



SOON - In edit 01/08

State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-0207/3

DAK&JK:kjf&jld:

D-NOTE

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

FOR 2003-05 BUDGET - NOT READY FOR INTRODUCTION

don't 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

✓
\$408

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. Of the amounts received from the assessment, \$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 must be deposited in the general fund, and the remainder must be deposited in the Medical Assistance trust fund.

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
4 year 2004–05 and, beginning July 1, 2005, 45% in each fiscal year.

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

6 50.14 (title) **Assessments on occupied, licensed beds.**

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

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

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

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

17

✓
\$408

1 licensed bed of an intermediate care facility for the mentally retarded and is ~~\$32~~ \$27
2 per calendar month per occupied, licensed bed of a nursing home. The assessment
3 shall be ~~on the average number of occupied, licensed beds of a facility for the calendar~~
4 ~~month previous to the month of assessment, based on an average daily midnight~~
5 ~~census computed and reported by the facility and verified by the department.~~
6 ~~Charged bed-hold days for any resident of a facility shall be included as one full day~~
7 ~~in the average daily midnight census deposited in the general fund, except that in~~
8 ~~fiscal year 2003-04, amounts in excess of \$14,300,000, in fiscal year 2004-05,~~
9 ~~amounts in excess of \$13,800,000, and, beginning July 1, 2005, in each fiscal year,~~
10 ~~amounts in excess of 45% of the money received from the assessment shall be~~
11 ~~deposited in the Medical Assistance trust fund. In determining the number of~~
12 ~~occupied, licensed beds, if all of the following apply:~~

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

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

17 50.14 (2) (b) The number of licensed beds of a nursing home includes any
18 number of beds that have been delicensed under s. 49.45 (6m) (ap) 1. but not deducted
19 from the nursing home's licensed bed capacity under s. 49.45 (6m) (ap) 4. a.

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

21 50.14 (3) By the end of each month, each facility shall submit to the department
22 ~~the facility's occupied licensed bed count and the amount due under sub. (2) for each~~
23 ~~occupied licensed bed of the facility for the month preceding the month during which~~
24 ~~the bed count and payment are~~ is being submitted. The department shall verify the
25 ~~bed count~~ number of beds licensed and, if necessary, make adjustments to the

1 payment, notify the facility of changes in the ~~bed count or~~ payment owing and send
2 the facility an invoice for the additional amount due or send the facility a refund.

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

4 50.14 (4) Sections 77.59 (1) to (5), (6) (intro.), (a) and (c) and (7) to (10), 77.60
5 (1) to (7), (9) and (10), 77.61 (9) and (12) to (14) and 77.62, as they apply to the taxes
6 under subch. III of ch. 77, apply to the assessment under this section, except that the
7 amount of any assessment collected under s. 77.59 (7) in excess of \$14,300,000 in
8 fiscal year 2003-04, in excess of \$13,800,000 in fiscal year 2004-05, and, beginning
9 July 1, 2005, in excess of 45% in each fiscal year shall be deposited in the Medical
10 Assistance trust fund.

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

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

17 (END)

D-NOTE

D-NOTE

To Robert Blaine:

Anne Miller indicates that the fiscal effect for the proposal assumes two full years (2003-04 and 2004-05) of additional FED claiming, which will be accurate only if the budget passes on time(?) About the earliest budget passage that I've experienced is July 3; note that, if that happens this year, given about three weeks for vetoing by the governor, the proposal will not begin to apply until about September 1.

DAK

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

LRB-0207/3dn
DAK&JK:kjf&jld:pg

January 9, 2003

To Robert Blaine:

Ann Miller indicates that the fiscal effect for the proposal assumes two full years (2003-04 and 2004-05) of additional FED claiming, which will be accurate only if the budget passes "on time." About the earliest budget passage that I've experienced is July 3; note that, if that happens this year, given about three weeks for vetoing by the governor, the proposal will not begin to apply until about September 1.

