



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #430

Nursing Home Bed Assessment and Rate Increase (DHS -- Medical Assistance -- Long-Term Care)

[LFB 2009-11 Budget Summary: Page 360, #1 and Page 675, #4]

CURRENT LAW

Nursing Home Bed 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. Currently, all nursing facilities are required to pay a \$75 monthly assessment per licensed bed, and remit all payments to the Department of Health Services (DHS). In 2007-08, the nursing facility bed assessment generated approximately \$33.8 million in revenues, all of which was deposited into the MA trust fund to support MA benefits costs.

The nursing home bed assessment, like the hospital assessment created as part of 2009 Wisconsin Act 2, is a health care provider tax and, as such, is subject to federal MA requirements. These requirements are intended to prevent states from establishing a tax and paying each health care provider back, through higher MA payments partially supported with federal MA matching funds, the amount each provider paid under the assessment. If states were permitted to do this, MA payments to providers could, subject to certain limitations, be funded entirely with federal MA funds and, as the state match, provider assessment revenue.

Consequently, federal law requires that taxes assessed on health care providers be: (a) broad-based; (b) applied uniformly to classes of providers; and (c) in compliance with hold-harmless prohibitions. 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.

MA Reimbursement to Nursing Homes. Under state law, DHS is required to reimburse nursing homes for fee-for-service care provided to MA recipients according to a prospective payment system that DHS updates annually. The payment system must include standards that meet quality and safety standards for providing patient care. In addition, the payment system must reflect all of the following: (a) a prudent buyer approach to payment for services; (b) standards that are based on allowable costs incurred by facilities and information included in facility cost reports; (c) a flat-rate payment for certain allowable direct care costs; (d) consideration of the care needs of residents; (e) standards for capital payments that are based upon the replacement value of the facility; and (f) assurances of an acceptable quality of care for all MA recipients that reside in each of these facilities.

Current law requires DHS to incorporate case mix when calculating reimbursement rates for individual nursing facilities. In particular, the formula DHS uses must include factors that: (a) incorporate acuity measurements under the most recent resource utilization groups (RUGS III) resident classification methodology adopted by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) to determine case-mix adjustment factors; (b) determine average case-mix index for each MA-supported nursing facility four times each year for residents who are primarily supported by MA on the last day of each calendar quarter; (c) incorporate payment adjustments for dementia, behavioral needs, or other complex medical conditions; and (d) may include incentives for providing high quality levels of care.

In 2008-09, it is estimated that total MA payments to nursing homes will be approximately \$829,189,200 (all funds). Based on the estimated number of MA-funded resident days (approximately 7,317,800), it is estimated that the total MA payments to nursing homes will be approximately \$113.31 per day of care they provide to MA-funded residents. This average reimbursement rate excludes amounts nursing homes collect from funds available to nursing home residents that are used to partially support the cost of care ("patient liability").

GOVERNOR

Department of Health Services. Provide \$49,237,600 (-\$13,630,100 GPR, \$29,542,500 FED, and \$33,325,200 SEG) in 2009-10 and \$70,400,700 (-\$12,752,300 GPR, \$41,750,500 FED and \$41,402,500 SEG) in 2010-11 to reflect the net effect of increasing the monthly nursing home bed assessment from \$75 per licensed bed to \$150 per licensed bed in 2009-10 and \$20 to \$170 per licensed bed in 2010-11, and budgeting these additional revenues, together with federal MA matching funds, to: (a) increase MA rates paid to nursing homes; (b) reimburse facilities, through higher MA payments, for their costs in paying the increased assessment; and (c) replacing base GPR funding with SEG revenue from the assessment to support MA benefits costs. The provision that would increase the nursing home bed assessment would take effect on the bill's general effective date.

Funding adjustments to the bill are necessary to meet the Governor's intent, which are described in Discussion Point 1. The following summary reflects the fiscal effect of this item, as revised to reflect these adjustments.

Revenue Effect. Increase estimates of revenue that would be deposited to the segregated MA trust fund by \$33,298,700 in 2009-10 and \$41,272,300 in 2010-11.

Nursing Home Rate Increase. Provide \$16,007,600 (\$508,000 GPR, \$9,604,600 FED, and \$5,895,000 SEG) in 2009-10 and \$30,923,800 (\$1,410,400 GPR, \$18,662,500 FED, and \$10,850,900 SEG) in 2010-11 to increase MA reimbursements to nursing homes by 2% in 2009-10 and by an additional 2% in 2010-11.

