



State of Wisconsin  
2021 - 2022 LEGISLATURE

LRB-1988/1

TJD:skw

## 2021 SENATE BILL 135

February 24, 2021 - Introduced by Senators BEWLEY, AGARD, CARPENTER, ERPENBACH, JOHNSON, LARSON, PFAFF, RINGHAND, ROYS, SMITH and WIRCH, cosponsored by Representatives HINTZ, ANDERSON, ANDRACA, BALDEH, BILLINGS, BOWEN, BROSTOFF, CABRERA, CONLEY, CONSIDINE, DOYLE, DRAKE, EMERSON, GOYKE, HAYWOOD, HEBL, HESSELBEIN, HONG, MCGUIRE, B. MEYERS, MILROY, MOORE OMOKUNDE, L. MYERS, NEUBAUER, OHNSTAD, ORTIZ-VELEZ, POPE, RIEMER, S. RODRIGUEZ, SHANKLAND, SHELTON, SINICKI, SNODGRASS, SPREITZER, STUBBS, SUBECK, VINING and VRUWINK. Referred to Committee on Government Operations, Legal Review and Consumer Protection.

\*\*\*AUTHORS SUBJECT TO CHANGE\*\*\*

- 1 **AN ACT relating to:** Medical Assistance payments to hospitals for nursing  
2 facility care.

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### *Analysis by the Legislative Reference Bureau*

This bill requires the Department of Health Services to provide reimbursement or a supplemental payment to hospitals under the Medical Assistance program for providing nursing-facility-level custodial care. To receive reimbursement or a supplemental payment, the hospital must notify DHS that it is participating as a swing bed hospital under the Medical Assistance program and providing custodial care for which federal financial participation is approved to an individual who is eligible for discharge after receiving inpatient care in the hospital, who needs nursing-facility-level care, and for whom the hospital is unable to locate a nursing facility that accepts the individual for admission. If providing reimbursement instead of a supplemental payment, DHS must pay the hospital the statewide average per-diem rate paid to nursing facilities. DHS must use the same standards and eligibility criteria as the federal Medicare program uses to determine reimbursement for swing beds or, for hospitals that are not critical access hospitals, the terms of a federal waiver issued during the federally declared national emergency related to the 2019 novel coronavirus. This requirement to reimburse hospitals for providing nursing facility care applies until June 30, 2021, or until the termination of any public health emergency declared by the secretary of the federal Department of Health and Human Services related to the 2019 novel coronavirus, whichever is earlier.

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For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1. Nonstatutory provisions.**

2           (1) PAYMENT FOR HOSPITALS FOR NURSING FACILITY CARE.

3           (a) In this subsection, “public health emergency period” means the period  
4 ending on June 30, 2021, or the termination of any public health emergency declared  
5 under 42 USC 247d by the secretary of the federal department of health and human  
6 services in response to the 2019 novel coronavirus, whichever is earlier.

7           (b) During the public health emergency period, subject to par. (c), the  
8 department of health services shall provide, under the Medical Assistance program,  
9 reimbursement at the statewide average per-diem rate paid to nursing facilities or  
10 a supplemental payment to hospitals for providing nursing-facility-level care when  
11 all of the following criteria apply:

12           1. The individual for whom the hospital provided nursing-facility-level care  
13 is enrolled in the Medical Assistance program, has been admitted on an inpatient  
14 basis to the hospital, is eligible for discharge after receiving care in the hospital,  
15 requires nursing-facility-level care upon discharge, and due to the hospital being  
16 unable to locate a nursing facility that accepts the individual for admission, is unable  
17 to be transferred to a nursing facility.

18           2. The services provided to the individual described under subd. 1. are custodial  
19 care for which federal financial participation is approved.

20           3. The hospital notifies the department of health services that it is  
21 participating as a swing bed hospital under the Medical Assistance program.

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1           (c) The department of health services shall use the same standards and criteria  
2           for determining whether a hospital is eligible for reimbursement or a supplemental  
3           payment under par. (b) as are used by the federal Medicare program under 42 USC  
4           1395 et seq. for the payment for use of swing beds or, for any hospital that is not a  
5           critical access hospital, under the terms of a federal waiver approved under section  
6           1135 of the federal social security act. The department shall seek any approval from  
7           the federal government necessary to implement the reimbursement under this  
8           subsection.

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**(END)**