

1993 Senate Bill 797

Date of enactment: **April 13, 1994**  
Date of publication\*: **April 27, 1994**

## 1993 WISCONSIN ACT 290

AN ACT *to repeal* 150.07 (title); *to renumber and amend* 150.07 and 150.35 (3m); *to amend* 150.21 (3) and 150.45 (1); *to repeal and recreate* 150.27; and *to create* 150.29 (3), 150.33 (2), 150.35 (3m) (a) 3 and 150.39 (11) of the statutes, **relating to:** modifying review of nursing home capital expenditures under the resource allocation program and requiring a report on nursing home design and construction.

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

**SECTION 1.** 150.07 (title) of the statutes is repealed.

**SECTION 2.** 150.07 of the statutes is renumbered 150.81 (2m) and amended to read:

150.81 (2m) No person may subdivide a project to avoid the requirements of this chapter. ~~Transactions separated by 5 years or less that are components of an overall plan for meeting patient care objectives are part of one project subchapter.~~

**SECTION 3.** 150.21 (3) of the statutes is amended to read:

150.21 (3) A capital expenditure that exceeds \$600,000 ~~\$1,000,000~~ by or on behalf of a nursing home.

**SECTION 4.** 150.27 of the statutes is repealed and recreated to read:

**150.27 Per diem capital rates.** An application for approval of an activity specified under s. 150.21 (1), (3), (4) or (5) shall state the applicant's per diem capital rates, which are the maximum allowable reimbursement that may be granted by the department for the first 12 months following completion of the approved project. If the medical assistance facility payment formula under s. 49.45 (6m) generates per diem capital rates that are less than those stated in the application under review, the department shall use the lower rates.

**SECTION 5.** 150.29 (3) of the statutes is created to read:

150.29 (3) In determining whether expenditures require prior approval under this section, the department shall aggregate separate expenditures and consider them together if any of the following applies:

(a) The aggregated expenditures were agreed upon at the same time, authorized by one act or devised or designed as parts of one plan.

(b) The needs for or purposes of the aggregated expenditures reasonably could have been foreseen when the first expenditure was made, and the aggregated expenditures most economically and efficiently would be made at the same time.

**SECTION 6.** 150.33 (2) of the statutes is created to read:

150.33 (2) An application for approval of beds under sub. (1) shall state the applicant's per diem operating and capital rates, which are the maximum allowable reimbursement that may be granted by the department for the first 12 months following licensure of the new beds. If the medical assistance facility payment formula under s. 49.45 (6m) generates per diem operating and capital rates that are less than those stated in the application under review, the department shall use the lower rates.

**SECTION 7.** 150.35 (3m) of the statutes is renumbered 150.35 (3m) (a) (intro.) and amended to read:

150.35 (3m) (a) (intro.) The department may receive any of the following applications:

1. An application which was developed under a plan of correction, as defined in s. 50.01 (4r), previously

approved by the department and which does not add beds to the current licensed bed capacity, ~~or any,~~

2. Any application involving a cost overrun submitted under s. 150.11 (3).

(b) Subsection (2) does not apply to ~~these~~ the applications under par. (a). Within 60 days after it receives a completed application, the department shall, according to procedures it promulgates by rule, review the application and issue its initial finding. No public meeting need be held on any project submitted under this subsection.

(c) Unless an adversely affected applicant makes a timely request for a public hearing under sub. (4), the department's initial finding under this subsection is its final decision.

**SECTION 8.** 150.35 (3m) (a) 3. of the statutes is created to read:

150.35 (3m) (a) 3. All applications for activities that are specified in s. 150.21 (3), that are renovations with capital expenditures which do not exceed \$1,500,000 and that do not include additions, the replacement of a nursing home or an increase in the bed capacity of a nursing home.

**SECTION 8m.** 150.39 (11) of the statutes is created to read:

150.39 (11) For a project that would result in the relocation of nursing home beds, there are other adequate and appropriate resources available in the counties

served by the nursing home to serve the nursing home residents who would be displaced by the relocation.

**SECTION 9.** 150.45 (1) of the statutes is amended to read:

150.45 (1) An approval is valid for one year from the date of issuance. The department may grant a single extension of up to 6 months, ~~but only if a strike against or bankruptcy of a contractor, subcontractor or major supplier previously committed to the project occurs or if a fire or natural disaster significantly delays or damages the project.~~

**SECTION 10. Nonstatutory provisions.** (1) STUDY OF NURSING HOME DESIGN AND CONSTRUCTION. The subunit of the department of health and social services that deals with health shall study the issue of the relationship between the design and construction of nursing homes and the formula for determining approvable proposed bed costs under section HSS 122.07, Wisconsin administrative code, within the context of health care cost containment, and shall report on the results of the study to the appropriate standing committees of the legislature, in the manner provided under section 13.172 (3) of the statutes, by January 1, 1995.

**SECTION 11. Initial applicability.** This act first applies to applications submitted for review under subchapter II of chapter 150 of the statutes on the effective date of this SECTION.