); 1983 a. 245, 447, 527; 1985 a. 29 ss. 1026m to 1031d, 3200 (23), (56), 3202 (27); 1985 a. 120, 176, 269; 1985 a. 332 ss. 91, 251 (5), 253; 1985 a. 340; 1987 a. 27 ss. 989r to 1000s, 2247, 3202 (24); 1987 a. 186, 307, 339, 399; 1987 a. 403 s. 256; 1987 a. 413; 1989 a. 6; 1989 a. 31 ss. 1402 to 1452g, 2909g, 2909i; 1989 a. 107, 173, 310, 336, 351, 359; 1991 a. 22, 39, 80, 250, 269, 315, 316; 1993 a. 16 ss. 1362g to 1403, 3883; 1993 a. 27, 107, 112, 183, 212, 246, 269, 335, 356, 437, 446, 469; 1995 a. 20; 1995 a. 27 ss. 2947 to 3002r, 7299, 9126 (19), 9130 (4), 9145 (1); 1995 a. 191, 216, 225, 289, 303, 398, 417, 457; 1997 a. 3, 13, 27, 114, 175, 191, 237, 252, 293; 1999 a. 9, 63, 103, 180, 185; 2001 a. 13, 16, 35, 38, 57, 67, 104, 109; 2003 a. 33.

11 ~~SECTION 3~~ 49.45 (6m) (ag) 2. of the statutes, as affected by 2003 Wisconsin Acts

12 33 and (this act), is repealed and recreated to read:

13 49.45 (6m) (ag) 2. Except as provided in subd. 3r., standards established by the
14 department for costs of economically and efficiently operated facilities that shall be
15 based upon allowable costs incurred by facilities in the state as available from
16 information submitted under par. (c) 3. and compiled by the department.

EFFECTIVE DATE

1. In the component bar: For the action phrase, execute: ... **create** → **action:** → *NS: → **effdate**
For the text, execute: **create** → **text:** → *NS: → **effdateA**
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed.

SECTION # ____ . **Effective date.**

(#1) () This act takes effect on

1. In the component bar: For the action phrase, execute: ... **create** → **action:** → *NS: → **effdateE**
For the text, execute: **create** → **text:** → *NS: → **effdate**
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed.

SECTION # ____ . **Effective dates;**

..... This act takes effect on the day after publication, except as follows:

Ⓢ (#1) ~~1000~~ ^{CS} **NURSING HOME PAYMENT STANDARD** The treatment of sections = 49.45 (6m) (as) 2.

of the statutes takes effect on July 1, 2004 repeal and recreation

1. In the component bar: For the budget action phrase, execute:..**create** → **action:** → *NS: → **94XX**
For the text, execute: **create** → **text:** → *NS: → **effdate**
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed. Below, for the budget, fill in the 9400 department code.

SECTION 94 ____ . **Effective dates;**

(#1) () The treatment of sections of the statutes takes effect on

Date

D-NOTE

To Senator Schultz:

The biennial budget act (2003 Wisconsin
49.45 (6m)
Act 33) modified s. 49.45 (6m) (ag) 2., stats.,
effective July 1, 2004, to provide flat-rate
payment for nursing home costs specified
under s. 49.45 (6m) (ag) 3r., stats. I have
amended s. 49.45 (6m) (ag) 2., stats., to
include the "economically and efficiently
operated facilities language," as was done
in the 1995 statutes, but, in line
with the changes under 2003 Wisconsin
Act 33, this standard would not specifically
apply to nursing home costs paid at a
flat rate under s. 49.45 (6m) (ag) 3r., stats.
Is this drafted as you intend?

DAK

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-4251/2dn
DAK:kjf:jf

March 3, 2004

To Senator Schultz:

The biennial budget act (2003 Wisconsin Act 33) modified s. 49.45 (6m) (ag) 2., stats., effective July 1, 2004, to provide flat-rate payment for nursing home costs specified under s. 49.45 (6m) (ag) 3r., stats. I have amended s. 49.45 (6m) (ag) 2., stats., to include the "economically and efficiently operated facilities language," as was done in the 1995 statutes, but, in line with the changes under 2003 Wisconsin Act 33, this standard would not specifically apply to nursing home costs paid at a flat rate under s. 49.45 (6m) (ag) 3r., stats. Is this drafted as you intend?

