



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #396

Nursing Home Rates and Bed Assessment Increase (DHFS -- MA -- Long -Term Care)

Bill Section

[LFB 2007-09 Budget Summary: Page 285, #2]

CURRENT LAW

Assessment. The nursing home bed assessment was created as part of 1991 Wisconsin Act 269 as a means to support medical assistance (MA) nursing home rate increases that took effect in 1991-92. Under current law, nursing facilities are required to pay a \$75 monthly assessment per licensed bed, while intermediate care facilities for the mentally retarded (ICFs-MR) are required to pay a \$445 monthly assessment per licensed bed.

Nursing homes collect revenue from the monthly assessment from private pay residents and forward it, together with the amount of the bed assessment attributable to MA-supported residents and unoccupied licensed beds, to DHFS. Under current law, any revenues collected from the assessment in excess of \$13,800,000 in each year are deposited to the MA trust fund, with the remaining revenues deposited to the general fund. Under the method DHFS uses to reimburse nursing homes for the cost of caring for MA recipients, most nursing homes are paid back more than 100% of the revenue from the bed assessment that is attributable to MA recipients. Consequently, the costs of the current nursing home bed assessment are borne primarily by private pay nursing home residents, and to a much lesser degree, nursing facilities with low occupancy rates.

Under federal law, provider taxes must be: (a) broad-based; (b) applied uniformly to classes of providers; and (c) in compliance with hold-harmless prohibitions, in order to be eligible for federal matching funds. If a provider tax does not meet the standards established in rule for being "broad-based" or "uniformly imposed," a state may seek a waiver from these

requirements. However, if a state applies for such a waiver, it must demonstrate that the net effect of the tax and associated expenditures is redistributive in nature, the amount of the tax is not directly correlated with MA payments, and the tax does not violate hold harmless provisions.

In 2005-06, the nursing facility bed assessment generated approximately \$44.5 million in revenues -- \$13.8 million of which was deposited to the general fund and \$30.7 million of which was deposited to the MA trust fund.

Under the Federal Tax Relief and Health Care Act of 2006 (enacted as Public Law 109-432), the amount of taxes that a state may impose on certain classes of providers (including nursing homes and ICFs-MR) may not exceed 5.5% of gross revenues for the period beginning January 1, 2008, and ending on September 30, 2011.

MA Reimbursement to Nursing Homes. The MA program reimburses nursing facilities for care they provide to MA recipients based on facility-specific per diem rates, which are based on patient levels of care and categories of expenditures. DHFS updates these rates annually. DHFS considers four cost centers when develops facility-specific nursing home rates, including: (1) direct care; (2) support services; (3) property tax and municipal services; and (4) property.

GOVERNOR

Provide \$17,746,500 (\$7,528,100 SEG and \$10,218,400 FED) in 2007-08 and \$34,222,500 (\$14,318,800 SEG and \$19,903,700 FED) in 2008-09 to reflect the net effect of increasing the monthly nursing home bed assessment \$52, from \$75 to \$127 per licensed bed, and budgeting these additional revenues, together with federal MA matching funds, to: (a) increase MA rates paid to nursing homes; and (b) reimburse facilities, through higher MA payments, for their costs in paying the increased assessments.

(This summarizes the funding adjustments provided under the bill. The Department of Administration has indicated that these amounts require adjustment, and has submitted a correction. The following provisions summarize the Governor's intended funding plan.)

Funding Changes

Revenue Effect. Increase estimates of revenue that would be deposited to the segregated MA trust fund by \$11,716,100 in 2007-08 and by \$21,921,300 in 2008-09.

Nursing Home Rate Increase. Provide \$15,899,100 (\$6,744,400 SEG and \$9,154,700 FED) in 2007-08 and \$30,469,200 (\$12,925,000 SEG and \$17,544,200 FED) in 2008-09 to increase nursing home rates by approximately 2% in 2007-08 and by an additional 2% in 2008-09.

