

2003 DRAFTING REQUEST

Bill

Received: **09/20/2002**

Received By: **dkennedy**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget 267-7980**

By/Representing: **Blaine**

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

Drafter: **dkennedy**

May Contact:

Addl. Drafters: **jkreye**

Subject: **Health - facility licensure
Tax - miscellaneous**

Extra Copies: **RLR**

email

Submit via email: **NO**

Pre Topic:

DOA:.....Blaine - BB0046

Topic:

Nursing facilities occupied bed assessment changes

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 10/24/2002	kfollett 11/01/2002		_____			S&L
	jkreye 10/25/2002	kfollett 11/05/2002		_____			
/1			jfrantze 11/05/2002	_____	amentkow 11/05/2002		S&L
/2	dkennedy 12/05/2002	kfollett 12/05/2002	rschlue 12/09/2002	_____	amentkow 12/09/2002		S&L
		kfollett 12/06/2002		_____			

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/3	dkennedy 01/08/2003	jdyer 01/09/2003	pgreensl 01/09/2003	_____	lemery 01/09/2003		S&L
/4	dkennedy 01/15/2003	kfollett 01/16/2003	pgreensl 01/16/2003	_____	mbarman 01/16/2003		S&L
/5	dkennedy 01/19/2003	jdyer 01/20/2003	rschluet 01/21/2003	_____	mbarman 01/21/2003		S&L
/6	dkennedy 01/27/2003	jdyer 01/28/2003	chaskett 01/28/2003	_____	amentkow 01/28/2003		

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		kfollett 12/06/2002	6 1/28 CPH				
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12/20/02 jld [Signature] 1-20-03

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2/10/03
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Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

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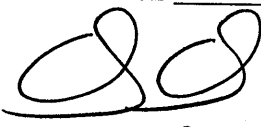
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FE Sent For:

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DHFS

Department of Health and Family Services
2003-2005 Statutory Language Request
September 13, 2002

Change the Nursing Facilities Occupied Bed Assessment to an Assessment on Licensed Beds and Eliminate Exemptions

Current Language

s. 50.14, s. 25.77, and s. 77.59 (7)

Proposed Change

1. Amend s. 50.14 to:
 - a. Change the assessment on occupied licensed beds in Nursing Homes and Intermediate Care Facilities for the Mentally Retarded (ICF-MRs) in Wisconsin to an assessment on licensed beds.
 - b. Eliminate exemptions to the assessment so that all licensed beds are assessed including beds occupied by residents whose costs are paid under Medicare and licensed beds in state-owned or state-operated and federally-owned or federally-operated nursing homes and ICF-MRs.
 - c. Decrease the assessment per nursing home licensed bed to \$27, and increase the assessment per ICF-MR licensed bed to \$350.
2. Amend s. 25.77 and s. 77.59 (7) so that funds received under s. 50.14 are deposited in the Medical Assistance Trust Fund.

Effect of the Change

This change will reduce provide an incentive for nursing homes to delicense unoccupied beds that are not expected to be occupied in the foreseeable future. This change will also reduce nursing home and Department workload and will increase revenue without a net cost to providers as a group.

Rationale for the Change

Nursing homes in Wisconsin operate with excess licensed beds due in part to declining demand for nursing home services. The Department lacks incentives for nursing homes to delicense beds. Changing the nursing home bed assessment from an assessment on occupied beds to an assessment on licensed beds would provide an incentive for nursing homes to eliminate unoccupied licensed beds.

For nursing homes, the Department proposes to lower the assessment per bed from \$32 to \$27. This is to account for a larger tax base (the number of licensed beds is greater than the number of occupied beds) and support a portion of the assessment on unoccupied beds. The Department also proposes to eliminate the exemption of beds occupied by a resident whose costs are paid under Medicare. Medicare pays the highest nursing home per diem and homes with Medicare utilization collect more revenue per bed than homes with no Medicare utilization. By eliminating this exemption, the Department is able to lower the assessment for beds occupied by private pay residents and residents whose costs are paid under Medicaid (MA).

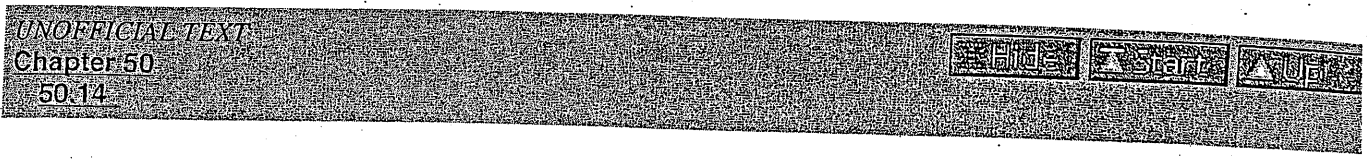
The Department also proposes to eliminate the exemptions of state owned or operated and federally owned or operated nursing homes and ICF-MRs and to increase the ICF-MR rate per bed from \$100 to \$350. By eliminating the exemption of state and federally owned or operated homes and ICF-MRs and increasing the ICF-MR rate, the Department is able to increase state revenue. Additional policy changes associated with this rate increase will allow cost neutrality for these providers as a group.