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

Kennedy, Debora

From: Kennedy, Debora
Sent: Tuesday, January 14, 2003 4:23 PM
To: Blaine, Robert
Subject: RE: FW: LRB Draft: 03-0207/3 Nursing facilities occupied bed assessment changes

I think that what Anne says is correct--it's not vital, but would speed up the process. At present, the rules exempt state-owned or -operated facilities and Medicare beds and give the basis of the assessment as the "average number of occupied, licensed beds of the facility for the calendar month previous to the month of assessment", etc. Actually, under s. 50.14 (5) (b), they were required to "establish procedures and requirements for levying the assessment," but obviously they go beyond that

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

From: Blaine, Robert
Sent: Tuesday, January 14, 2003 3:46 PM
To: Kennedy, Debora
Subject: RE: FW: LRB Draft: 03-0207/3 Nursing facilities occupied bed assessment changes

what do you think about this . . . is it necessary?

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

From: Miller, Anne
Sent: Tuesday, January 14, 2003 3:42 PM
To: Blaine, Robert
Cc: Kennedy, Debora; Lund, C. David; Updike, Lyle; Gebhart, Neil; Megna, Richard
Subject: Re: FW: LRB Draft: 03-0207/3 Nursing facilities occupied bed assessment changes

Hi Robert!

Yes, this draft is near final, but, of course, one additional issue has come up (I know you're tired of hearing that; sorry this has come up so late).

The nursing home bed assessment is governed by both statute and administrative rule. As you know the rule making process is time consuming and would further delay the collection of the assessment by many months.

To realize the greatest possible increase in revenue from this change, we suggest the attached modification to the stat language. This modification will allow the Department to amend its existing bed tax rules to comport with the statutory changes via the emergency rule-making procedure.

This is not a required modification, only one that allows rules to be promulgated more quickly to realize more revenue. Other than this (not required) change, the draft is fine.

I hope this information helps. Please feel free to contact me with any questions.

- Anne

>>> Blaine, Robert 01/09/03 10:08AM >>>

My guess is that this should be near final. I think Debora's note would be true with just about any budget proposal, so it doesn't particularly concern me. Please let me know by mid next week if you think there's a chance we might still need another redraft.

Thanks

Robert

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

From: Greenslet, Patty

Sent: Thursday, January 09, 2003 9:23 AM

To: Blaine, Robert

Cc: Johnston, James; Schaeffer, Carole; Hanaman, Cathlene; Haugen, Caroline

Subject: LRB Draft: 03-0207/3 Nursing facilities occupied bed assessment changes

Following is the PDF version of draft 03-0207/3.

SECTION 9123 ()

() RULES ON FACILITY BED ASSESSMENTS. The department of health and family services may use the procedure under section 227.24 of the statutes to promulgate rules authorized under section 50.14 (5) (b) of the statutes, to bring its existing rules into compliance with section 50.14 of the statutes as affected by this act. Notwithstanding section 227.24 (1) (c) and (2) of the statutes, the emergency rules may remain in effect until the date on which permanent rules take effect. Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the department is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.



State of Wisconsin
2003 - 2004 LEGISLATURE

(SOON - 2 credit 1/15)

D - NOTE

LRB-0207/84
DAK&JK:kjf&jld:pg
keep

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

FOR 2003-05 BUDGET - NOT READY FOR INTRODUCTION

Do Not Gen

, providing an exemption from emergency rule procedures, and extending the time limit for emergency rule procedures

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 \$408 per calendar month. Of the amounts received from the assessment, \$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 must be deposited in the general fund, and the remainder must be deposited in the Medical Assistance trust fund. INSERT ANAL 1

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
4 year 2004–05 and, beginning July 1, 2005, 45% in each fiscal year.