Pay Back Facilities for Assessment Increase. Provide \$11,716,100 (\$4,970,000 SEG and \$6,746,100 FED) in 2007-08 and \$21,921,300 (\$9,299,000 SEG and \$12,622,300 FED) in 2008-

09 to increase reimbursement to facilities, to offset the additional costs they would incur to pay the assessments that would not be paid by private-pay residents.

The provision that would increase the nursing home bed assessment would take effect on the bill's general effective date.

DISCUSSION POINTS

1. In a memorandum dated March 19, 2007, from the Secretary of the Department of Administration to the Co-Chairs of the Joint Committee on Finance requesting changes to the bill, Secretary Morgan indicated that the amounts provided under the bill to accomplish the Governor's intent for this provision required adjustment. The Secretary asked that: (a) funding in the bill be increased by \$5,680,700 FED in 2007-08 and by \$10,565,500 FED in 2008-09; and (b) projected revenues to the MA trust fund be increased by \$4,186,300 in 2007-08 and by \$7,604,300 in 2008-09 to reflect the Governor's intent.

2. The Governor proposes to increase the current nursing home and ICF-MR bed assessments and to fund rate increases for these facilities in the 2007-09 biennium. (The increase in the ICF-MR assessment is discussed in a separate paper.) The proposed increase in the bed assessment provides the means to increase MA payments to nursing homes without increasing GPR funding by leveraging federal matching funds with the payments. The Governor indicated that his intent was to fund increases of 2% in 2007-08 and an additional 2% in 2008-09.

3. Provisions in 2003 Wisconsin Act 33 increased the nursing home bed assessment from \$32 per month to \$75 per month, and increased the ICF-MR assessment from \$100 per month to \$435 per month in 2003-04 and to \$445 per month in 2004-05. SB 40 would increase the amount of the assessment that DHFS would be permitted to collect per nursing home bed to "up to" \$127 per year, for a maximum increase of \$52 annually, an increase of approximately 69% over the current assessment. However, the administration's fiscal estimates assume that the full amount may not be assessed in 2007-09 biennium. The administration's estimates anticipate increasing the assessment by \$25.75 per month in 2007-08 and \$49.03 per month in 2008-09.

Based on reestimates of the number of licensed beds and revised estimates of anticipated reimbursements to nursing homes for services provided to MA eligible residents, the amount of the assessment increase assumed by the administration in the second year of the biennium would not be sufficient to generate the amount of revenue required to support both the reimbursement to facilities of the increase in the assessment and the 2% annual rate increase. Based on the revised estimates, the smallest annual increase in the bed assessment that would be sufficient to support both the repayment of facilities for the increase in the assessment and to fully fund the proposed rate increase would be \$50.50, for a total assessment of \$125.50 per month. Both the rate increase and the bed assessment increase would be effective July 1, 2007, and would be applied retroactively if the budget bill was passed after that date.

4. The administration's estimate assumes that approximately one-half of the increase

would be applied over the entire 2007-08 fiscal year, and that most of the full increase would be assessed in the second year of the biennium. However, given the uncertainty of the budget's date of enactment, it may be desirable to delay the increase in the bed assessment until January 1, 2008, allowing facilities (and their residents, some of whom will be paying the increased assessment from personal funds) time to anticipate and budget for the increase, rather than increase assessments retroactively after the passage of the bill. If the bed assessment were increased to \$127 per month (the full amount provided for under the bill) effective January 1, 2008, the assessment would generate sufficient revenue over the biennium to both reimburse nursing facilities for the cost of the assessment and to provide a 2% increase in 2007-08 and an additional 2% increase in 2008-09, with the rate increase effective July 1, 2007.