By changing the assessment to licensed beds, the Department, nursing homes and ICF-MRs can significantly decrease workload. The current tax requires nursing homes and ICF-MRs to provide the Department a monthly occupancy report. The Department must process and verify this report, and, if incorrect, notify a facility of any necessary changes. The Department also audits nursing home and ICF-MR occupancy. Under this proposal, the monthly occupancy report and associated workload would be eliminated. The Department would assess nursing homes and ICF-MRs based on licensed beds which is data easily accessible through the Bureau of Quality Assurance.

The occupied bed assessment was enacted in the early 1990s to increase federal funding for the state's MA nursing home costs. The revenues from the provider tax are received as GPR earned and deposited in the General Fund. To clarify the relationship between the provider tax and MA payments, revenues from the provider tax would be deposited into the MA Trust Fund along with nursing home Intergovernmental Transfer revenues. Funds in the MA Trust Fund are reserved for MA payments by statute.

See attached statutory language draft.

Desired Effective Date: Upon Passage of the Budget Bill
Agency: DHFS
Agency Contact: Anne Miller
Phone: 266-5422



50.14

50.14 Assessments on ~~occupied~~ licensed beds.

50.14(1)

(1) In this section:

50.14(1)(a)

(a) Notwithstanding s. 50.01 (1m), "facility" means a nursing home or an intermediate care facility for the mentally retarded, which is not ~~state-owned or state-operated, federally owned or federally operated or~~ located outside the state.

50.14(1)(b)

(b) "Intermediate care facility for the mentally retarded" has the meaning given under 42 USC 1396d (c) and (d).

50.14(2)

(2) For the privilege of doing business in this state, there is imposed on all ~~occupied~~ licensed beds of a facility, ~~except occupied, licensed beds for which payment is made under 42 USC 1395 to 1395ccc,~~ an assessment that shall be deposited in the general fund and that is ~~\$100~~ per calendar month per ~~occupied, licensed bed of an intermediate care facility for the mentally retarded and is \$32~~ per ~~occupied, licensed bed of a nursing home.~~ ^{\$3} The assessment shall be on the ~~average number of occupied, licensed beds of a facility for the calendar month previous to the month of assessment, based on an average daily midnight census computed and reported by the facility and verified by the department. Charged bed hold days for any resident of a facility shall be included as one full day in the average daily midnight census.~~ ^{\$27} In determining the number of ~~occupied, licensed beds,~~ if the amount of the beds is other than a whole number the fractional part of the amount shall be disregarded unless it equals 50% or more of a whole number, in which case the amount shall be increased to the next whole number.

both of the following apply:
(a) If (see attached)

50.14(3)

(3) By the end of each month, each facility shall submit to the department ~~the facility's occupied-licensed bed count and the amount due under sub. (2) for each occupied licensed bed of the facility for the month preceding the month during which the bed count and payment are being submitted.~~ The department shall verify the bed count and, if necessary, make adjustments to the payment, notify the facility of changes in the bed count or payment and send the facility an invoice for the additional amount due or send the facility a refund.

50.14(4)

(4) Sections 77.59 (1) to (5), (6) (intro.), (a) and (c) and (7) to (10), 77.60 (1) to (7), (9) and (10), 77.61 (9) and (12) to (14) and 77.62, as they apply to the taxes under subch. III of ch. 77, apply to the assessment under this section.

50.14(5)

(5)

50.14(2)(b)

The number of licensed beds includes any number of beds that have been delicensed under s. 49.45(6m)(ap)1. but not deducted from the nursing home's licensed bed capacity under s. 49.45(6m)(ap)4.a.

50.14(5)(a)



(a) The department shall levy, enforce and collect the assessment under this section and shall develop and distribute forms necessary for levying and collection.

50.14(5)(b)



(b) The department shall promulgate rules that establish procedures and requirements for levying the assessment under this section.

50.14(6)



(6)

50.14(6)(a)



(a) An affected facility may contest an action by the department under this section by submitting a written request for a hearing to the department within 30 days after the date of the department's action.

50.14(6)(b)



(b) Any order or determination made by the department under a hearing as specified in par. (a) is subject to judicial review as prescribed under ch. 227.

50.14 - ANNOT.



History: 1991 a. 269; 1993 a. 16; 1995 a. 27; 1997 a. 114.