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

6 **50.14 (title) Assessments on occupied, licensed beds.**

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

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

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

14 50.14 (2) (intro.) For the privilege of doing business in this state, there is
15 imposed on all ~~occupied, licensed beds of a facility, except occupied, licensed beds for~~
16 ~~which payment is made under 42 USC 1395 to 1395ccc,~~ an assessment that shall be
17 deposited in the general fund and that is \$100 \$408 per calendar month per ~~occupied,~~

1 licensed bed of an intermediate care facility for the mentally retarded and is ~~\$32~~ \$27
2 per calendar month per ~~occupied~~, licensed bed of a nursing home. The assessment
3 shall be ~~on the average number of occupied, licensed beds of a facility for the calendar~~
4 ~~month previous to the month of assessment, based on an average daily midnight~~
5 ~~census computed and reported by the facility and verified by the department.~~
6 ~~Charged bed hold days for any resident of a facility shall be included as one full day~~
7 ~~in the average daily midnight census~~ deposited in the general fund, except that in
8 fiscal year 2003-04, amounts in excess of \$14,300,000, in fiscal year 2004-05,
9 amounts in excess of \$13,800,000, and, beginning July 1, 2005, in each fiscal year,
10 amounts in excess of 45% of the money received from the assessment shall be
11 deposited in the Medical Assistance trust fund. In determining the number of
12 ~~occupied, licensed beds, if~~ all of the following apply:

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

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

17 50.14 (2) (b) The number of licensed beds of a nursing home includes any
18 number of beds that have been delicensed under s. 49.45 (6m) (ap) 1. but not deducted
19 from the nursing home's licensed bed capacity under s. 49.45 (6m) (ap) 4. a.

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

21 50.14 (3) By the end of each month, each facility shall submit to the department
22 ~~the facility's occupied licensed bed count and the amount due under sub. (2) for each~~
23 ~~occupied licensed bed of the facility for the month preceding the month during which~~
24 ~~the bed count and payment are~~ is being submitted. The department shall verify the
25 ~~bed count~~ number of beds licensed and, if necessary, make adjustments to the

1 payment, notify the facility of changes in the bed count or payment owing and send
2 the facility an invoice for the additional amount due or send the facility a refund.

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

4 50.14 (4) Sections 77.59 (1) to (5), (6) (intro.), (a) and (c) and (7) to (10), 77.60
5 (1) to (7), (9) and (10), 77.61 (9) and (12) to (14) and 77.62, as they apply to the taxes
6 under subch. III of ch. 77, apply to the assessment under this section, except that the
7 amount of any assessment collected under s. 77.59 (7) in excess of \$14,300,000 in
8 fiscal year 2003-04, in excess of \$13,800,000 in fiscal year 2004-05, and, beginning
9 July 1, 2005, in excess of 45% in each fiscal year shall be deposited in the Medical
10 Assistance trust fund.

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

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

17 (END)

INSERT 4-10
D-NOTE

not
rules

ANAL 1

Under the bill, DHFS is authorized to promulgate as emergency rules a revision to existing that establish procedures and requirements for levying the assessment.

INSERT 4-10

SECTION 9124. Nonstatutory provisions; health and family services.

(1) ASSESSMENT OF FACILITY LICENSED BEDS; REVISED RULES. (a) The department of health and family services shall submit in proposed form a revision of rules required under section 50.14 (5) (b) of the statutes to the legislative council staff under section 227.15 (1) of the statutes no later than the first day of the 4th month beginning after the effective date of this paragraph.

as emergency rules

(b) Using the procedure under section 227.24 of the statutes, the department of health and family services may promulgate a revision of rules required under section 50.14 (5) (b) of the statutes for the period before the effective date of the revised rules submitted under paragraph (a), but not to exceed the period authorized under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the department of health and family services is not required to provide evidence that promulgating a rule under this paragraph as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this paragraph.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0207/4dn
DAK&JK:kjf&jld:pg

Date

To Robert Blaine:

I provided a nonstatutory provision so that DHFS may promulgate revised rules as emergency rules, as requested, but I did not notwithstanding s. 227.24 (1) (c) and (2), stats.; doing as DHFS had proposed would have removed any time limitation on the effectiveness of the emergency rules, and DHFS could have kept them in place without ever promulgating final rules.

