

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 260

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO THE IDAHO SKILLED NURSING FACILITY ASSESSMENT ACT;
 2 AMENDING TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER
 3 15, TITLE 56, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE
 4 LEGISLATIVE INTENT, TO DEFINE TERMS, TO PROVIDE FOR THE NURSING
 5 FACILITY ASSESSMENT FUND, TO PROVIDE FOR NURSING FACILITY
 6 ASSESSMENTS, TO PROVIDE FOR STATE PLAN APPROVAL, TO PROVIDE
 7 FOR MULTIFACILITY LOCATIONS, TO PROVIDE FOR THE TERMINATION OF
 8 ASSESSMENT, TO PROVIDE PENALTIES FOR FAILURE TO PAY ASSESSMENT,
 9 TO PROVIDE FOR RULEMAKING AUTHORITY AND TO PROVIDE FOR
 10 QUARTERLY NURSING FACILITY ADJUSTMENT PAYMENTS WITH A SUNSET
 11 PROVISION.
 12

13 Be It Enacted by the Legislature of the State of Idaho:

14 SECTION 1. That Title 56, Idaho Code, be, and the same is hereby amended by the
 15 addition thereto of a NEW CHAPTER, to be known and designated as Chapter 15, Title 56,
 16 Idaho Code, and to read as follows:

17 CHAPTER 15
 18 IDAHO SKILLED NURSING FACILITY ASSESSMENT ACT

19 56-1501. SHORT TITLE. This chapter shall be known and may be cited as the "Idaho
 20 Skilled Nursing Facility Assessment Act."

21 56-1502. LEGISLATIVE INTENT. It is the intent of the legislature to encourage the
 22 maximization of financial resources eligible and available for medicaid services by establishing
 23 a fund within the Idaho department of health and welfare to receive nursing facility assessments
 24 to use in securing federal matching funds under federally prescribed programs available through
 25 the state medicaid plan.

26 56-1503. DEFINITIONS. As used in this chapter:
 27 (1) "CMS" means the centers for medicare and medicaid.
 28 (2) "Department" means the department of health and welfare.
 29 (3) "Fiscal year" means the time period from July 1 to June 30.
 30 (4) "Fund" means the nursing facility assessment fund established pursuant to section
 31 56-1504, Idaho Code.
 32 (5) "Net patient service revenue" means gross revenues from services provided to
 33 nursing facility patients, less reductions from gross revenue resulting from an inability to
 34 collect payment of charges. Patient service revenue excludes nonpatient care revenues such
 35 as beauty and barber, vending income, interest and contributions, revenues from sale of
 36 meals and all outpatient revenues. Reductions from gross revenue includes: bad debts;

1 contractual adjustments; uncompensated care; administrative, courtesy and policy discounts and
2 adjustments; and other such revenue deductions.

3 (6) "Nursing facility" means a nursing facility as defined in section 39-1301 Idaho Code,
4 and licensed pursuant to chapter 13, title 39, Idaho Code.

5 (7) "Resident day" means a calendar day of care provided to a nursing facility resident,
6 including the day of admission and excluding the day of discharge, provided that one (1)
7 resident day shall be deemed to exist when admission and discharge occur on the same day.

8 (8) "Medicare part A resident days" means those resident days funded by the medicare
9 program or by a medicare advantage or special needs plan.

10 (9) "Upper payment limit" means the limitation established by federal regulations, 42
11 CFR 447.272, that disallows federal matching funds when state medicaid agencies pay certain
12 classes of nursing facilities an aggregate amount for services that exceed the amount that is
13 paid for the same services furnished by that class of nursing facilities under medicare payment
14 principles.

15 56-1504. NURSING FACILITY ASSESSMENT FUND. (1) There is hereby created in
16 the office of the state treasurer a dedicated fund to be known as the nursing facility assessment
17 fund, hereinafter the "fund," to be administered by the department. The state treasurer shall
18 invest idle moneys in the fund and any interest received on those investments shall be returned
19 to the fund.

20 (2) Moneys in the fund shall consist of:

21 (a) All moneys collected or received by the department from nursing facility assessments
22 required by this chapter;

23 (b) All federal matching funds received by the department as a result of expenditures
24 made by the department that are attributable to moneys deposited in the fund;

25 (c) Any interest or penalties levied in conjunction with the administration of this chapter;
26 and

27 (d) Any appropriations, federal funds, donations, gifts or moneys from any other sources.