50.14 - ANNOT.



Cross Reference: See also ch. HFS 15, Wis. adm. code.

SUBCHAPTER II

HOSPITALS

50.32



50.32 Hospital regulation and approval act. Sections 50.32 to 50.39 shall constitute the "Hospital Regulation and Approval Act".

50.32 - ANNOT.



History: 1975 c. 413 ss. 4, 18; Stats. 1975 s. 50.32.

50.32 - ANNOT.



Cross Reference: See also ch. HFS 124, Wis. adm. code.

50.33



50.33 Definitions. Whenever used in ss. 50.32 to 50.39:

50.33(1g)



(1g) "Critical access hospital" means a hospital that is designated by the department as meeting the requirements of 42 USC 1395i-4 (c) (2) (B) and is federally certified as meeting the requirements of 42 USC 1395i-4 (e).

UNOFFICIAL TEXT
Chapter 25



+ **25.77** Medical assistance trust fund.

+ 25.17(1)(jv)

(jv) Medical assistance trust fund (s. **25.77**);

+ **25.77**

25.77 Medical assistance trust fund. There is created a separate nonlapsible trust fund designated as the medical assistance trust fund, consisting of all of the following:

+ **25.77**(1)

(1) All federal moneys received, including moneys that the department of health and family services may transfer from the appropriation under s. 20.435 (4) (o), that are related to payments under s. 49.45 (6m) and are based on public funds that are transferred or certified under 42 CFR 433.51 (b) and used as the non-federal share of medical assistance funding.

+ **25.77**(2)

(2) All public funds that are related to payments under s. 49.45 (6m) and that are transferred or certified under 42 CFR 433.51 (b) and used as the non-federal and federal share of medical assistance funding.

+ **25.77** - ANNOT.

History: 2001 a. 13, 16.

Unofficial text from Wis Stats database. See printed Statutes and Wis Acts for official text under s. 35.18(2) stats. Report errors to the Revisor of Statutes at (608) 266-2011, FAX 264-6978, email bruce.minson@legis.state.wi.us



(3) All funds received under s. 50.14.

may set off amounts for child support or maintenance or both in the manner in which it sets off income taxes under ss. 49.855 and 71.93 (3), (6) and (7).

77.59(6)



(6) Except as provided in sub. (4) (b), a determination by the department is final unless, within 60 days after receipt of the notice of the determination, the taxpayer, or other person directly interested, petitions the department for a redetermination. A petition is timely if it fulfills the requirements under s. 77.61 (14). In the case of notice served by publication, the 60-day period commences with the last day of publication of the notice.

77.59(6)(a)



(a) Within 6 months of the receipt by the department of the petition for redetermination, the department shall notify the petitioner of its redetermination. The redetermination shall become final 60 days after receipt by the petitioner of notice of the redetermination unless, within that 60-day period, the petitioner appeals the redetermination under par. (b).

77.59(6)(b)



(b) Appeals from the department's redeterminations shall be governed by the statutes applicable to income or franchise tax appeals but all appeals from decisions of the tax appeals commission with respect to the taxes imposed by this subchapter shall be appealed to the circuit court for Dane County.

77.59(6)(c)



(c) The department shall notify any person who files a petition for redetermination that the person may deposit the entire deficiency determination, including any penalty or interest, with the department when the petition is filed or at any time before the department makes its redetermination. Any deposited amount which is refunded shall bear interest at the rate of 9% per year during the time the funds were on deposit. A person may also pay any portion of a deficiency determination admitted to be correct and the payment shall be considered an admission of the validity of that portion of the deficiency determination and may not be recovered in an appeal or in any other action or proceeding.

77.59 - ANNOT.



Cross Reference: See also s. Tax 3.91, Wis. adm. code.

77.59(7)



(7) If the department believes that the collection of any tax imposed by this subchapter will be jeopardized by delay, it shall notify the person determined to owe the tax of its intention to proceed under s. 71.91 (5) for collection of the amount determined to be owing, including penalties and interest. Such notice shall be by certified or registered mail or by personal service and the warrant of the department shall not issue if the person, within 10 days after such notice furnishes a bond in such amount not exceeding double the amount determined to be owing and with such sureties as the department approves, conditioned upon the payment of so much of the taxes, interest and penalties as shall finally be determined to be due. Nothing in this subsection shall affect the review of determinations of tax as provided in this subchapter and any amounts collected under this subsection shall be deposited with the state treasurer and disbursed after final determination of the taxes as are amounts deposited under ss. 71.89 (1) and 71.90 (2).

77.59(8)



(8) Notwithstanding any other provision of this subchapter, if a person fails to file a report or return

↑ excluding amounts owed under s. 50.1 which shall be deposited in the Medical Trust Fund under s. 25.77.