5. Additional segregated revenues the state collects by increasing the bed assessment provides a non-GPR state funding source for increased MA payments to nursing homes. By increasing payments for MA-eligible nursing home costs, the state receives additional federal MA matching funds. In 2005-06, the increase in MA payments to nursing homes, funded from \$30.7 million in segregated revenues (beyond the \$13.8 million deposited to the general fund), generated an additional \$42.1 million in associated federal matching funds. If the Governor's recommended bed assessment rates are approved, the increase in MA nursing home payments funded from this source would be partially funded by an additional \$15.9 million in 2007-08 and \$30.5 million in 2008-09 in federal MA matching funds.

6. Increases in the nursing home bed assessment adversely affect private-pay residents and nursing facilities that operate facilities with licensed, unoccupied beds. Since facilities are likely to add the amount of the bed assessment increase (up to \$52 per month under the bill) to the bills paid by private-pay residents, private pay nursing home residents' out-of-pocket costs could increase by as much as \$624 per year. Approximately 21% of nursing home residents pay for the care they receive in nursing homes with their own funds (7,200 residents).

7. It could also be argued that private-pay residents already subsidize the cost of care for MA-supported nursing home residents because nursing homes that do not fully recover their costs of serving MA recipients may recover some or all of these losses by requiring private-pay residents to pay more than they otherwise would if the facilities received greater reimbursement under MA. The degree to which cost shifting occurs within individual facilities or throughout the industry is not known. However, the difference between MA rates and private-pay rates suggests that cost shifting is prevalent within the industry. For instance, in Wisconsin Nursing Homes and Residents (2005), the DHFS Bureau of Health Information indicates that, as of December 31, 2005, the average MA payment for skilled nursing care was \$127 per day, compared to the average private-pay rate of \$183 per day.

8. A facility's ability to shift MA costs to private-pay residents also depends largely on the percentage of private-pay residents in the facility. From 1999 to 2005, the percentage of private-pay residents in nursing facilities declined from approximately 24% to 21% of the total nursing facility population. Therefore, industry-wide, it has become slightly more difficult for facilities to shift the costs of providing care to MA-eligible residents to private-pay residents.

9. Private-pay residents may indirectly benefit from the proposed increase in the bed assessment to the extent that raising MA provider reimbursements would result in less staff turnover, higher quality of care, and less cost-shifting to private-pay residents. However, the correlation between higher MA reimbursement rates and these indirect benefits has not been quantified.

Rate Increase

10. The administration and the industry argue that it is necessary to increase rates paid to nursing homes because: (a) current MA per diem rates are below most facilities' actual costs of caring for MA recipients; (b) nursing facilities' costs continue to increase; and (c) the percentage of all nursing home residents who are private-pay residents has decreased. As of December 31, 2005, approximately 65.7% of all nursing home residents were supported primarily by MA (including those receiving services through Family Care).

11. From January, 2004, through April, 2007, 13 nursing homes in Wisconsin closed. Furthermore, closures in recent years have been concentrated in certain areas so that access to nursing facilities may become a problem in future years. For example, six of the 13 nursing homes that closed in the last three years were in Milwaukee County. In the three prior years (2002 through 2004), seven other nursing homes had closed in Milwaukee County.

12. Since the rate increases supported by the bed assessment would only apply to MA-occupied beds, facilities with disproportionately low percentages of MA-supported residents would benefit less from the proposed increase in the bed assessment than facilities with large percentages of MA-supported residents. The lower a facility's percentage of MA-eligible residents, the less the facility would benefit from the rate increase. As of May, 2007, 18 of the 401 licensed nursing homes statewide were not certified to care for MA residents and therefore would not benefit from MA reimbursements funded, in part, by the nursing home bed assessment.

13. The costs of providing care in nursing facilities continues to increase, and will likely increase at a greater rate than the Governor's proposed 2.0% annual rate increase. Individuals representing nursing facility organizations argue that a 5% annual increase, funded by GPR rather than an increase in the bed assessment would be appropriate, given the increasing cost of providing care. If the MA reimbursement rate is not sufficient to support increasing costs of skilled nursing facility care, then the amount of cost shifting to private-pay residents could increase.

