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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1012 Session of  
2021

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INTRODUCED BY O'NEAL, DELOZIER, FARRY, ORTITAY, HILL-EVANS,  
ROTHMAN, WHEELAND, MOUL, MIHALEK, MIZGORSKI, A. DAVIS,  
POLINCHOCK, BIZZARRO, ECKER, MERCURI, STAATS, LEWIS DELROSSO,  
TOPPER, SCHROEDER, LABS AND PENNYCUICK, MARCH 25, 2021

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REFERRED TO COMMITTEE ON HUMAN SERVICES, MARCH 25, 2021

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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

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 2020-2021, 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 The following apply:

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

20 (I) 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 (II) 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.

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

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

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

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

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

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

27 \* \* \*

28 Section 2. This act shall take effect immediately.