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-02071
DAK & JK: Kif

SOON
D-NOTE

Fix Request sheet

DOA:.....Blaine - BB0046 Nursing facilities occupied bed assessment changes

FOR 2003-05 BUDGET - NOT READY FOR INTRODUCTION

Do Not Gen

1 AN ACT ...; relating to: assessments on occupied, licensed beds of nursing
2 facilities.

Analysis by the Legislative Reference Bureau
HEALTH AND HUMAN SERVICES

HEALTH

Under current law, DHFS levies, enforces, and collects assessments on all occupied licensed beds of nursing homes and intermediate care facilities for the mentally retarded that are not state-owned or state-operated or federally owned or federally operated, except occupied, licensed beds for which payment is made under the federal Medicare program. The assessments are \$32 per calendar month per bed of a nursing home and \$100 per calendar month per bed of an intermediate care facility for the mentally retarded. Each assessment is on the average number of occupied, licensed beds of a nursing home or facility for the calendar month before the month of assessment, based on an average daily midnight census that is computed and reported by the nursing home or facility and verified by DHFS. At the end of each month, each nursing home and intermediate care facility for the mentally retarded must submit to DHFS the occupied, licensed bed count and the assessment amount due.

This bill expands the assessment on occupied, licensed beds of nursing homes and intermediate care facilities for the mentally retarded to apply the assessment

federal

* to all licensed beds, including beds occupied by residents whose costs are paid under
* the Medicare program, regardless of whether the nursing home or facility is
* privately owned or owned or operated by the state or the federal government. Under
the bill, the amount of the assessment per licensed bed of a nursing home is decreased
to \$27 per calendar month and the amount of the assessment per licensed bed of an
* ~~intermediate care facility for the mentally retarded~~ is increased to \$350 per calendar
month.

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. 25.77 (3) of the statutes is created to read:

2 25.77 (3) All moneys received under s. 50.14 (2) from assessments on licensed
3 beds of facilities.

4 SECTION 2. 50.14 (title) of the statutes is amended to read:

5 50.14 (title) Assessments on occupied, licensed beds. X

History: 1991 a. 269; 1993 a. 16; 1995 a. 27; 1997 a. 114.

6 SECTION 3. 50.14 (1) (a) of the statutes is amended to read:

7 50.14 (1) (a) Notwithstanding s. 50.01 (1m), "facility" means a nursing home
8 or an intermediate care facility for the mentally retarded, ~~which is not state-owned~~
9 ~~or state-operated, federally owned or federally operated or that is not~~ located outside
10 the state.

History: 1991 a. 269; 1993 a. 16; 1995 a. 27; 1997 a. 114.

11 SECTION 4. 50.14 (2) of the statutes is renumbered 50.14 (2) (intro.) and
12 amended to read:

13 50.14 (2) (intro.) For the privilege of doing business in this state, there is
14 imposed on all ~~occupied, licensed beds of a facility, except occupied, licensed beds for~~
15 ~~which payment is made under 42 USC 1395 to 1395ccc,~~ an assessment that shall be
16 deposited in the general medical assistance trust fund and that is \$100 ~~\$350~~ per

1 calendar month per ~~occupied~~[✓], licensed bed of an intermediate care facility for the
 2 mentally retarded and is ~~\$32~~ [✓] \$27 per calendar month per ~~occupied~~, licensed bed of
 3 a nursing home. ~~The assessment shall be on the average number of occupied,~~
 4 ~~licensed beds of a facility for the calendar month previous to the month of~~
 5 ~~assessment, based on an average daily midnight census computed and reported by~~
 6 ~~the facility and verified by the department. Charged bed hold days for any resident~~
 7 ~~of a facility shall be included as one full day in the average daily midnight census.~~
 8 In determining the number of ~~occupied~~, licensed beds, if all of the following[✓] apply:

9 ~~text: not~~ (a) If the amount of the beds is other than a whole number, the fractional part of the
 10 amount shall be disregarded unless it equals 50% or more of a whole number, in
 11 which case the amount shall be increased to the next whole number.

History: 1991 a. 269; 1993 a. 16; 1995 a. 27; 1997 a. 114. ✓

12 SECTION 5. 50.14 (2) (b) of the statutes is created to read:

13 50.14 (2) (b) The number of licensed beds of a nursing home includes any
 14 number of beds that have been delicensed under s. 49.45 (6m) (ap) 1. but not deducted
 15 from the nursing home's licensed bed capacity under s. 49.45 (6m) (ap) 4. a.