14. Alternative A1 represents a modification to the Governor's recommendations to reflect reestimates of: (a) the projected number of licensed nursing home beds; (b) the costs of paying back nursing homes to offset the additional costs they would incur to pay the increased assessments; (c) the annual rate increase percentage that could be supported given the reestimate of bed assessment revenues; (d) total funding that would be needed to support reimbursements to nursing homes under the MA base reestimate item; and (e) the federal financial participation rates.

15. A reestimate of the fiscal effect of increasing the nursing home bed assessment to

\$127 effective January 1, 2008, suggests that approximately \$11,868,500 in 2007-08 and \$23,376,500 in 2008-09 in additional revenues would be generated. This represents an increase of \$152,400 SEG-REV in 2007-08 and \$1,455,200 SEG-REV in 2008-09, compared to the administration's projections. It is estimated that the amount of revenue generated by increasing the nursing home bed assessment to \$127 effective January 1, 2008 would provide sufficient funding to both repay nursing homes for the cost of the increase and to support a 2% increase in 2007-08 and an additional 2% increase in 2008-09 in nursing home MA reimbursement rates, with approximately \$1.6 million remaining in the segregated MA trust fund to offset GPR funded MA expenditures. The following table compares the projected revenues and expenditures under the administration's estimates and under the reestimate.

Comparison of Projected Revenues and Expenditures*
SB 40 and Reestimates
(\$ in Millions)

	2007-08				2008-09			
	GPR	SEG	FED	Total	GPR	SEG	FED	Total
<i>SB 40</i>								
Available Revenues	\$0.0	\$11.7	\$0.0	\$11.7	\$0.0	\$21.9	\$0.0	\$21.9
Nursing Home Rate Increase (2% annually)	0.0	6.7	9.2	15.9	0.0	12.9	17.5	30.4
Substitute GPR MA Base Funding with SEG Funding	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Pay Back Facilities for Assessment Increase	<u>0.0</u>	<u>5.0</u>	<u>6.7</u>	<u>11.7</u>	<u>0.0</u>	<u>9.3</u>	<u>12.6</u>	<u>21.9</u>
	\$0.0	\$11.7	\$15.9	\$27.6	\$0.0	\$22.2	\$30.1	\$52.3
<i>Reestimate</i>								
Available Revenues	\$0.0	\$11.9	\$0.0	\$11.9	\$0.0	\$23.4	\$0.0	\$23.4
Nursing Home Rate Increase (2% annually)	0.0	6.7	9.1	15.8	0.0	13.1	18.2	31.3
Substitute GPR MA Base Funding with SEG Funding	-0.1	0.1	0.0	0.0	-0.4	0.4	0.0	0.0
Pay Back Facilities for Assessment Increase	<u>0.0</u>	<u>5.0</u>	<u>6.9</u>	<u>11.9</u>	<u>0.0</u>	<u>9.8</u>	<u>13.6</u>	<u>23.4</u>
	-\$0.1	\$11.8	\$16.0	\$27.7	-\$0.4	\$23.3	\$31.8	\$54.7

*Excludes PR authority for Veteran's homes.

16. Attachment 1 presents options the Committee could consider if it wishes to provide alternative rate increases, supported by increases in the monthly bed assessment. These options would affect PR funding for the state veterans homes. Consequently, a PR adjustment is included to offset the adjustment.

Alternatively, the Committee could delete the Governor's recommendation to increase the nursing home bed assessment and instead fund the state's share of nursing home rate increases with GPR, rather than assessment revenue. Attachment 2 identifies the fiscal effect of deleting the Governor's recommendations and supporting a selected annual rate increase. Under these options, no additional PR authority would need to be provided for the state veterans homes, since the amount of the bed assessment would not increase.

