

AMENDMENTS TO SENATE BILL NO. 695

Sponsor: REPRESENTATIVE SAYLOR

Printer's No. 833

1 Amend Bill, page 1, line 5, by inserting after "care"

2 and for nonemergency medical transportation services and
3 providing for uniform Statewide preferred drug list

4 Amend Bill, page 1, line 6, by inserting after "for"

5 definitions, for calculation, for remedies, for repayment and

6 Amend Bill, page 1, line 8, by inserting after "for"

7 definitions and

8 Amend Bill, page 1, line 9, by striking out the period after

9 "period" and inserting

10 ; and making a related repeal.

11 Amend Bill, page 1, lines 12 through 14, by striking out all

12 of said lines and inserting

13 Section 1. Section 443.1(7)(iv) of the act of June 13, 1967
14 (P.L.31, No.21), known as the Human Services Code, is amended to
15 read:

16 Amend Bill, page 2, by inserting between lines 22 and 23

17 Section 2. Section 443.12 of the act is amended by adding
18 subsections to read:

19 Section 443.12. Nonemergency Medical Transportation
20 Services.--* * *

21 (d) The department may not enter into a contract with a
22 broker under subsection (b) prior to the completion of the
23 analysis required under subsection (e).

24 (e) Prior to the implementation of the full-risk brokerage
25 model, the department, in coordination with the Department of
26 Transportation and the Department of Aging, shall commission an
27 analysis that provides at a minimum the following:

28 (1) An analysis of current Federal and State law,
29 regulations and policies controlling the nonemergency medical
30 transportation and other human services transportation programs
31 administered in the Commonwealth, including the authorized

1 methods of delivery and limitations or restrictions imposed on
2 the methods of delivery.

3 (2) An analysis of the effectiveness and efficiency of the
4 current nonemergency transportation service delivery as it
5 relates to all human service programs in this Commonwealth.

6 (3) A review of other states' models of delivering
7 nonemergency medical and other human services transportation,
8 including the number of other states that utilize a full-risk
9 brokerage model and the effect a brokerage model has had on
10 public transit in those states.

11 (4) An analysis of the positive and negative impact of
12 maintaining the current transportation delivery model versus
13 implementing a full-risk brokerage model as it relates to the
14 State and local government entities, including financial impact.

15 (5) An analysis of the impact on consumers, including an
16 increase or decrease in quality and service availability.

17 (f) The analysis under subsection (e) shall be completed no
18 later than ninety days from the effective date of this
19 subsection, and shall be delivered to the following:

20 (1) The Secretary of Human Services.

21 (2) The Secretary of Aging.

22 (3) The Secretary of Transportation.

23 (4) The chairperson and minority chairperson of the
24 Appropriations Committee of the Senate.

25 (5) The chairperson and minority chairperson of the
26 Appropriations Committee of the House of Representatives.

27 (6) The chairperson and minority chairperson of the Health
28 and Human Services Committee of the Senate.

29 (7) The chairperson and minority chairperson of the Health
30 Committee of the House of Representatives.

31 Section 3. The act is amended by adding a section to read:

32 Section 459.1. Uniform Statewide preferred drug list.--(a)
33 The department may not implement a uniform Statewide preferred
34 drug list for the medical assistance managed care organizations
35 until an analysis has been conducted, as commissioned by the
36 department, to determine the projected cost to the medical
37 assistance managed care organization and the projected
38 supplemental rebates that could be obtained by the department
39 through the use of a uniform Statewide preferred drug list.

40 (b) The analysis under subsection (a) shall be completed
41 within sixty days of the effective date of this subsection. The
42 analysis shall be delivered to the following:

43 (1) The chairperson and minority chairperson of the
44 Appropriations Committee of the Senate.

45 (2) The chairperson and minority chairperson of the Health
46 and Human Services Committee of the Senate.

47 (3) The chairperson and minority chairperson of the
48 Appropriations Committee of the House of Representatives.

49 (4) The chairperson and minority chairperson of the Health
50 Committee of the House of Representatives.

51 Section 4. The definitions of "county nursing facility,"

1 "medical assistance provider" and "nursing facility" in section
2 801-A of the act are amended and the section is amended by
3 adding a definition to read:

4 Section 801-A. Definitions.--As used in this article--

5 * * *

6 "County nursing facility" means a long-term care nursing
7 facility that is licensed by the Department of Health under the
8 act of July 19, 1979 (P.L.130, No.48), known as the "Health Care
9 Facilities Act," and controlled by the county institution
10 district or county government if no county institution district
11 exists. The term does not include intermediate care facilities
12 for [the mentally retarded] individuals with an intellectual
13 disability controlled by the county institution district or
14 county government.

15 "Medical assistance managed care organization" means a
16 Medicaid managed care organization as defined in section 1903(m)
17 (1)(A) of the Social Security Act (49 Stat. 620, 42 U.S.C. §
18 1396b(m)(1)(A)) that is a party to a Medicaid managed care
19 contract with the department. The term shall not include a
20 behavioral health managed care organization that is a party to a
21 Medicaid managed care contract with the department.

22 "Medical assistance provider" means a person or entity
23 enrolled by the [Department of Human Services] department as a
24 provider of services in the medical assistance program.