16 SECTION 6. 50.14 (3) ⁺ of the statutes is amended to read:

17 50.14 (3) By the end of each month, each facility shall submit to the department
 18 ~~the facility's occupied licensed bed count and the amount due under sub. (2) for each~~[✓]
 19 ~~occupied~~[✓] licensed bed of the facility for the month preceding the month during which
 20 ~~the bed count and payment are~~[✓] is being submitted. The department shall verify the
 21 ~~bed count~~ number of beds licensed and, if necessary, make adjustments to the
 22 payment, notify the facility of changes in the ~~bed count or payment~~[✓] owing[✓] and send
 23 the facility an invoice for the additional amount due or send the facility a refund.

History: 1991 a. 269; 1993 a. 16; 1995 a. 27; 1997 a. 114. ✓

24 SECTION 7. 50.14 (4) of the statutes is amended to read:

1 50.14 (4) Sections 77.59 (1) to (5), (6) (intro.), (a) and (c) and (7) to (10), 77.60
2 (1) to (7), (9) and (10), 77.61 (9) and (12) to (14) and 77.62, as they apply to the taxes
3 under subch. III of ch. 77, apply to the assessment under this section.

History: 1991 a. 269; 1993 a. 16; 1995 a. 27; 1997 a. 114.

4 **SECTION 9324. Initial applicability; health and family services.**

5 (1) ASSESSMENT OF FACILITY LICENSED BEDS. The treatment of sections 25.77 (3)
6 and 50.14 (title), (1) (a), (3), and (4) of the statutes, the renumbering and amendment of section
7 50.14 (2) of the statutes and the creation of section 50.14 (2) (b) of the statutes first applies to
8 assessments that are due on the first day of the ~~first~~ full calendar month after the
9 effective date of this subsection.

10 (END)

2nd
second

except that the amount of any
assessment collected under s. 77.59(7)
shall be deposited in the medical
assistance trust fund

D-NOTE

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

LRB-02077/dn
DAK & JK.....

Date

*KJF
+
Jld*

To Robert Blaine and Anne Miller:

Please review the Initial Applicability provision. Is this what you want?

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

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

LRB-0207/1dn
DAK:kjf&jld:jf

November 5, 2002

To Robert Blaine and Anne Miller:

Please review the Initial Applicability provision. Is this what you want?

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

Kennedy, Debora

From: Blaine, Robert
Sent: Tuesday, December 03, 2002 4:29 PM
To: Kennedy, Debora
Subject: FW: LRB Draft: 03-0207/1 Nursing facilities occupied bed assessment changes



NH Bed

Assessment SLC.doc

As usual, I haven't had a chance to digest this, but thought I should get it to you right away.

-----Original Message-----

From: Miller, Anne
Sent: Friday, November 29, 2002 10:20 AM
To: Blaine, Robert
Subject: Re: FW: LRB Draft: 03-0207/1 Nursing facilities occupied bed assessment changes

Hi Robert!

This stat language draft was affected by the changes we had to make for the Nov 15th Budget document. Attached is a new draft stat language request for this DIN (with only a few changes). I hope this doesn't cause too much inconvenience.

- Anne

>>> Blaine, Robert 11/10/02 10:01AM >>>

see drafter's note, asking whether the initial applicability is acceptable. From reading the issue paper, my assumption is that the assessment would be effective with the passage of the budget bill, and not with the effective date of new nursing home rates. Let me know.

I know you've been busy, but we need to find some time to talk through LRB's questions on the nursing home formual changes draft.

-----Original Message-----

From: Frantzen, Jean
Sent: Tuesday, November 05, 2002 2:56 PM
To: Blaine, Robert
Cc: Kraus, Jennifer; Uecker, Deborah; Hanaman, Cathlene; Haugen, Caroline
Subject: LRB Draft: 03-0207/1 Nursing facilities occupied bed assessment changes

Following is the PDF version of draft 03-0207/1.

Kennedy, Debora

From: Blaine, Robert
Sent: Wednesday, December 04, 2002 8:11 AM
To: Kennedy, Debora
Subject: RE: FW: LRB Draft: 03-0207/1 Nursing facilities occupied bed assessment changes

I think the only change is that the original draft requested all the revenue be placed in the MA Trust Fund. This draft only puts in the trust fund only those \$\$ in excess of \$14.3 mn in FY04 and \$13.8 mn in FY05. The reason for this is a budgetary one. These \$\$ amounts represent the "base" amount of GPR-Earned that is credited to the general fund from the existing assessment. The department wishes to leave this relationship in place for "base" revenue, and only apply new revenue to the Trust Fund.

This change makes my world a lot easier, so I'm fine with it. Let me know if you have questions.