Debra A. Kennedy
Managing Attorney
Phone: (608) 266-0137
E-mail: debra.kennedy@legis.state.wi.us

Basford, Sarah

From: O'Neill, Eileen
Sent: Wednesday, March 03, 2004 1:46 PM
To: LRB.Legal
Subject: Draft review: LRB 03-4251/1 Topic: Medical Assistance hospital payment or reimbursement on "economically and efficiently operated" basis

It has been requested by <O'Neill, Eileen> that the following draft be jacketed for the SENATE:

Draft review: LRB 03-4251/1 Topic: Medical Assistance hospital payment or reimbursement on "economically and efficiently operated" basis

TELEPHONE DRAFTING INSTRUCTIONS

Drafting instructions received by Debora Kennedy.

DATE:

3/3/04

**CONVERSATION
WITH:**

Eileen

OF:

Sen Schultz' office

TELEPHONE NO:

**REGARDING LRB #
OR DRAFT TOPIC:**

4251/2

INSTRUCTIONS:

Redraft —

take back to 4251/1



2003 BILL

Please
jacket
when
this is submitted

Regen

- 1 AN ACT to amend 49.45 (3) (e) 1., 49.45 (3) (e) 4., 49.45 (6m) (ag) (intro.) and 49.45
2 (6m) (ag) 2.; and to repeal and recreate 49.45 (6m) (ag) 2. of the statutes;
3 relating to: hospital ~~and arranging for~~ payment or reimbursement under
4 Medical Assistance.

Analysis by the Legislative Reference Bureau

Under current law, the Department of Health and Family Services (DHFS) is authorized to develop, implement, and periodically update methods for reimbursing or paying hospitals for allowable services or commodities that are provided to Medical Assistance (MA) recipients. The methods may include standards and criteria that limit reimbursement or payment to that which would be provided to an economically and efficiently operated facility. If DHFS reimburses hospitals retrospectively under these methods, total reimbursement for allowable services, care, or commodities may not exceed the lower of the hospital's charges or the actual and reasonable allowable costs to the hospital of providing the services, plus any federal disproportionate share funding that the hospital is qualified to receive.

This bill requires, rather than authorizes, DHFS to develop, implement, and update the methods for reimbursing or paying hospitals for MA services or commodities. The bill changes the methods standard that is related to an economically and efficiently operated facility to one under which the reimbursement or payment rate for each hospital must be reasonable and adequate to meet costs that must be incurred by efficiently and economically operated facilities in order to provide care and services in conformity with state and federal law. The bill also

BILL

specifies that hospitals may receive federally or state authorized supplemental payments in addition to the reimbursement or payment under the methods. The methods do not apply to hospitals that are reimbursed based on costs. If DHFS reimburses hospitals retrospectively under the methods, total reimbursement may not exceed the hospital's charges for the services, plus any federal disproportionate share funding.

Currently, DHFS pays nursing homes for services or commodities provided to MA recipients under an annually updated prospective payment system. The system must implement standards that are necessary and proper for providing patient care and that meet certain quality and safety standards. Further, the system must reflect, among other things, standards established by DHFS that are based upon allowable costs incurred by nursing homes, as available from information compiled by DHFS concerning the overall financial operations of the nursing homes.

This bill requires that the prospective payment system, under which DHFS makes MA payments to nursing homes, implement standards that, instead of being necessary and proper for providing patient care, are reasonable and adequate to meet the costs that must be incurred by efficiently and economically operated facilities in order to provide care in conformity with applicable state statutes and rules, federal statutes and regulations, and quality and safety standards. The bill also requires that the system reflect standards established by DHFS for costs of economically and efficiently operated nursing homes, based on the information DHFS compiles concerning the nursing homes' overall financial operations. Lastly, the bill specifies that nursing homes may receive payments that are supplemental to the prospective payment system, as provided by state statutes or rules or federal statutes or regulations.

