

**HUMAN SERVICES CODE - MEDICAL ASSISTANCE PAYMENTS FOR  
INSTITUTIONAL CARE**

**Act of Jun. 30, 2021, P.L. 256, No. 56**

**Cl. 67**

Session of 2021

No. 2021-56

SB 108

AN ACT

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

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

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

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

\* \* \*

(7) After June 30, 2007, payments to county and nonpublic nursing facilities enrolled in the medical assistance program as providers of nursing facility services shall be determined in accordance with the methodologies for establishing payment rates for county and nonpublic nursing facilities specified in the department's regulations and the Commonwealth's approved Title XIX State Plan for nursing facility services in effect after June 30, 2007. The following shall apply:

\* \* \*

(vii) For each fiscal year beginning on or after fiscal year 2020-2021, an additional annual payment equal to one hundred thirty dollars (\$130) per eligible Medicaid ventilator or tracheostomy day shall be paid to qualified medical assistance nonpublic and county nursing facilities on a quarterly basis. The department will obtain all necessary approvals and take all steps required to ensure the distribution of these payments to all qualifying nursing facilities under both the fee-for-service program and the managed long-term services and supports program. The following shall apply:

(A) A nonpublic or county nursing facility will qualify for the payment if, during any quarter of the year, the facility had:

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

(II) at least seventeen percent of the facility's medical assistance recipient resident population receiving medically necessary ventilator care or tracheostomy care according to at least one of the three most recently available medical assistance Picture Date CMI Reports.

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

(I) The determination of medically necessary ventilator care is based on whether there is a positive response to MDS 3.0 Section 00100F1 or 00100F2 on the MDS assessment identified on the Picture Date CMI Report. The determination of medically necessary tracheostomy care is based on whether there is a positive response to MDS 3.0 Section 00100E1 or 00100E2 on the MDS assessment identified on the Picture Date CMI Report.

(II) The quarterly payment shall equal the additional supplemental ventilator care and tracheostomy care per diem described in unit (a) multiplied by the number of eligible days described in unit (b) as follows:

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

(b) The facility's eligible days for the quarter are the facility's paid MA facility days and therapeutic leave days; if the facility does not meet the criteria of clause (A)(I) during the payment quarter, the facility's eligible days for the quarter are zero.

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

\* \* \*

Section 2. This act shall take effect immediately.

APPROVED--The 30th day of June, A.D. 2021.

TOM WOLF