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

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

LRB-0207/4dn
DAK:kjf:pg

January 16, 2003

To Robert Blaine:

I provided a nonstatutory provision so that DHFS may promulgate revised rules as emergency rules, as requested, but I did not notwithstanding s. 227.24 (1) (c) and (2), stats.; doing as DHFS had proposed would have removed any time limitation on the effectiveness of the emergency rules, and DHFS could have kept them in place without ever promulgating final rules.

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

Kennedy, Debora

From: Blaine, Robert
Sent: Friday, January 17, 2003 2:57 PM
To: Kennedy, Debora
Cc: Kahler, Pam
Subject: Drafting -- head's up!

OK (deep breath for Rob) -- it's not as bad as I had feared --- here are the items I'll be sending over soon:

New Items (these will come over formally, but you might not see them until Sun / Mon -- depending on if they're making runs).

- 1) MA -- personal needs allowance for nursing home residents. Reduce the allowance from \$45 / month to \$30 / month. s. 49.45 (7)(a)
- 2) Family Care Expansion to Kenosha (see attached language request).



Standard DD
Eligibility.doc

- 3) Eliminate the County Services Deficit Reduction Benefit (CSDRB).

In addition to this, the following drafts need to be modified.

Items to be Modified

Draft# (no draft received -- SENIORCARE):

- Change the deductible structure as follows: \$500 for persons < 200% FPL. \$750 for persons between 200-240% FPL. \$850 for persons > 240%.
- Increase the enrollment fee as follows: \$25 for persons with incomes < 200% FPL. \$30 for those with incomes above 200% FPL.

Draft# (no draft yet received -- MA & BC cost-sharing): reduce the emergency room copayment to \$10 (previously specified as \$40).

Draft#: 1253 Revise to original 1253/1, repealing 49.45 (6x) (thus, we'll eliminate both the EACH and rural adjustments).

Draft# 0207: increase the assessment charged from \$32 per licensed bed to \$115 per bed

IGT / Revenue Maximization

I sent you an e-mail on Dec. 19 with some instructions. I think you can just scrap this since most of it is now irrelevant (esp. a portion that dealt with a grant to Marquette dental school).

We have been working on four discrete projects under the heading of "revenue maximization." Before I had thought that we could just do them all as one draft, using the IGT draft as a starting point, but it may make more sense to do them separately. What I will do is this. I will put together a plain language description of the projects and send them to you, if not by the end of today, by Sunday. It may be helpful if we met Sunday afternoon or Monday to talk about them (I'd be happy to come to your office for a change!). The broad ideas are as follows:

- 1) Home & Community Based Waivers IGT: do an IGT with counties for waiver services, where the upper limit is a % of the maximum specified in the CIP 1A/1B waiver.
- 2) County Based Services IGT: do an IGT with counties for other county provided services such as mental health services, AODA.
- 3) Municipality-based Services: reallocate some state GPR (shared revenue) to the MA program, and make enhanced payments for health services (e.g., EMS) provided by cities).
- 4) School-based Services: same as the municipal projects, but targeted to school districts for special education services.

Most of the language for these projects (I think) is related to compelling these entities to work with us on these projects, re-working the MA trust fund to park the money, and creating appropriations to budget the money.



(SOON - In edit 1/19)
State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-0207/65
DAK&JK:kjf&jld:8

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

FOR 2003-05 BUDGET — NOT READY FOR INTRODUCTION

Don't gen

- 1 AN ACT ...; relating to: assessments on occupied, licensed beds of nursing
2 facilities, providing an exemption from emergency rule procedures, and
3 extending the time limit for emergency rule procedures.