Pay Back Facilities for Assessment Increase. Provide \$33,298,700 (\$1,056,700 GPR, \$19,979,200 FED, and \$12,262,800 SEG) in 2009-10 and \$41,272,300 (\$1,882,300 GPR, \$24,907,800 FED, and \$14,482,200 SEG) in 2010-11 to increase reimbursement rates to facilities to offset the additional costs they would incur to pay the increase in assessments.

Reduction in GPR Funded MA Benefits. Reduce GPR funding by \$15,140,900 in 2009-10 and by \$15,939,200 in 2010-11, and increase SEG funding by corresponding amounts to reflect additional revenue available to fund general MA benefits from the MA trust fund.

Department of Veterans Affairs. Provide \$756,900 PR annually to enable DVA to make higher assessment payments to DHS, based on the 841 licensed beds at the Veterans Home at King (721) and the Veterans Home at Union Grove (120).

DISCUSSION POINTS

1. The Governor's proposal to increase the nursing home bed assessment is intended to fund increases in MA rates for nursing homes and to generate additional revenue for the MA trust fund to replace base GPR funding for MA benefits. Given the current limitations on the availability of GPR to support MA rate increases for nursing homes, the Committee may support this approach as the means to increase reimbursement to nursing homes to reflect nursing homes' increasing costs of caring for MA recipients and to reduce GPR support for general MA benefits costs.

Based on current estimates, funding provided in the bill should be increased by \$68,700 (\$46,800 GPR, \$48,400 FED, and -\$26,500 SEG) in 2009-10 and reduced by \$775,700 (\$52,300 GPR, -\$697,800 FED, and -\$130,200 SEG) in 2010-11 to reflect the Governor's intent (Alternative 1).

The Governor's intent was to fund increases of 2% in 2009-10 and an additional 2% in 2010-11. This implies an increase of 2% in the total amount budgeted for nursing home reimbursements, not an across-the-board increase in reimbursement rates to all nursing facilities.

The increase in revenue each nursing home would receive for caring for MA-funded residents may be more or less than 2% in 2009-10 and an additional 2% in 2010-11, since several factors are used in developing rates for each nursing home. Further, a nursing home's census, the care needs of its residents (resident acuity), and amounts collected from patient liability may change from year to year.

2. The additional segregated revenue the state would collect by increasing the bed assessment would provide 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. If the Governor's recommended bed assessment rates and proposed reimbursement rate increases are approved, the increase in MA nursing home payments funded from this source would be partially funded by an additional \$29.6 million in 2009-10 and \$43.6 million in 2010-11 in federal MA matching funds. These estimates assume a 60% federal match in 2009-10 and a 60.35% federal match in 2010-11.

3. As part of the federal American Recovery and Reinvestment Act of 2009 (ARRA) all states are eligible to receive a temporary increase in the federal medical assistance percentage (FMAP). Under the ARRA, all states' FMAP rates are increased by 6.2 percentage points for the period October 1, 2008 through December 31, 2010. In addition, the ARRA provides that a state can qualify for an additional "unemployment-related FMAP increase" if, during the October 1, 2008 through December 31, 2010 period, the increase in the state's unemployment rate exceeds thresholds established in the ARRA. Using the anticipated blended enhanced FMAP, the bill assumes additional federal matching funds of \$5,152,500 in 2009-10 and \$3,754,300 in 2010-11 would be available to reduce the amount of bed assessment revenue needed to fund the MA rate increase or to offset GPR funding needed to fund general MA benefit expenditures.

4. The nursing home bed assessment was last increased as part of 2003 Wisconsin Act 33, from \$32 per month to \$75 per month. AB 75 would increase the maximum amount of the assessment DHS would be permitted to collect to \$150 per bed in 2009-10 and to \$170 per bed in 2010-11.

5. As of March 2009, there were 399 licensed nursing homes in the state, with a total of 37,491 licensed beds. Approximately 83% of these facilities were privately owned and operated (35% nonprofit and 48% for-profit), while the remaining 17% were owned and operated by a government entity, including the state, counties, municipalities and tribes. On average, 88% of licensed nursing home beds were occupied and 65% of nursing home residents were supported by MA in 2009.

The number of licensed beds in the state has continued to decrease over time. Between 2003-04 and 2007-08, the average number of licensed nursing home beds decreased from approximately 40,600 to 38,000. A significant factor in this decline has been greater emphasis on home and community based long-term care alternatives. It is anticipated that the number of licensed beds in the state will continue to decrease in the 2009-11 biennium, as a greater number of individuals transition to community-based facilities, particularly due to the continued expansion of

the Family Care program. As the number of licensed beds continues to fall, revenue generated from the bed assessment is also likely to decrease in future years.