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.** 49.45 (3) (e) 1. of the statutes is amended to read:

2 49.45 (3) (e) 1. The department ~~may~~ shall develop, implement and periodically
3 update methods for reimbursing or paying hospitals for allowable services or
4 commodities provided a recipient. The methods ~~may include standards and criteria~~
5 ~~for limiting any given hospital's total reimbursement or payment to that which~~
6 ~~would be provided to an economically and efficiently operated facility~~ shall provide
7 a reimbursement or payment rate for each hospital that is reasonable and adequate

BILL

1 to meet the costs that must be incurred by efficiently and economically operated
2 facilities in order to provide care and services in conformity with applicable state
3 statutes and rules and federal statutes and regulations, and quality and safety
4 standards, except that these methods do not apply to hospitals, including critical
5 access hospitals, that are reimbursed based on costs. In addition to the
6 reimbursement rate specified under this subdivision, hospitals may receive
7 supplemental payments as provided by state statutes or rules or federal statutes or
8 regulations.

9 **SECTION 2.** 49.45 (3) (e) 4. of the statutes is amended to read:

10 49.45 (3) (e) 4. If the department maintains a retrospective reimbursement
11 system under subd. 1. for specific provided services or commodities, total
12 reimbursement determined under subd. 1. for allowable services, care, or
13 commodities provided recipients during the hospital's fiscal year may not exceed the
14 ~~lower of the hospital's charges for the services or the actual and reasonable allowable~~
15 ~~costs to the hospital of providing the services,~~ plus any disproportionate share
16 funding that the hospital is qualified to receive under 42 USC 1396r-4.

17 **SECTION 3.** 49.45 (6m) (ag) (intro.) of the statutes, as affected by 2003 Wisconsin
18 Act 33, is amended to read:

19 49.45 (6m) (ag) (intro.) Payment for care provided in a facility under this
20 subsection made under s. 20.435 (4) (b), (gp), (pa), (o), (w), or (wm) shall, except as
21 provided in pars. (bg), (bm), and (br), be determined according to a prospective
22 payment system updated annually by the department. The payment system shall
23 implement standards ~~that are necessary and proper for providing patient care and~~
24 ~~that meet reasonable and adequate to meet the costs that must be incurred by~~
25 efficiently and economically operated facilities in order to provide care in conformity

BILL

1 with this subsection, with applicable state statutes and rules, and with federal
2 statutes and regulations, and with quality and safety standards established under
3 subch. II of ch. 50 and ch. 150. In addition to the prospective payment system
4 specified under this subsection, facilities may receive supplemental payments as
5 provided by state statutes or rules or federal statutes or regulations. The payment
6 system shall reflect all of the following:

7 **SECTION 4.** 49.45 (6m) (ag) 2. of the statutes is amended to read:

8 49.45 **(6m)** (ag) 2. Standards established by the department for costs of
9 economically and efficiently operated facilities that shall be based upon allowable
10 costs incurred by facilities in the state as available from information submitted
11 under par. (c) 3. and compiled by the department.

12 **SECTION 5.** 49.45 (6m) (ag) 2. of the statutes, as affected by 2003 Wisconsin Acts
13 33 and (this act), is repealed and recreated to read:

14 49.45 **(6m)** (ag) 2. Except as provided in subd. 3r., standards established by the
15 department for costs of economically and efficiently operated facilities that shall be
16 based upon allowable costs incurred by facilities in the state as available from
17 information submitted under par. (c) 3. and compiled by the department.

18 **SECTION 6. Effective dates.** This act takes effect on the day after publication,
19 except as follows:

20 (1) NURSING HOME PAYMENT STANDARD. The repeal and recreation of section 49.45
21 (6m) (ag) 2. of the statutes takes effect on July 1, 2004.