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

increased

✓
\$115

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 \$408[✓] per calendar month. Of the amounts received from the assessment, \$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 must be deposited in the general fund, and the remainder must be deposited in the Medical Assistance trust fund. Under the bill, DHFS is authorized to promulgate as emergency rules a revision to existing rules that establish procedures and requirements for levying the assessment.

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
4 year 2004–05 and, beginning July 1, 2005, 45% in each fiscal year.

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

6 **50.14 (title) Assessments on occupied, licensed beds.**

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

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

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

14 50.14 (2) (intro.) For the privilege of doing business in this state, there is
15 imposed on all ~~occupied, licensed beds of a facility, except occupied, licensed beds for~~

\$115

1 which payment is made under 42 USC 1395 to 1395eee, an assessment that shall be
2 deposited in the general fund and that is \$100 \$408[✓] per calendar month per occupied,
3 licensed bed of an intermediate care facility for the mentally retarded and is \$32 ~~\$22~~
4 per calendar month per occupied, licensed bed of a nursing home. The assessment
5 shall be on the average number of occupied, licensed beds of a facility for the calendar
6 month previous to the month of assessment, based on an average daily midnight
7 census computed and reported by the facility and verified by the department.
8 Charged bed-hold days for any resident of a facility shall be included as one full day
9 in the average daily midnight census deposited in the general fund, except that in
10 fiscal year 2003-04, amounts in excess of \$14,300,000, in fiscal year 2004-05,
11 amounts in excess of \$13,800,000, and, beginning July 1, 2005, in each fiscal year,
12 amounts in excess of 45% of the money received from the assessment shall be
13 deposited in the Medical Assistance trust fund. In determining the number of
14 occupied, licensed beds, if all of the following apply:

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

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

19 50.14 (2) (b) The number of licensed beds of a nursing home includes any
20 number of beds that have been delicensed under s. 49.45 (6m) (ap) 1. but not deducted
21 from the nursing home's licensed bed capacity under s. 49.45 (6m) (ap) 4. a.

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

23 50.14 (3) By the end of each month, each facility shall submit to the department
24 ~~the facility's occupied licensed bed count and~~ the amount due under sub. (2) for each
25 occupied licensed bed of the facility for the month preceding the month during which

1 the ~~bed count and~~ payment are is being submitted. The department shall verify the
2 ~~bed count~~ number of beds licensed and, if necessary, make adjustments to the
3 payment, notify the facility of changes in the ~~bed count or payment owing~~ and send
4 the facility an invoice for the additional amount due or send the facility a refund.

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

6 50.14 (4) Sections 77.59 (1) to (5), (6) (intro.), (a) and (c) and (7) to (10), 77.60
7 (1) to (7), (9) and (10), 77.61 (9) and (12) to (14) and 77.62, as they apply to the taxes
8 under subch. III of ch. 77, apply to the assessment under this section, except that the
9 amount of any assessment collected under s. 77.59 (7) in excess of \$14,300,000 in
10 fiscal year 2003–04, in excess of \$13,800,000 in fiscal year 2004–05, and, beginning
11 July 1, 2005, in excess of 45% in each fiscal year shall be deposited in the Medical
12 Assistance trust fund.

13 **SECTION 9124. Nonstatutory provisions; health and family services.**

14 (1) ASSESSMENT OF FACILITY LICENSED BEDS; REVISED RULES. (a) The department
15 of health and family services shall submit in proposed form a revision of rules
16 required under section 50.14 (5) (b) of the statutes to the legislative council staff
17 under section 227.15 (1) of the statutes no later than the first day of the 4th month
18 beginning after the effective date of this paragraph.