6. The GPR savings associated with this proposal reflects the Governor's intent to use part of the additional revenue generated from the bed assessment to benefit the state's general fund. There does not appear to be a policy argument to justify increasing taxes paid by nursing homes (taxes that are likely passed on in the form of higher rates paid by private-pay nursing home residents) to benefit the general fund. However, the administration contends that the GPR savings component of the proposal, similar to the GPR savings associated with the hospital assessment enacted in 2009 Act 2, is necessary to help fund continued MA benefit commitments.

7. Nevertheless, the Committee could consider increasing the monthly bed assessment tax only by an amount necessary to provide nursing homes with a 2% increase in MA reimbursements in each year of the biennium. This would require a minimum increase in the monthly bed assessment of \$14 (\$75 to \$89) in 2009-10 and an additional increase of \$33 (\$89 to \$122) in 2010-11. However, doing so would result in the need to increase GPR funding for general MA benefits to replace the decrease from the additional SEG revenue assumed in the Governor's budget.

8. The nursing home bed assessment is applied to all licensed nursing home beds, including those in state-owned facilities. The bill includes funding for the Department of Veterans Affairs to support the cost of the increase in the assessment for beds. Currently, the Veterans homes pay the assessment for all licensed beds (841 beds) out of the Homes' general program operation appropriation, and, like other nursing homes, passes the cost of paying the assessment on to non-MA residents. The Veterans homes are not eligible for any rate increases or payback of the assessment increase, since these facilities are fully reimbursed for costs incurred in providing care, or the Medicare upper limit, whichever is lower.

9. 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.

10. 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. According to DHS, approximately 43% of all nursing home facilities operated at a net loss in 2006 (the last year for which complete information is available). The two statewide organizations that represent nursing homes, the Wisconsin Health Care Association and the Wisconsin Association of Homes and Services for the Aging (WAHSA), argue that a minimum increase of 3% annually, funded by GPR rather than an increase in bed assessment would be appropriate, given the increasing cost of providing care. They argue that, 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.

11. The following table summarizes the historical MA reimbursement rate increases provided to nursing home facilities over the last five years, as well as the annual inflation rate for the cost of care provided at skilled nursing facilities over the same period. Based on economic forecasts of the U.S. economy prepared by IHS Global Insights, Inc., the projected inflation for care provided by Wisconsin nursing facilities is expected to be approximately 2.1 percent in 2009-10 and 2.6 percent in 2010-11.

**Inflation Rates and Nursing Home Rate Increases
Fiscal Years 2004-05 through 2008-09**

	<u>2004-05</u>	<u>2005-06</u>	<u>2006-07</u>	<u>2007-08</u>	<u>2008-09</u>
Rate Increase	2.6%	0.0%	2.8%	0.0%	5.0%
Inflation	3.1	3.5	3.2	3.5	3.2

12. Under the method DHS 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. However, 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.

13. Both DHS and the nursing home industry have estimated that in order to break even under the proposed payback of the assessment increase to facilities, a nursing home needs to have at least 64% of its residents supported by MA and a 90.5% occupancy rate.

14. For facilities with licensed, unoccupied beds or facilities with low percentages of MA-supported residents, increases in the nursing home bed assessment may adversely affect private-pay residents, since facilities are likely to add the amount of the bed assessment increase to the bills paid by private pay residents.

15. 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. 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.

16. 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 example, based on a 2008 survey conducted by the WAHSA, the average private-pay rate for skilled nursing care was \$202 per day, compared to the average MA payment of \$132 per day.

17. 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 cannot be measured.

18. Attachments 1 and 2 present 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 3 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.

ALTERNATIVES

1. Modify the Governor's recommendations by increasing funding in the bill by \$68,700 (\$46,800 GPR, \$48,400 FED, and -\$26,500 SEG) in 2009-10 and reducing funding by \$775,700 (\$52,300 GPR, -\$898,500 FED, and -\$130,200 SEG) in 2010-11 to reflect reestimates of the fiscal effect of the Governor's proposal. Reduce estimates of revenue that would be collected under the assessment by \$26,500 in 2009-10 and by \$130,200 in 2010-11.

ALT 1	Change to Bill	
	Revenue	Funding
GPR	\$0	\$99,100
FED	0	- 649,400
SEG	- 156,700	- 156,700
Total	- \$156,700	- \$707,000

2. Approve the Governor's recommended increase in the monthly bed assessment. In addition, adopt any of the alternatives in Attachment 1, which would provide a range of nursing home reimbursement rate increases.