-----Original Message-----

From: Blaine, Robert
Sent: Tuesday, December 03, 2002 4:29 PM
To: Kennedy, Debora
Subject: FW: FW: LRB Draft: 03-0207/1 Nursing facilities occupied bed assessment changes

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-----Original Message-----

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Sent: Friday, November 29, 2002 10:20 AM
To: Blaine, Robert
Subject: Re: FW: LRB Draft: 03-0207/1 Nursing facilities occupied bed assessment changes

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This stat language draft was affected by the changes we had to make for the Nov 15th Budget document. Attached is a new draft stat language request for this DIN (with only a few changes). I hope this doesn't cause too much inconvenience.

- Anne

>>> Blaine, Robert 11/10/02 10:01AM >>>

see drafter's note, asking whether the initial applicability is acceptable. From reading the issue paper, my assumption is that the assessment would be effective with the passage of the budget bill, and not with the effective date of new nursing home rates. Let me know.

I know you've been busy, but we need to find some time to talk through LRB's questions on the nursing home formual changes draft.

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Sent: Tuesday, November 05, 2002 2:56 PM
To: Blaine, Robert
Cc: Kraus, Jennifer; Uecker, Deborah; Hanaman, Cathlene; Haugen, Caroline
Subject: LRB Draft: 03-0207/1 Nursing facilities occupied bed assessment changes

Following is the PDF version of draft 03-0207/1.

Change the Nursing Facilities Occupied Bed Assessment to an Assessment on Licensed Beds and Eliminate Exemptions

Current Language

s. 20.002 (2) (a), s. 25.77, s. 50.14 and s. 77.59 (7)

Proposed Change

1. Amend s. 50.14 to:
 - a. Change the assessment on occupied licensed beds in Nursing Homes and Intermediate Care Facilities for the Mentally Retarded (ICF-MRs) in Wisconsin to an assessment on licensed beds.
 - b. Eliminate exemptions to the assessment so that all licensed beds are assessed including beds occupied by residents whose costs are paid under Medicare and licensed beds in state-owned or state-operated and federally-owned or federally-operated nursing homes and ICF-MRs.
 - c. Decrease the assessment per nursing home licensed bed to \$27, and increase the assessment per ICF-MR licensed bed to 6% of total ICF-MR revenues (projected as \$408 per bed in FY 04).
2. Amend s. 20.002 (2) (a), s. 25.77 and s. 77.59 (7) so that ^{of} funds received under s. 50.14 above \$14,300,000 in FY 04 and \$13,800,000 in FY 05 are deposited in the Medical Assistance (MA) Trust Fund. Beginning in fiscal year 2006, deposit 55% of the funds received under s. 50.14 in the General Fund and 45% in the MA Trust Fund.

Effect of the Change

This change will provide an incentive for nursing homes to delicense unoccupied beds that are not expected to be occupied in the foreseeable future. This change will also reduce nursing home and Department workload and will increase revenue without a net cost to providers as a group.

Rationale for the Change

Nursing homes in Wisconsin operate with excess licensed beds due in part to declining demand for nursing home services. The Department lacks incentives for nursing homes to delicense beds. Changing the nursing home bed assessment from an assessment on occupied beds to an

assessment on licensed beds would provide an incentive for nursing homes to eliminate unoccupied licensed beds.

For nursing homes, the Department proposes to lower the assessment per bed from \$32 to \$27. This is to account for a larger tax base (the number of licensed beds is greater than the number of occupied beds) and support a portion of the assessment on unoccupied beds. The Department also proposes to eliminate the exemption of beds occupied by a resident whose costs are paid under Medicare. Medicare pays the highest nursing home per diem and homes with Medicare utilization collect more revenue per bed than homes with no Medicare utilization. By eliminating this exemption, the Department is able to lower the assessment for beds occupied by private pay residents and residents whose costs are paid under Medicaid (MA).

The Department also proposes to eliminate the exemptions of state owned or operated and federally owned or operated nursing homes and ICF-MRs and to increase the ICF-MR rate per bed to 6% of total ICF-MR revenues (from \$100 to \$408 per bed). By eliminating the exemption of state and federally owned or operated homes and ICF-MRs and increasing the ICF-MR rate, the Department is able to increase state revenue. Additional policy changes associated with this rate increase will allow cost neutrality for these providers as a group.

By changing the assessment to licensed beds, the Department, nursing homes and ICF-MRs can significantly decrease workload. The current assessment requires nursing homes and ICF-MRs to provide the Department a monthly occupancy report. The Department must process and verify this report, and, if incorrect, notify a facility of any necessary changes. The Department also audits nursing home and ICF-MR occupancy. Under this proposal, the monthly occupancy report and associated workload would be eliminated. The Department would assess nursing homes and ICF-MRs based on licensed beds which is data easily accessible through the Bureau of Quality Assurance.

The occupied bed assessment was enacted in the early 1990s to increase federal funding for the state's MA nursing home costs. The revenues from the provider tax are received as GPR earned and deposited in the General Fund. To clarify the relationship between the provider assessment and MA payments, the additional revenues collected under this change would be deposited into the MA Trust Fund along with nursing home Intergovernmental Transfer revenues. Funds in the MA Trust Fund are reserved for MA payments by statute.

