

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 959 Session of 2019

INTRODUCED BY BARTOLOTTA, LAUGHLIN, COLLETT, KILLION, LANGERHOLC, HUGHES, REGAN, SABATINA, MENSCH, ARGALL, DINNIMAN, J. WARD, HUTCHINSON, TOMLINSON, LEACH, K. WARD, IOVINO, MUTH, BLAKE AND STREET, NOVEMBER 20, 2019

SENATOR BROOKS, HEALTH AND HUMAN SERVICES, AS AMENDED, APRIL 20, 2020

AN ACT

1 Amending the act of June 13, 1967 (P.L.31, No.21), entitled "An
2 act to consolidate, editorially revise, and codify the public
3 welfare laws of the Commonwealth," in public assistance,
4 further providing for medical assistance payments for
5 institutional care.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Section 443.1(7) of the act of June 13, 1967
9 (P.L.31, No.21), known as the Human Services Code, is amended by
10 adding a subparagraph to read:

11 Section 443.1. Medical Assistance Payments for Institutional
12 Care.--The following medical assistance payments shall be made
13 on behalf of eligible persons whose institutional care is
14 prescribed by physicians:

15 \* \* \*

16 (7) After June 30, 2007, payments to county and nonpublic
17 nursing facilities enrolled in the medical assistance program as
18 providers of nursing facility services shall be determined in

1 accordance with the methodologies for establishing payment rates  
2 for county and nonpublic nursing facilities specified in the  
3 department's regulations and the Commonwealth's approved Title  
4 XIX State Plan for nursing facility services in effect after  
5 June 30, 2007. The following shall apply:

6 \* \* \*

7 (vii) For each fiscal year beginning on or after fiscal year  
8 2019-2020, an additional annual payment equal to one hundred  
9 thirty dollars (\$130) per eligible Medicaid ventilator or  
10 tracheostomy day shall be paid to qualified medical assistance  
11 nonpublic and county nursing facilities on a quarterly basis.  
12 The department will obtain all necessary approvals and take all  
13 steps required to ensure the distribution of these payments to  
14 all qualifying nursing facilities under both the fee-for-service  
15 program and the managed long-term services and supports program.

16 (A) A nonpublic or county nursing facility will qualify for  
17 the payment if, during any quarter of the year, either of the  
18 following criteria is met:

19 (I) For fiscal year 2019-2020 and thereafter, the facility  
20 had:

21 (a) a minimum of ten medical assistance recipient residents  
22 who received medically necessary ventilator care or tracheostomy  
23 care according to the most recently available Picture Date CMI  
24 Report; and

25 (b) at least seventeen percent of the facility's medical  
26 assistance recipient resident population receiving medically  
27 necessary ventilator care or tracheostomy care according to at  
28 least one of the three most recently available medical  
29 assistance Picture Date CMI Reports; or

30 (II) For fiscal year 2019-2020, the facility would have met

1 the criteria in subclause I if the Picture Date CMI Report dated  
2 November 1, 2019, had been among the most recently available  
3 reports.

4 (B) The department shall calculate a qualified nonpublic or  
5 county nursing facility's payment as follows:

6 (I) The determination of medically necessary ventilator care  
7 is based on whether there is a positive response to MDS 3.0  
8 Section O0100F1 or O0100F2 on the MDS assessment identified on  
9 the Picture Date CMI Report. The determination of medically  
10 necessary tracheostomy care is based on whether there is a  
11 positive response to MDS 3.0 Section O0100E1 or O0100E2 on the  
12 MDS assessment identified on the Picture Date CMI Report.

13 (II) For facilities that qualify for payment under clause  
14 (A) (I), the quarterly payment shall equal the additional  
15 supplemental ventilator care and tracheostomy care per diem  
16 described in unit (a) multiplied by the number of eligible days  
17 described in unit (b) as follows:

18 (a) The additional supplemental ventilator care and  
19 tracheostomy care per diem shall equal ~~((the number of MA-~~ <--  
20 recipient residents who receive necessary ventilator care or  
21 tracheostomy care/total MA-recipient residents) x \$130) x (the <--  
22 number of MA recipient residents who receive necessary  
23 ventilator care or tracheostomy care/total MA recipient  
24 residents) as identified in the facility's most recently  
25 available Picture Date CMI Report.

26 (b) If the facility meets the criteria of clause (A) (I)  
27 during the payment quarter, the facility's eligible days for the  
28 quarter are the facility's paid MA FACILITY DAYS AND therapeutic <--  
29 and leave days; if the facility does not meet the criteria of <--  
30 clause (A) (I) during the payment quarter, the facility's

1 eligible days for the quarter are zero.

2 (III) For facilities that qualify for payment under clause  
3 (A) (II), the additional supplemental ventilator care and  
4 tracheostomy care payment for fiscal year 2019-2020 shall be  
5 calculated for each quarter as if the November 1, 2019, Picture  
6 Date CMI Report were the facility's most recently available.

7 (C) The department shall continue to publish on a quarterly  
8 basis the information contained in the Supplemental Ventilator  
9 Care and Tracheostomy Care Payments file currently published on  
10 the department's publicly accessible Internet website.

11 \* \* \*

12 Section 2. This act shall take effect immediately.