

House Bill 2178

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for Department of Human Services)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires Department of Human Services to adopt rules establishing methodology for payments to long term care facilities from Long Term Care Facility Quality Assurance Fund.
Extends sunset to January 2, 2011.

A BILL FOR AN ACT

1
2 Relating to long term care facility assessments; creating new provisions; amending sections 15, 16,
3 18, 23, 24, 29, 30 and 31, chapter 736, Oregon Laws 2003; and providing for revenue raising that
4 requires approval by a three-fifths majority.

5 **Be It Enacted by the People of the State of Oregon:**

6 **SECTION 1.** Section 15, chapter 736, Oregon Laws 2003, as amended by section 3, chapter 757,
7 Oregon Laws 2005, is amended to read:

8 **Sec. 15.** As used in sections 15 to 22, chapter 736, Oregon Laws 2003:

9 (1) "Assessment rate" means the rate established by the Director of Human Services under
10 section 17, chapter 736, Oregon Laws 2003.

11 (2) **"Continuing care retirement community" means a long term care facility that is**
12 **registered under ORS 101.030.**

13 [(2)] (3) "Gross revenue":

14 (a) Means the revenue paid to a long term care facility for patient care, room, board and ser-
15 vices, less contractual adjustments; and

16 (b) Does not include revenue derived from sources other than operations, including but not
17 limited to interest and guest meals.

18 [(3)] (4) "Long term care facility" has the meaning given that term in ORS 442.015, but does not
19 include an intermediate care facility for the mentally retarded.

20 [(4)] (5) "Patient days" means the total number of patients occupying beds in a long term care
21 facility, determined as of 11:59 p.m. of each day, for all days in the calendar period for which an
22 assessment is being reported and paid. For purposes of this subsection, if a long term care facility
23 patient is admitted and discharged on the same day, the patient shall be deemed present on 11:59
24 p.m. of that day.

25 [(5) "Waivered long term care facility" means:]

26 [(a) A long term care facility operated by a continuing care retirement community that is registered
27 under ORS 101.030 and that admits:]

28 [(A) Residents of the continuing care retirement community; or]

29 [(B) Residents of the continuing care retirement community and nonresidents; or]

30 [(b) A long term care facility that is annually identified by the Department of Human Services as

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 *having a Medicaid recipient census that exceeds the census level established by the department.]*

2 **SECTION 2.** Section 18, chapter 736, Oregon Laws 2003, as amended by section 34, chapter 736,
 3 Oregon Laws 2003, and section 7, chapter 757, Oregon Laws 2005, is amended to read:

4 **Sec. 18.** (1) The Oregon Veterans' Home is exempt from the assessment imposed under section
 5 16, chapter 736, Oregon Laws 2003.

6 *[(2) A waived long term care facility is exempt from the long term care facility assessment im-*
 7 *posed under section 16, chapter 736, Oregon Laws 2003.]*

8 **(2) A continuing care retirement community is exempt from the long term care facility**
 9 **assessment imposed under section 16, chapter 736, Oregon Laws 2003, for the portion of an-**
 10 **annual gross revenue attributable to residents of the continuing care retirement community.**

11 **(3) A long term care facility that is annually identified by the Department of Human**
 12 **Services as having a Medicaid recipient census that exceeds the census level established by**
 13 **the department is exempt from the long term care facility assessment imposed under section**
 14 **16, chapter 736, Oregon Laws 2003, for the year for which the facility is identified.**

15 **SECTION 3.** Section 23, chapter 736, Oregon Laws 2003, as amended by section 8, chapter 757,
 16 Oregon Laws 2005, is amended to read:

17 **Sec. 23.** Sections 15 to 22, chapter 736, Oregon Laws 2003, apply to long term care facility as-
 18 sessments imposed in calendar quarters beginning on or after November 26, 2003, and before July
 19 1, [2008] 2010.

20 **SECTION 4.** Section 24, chapter 736, Oregon Laws 2003, as amended by section 11, chapter 757,
 21 Oregon Laws 2005, is amended to read:

22 **Sec. 24.** (1) The Long Term Care Facility Quality Assurance Fund is established in the State
 23 Treasury, separate and distinct from the General Fund. Interest earned by the Long Term Care
 24 Facility Quality Assurance Fund shall be credited to the fund.

25 (2) Amounts in the Long Term Care Facility Quality Assurance Fund are continuously appro-
 26 priated to the Department of Human Services for the purposes of paying refunds due under section
 27 20, chapter 736, Oregon Laws 2003, and funding long term care facilities, as defined in section 15,
 28 chapter 736, Oregon Laws 2003, that are a part of the Oregon Medicaid reimbursement system[.],
 29 **including but not limited to:**

30 **(a) Increasing reimbursement rates for basic and complex skilled nursing facility ser-**
 31 **vices; and**

32 **(b) Paying costs incurred by the department to administer the assessments imposed un-**
 33 **der section 16, chapter 736, Oregon Laws 2003.**

34 **(3) The department may not retain more than two percent of the funds collected annually**
 35 **under section 16, chapter 736, Oregon Laws 2003, for paying administrative costs under sub-**
 36 **section (2) of this section.**

37 *[(3)] (4) [Funds in] Only funds from* the Long Term Care Facility Quality Assurance Fund and
 38 the matching federal financial participation under Title XIX of the Social Security Act may be used
 39 to **increase above June 30, 2003, levels the rate of reimbursement paid to Medicaid-certified**
 40 **long term care facilities using the reimbursement methodology described in subsection (5)**
 41 **of this section.** *[fund Medicaid-certified long term care facilities using only the reimbursement meth-*
 42 *odology described in subsection (4) of this section to achieve a rate of reimbursement greater than the*
 43 *rate in effect on June 30, 2003.]*

44 *[(4)] (5) [The reimbursement methodology used to make additional payments to Medicaid-certified*
 45 *long term care facilities] The department shall adopt by rule, in accordance with the provisions*

1 **of ORS chapter 183, a reimbursement methodology for payments under subsection (4) of this**
 2 **section that is consistent with ORS 410.851 and that** includes but is not limited to:

3 (a) Rebasing biennially, beginning on July 1 of each odd-numbered year; **and**

4 (b) Adjusting for inflation in the nonrebasing year[;].