3. Provide a rate increase funded entirely with revenue generated from an increase in the monthly bed assessment. Increase the monthly assessment by the minimum amount needed to sufficiently fund any reimbursement rate increase. Under this proposal, the state would not generate any GPR savings since all additional assessment revenue would be paid back to nursing homes in the form of MA reimbursements. As a result, an additional \$35,228,600 GPR would be needed to fully fund MA benefit expenditures assumed in the Governor's budget bill. Attachment 2 to this paper provides a range of alternative rate increases, and the corresponding increase in the monthly bed assessment necessary to fully fund each alternative nursing home rate increase.

4. Delete provision.

ALT 4	Change to Bill	
	Revenue	Funding
GPR	\$0	\$35,228,600
PR	0	- 1,715,600
FED	0	- 82,710,300
SEG	<u>- 74,727,700</u>	<u>- 74,727,700</u>
Total	- \$74,727,700	- \$123,925,000

5. In addition to Alternative 4, adopt any of the alternatives in Attachment 3, which would provide a range of nursing home reimbursement rate increases funded by GPR, without increasing the amount of the monthly bed assessment. No further modification to the operations appropriations of the Wisconsin Veterans Homes at King and the home at Union Grove would be required.

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Attachments

ATTACHMENT 1

Alternative Rate Increase Options Change to Bill Expenditures With Various Reimbursement Rate Increases

<u>Rate Increase</u>	<u>GPR</u>	<u>SEG</u>	<u>FED</u>	<u>Total</u>
2009-10				
1.0%	-\$2,318,300	-\$26,500	-\$5,590,300	-\$7,935,100
2.0	46,800	-26,500	48,400	68,700
3.0	2,411,946	-26,500	5,687,100	8,072,546
4.0	4,777,100	-26,500	11,325,700	16,076,300
5.0	7,142,200	-26,500	16,964,400	24,080,100
6.0	9,507,300	-26,500	22,603,100	32,083,900
2010-11				
1.0%	-\$5,300,600	-\$130,200	-\$10,883,300	-\$16,314,100
2.0	52,300	-130,200	-697,800	-775,700
3.0	5,458,100	-130,200	9,588,000	14,915,900
4.0	10,916,600	-130,200	19,974,100	30,760,500
5.0	16,427,800	-130,200	30,460,700	46,758,300
6.0	21,991,800	-130,200	41,047,500	62,909,100

ATTACHMENT 2

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

<u>Rate Increase</u>	<u>Minimum Bed Assessment Increase</u>	<u>New Monthly Bed Assessment</u>	<u>GPR</u>	<u>SEG</u>	<u>FED</u>	<u>PR</u>	<u>Total</u>
2009-10							
1.0%	\$7	\$82	\$18,775,500	-\$30,261,200	-\$27,383,000	-\$687,300	-\$39,556,000
2.0	14	89	18,775,500	-27,197,200	-20,078,167	-617,600	-29,117,467
3.0	21	96	18,775,500	-24,133,100	-20,078,100	-548,000	-25,983,700
4.0	28	103	18,775,500	-21,069,100	-12,773,200	-478,300	-15,545,100
5.0	35	110	18,775,500	-18,005,100	1,836,600	-408,700	2,198,300
6.0	41	116	18,775,500	-14,941,100	9,141,500	-339,000	12,636,900
2010-11							
1.0%	\$16	\$91	\$16,453,100	-\$34,276,200	-\$34,463,000	-\$793,200	-\$53,079,300
2.0	33	108	16,453,100	-27,079,300	-20,768,600	-626,000	-32,020,800
3.0	50	125	16,453,100	-19,811,200	-6,939,300	-457,100	-10,754,500
4.0	67	142	16,453,100	-12,472,200	7,024,800	-286,700	10,719,000
5.0	84	159	16,453,100	-5,062,400	21,124,000	-114,500	32,400,200
6.0	101	176	16,453,100	2,418,400	35,358,000	59,200	54,288,700

ATTACHMENT 3

**Alternative Rate Increase Options
Change to Bill Expenditures
Without a Bed Assessment Increase (GPR-Funded)**

<u>Rate Increase</u>	<u>2009-10</u>			<u>2010-11</u>		
	<u>GPR</u>	<u>FED</u>	<u>Total</u>	<u>GPR</u>	<u>FED</u>	<u>Total</u>
1.0%	\$2,365,100	\$5,638,700	\$8,003,800	\$5,300,300	\$10,085,100	\$15,263,800
2.0	4,730,200	11,277,400	16,007,600	10,653,200	20,270,600	30,527,600
3.0	7,095,400	16,916,000	24,011,400	16,059,000	30,556,400	45,791,400
4.0	9,460,500	22,554,700	32,015,200	21,517,500	40,942,500	61,055,200
5.0	11,825,600	28,193,400	40,019,000	27,028,700	51,429,100	76,319,000