19 (b) Using the procedure under section 227.24 of the statutes, the department
20 of health and family services may promulgate as emergency rules a revision of rules
21 required under section 50.14 (5) (b) of the statutes for the period before the effective
22 date of the revised rules submitted under paragraph (a), but not to exceed the period
23 authorized under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding
24 section 227.24 (1) (a), (2) (b), and (3) of the statutes, the department of health and
25 family services is not required to provide evidence that promulgating a rule under

1 this paragraph as an emergency rule is necessary for the preservation of the public
2 peace, health, safety, or welfare and is not required to provide a finding of emergency
3 for a rule promulgated under this paragraph.

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
7 of section 50.14 (2) of the statutes, and the creation of section 50.14 (2) (b) of the
8 statutes first apply to assessments that are due on the first day of the 2nd full
9 calendar month after the effective date of this subsection.

10

(END)

Kennedy, Debora

From: Blaine, Robert
Sent: Monday, January 27, 2003 4:59 PM
To: Kennedy, Debora
Subject: NH / ICF-MR Bed Assessment

Hi Debora --

I mentioned last week that the assessment levels for the nursing home and ICF-MR assessments were still in flux. I just received final numbers.

Nursing home assessment: \$116 per month in both years
ICF-MR: \$435 per month in FY 04 and \$445 per month in FY 05

One complexity -- federal law prohibits the state from levying a provider assessment greater than 6% of gross revenues (otherwise, some restrictions kick in). The assessment figures above were calculated using a set of assumptions so as to not exceed the 6% limit for ICF-MRs, but there is some concern that given the changing nature of the long-term care industry (closures, etc.), that the above figures could be too high (i.e., they might exceed the 6% limit).

Would it be possible to add 'safety valve' language to accompany the ICF-MR assessment amounts in statute. 'Safety valve' language, such as "not to exceed \$435 in FY04 and \$445 in FY05", would give the Department flexibility to change the assessment amount through rule if it looked like it would violate the 6% limit. If it's too late, I understand.

Thanks,
Robert

State Budget Office -- WI Dept. of Administration
608/267-7980
608/267-0372 (fax)
robert.blaine@doa.state.wi.us



SOON - In edit 1/27

State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-0207/56

DAK&JK:kjf&jld:

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

FOR 2003-05 BUDGET — NOT READY FOR INTRODUCTION

Don't gen

- 1 AN ACT ...; relating to: assessments on occupied, licensed beds of nursing
- 2 facilities, providing an exemption from emergency rule procedures, and
- 3 extending the time limit for emergency rule procedures.

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

in fiscal year 2003-04 and to up to
calendar
\$ 445 per month in fiscal year 2004-05 ✓

up to \$116 ✓

up to \$435 ✓

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 increased to ~~\$116~~ per calendar month and the amount of the assessment per licensed bed of a facility is increased to ~~\$435~~ per calendar month. Of the amounts received from the assessment, \$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 must be deposited in the general fund, and the remainder must be deposited in the Medical Assistance trust fund. Under the bill, DHFS is authorized to promulgate as emergency rules a revision to existing rules that establish procedures and requirements for levying the assessment.

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
4 year 2004-05 and, beginning July 1, 2005, 45% in each fiscal year.

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

6 50.14 (title) **Assessments on occupied, licensed beds.**

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

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

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

14 50.14 (2) (intro.) For the privilege of doing business in this state, there is
15 imposed on all ~~occupied, licensed beds of a facility, except occupied, licensed beds for~~

may not exceed \$435 in fiscal year
2003-04 and may not exceed \$445 in fiscal year 2004-05

1 which payment is made under 42 USC 1395 to 1395eee, an assessment that shall be
2 deposited in the general fund and that is ~~\$100~~ ^{\$108} per calendar month per occupied,
3 licensed bed of an intermediate care facility for the mentally retarded and is ~~\$32~~ ^{\$116}
4 per calendar month per occupied, licensed bed of a nursing home. The assessment
5 shall be on the average number of occupied, licensed beds of a facility for the calendar
6 month previous to the month of assessment, based on an average daily midnight
7 census computed and reported by the facility and verified by the department.
8 Charged bed hold days for any resident of a facility shall be included as one full day
9 in the average daily midnight census deposited in the general fund, except that in
10 fiscal year 2003-04, amounts in excess of \$14,300,000, in fiscal year 2004-05,
11 amounts in excess of \$13,800,000, and, beginning July 1, 2005, in each fiscal year,
12 amounts in excess of 45% of the money received from the assessment shall be
13 deposited in the Medical Assistance trust fund. In determining the number of
14 occupied, licensed beds, if all of the following apply:

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

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

19 50.14 (2) (b) The number of licensed beds of a nursing home includes any
20 number of beds that have been delicensed under s. 49.45 (6m) (ap) 1. but not deducted
21 from the nursing home's licensed bed capacity under s. 49.45 (6m) (ap) 4. a.

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

23 50.14 (3) By the end of each month, each facility shall submit to the department
24 the facility's occupied licensed bed count and the amount due under sub. (2) for each
25 occupied licensed bed of the facility for the month preceding the month during which

an assessment that may not exceed \$116

1 the ~~bed count and payment are~~ is being submitted. The department shall verify the
2 ~~bed count~~ number of beds licensed and, if necessary, make adjustments to the
3 payment, notify the facility of changes in the ~~bed count or payment~~ owing and send
4 the facility an invoice for the additional amount due or send the facility a refund.

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

6 50.14 (4) Sections 77.59 (1) to (5), (6) (intro.), (a) and (c) and (7) to (10), 77.60
7 (1) to (7), (9) and (10), 77.61 (9) and (12) to (14) and 77.62, as they apply to the taxes
8 under subch. III of ch. 77, apply to the assessment under this section, except that the
9 amount of any assessment collected under s. 77.59 (7) in excess of \$14,300,000 in
10 fiscal year 2003–04, in excess of \$13,800,000 in fiscal year 2004–05, and, beginning
11 July 1, 2005, in excess of 45% in each fiscal year shall be deposited in the Medical
12 Assistance trust fund.

13 **SECTION 9124. Nonstatutory provisions; health and family services.**

14 (1) ASSESSMENT OF FACILITY LICENSED BEDS; REVISED RULES. ⁹(a) The department
15 of health and family services shall submit in proposed form a revision of rules
16 required under section 50.14 (5) (b) of the statutes to the legislative council staff
17 under section 227.15 (1) of the statutes no later than the first day of the 4th month
18 beginning after the effective date of this paragraph.

19 (b) Using the procedure under section 227.24 of the statutes, the department
20 of health and family services may promulgate as emergency rules a revision of rules
21 required under section 50.14 (5) (b) of the statutes for the period before the effective
22 date of the revised rules submitted under paragraph (a), but not to exceed the period
23 authorized under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding
24 section 227.24 (1) (a), (2) (b), and (3) of the statutes, the department of health and
25 family services is not required to provide evidence that promulgating a rule under

1 this paragraph as an emergency rule is necessary for the preservation of the public
2 peace, health, safety, or welfare and is not required to provide a finding of emergency
3 for a rule promulgated under this paragraph.

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
7 of section 50.14 (2) of the statutes, and the creation of section 50.14 (2) (b) of the
8 statutes first apply to assessments that are due on the first day of the 2nd full
9 calendar month after the effective date of this subsection.

10 (END)



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-0207/6
DAK&JK:kjf&jld:cph

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

FOR 2003-05 BUDGET — NOT READY FOR INTRODUCTION

- 1 **AN ACT ...; relating to:** assessments on occupied, licensed beds of nursing
2 facilities, providing an exemption from emergency rule procedures, and
3 extending the time limit for emergency rule procedures.

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 increased to up to \$116 per calendar month and the amount of the assessment per licensed bed of a facility is increased to up to \$435 per calendar month in fiscal year 2003–04 and to up to \$445 per calendar month in fiscal year 2004–05. Of the amounts received from the assessment, \$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 must be deposited in the general fund, and the remainder must be deposited in the Medical Assistance trust fund. Under the bill, DHFS is authorized to promulgate as emergency rules a revision to existing rules that establish procedures and requirements for levying the assessment.

