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No. 1577

H.P. 1139

House of Representatives, April 16, 2019

An Act To Assist Nursing Homes in the Management of Facility Beds

Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative PERRY of Calais.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 22 MRSA §333, sub-§1**, as amended by PL 2011, c. 648, §2, is further
3 amended to read:

4 **1. Procedures.** A nursing facility that voluntarily reduces the number of its licensed
5 beds ~~at any time prior to July 1, 2007~~, for any reason ~~except to create private rooms~~ may
6 convert the beds back and thereby increase the number of nursing facility beds to no more
7 than the previously licensed number of nursing facility beds, after obtaining a certificate
8 of need in accordance with this section, as long as the nursing facility has been in
9 continuous operation without material change of ownership. For purposes of this section
10 and sections 333-A and 334-A, beds voluntarily removed from service ~~prior to July 1,~~
11 ~~2007~~ and available to be reinstated under this section are referred to as "reserved beds."
12 Reserved beds remain facility property until they lapse as provided for in this section or
13 are transferred. To reinstate reserved beds under this subsection, the nursing facility ~~must~~
14 shall:

15 A. Give notice of the number of beds it is reserving no later than 30 days after the
16 effective date of the license reduction;

17 A-1. Annually provide notice to the department no later than July 1st of each year of
18 the nursing facility's intent to retain these reserved beds, subject to the limitations set
19 forth in subsection 2, paragraph B. Notice provided under this paragraph preserves
20 the reserved beds through June 30th of the following year. The annual notice on
21 reserved beds may be filed by an individual nursing facility or by multiple nursing
22 facilities through a membership organization approved by the department by a single
23 filing; and

24 B. Obtain a certificate of need to convert beds back under section 335, except that, if
25 no construction is required for the conversion of beds back, the application must be
26 processed in accordance with subsection 2. The department in its review shall
27 evaluate the impact that the nursing facility beds to be converted back would have on
28 those existing nursing facility beds and facilities within 30 miles of the applicant's
29 facility and shall determine whether to approve the request based on current
30 certificate of need criteria and methodology.

31 **Sec. 2. 22 MRSA §333, sub-§2, ¶A**, as enacted by PL 2001, c. 664, §2, is
32 amended to read:

33 A. Review of applications that meet the requirements of this section must be based
34 on the requirements of section 335, subsection 7, except that ~~the determinations~~
35 ~~required by section 335, subsection 7, paragraph B must be based on the historical~~
36 ~~costs of operating the beds and must consider whether the projected costs are~~
37 ~~consistent with the costs of the beds prior to closure, adjusted for inflation~~
38 applications that seek to reopen reserved beds must be approved if the projected
39 incremental costs of reopening and operating the reserved beds are consistent with
40 the facility's costs of operating its other beds. Applicants are not required to
41 demonstrate that any increases in MaineCare costs are offset by other MaineCare
42 savings. The costs of ongoing operation of both the reopened beds and the
43 complement of facility beds at the time the reserved beds are reopened must be

1 recognized as allowable costs and incorporated into the facility's MaineCare payment
2 rates; and

3 **Sec. 3. 22 MRSA §1720**, as enacted by PL 2005, c. 242, §1, is amended to read:

4 **§1720. Nursing facility medical director reimbursement**

5 The department shall include in its calculation of reimbursement for services
6 provided by a nursing facility ~~an allowance for the cost of~~ incurred by the facility for a
7 ~~medical director in a base year amount not to exceed \$10,000, with that amount being~~
8 ~~subject to an annual cost-of-living adjustment.~~

9 **Sec. 4. Cost of computer and cloud-based software systems a fixed cost.**

10 Beginning October 1, 2019, the cost incurred by a nursing facility for the acquisition,
11 including set-up costs, use and maintenance, of computer or cloud-based software
12 systems must be included as a fixed cost by the Department of Health and Human
13 Services in its rule Chapter 101: MaineCare Benefits Manual, Chapter III, Section 67,
14 Principles of Reimbursement for Nursing Facilities. Costs included pursuant to this
15 section must include without limitation the costs of hardware, if any, software and
16 software support.

17 **Sec. 5. Bed hold reimbursement for adult family care services.**

18 The Department of Health and Human Services shall amend its rule Chapter 101: MaineCare
19 Benefits Manual, Chapter III, Section 2, Adult Family Care Services, no later than
20 December 15, 2019 to provide reimbursement for up to 30 bed hold days per calendar
21 year when the resident is absent from the facility.

22 **Sec. 6. Cost of health insurance a fixed cost.**

23 The Department of Health and Human Services shall amend its rule Chapter 101: MaineCare Benefits Manual, Chapter
24 III, Section 67, Principles of Reimbursement for Nursing Facilities no later than
25 December 15, 2019 to include the cost of health insurance for employees attributable to
26 MaineCare residents as a fixed cost.

27 **Sec. 7. Partial reimbursement to nursing facilities for certain bad debt.**

28 The Department of Health and Human Services shall amend its rule Chapter 101:
29 MaineCare Benefits Manual, Chapter III, Section 67, Principles of Reimbursement for
30 Nursing Facilities no later than December 15, 2019 to include reimbursement for 50% of
31 a nursing facility's charges for a maximum of 6 months for a newly admitted resident who
32 is determined to be financially ineligible for MaineCare after the resident is admitted to
33 the nursing facility and the charges remain unpaid after reasonable efforts are made by
34 the nursing facility to collect the debt based on these charges.

35 **SUMMARY**

36 This bill restores the ability of nursing facilities to voluntarily reduce the number of
37 their licensed beds and then later increase the number of their licensed beds to the prior
38 level after obtaining a certificate of need and meeting certain conditions.

1 The bill modifies the process to obtain certificate of need approval to reopen reserved
2 beds. Applications that seek to reopen reserved beds must be approved if the projected
3 incremental costs of reopening and operating the reopened beds are consistent with the
4 facility's costs of operating its other beds. Applicants are not required to demonstrate that
5 any increases in MaineCare costs are offset by other MaineCare savings. The costs of
6 ongoing operation of both the restored beds and the complement of facility beds at the
7 time the reserved beds are reopened must be recognized as allowable costs and
8 incorporated into the facility's MaineCare payment rates.

9 The bill requires the Department of Health and Human Services to include in its
10 calculation of reimbursement for services provided by a nursing facility the cost incurred
11 by the facility for a medical director.

12 The bill requires the cost incurred by a nursing facility for the acquisition, use and
13 maintenance of computer or cloud-based software systems to be included as a fixed cost.

14 The bill requires the Department of Health and Human Services to amend its rules
15 governing adult family care services to provide reimbursement for up to 30 bed hold days
16 per calendar year when a resident is absent from a facility.

17 The bill requires the Department of Health and Human Services to amend its rules
18 governing principles of reimbursement for nursing facilities to include the cost of health
19 insurance for employees attributable to MaineCare residents as a fixed cost. It also
20 requires the department to amend these rules to include reimbursement for 50% of a
21 nursing facility's charges for a maximum of 6 months for a newly admitted resident who
22 is determined to be financially ineligible for MaineCare after the resident is admitted to
23 the nursing facility and the charges remain unpaid after reasonable efforts are made by
24 the nursing facility to collect the debt based on these charges.