Desired Effective Date: Upon Passage of the Budget Bill
Agency: DHFS
Agency Contact: Anne Miller
Phone: 266-5422



State of Wisconsin
2003 - 2004 LEGISLATURE

D-NOTE

LRB-0207/2
DAK&JK:kjf&jld
Keep

DOA:.....Blaine - BB0046 Nursing facilities occupied bed assessment changes

FOR 2003-05 BUDGET - NOT READY FOR INTRODUCTION

Do Not Gen

1 AN ACT ...; relating to: assessments on occupied, licensed beds of nursing
2 facilities.

Analysis by the Legislative Reference Bureau
HEALTH AND HUMAN SERVICES
HEALTH

Under current law, DHFS levies, enforces, and collects assessments on all occupied, licensed beds of nursing homes and intermediate care facilities for the mentally retarded (facilities) that are not state-owned or state-operated or federally owned or federally operated, except occupied, licensed beds for which payment is made under the federal Medicare program. The assessments are \$32 per calendar month per bed of a nursing home and \$100 per calendar month per bed of an intermediate care facility for the mentally retarded (facility). Each assessment is on the average number of occupied, licensed beds of a nursing home or facility for the calendar month before the month of assessment, based on an average daily midnight census that is computed and reported by the nursing home or facility and verified by DHFS. At the end of each month, each nursing home and facility must submit to DHFS the occupied, licensed bed count and the assessment amount due.

This bill expands the assessments on occupied, licensed beds of nursing homes and facilities to apply the assessments to all licensed beds, including beds occupied by residents whose costs are paid under the federal Medicare program, regardless

of whether the nursing home or facility is privately owned or is owned or operated by the state or the federal government. Under the bill, the amount of the assessment per licensed bed of a nursing home is decreased to \$27 per calendar month and the amount of the assessment per licensed bed of a facility is increased to \$350 per calendar month. INSERT A ✓

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. 25.77 (3) of the statutes is created to read:

2 25.77 (3) All moneys received under s. 50.14 (2) from assessments on licensed
3 beds of facilities. except \$14,300,000 in fiscal year 2003-04 and \$13,800,000
in fiscal year 2004-05 and, beginning July 1, 2005,
45% in each
fiscal year

4 SECTION 2. 50.14 (title) of the statutes is amended to read:

5 **50.14 (title) Assessments on occupied, licensed beds.**

6 SECTION 3. 50.14 (1) (a) of the statutes is amended to read:

7 50.14 (1) (a) Notwithstanding s. 50.01 (1m), "facility" means a nursing home
8 or an intermediate care facility for the mentally retarded, ~~which is not state-owned~~
9 ~~or state-operated, federally owned or federally operated or that is not~~ located outside
10 the state.

11 SECTION 4. 50.14 (2) of the statutes is renumbered 50.14 (2) (intro.) and
12 amended to read:

13 50.14 (2) (intro.) For the privilege of doing business in this state, there is
14 imposed on all ~~occupied, licensed beds of a facility, except occupied, licensed beds for~~
15 which payment is made under 42 USC 1395 to 1395ccc, an assessment ~~that shall be~~ ^{strike}
16 deposited in the general ~~medical assistance trust~~ ^{delete} fund ~~and that is \$100 \$350 per~~ ^{strike}
17 calendar month per ~~occupied, licensed bed of an intermediate care facility for the~~
18 mentally retarded and is ~~\$32~~ \$27 per calendar month per ~~occupied, licensed bed of~~

INSERT 3-5

plain

plain period

1 a nursing home. ~~The assessment shall be on the average number of occupied,~~
 2 ~~licensed beds of a facility for the calendar month previous to the month of~~
 3 ~~assessment, based on an average daily midnight census computed and reported by~~
 4 ~~the facility and verified by the department. Charged bed hold days for any resident~~
 5 ~~of a facility shall be included as one full day in the average daily midnight census.~~

6 In determining the number of occupied, licensed beds, if all of the following apply:

7 (a) If the amount of the beds is other than a whole number, the fractional part
 8 of the amount shall be disregarded unless it equals 50% or more of a whole number,
 9 in which case the amount shall be increased to the next whole number.

10 SECTION 5. 50.14 (2) (b) of the statutes is created to read:

11 50.14 (2) (b) The number of licensed beds of a nursing home includes any
 12 number of beds that have been delicensed under s. 49.45 (6m) (ap) 1. but not deducted
 13 from the nursing home's licensed bed capacity under s. 49.45 (6m) (ap) 4. a.