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
4 year 2004–05 and, beginning July 1, 2005, 45% in each fiscal year.

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

6 **50.14 (title) Assessments on occupied, licensed beds.**

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

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

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

1 50.14 (2) (intro.) For the privilege of doing business in this state, there is
2 imposed on all ~~occupied~~, licensed beds of a facility, ~~except occupied, licensed beds for~~
3 ~~which payment is made under 42 USC 1395 to 1395eee~~, an assessment that shall be
4 deposited in the general fund and that is \$100 per calendar month per ~~occupied~~,
5 licensed bed of an intermediate care facility for the mentally retarded may not exceed
6 \$435 in fiscal year 2003–04 and may not exceed \$445 in fiscal year 2004–05 and is
7 \$32 an assessment that may not exceed \$116 per calendar month per ~~occupied~~,
8 licensed bed of a nursing home. The assessment shall be ~~on the average number of~~
9 ~~occupied, licensed beds of a facility for the calendar month previous to the month of~~
10 ~~assessment, based on an average daily midnight census computed and reported by~~
11 ~~the facility and verified by the department. Charged bed hold days for any resident~~
12 ~~of a facility shall be included as one full day in the average daily midnight census~~
13 deposited in the general fund, except that in fiscal year 2003–04, amounts in excess
14 of \$14,300,000, in fiscal year 2004–05, amounts in excess of \$13,800,000, and,
15 beginning July 1, 2005, in each fiscal year, amounts in excess of 45% of the money
16 received from the assessment shall be deposited in the Medical Assistance trust
17 fund. In determining the number of ~~occupied~~, licensed beds, if all of the following
18 apply:

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

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

23 50.14 (2) (b) The number of licensed beds of a nursing home includes any
24 number of beds that have been delicensed under s. 49.45 (6m) (ap) 1. but not deducted
25 from the nursing home's licensed bed capacity under s. 49.45 (6m) (ap) 4. a.

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

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

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

10 50.14 (4) Sections 77.59 (1) to (5), (6) (intro.), (a) and (c) and (7) to (10), 77.60
11 (1) to (7), (9) and (10), 77.61 (9) and (12) to (14) and 77.62, as they apply to the taxes
12 under subch. III of ch. 77, apply to the assessment under this section, except that the
13 amount of any assessment collected under s. 77.59 (7) in excess of \$14,300,000 in
14 fiscal year 2003–04, in excess of \$13,800,000 in fiscal year 2004–05, and, beginning
15 July 1, 2005, in excess of 45% in each fiscal year shall be deposited in the Medical
16 Assistance trust fund.

17 **SECTION 9124. Nonstatutory provisions; health and family services.**

18 (1) ASSESSMENT OF FACILITY LICENSED BEDS; REVISED RULES.

19 (a) The department of health and family services shall submit in proposed form
20 a revision of rules required under section 50.14 (5) (b) of the statutes to the legislative
21 council staff under section 227.15 (1) of the statutes no later than the first day of the
22 4th month beginning after the effective date of this paragraph.

23 (b) Using the procedure under section 227.24 of the statutes, the department
24 of health and family services may promulgate as emergency rules a revision of rules
25 required under section 50.14 (5) (b) of the statutes for the period before the effective

1 date of the revised rules submitted under paragraph (a), but not to exceed the period
2 authorized under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding
3 section 227.24 (1) (a), (2) (b), and (3) of the statutes, the department of health and
4 family services is not required to provide evidence that promulgating a rule under
5 this paragraph as an emergency rule is necessary for the preservation of the public
6 peace, health, safety, or welfare and is not required to provide a finding of emergency
7 for a rule promulgated under this paragraph.

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

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

14 (END)