25 "Nursing facility" means a non-Federal, nonpublic long-term
26 care nursing facility licensed by the Department of Health
27 pursuant to the act of July 19, 1979 (P.L.130, No.48), known as
28 the "Health Care Facilities Act." The term does not include
29 intermediate care facilities for [the mentally retarded]
30 individuals with an intellectual disability.

31 * * *

32 Section 5. Sections 807-A, 810-A(3) and 813-A of the act are
33 amended to read:

34 Section 807-A. [Calculation.--Using the assessment rates
35 implemented by the secretary pursuant to section 805-A(a), each
36 nursing facility shall calculate the assessment amount it owes
37 for a calendar quarter on a form specified by the department and
38 shall submit the form and the amount owed to the department no
39 later than the last day of that calendar quarter or thirty (30)
40 days from the date of the second notice published pursuant to
41 section 805-A(a), whichever is later. A nursing facility's
42 calculation of the assessment amount owed in any quarter is
43 subject to verification by the department pursuant to section
44 808-A.] Assessment Amount and Timing.--Each nursing facility
45 shall remit the assessment amounts due as determined by the
46 department pursuant to section 805-A(a) in periodic submissions,
47 not to exceed five times per year, as specified by the
48 department. A nursing facility shall report and remit the total
49 assessment amount owed electronically on forms and in accordance
50 with instructions and by the due dates prescribed by the
51 department. The prescribed due dates shall be at least thirty

1 (30) days after the date of publication of the second notice
2 under section 805-A(a).

3 Section 810-A. Remedies.--In addition to any other remedy
4 provided by law, the department may enforce this article by
5 imposing one or more of the following remedies:

6 * * *

7 (3) When a nursing facility that is a medical assistance
8 provider or that is related through common ownership or control
9 as defined in 42 CFR 413.17(b) (relating to cost to related
10 organizations) to a medical assistance provider fails to pay all
11 or part of an assessment or penalty within sixty (60) days of
12 the date that payment is due, the department may deduct or
13 instruct a medical assistance managed care organization to
14 deduct the unpaid assessment or penalty and any interest owed
15 thereon from any medical assistance payments due to the nursing
16 facility or to any related medical assistance provider until the
17 full amount is recovered. Any such deduction shall be made only
18 after written notice to the medical assistance provider and may
19 be taken in amounts over a period of time taking into account
20 the financial condition of the medical assistance provider.

21 * * *

22 Section 813-A. Repayment.--No nursing facility shall be
23 directly guaranteed a repayment of its assessment in derogation
24 of 42 CFR 433.68(f) (relating to permissible health care-related
25 taxes after the transition period): Provided, however, That in
26 each fiscal year in which an assessment is implemented, the
27 department shall use the State revenue collected from the
28 assessment and any Federal funds received by the Commonwealth as
29 a direct result of the assessments to [maintain and increase
30 program payments] make program payments through fee-for-service
31 or managed care to medical assistance nursing facility providers
32 to the extent permissible under Federal and State law or
33 regulation and without creating an indirect guarantee to hold
34 harmless, as those terms are used in 42 CFR 433.68(f). If the
35 department implements an assessment on county nursing
36 facilities, the department shall allocate assessment revenues
37 available to [maintain and increase program payments] make
38 program payments through fee-for-service or managed care to both
39 county and non county nursing facilities in a manner that is
40 consistent with Federal law and without creating a direct or an
41 indirect guarantee to hold any nursing facility harmless. The
42 secretary shall submit any [State Medicaid plan] Title XIX State
43 Plan amendments to the United States Department of Health and
44 Human Services that are necessary to make the [payment
45 increases] payments.

46 Section 6. Section 815-A of the act, amended June 30, 2012
47 (P.L.668, No.80), amendment declared unconstitutional, 188 A.3d
48 1135 (Pa. 2018), and amended July 8, 2016 (P.L.480, No.76), is
49 reenacted and amended to read:

50 Amend Bill, page 2, line 24, by inserting a bracket before

1 "not"

2 Amend Bill, page 2, line 25, by striking out the bracket
3 before "2012"

4 Amend Bill, page 2, line 25, by inserting after "2012]"
5 be imposed July 1, 2003, through June 30,

6 Amend Bill, page 2, by inserting between lines 25 and 26

7 Section 7. The definitions of "department" and "secretary"
8 in section 801-C of the act are amended to read:

9 Section 801-C. Definitions.

10 The following words and phrases when used in this article
11 shall have the meanings given to them in this section unless the
12 context clearly indicates otherwise:

13 * * *

14 ["Department." The Department of Human Services of the
15 Commonwealth.]

16 * * *

17 ["Secretary." The Secretary of Human Services of the
18 Commonwealth.]

19 * * *

20 Section 8. Section 811-C(b) and 808-E(a) of the act are
21 amended to read:

22 Amend Bill, page 2, line 29, by striking out "2022" and
23 inserting

24 2024

25 Amend Bill, page 3, by inserting between lines 4 and 5

26 Section 9. Repeals are as follows:

27 (1) The General Assembly declares that the repeal under
28 paragraph (2) is necessary to effectuate the reenactment or
29 amendment of sections 801-A, 807-A, 810-A(3), 813-A and 815-A
30 of the act.

31 (2) Section 1729-E(2)(ii) of the act of April 9, 1929
32 (P.L.343, No.176), known as The Fiscal Code, is repealed.

33 Amend Bill, page 3, line 5, by striking out "2" and inserting

34 10