14 SECTION 6. 50.14 (3) of the statutes is amended to read:

15 50.14 (3) By the end of each month, each facility shall submit to the department
 16 ~~the facility's occupied licensed bed count and the amount due under sub. (2) for each~~
 17 ~~occupied licensed bed of the facility for the month preceding the month during which~~
 18 ~~the bed count and payment are is being submitted. The department shall verify the~~
 19 ~~bed count~~ number of beds licensed and, if necessary, make adjustments to the
 20 payment, notify the facility of changes in the ~~bed count or payment owing~~ and send
 21 the facility an invoice for the additional amount due or send the facility a refund.

22 SECTION 7. 50.14 (4) of the statutes is amended to read:

23 50.14 (4) Sections 77.59 (1) to (5), (6) (intro.), (a) and (c) and (7) to (10), 77.60
 24 (1) to (7), (9) and (10), 77.61 (9) and (12) to (14) and 77.62, as they apply to the taxes
 25 under subch. III of ch. 77, apply to the assessment under this section, except that the

✓
INSERT 4-1

1 amount of any assessment collected under s. 77.59 (7) shall be deposited in the
2 medical assistance trust fund.

3 **SECTION 9324. Initial applicability; health and family services.**

4 (1) ASSESSMENT OF FACILITY LICENSED BEDS. The treatment of sections 25.77 (3)
5 and 50.14 (title), (1) (a), (3), and (4) of the statutes, the renumbering and amendment
6 of section 50.14 (2) of the statutes, and the creation of section 50.14 (2) (b) of the
7 statutes first apply to assessments that are due on the first day of the 2nd full
8 calendar month after the effective date of this subsection.

9 (END)

D-NOTE

(INSERT A)

no #
=

of the amounts received from the assessment,

\$14,300,000^v in fiscal year 2003-04, \$13,800,000^v

in fiscal year 2004-05, and beginning July 1, 2005,

45% in each fiscal year must be deposited

in the general fund, and

the remainder must be deposited in the

Medical Assistance trust fund.

end insert A

scored comma use 3 times

in each fiscal year

INSERT 3-5

amounts in excess of

~~The assessment~~ shall be deposited in the general fund,
 except that in fiscal year 2003-04 \$14,300,000,
 in fiscal year 2004-05 \$13,800,000, and, beginning
 July 1, 2005, 15% of the money received from
 the assessments shall be deposited in the
 Medical Assistance trust fund.

end insert 3-5

in excess of

INSERT 4-1

\$14,300,000 in fiscal year 2003-04, \$13,800,000

in fiscal year 2004-05, and, beginning July 1,

2005, 45% in each fiscal year

end insert 4-1

LRB-0207/2dn
DAK:gf:jld
jld

D-NOTE

DAK

To Robert Blaine:

There was no need to amend s. 20.002(2)(a),
Stats., as requested by DHFS.

Do you understand Anne Miller's response
concerning "the only change" to ^{2003 LRB} ~~LRB~~-0207/1
to indicate that the Initial Applicability, as
drafted, is acceptable?

DAK

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0207/2dn
DAK:kjf&jld:rs

December 9, 2002

To Robert Blaine:

There was no need to amend s. 20.002 (2) (a), stats., as requested by DHFS.

Do you understand Anne Miller's response concerning "the only change" to 2003 LRB-0207/1 to indicate that the Initial Applicability, as drafted is acceptable?

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

Kennedy, Debora

From: Blaine, Robert
Sent: Thursday, December 19, 2002 9:12 AM
To: Kennedy, Debora
Subject: FW: LRB Draft 03-0207/2 Bed Assessment

More DHFS feedback.

-----Original Message-----

From: Miller, Anne
Sent: Wednesday, December 18, 2002 4:31 PM
To: Blaine, Robert
Cc: Cobb, James; Lund, C. David; Reinhard, Alan; Updike, Lyle; Megna, Richard
Subject: LRB Draft 03-0207/2 Bed Assessment

Hi Robert!

We have reviewed LRB's stat language draft of the change to the Nursing Home Bed Assessment (draft 03-0207/2) and we have only one change. In the analysis and under s. 50.14 (2) (intro.), change the ICF-MR assessment amount to \$408 per bed.

As to the drafter's question about initial applicability, the way it's drafted looks fine.

Some what related to initial applicability, the effective date for this change is 'upon passage of the budget' and we believe must stay 'upon passage of the budget' because the change is a tax change and cannot be retroactively applied. The fiscal effect of this proposal assumes two full years (FY 04 and FY 05) of additional FED claiming. Please note, this will be accurate only if the budget passes on time. If the budget passes late, the FY 04 fiscal effect will not be accurate.

Thanks for giving us time to review this draft. Please feel free to contact me with any questions.

Anne Miller
6-5422