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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2359 Session of  
2020

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INTRODUCED BY O'NEAL, ROTHMAN, EVERETT, WHEELAND, READSHAW,  
HOWARD, DONATUCCI, DeLUCA, MOUL, HEFFLEY, DEASY AND FARRY,  
APRIL 27, 2020

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REFERRED TO COMMITTEE ON HEALTH, APRIL 27, 2020

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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  
19 accordance with the methodologies for establishing payment rates

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

5 \* \* \*

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

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

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

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

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

29 (II) For fiscal year 2019-2020, the facility would have met  
30 the criteria in subclause (I) if the Picture Date CMI Report

1 dated November 1, 2019, had been among the most recently  
2 available reports.

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

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

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

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

23 (b) If the facility meets the criteria of clause (A) (I)  
24 during the payment quarter, the facility's eligible days for the  
25 quarter are the facility's paid MA facility days and therapeutic  
26 leave days; if the facility does not meet the criteria of clause  
27 (A) (I) during the payment quarter, the facility's eligible days  
28 for the quarter are zero.

29 (III) For facilities that qualify for payment under clause  
30 (A) (II), the additional supplemental ventilator care and

1 tracheostomy care payment for fiscal year 2019-2020 shall be  
2 calculated for each quarter as if the November 1, 2019, Picture  
3 Date CMI Report were the facility's most recently available.

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

8 \* \* \*

9 Section 2. This act shall take effect immediately.