

ACT 124

S.B. NO. 2057

A Bill for an Act Relating to the Nursing Facility Sustainability Program.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Act 156, Session Laws of Hawaii 2012, section 2, as amended by section 2 of Act 142, Session Laws of Hawaii 2013, is amended as follows:

1. By amending subsection (c) of § -4 to read:

“(c) Revenue from the nursing facility sustainability fee shall be used exclusively as follows:

- (1) No less than eighty-eight per cent of the revenue from the nursing facility sustainability fee shall be used to match federal medicaid funds, with the combined total to be used to enhance capitated rates to medicaid managed care health plans for the purpose of increasing medicaid payments to private nursing facilities;
- (2) Twelve per cent of the revenue from the nursing facility sustainability fee may be used by the department for other departmental purposes; and
- (3) All moneys remaining in the special fund on December 30, ~~2014,~~ 2015, shall be distributed to nursing facilities within thirty days in the same proportions as received from the nursing facilities.”

2. By amending § -10 to read:

“§ -10 Enhanced rates to medicaid managed care health plans. In accordance with title 42 Code of Federal Regulations section 438, the department shall use revenues from the nursing facility sustainability fee and federal matching funds to enhance the capitated rates paid to medicaid managed care health plans for the state fiscal year [~~2013-2014~~] 2014-2015 consistent with the following objectives:

- (1) The rate enhancement shall be used exclusively for increasing reimbursements to private nursing facilities to support the availability of services and to ensure access to care to the medicaid managed care health plan enrollees;
- (2) The rate enhancement shall be made part of the monthly capitated rates by the department to medicaid managed care health plans, which shall provide documentation to the department and the nursing facility trade associations located in Hawaii certifying that the revenues received under paragraph (1) are used in accordance with this section;
- (3) The rate enhancement shall be actuarially sound and approved by the federal government for federal fund participation; and
- (4) The department shall modify the fee-for-service reimbursement rates of the nursing facilities to recognize the medicaid portion of the nursing facility sustainability fee as an additional cost of serving medicaid patients, and to provide a uniform percentage increase in pre-existing facility-specific rates.”

3. By amending subsection (a) of § -13 to read:

“(a) Collection of the nursing facility sustainability fee under section -5 shall be discontinued if:

- (1) The waiver in section -7 or the enhanced capitation rates in section -10 have not been approved by the Centers for Medicare and Medicaid Services;
- (2) The department reduces funding for nursing facility services below the state appropriation in effect on June 30, [~~2013;~~] 2014;
- (3) The department or any other state agency uses the money in the special fund for any use other than the uses permitted pursuant to this chapter; or
- (4) Federal financial participation to match the nursing facility sustainability fee becomes unavailable under federal law. In such case, the department shall terminate the collection of the fee beginning on the effective date of the federal statutory, regulatory, or interpretive change.”

SECTION 2. Act 156, Session Laws of Hawaii 2012, section 5, as amended by section 3 of Act 142, Session Laws of Hawaii 2013, is amended to read as follows:

“SECTION 5. This Act shall take effect on July 1, 2012, and shall be repealed on June 30, [~~2014;~~] 2015; provided that section [~~—4(e);~~] —4, Hawaii Revised Statutes, established by section 2 of this Act, shall be repealed on December 31, [~~2014;~~] 2015.”

SECTION 3. Section 36-27, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Except as provided in this section, and notwithstanding any other law to the contrary, from time to time, the director of finance, for the purpose

of defraying the prorated estimate of central service expenses of government in relation to all special funds, except the:

- (1) Special out-of-school time instructional program fund under section 302A-1310;
- (2) School cafeteria special funds of the department of education;
- (3) Special funds of the University of Hawaii;
- (4) State educational facilities improvement special fund;
- (5) Convention center enterprise special fund under section 201B-8;
- (6) Special funds established by section 206E-6;
- (7) Housing loan program revenue bond special fund;
- (8) Housing project bond special fund;
- (9) Aloha Tower fund created by section 206J-17;
- (10) Funds of the employees' retirement system created by section 88-109;
- (11) Hawaii hurricane relief fund established under chapter 431P;
- (12) Hawaii health systems corporation special funds and the subaccounts of its regional system boards;
- (13) Tourism special fund established under section 201B-11;
- (14) Universal service fund established under section 269-42;
- (15) Emergency and budget reserve fund under section 328L-3;
- (16) Public schools special fees and charges fund under section 302A-1130;
- (17) Sport fish special fund under section 187A-9.5;
- (18) Glass advance disposal fee established by section 342G-82;
- (19) Center for nursing special fund under section 304A-2163;
- (20) Passenger facility charge special fund established by section 261-5.5;
- (21) Court interpreting services revolving fund under section 607-1.5;
- (22) Hawaii cancer research special fund;
- (23) Community health centers special fund;
- (24) Emergency medical services special fund;
- (25) Rental motor vehicle customer facility charge special fund established under section 261-5.6;
- (26) Shared services technology special fund under section 27-43;
- (27) Automated victim information and notification system special fund established under section 353-136; ~~and~~
- [(28)] Deposit beverage container deposit special fund under section 342G-104[.]; ~~and~~
- (29) Nursing facility sustainability program special fund under Act 156, Session Laws of Hawaii 2012.

shall deduct five per cent of all receipts of all special funds, which deduction shall be transferred to the general fund of the State and become general realizations of the State. All officers of the State and other persons having power to allocate or disburse any special funds shall cooperate with the director in effecting these transfers. To determine the proper revenue base upon which the central service assessment is to be calculated, the director shall adopt rules pursuant to chapter 91 for the purpose of suspending or limiting the application of the central service assessment of any fund. No later than twenty days prior to the convening of each regular session of the legislature, the director shall report all central service assessments made during the preceding fiscal year."

SECTION 4. Section 36-30, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Each special fund, except the:

- (1) Transportation use special fund established by section 261D-1;

- (2) Special out-of-school time instructional program fund under section 302A-1310;
- (3) School cafeteria special funds of the department of education;
- (4) Special funds of the University of Hawaii;
- (5) State educational facilities improvement special fund;
- (6) Special funds established by section 206E-6;
- (7) Aloha Tower fund created by section 206J-17;
- (8) Funds of the employees' retirement system created by section 88-109;
- (9) Hawaii hurricane relief fund established under section 431P-2;
- (10) Convention center enterprise special fund established under section 201B-8;
- (11) Hawaii health systems corporation special funds and the subaccounts of its regional system boards;
- (12) Tourism special fund established under section 201B-11;
- (13) Universal service fund established under section 269-42;
- (14) Emergency and budget reserve fund under section 328L-3;
- (15) Public schools special fees and charges fund under section 302A-1130;
- (16) Sport fish special fund under section 187A-9.5;
- (17) Center for nursing special fund under section 304A-2163;
- (18) Passenger facility charge special fund established by section 261-5.5;
- (19) Court interpreting services revolving fund under section 607-1.5;
- (20) Hawaii cancer research special fund;
- (21) Community health centers special fund;
- (22) Emergency medical services special fund;
- (23) Rental motor vehicle customer facility charge special fund established under section 261-5.6;
- (24) Shared services technology special fund under section 27-43;
- (25) Nursing facility sustainability program special fund~~[-under]~~ established pursuant to Act 156, Session Laws of Hawaii 2012;
- (26) Automated victim information and notification system special fund established under section 353-136; and
- (27) Hospital sustainability program special fund under Act 217, Session Laws of Hawaii 2012,

shall be responsible for its pro rata share of the administrative expenses incurred by the department responsible for the operations supported by the special fund concerned."

SECTION 5. There is appropriated out of the nursing facility sustainability program special fund the sum of \$12,000,000 or so much thereof as may be necessary for fiscal year 2014-2015 for uses consistent with the nursing facility sustainability program special fund.

The sum appropriated shall be expended by the department of human services for the purposes of this Act.

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect on June 29, 2014; provided that:

- (1) Section 5 shall take effect on July 1, 2014;
- (2) The amendments made in sections 3 and 4 shall not be repealed when sections 36-27 and 36-30, Hawaii Revised Statutes, are reen-

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acted on June 30, 2015, pursuant to section 34 of Act 79, Session Laws of Hawaii 2009; and

- (3) The amendments made in sections 3 and 4 shall be repealed on December 31, 2015, and sections 36-27 and 36-30, Hawaii Revised Statutes, shall be reenacted in the form provided in section 34 of Act 79, Session Laws of Hawaii 2009.

(Approved June 24, 2014.)