5 [(c) *Continuing the use of the pediatric rate;*]

6 [(d) *Continuing the use of the complex medical needs additional payment;*]

7 [(e) *Discontinuing the use of the relationship percentage, except when calculating the pediatric rate*
 8 *in paragraph (c) of this subsection; and*]

9 [(f) *Requiring the Department of Human Services to reimburse costs at a rate not lower than the*
 10 *70th percentile ceiling of allowable costs for the 2005-2007 biennium.*]

11 **SECTION 5.** Section 16, chapter 736, Oregon Laws 2003, as amended by section 4, chapter 757,
 12 Oregon Laws 2005, is amended to read:

13 **Sec. 16.** (1) A long term care facility assessment is imposed on each long term care facility in
 14 this state.

15 (2) The amount of the assessment equals the assessment rate times the number of patient days
 16 at the long term care facility for a calendar quarter.

17 (3) The assessment shall be reported on a form prescribed by the Department of Human Services
 18 and shall contain the information required to be reported by the department. The assessment form
 19 shall be filed with the department on or before the 30th day of the month following the end of the
 20 calendar quarter for which the assessment is being reported. The long term care facility shall pay
 21 the assessment at the time the facility files the assessment report. The payment shall accompany the
 22 report unless the payment is transmitted electronically.

23 (4) A long term care facility is not guaranteed that any additional moneys paid to the facility
 24 in the form of reimbursements calculated according to the methodology described in section 24
 25 [(4)] (5), chapter 736, Oregon Laws 2003, shall equal or exceed the amount of the long term care
 26 facility assessment paid by the facility.

27 **SECTION 6.** Section 29, chapter 736, Oregon Laws 2003, is amended to read:

28 **Sec. 29.** Notwithstanding sections 15 to 22, **chapter 736, Oregon Laws 2003** [*of this 2003 Act*],
 29 an assessment under sections 15 to 22, **chapter 736, Oregon Laws 2003**, [*of this 2003 Act*] may be
 30 imposed only in a calendar quarter for which the long term care facility reimbursement rate that
 31 is part of the Oregon Medicaid reimbursement system was calculated according to the methodology
 32 described in section 24 [(4)] (5), **chapter 736, Oregon Laws 2003** [*of this 2003 Act*]. The department
 33 may make retroactive increases in payments for the first six months the assessment is imposed.

34 **SECTION 7.** Section 30, chapter 736, Oregon Laws 2003, is amended to read:

35 **Sec. 30.** Notwithstanding ORS 410.555 and section 28, **chapter 736, Oregon Laws 2003** [*of this*
 36 *2003 Act*], an assessment under section 28, **chapter 736, Oregon Laws 2003**, [*of this 2003 Act*] may
 37 be imposed only in a calendar quarter for which the long term care facility reimbursement rate that
 38 is part of the Oregon Medicaid reimbursement system was calculated according to the methodology
 39 described in section 24 [(4)] (5), **chapter 736, Oregon Laws 2003** [*of this 2003 Act*].

40 **SECTION 8. Nothing in the repeal of sections 15 to 22 and 24, chapter 736, Oregon Laws**
 41 **2003, by section 31, chapter 736, Oregon Laws 2003, affects the imposition and collection of**
 42 **a long term care facility assessment under sections 15 to 22 and 24, chapter 736, Oregon Laws**
 43 **2003, for a calendar quarter beginning before July 1, 2010.**

44 **SECTION 9.** Section 31, chapter 736, Oregon Laws 2003, as amended by section 9, chapter 757,
 45 Oregon Laws 2005, is amended to read:

1 **Sec. 31. (1)** Sections [15 to 22 and 24, section] **19, 20 and 21, chapter 736**, Oregon Laws 2003,
2 are repealed on January 2, [2009] **2011**.

3 **(2) Section 15, chapter 736, Oregon Laws 2003, as amended by section 3, chapter 757,**
4 **Oregon Laws 2005, and section 1 of this 2007 Act is repealed January 2, 2011.**

5 **(3) Section 16, chapter 736, Oregon Laws 2003, as amended by section 4, chapter 757,**
6 **Oregon Laws 2005, and section 5 of this 2007 Act is repealed January 2, 2011.**

7 **(4) Section 17, chapter 736, Oregon Laws 2003, as amended by section 5, chapter 757,**
8 **Oregon Laws 2005, is repealed January 2, 2011.**

9 **(5) Section 18, chapter 736, Oregon Laws 2003, as amended by section 34, chapter 736,**
10 **Oregon Laws 2003, section 7, chapter 757, Oregon Laws 2005, and section 2 of this 2007 Act**
11 **is repealed January 2, 2011.**

12 **(6) Section 22, chapter 736, Oregon Laws 2003, as amended by section 10, chapter 757,**
13 **Oregon Laws 2005, is repealed January 2, 2011.**

14 **(7) Section 24, chapter 736, Oregon Laws 2003, as amended by section 11, chapter 757,**
15 **Oregon Laws 2005, and section 4 of this 2007 Act is repealed January 2, 2011.**

16 **SECTION 10.** The amendments to section 24, chapter 736, Oregon Laws 2003, by section
17 **4 of this 2007 Act apply to the reimbursement methodology used to calculate payments for**
18 **services received on or after July 1, 2007.**

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