17. The nursing home bed assessment is applied to all nursing home beds, including those in the state centers for the developmentally disabled, the state veterans homes, and beds occupied by Medicare beneficiaries. Previously, when the administration or the Legislature acted to increase the amount of the bed assessment, additional expenditure authority has been approved for the Department of Veterans Affairs to fund the cost of the increase in the assessment for beds. Currently, the veterans homes pay the assessment for all licensed beds out of their supplies and services appropriation, and pass the cost of the assessment on to non-MA residents. The Governor did not include an adjustment for DVA under the bill. The administration's budget staff indicates that this was an oversight. If the Committee wished to make this adjustment, additional expenditure authority should be provided to fund the operations appropriations for the Wisconsin Veterans Homes at King and the nursing home at Union Grove. The amount of the adjustment would vary, depending on the alternative approved by the Committee. Alternatives to make this adjustment for the veterans homes are included for each funding option outlined in the alternatives to the bill.

Treatment of Bed Assessment Revenues

18. Under current law, the first \$13.8 million collected from the bed assessment is deposited to the general fund. In recent years, concerns have been raised about states' practice of depositing health care provider assessment revenues in appropriations that, at least in part, support non-MA expenditures. When provider assessment revenues are deposited in the general fund, it is not clear to the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) how much of those revenues are being used to support MA allowable services. Further, the segregated revenues in the MA trust fund are treated like general fund revenues, but differ in that they are only used to support MA and BadgerCare benefits. In 2007-09, all of the segregated revenues in the MA trust fund will be expended to support MA benefits. For the most part, general fund revenues will support the state's share of the remaining MA and BadgerCare expenditures.

19. There is no policy argument for continuing to deposit a portion of the nursing home bed assessment to the general fund. . To ensure that all revenue generated by the bed assessment is used to support MA benefits costs and to hold the general fund harmless, the Committee could modify the bill by: (a) specifying that all nursing home bed assessment revenue be deposited to the MA trust fund (\$13,800,000 SEG-REV and -\$13,800,000 GPR REV annually); and (b) budgeting this revenue to replace a corresponding amount of GPR base funding for MA benefits costs (\$13,800,000 SEG and -\$13,800,000 GPR annually).

ALTERNATIVES TO BILL

A. Bed Assessment and Nursing Home Rate Increase

1. Modify the Governor's recommendations by increasing funding in the bill by \$9,753,900 (-\$142,400 GPR, \$5,698,300 FED, and \$4,198,000 SEG) in 2007-08 and by \$19,982,500 (-\$449,100 GPR, \$11,823,000 FED, and \$8,608,600 SEG) in 2008-09 to reflect a

reestimate of the Governor's proposal, and to delay the effective date of the bed assessment increase until January 1, 2008. In addition, increase estimates of revenue to the MA trust fund by \$152,400 in 2007-08 and by \$1,455,200 in 2008-09. Increase the amounts provided from the operations appropriations of the Wisconsin Veterans Homes at King and the nursing home at Union Grove by \$262,400 PR in 2007-08 and by \$524,800 PR in 2008-09 to reflect increased costs to those facilities due to the increase in the bed assessment.

ALT A1	Change to Bill		Change to Base	
	Revenue	Funding	Revenue	Funding
GPR	\$0	-\$591,500	\$0	-\$591,500
FED	0	17,521,300	0	47,643,400
SEG	1,607,600	12,806,600	35,245,000	34,653,500
PR	0	787,200	0	787,200
Total	\$1,607,600	\$30,523,600	\$35,245,000	\$82,492,600

2. Adopt any of the alternatives in Attachment 1, which would provide a range of nursing home reimbursement rate increases funded by specified increases in the amount of the monthly bed assessment, and increase the amounts provided from the operations appropriations of the Wisconsin Veterans Homes at King and the home at Union Grove accordingly.

3. Delete the Governor's provisions relating to the bed assessment and the nursing home rate increase.

ALT A3	Change to Bill		Change to Base	
	Revenue	Funding	Revenue	Funding
GPR	\$0	\$0	\$0	\$0
FED	0	- 30,122,100	0	0
SEG	- 33,637,400	- 21,846,900	0	0
Total	-\$33,637,400	-\$51,969,000	\$0	\$0

4. In addition to Alternative A3, adopt any of the alternatives in Attachment 2, which would provide a range of nursing home reimbursement rate increases funded by GPR, without increasing the amount of the monthly bed assessment. No modification to the operations appropriations of the Wisconsin Veterans Homes at King and the home at Union Grove would be required.

B. Treatment of Bed Assessment Revenue

1. Modify the bill to specify that all revenue from nursing home bed assessment would be deposited to the MA trust fund, beginning in 2007-08. In addition: (a) reduce MA benefits funding by \$13.8 million GPR annually and increase MA benefits funding by \$13.8 million SEG annually; and (b) reduce estimates of general fund revenues by \$13.8 million GPR annually and increase estimates of revenues deposited to the MA trust fund by \$13.8 million SEG annually.

ALT B1	Change to Bill		Change to Base	
	Revenue	Funding	Revenue	Funding
GPR	-\$27,600,000	-\$27,600,000	-\$27,600,000	-\$27,600,000
SEG	<u>27,600,000</u>	<u>27,600,000</u>	<u>27,600,000</u>	<u>27,600,000</u>
Total	\$0	\$0	\$0	\$0

2. Maintain current law with regards to the treatment of bed assessment revenues.

Prepared by: Rebecca Hotynski
Attachments

ATTACHMENT 1

Alternative Rate Increase Options Change to Bill Expenditures With Various Bed Assessment Increases

New Monthly Bed Assessment*	Amount of Increase	Annual Nursing Home Rate Increase**	2007-08					2008-09				
			GPR	SEG	FED	PR	Total	GPR	SEG	FED	PR	Total
\$100.50	\$25.50	1.0%	-\$5,500	-\$1,713,500	-\$2,325,700	\$128,700	-\$3,916,000	-\$126,600	-\$2,981,900	-\$4,215,700	\$257,300	-\$7,066,900
125.50	50.50	2.0%	54,700	4,052,700	5,501,200	254,800	9,863,400	-57,700	8,325,700	11,431,600	509,600	20,209,200
151.00	76.00	3.0%	49,200	9,867,400	13,393,900	383,500	23,694,000	-54,300	19,792,500	27,299,200	767,000	47,804,400
177.00	102.00	4.0%	-22,000	15,730,400	21,352,200	514,700	37,575,300	-116,500	31,418,600	43,387,300	1,029,400	75,718,800
203.00	128.00	5.0%	-93,200	21,593,500	29,310,600	645,900	51,456,800	-113,700	43,109,600	59,565,200	1,291,800	103,852,900

* The effective date of the bed assessment increase is January 1, 2008.

** The effective date of the nursing home rate increase is July 1, 2007.

ATTACHMENT 2

Alternative Rate Increase Options Change to Bill Expenditures Without a Bed Assessment Increase

<u>Annual Rate Increase</u>	<u>2007-08</u>			<u>2008-09</u>		
	<u>GPR</u>	<u>FED</u>	<u>Total</u>	<u>GPR</u>	<u>FED</u>	<u>Total</u>
1.0%	\$3,345,700	\$4,541,500	\$7,887,200	\$6,528,000	\$9,033,400	\$15,561,400
2.0%	6,691,500	9,082,800	15,774,300	13,120,900	18,156,700	31,277,600
3.0%	10,037,200	13,624,300	23,661,500	19,778,800	27,369,800	47,148,600
4.0%	13,382,900	18,165,700	31,548,600	26,501,700	36,672,800	63,174,500
5.0%	16,728,600	22,707,200	39,435,800	33,289,500	46,065,700	79,355,200