28 (3) The fund is created for the purpose of receiving moneys in accordance with this
29 section and section 56-1511, Idaho Code. Collected assessment funds shall be used to secure
30 federal matching funds available through the state medicaid plan, which funds shall be used
31 to make medicaid payments for nursing facility services which equal or exceed the amount of
32 nursing facility medicaid rates, in the aggregate, as calculated in accordance with the approved
33 state medicaid plan in effect on June 30, 2009. The fund shall be used exclusively for the
34 following purposes:

35 (a) To pay administrative expenses incurred by the department or its agent in performing
36 the activities authorized by this chapter, provided that such expenses shall not exceed a
37 total of one percent (1%) of the aggregate assessment funds collected for the prior fiscal
38 year.

39 (b) To reimburse the medicaid share of the assessment as a pass-through.

40 (c) To, at a minimum, make nursing facility adjustment payments that restore any rate
41 reductions, in the aggregate, for the state fiscal years 2010 and 2011.

42 (d) To increase nursing facility payments to fund covered services to medicaid
43 beneficiaries within medicare upper payment limits, as negotiated with the department.

44 (e) To repay the federal government any excess payments made to nursing facilities if the
45 state plan, once approved by CMS, is subsequently disapproved for any reason, and after

1 the state has appealed the findings. Nursing facilities shall refund the excess payments
2 in question to the assessment fund. The state, in turn, shall return funds to both the
3 federal government and nursing facility providers in the same proportion as the original
4 financing. Individual nursing facilities shall be reimbursed based on the proportion of the
5 individual nursing facility's assessment to the total assessment paid by nursing facilities.
6 If a nursing facility is unable to refund payments, the state shall develop a payment plan
7 and deduct moneys from future medicaid payments. The state will refund the federal
8 government for the federal share of these overpayments.

9 (f) To make refunds to nursing facilities pursuant to section 56-1507, Idaho Code.

10 56-1505. NURSING FACILITY ASSESSMENTS. (1) Nursing facilities shall pay the
11 nursing facility assessment to the fund in accordance with this chapter, with the exception of
12 state and county-owned facilities, which are not required to contribute.

13 (2) The aggregated amount of assessments for all nursing facilities, during a fiscal year,
14 shall be an amount not exceeding two percent (2%) of the total aggregate net patient service
15 revenue of assessed facilities from each provider's prior fiscal year. The department shall
16 determine the assessment rate prospectively for the applicable fiscal year on a per-resident-day
17 basis, exclusive of medicare part A resident days. The per-resident-day assessment rate shall be
18 uniform. The department shall notify nursing facilities of the assessment rate applicable to the
19 fiscal year by August 30 of that fiscal year.

20 (3) The department shall collect, and each nursing facility shall pay, the nursing facility
21 assessment on a quarterly basis subject to the terms of this subsection. The nursing facility
22 assessment shall be due quarterly with the initial payment due within sixty (60) days after the
23 state plan has been approved by CMS. Subsequent quarterly payments are due no later than
24 thirty (30) days after the end of the calendar quarter.

25 (4) Nursing facilities may increase their charges to other payers to incorporate the
26 assessment but shall not create a separate line item charge on the bill reflecting the assessment.

27 56-1506. APPROVAL OF STATE PLAN. The department shall seek necessary federal
28 approval in the form of the state plan amendments in order to implement the provisions of this
29 chapter.

30 56-1507. MULTIFACILITY LOCATIONS. If an entity conducts, operates or maintains
31 more than one (1) nursing facility licensed by the department, the entity shall pay the nursing
32 facility assessment for each nursing facility separately.

33 56-1508. TERMINATION OF ASSESSMENT. (1) The nursing facility assessment shall
34 terminate and the department shall discontinue the imposition, assessment and collection of
35 the nursing facility assessment if the plan amendment incorporating the payment in section
36 56-1504(3)(a) through (c), Idaho Code, is not approved by CMS. The payment calculations
37 in section 56-1504(3)(b) and (c), Idaho Code, may be modified if necessary to obtain CMS
38 approval of the plan amendment.

39 (2) Upon termination of the assessment, all collected assessment revenues, less any
40 amounts expended by the department, shall be returned on a pro rata basis to nursing facilities
41 that paid the nursing facility assessment.

1 56-1509. PENALTIES FOR FAILURE TO PAY ASSESSMENT. (1) If a nursing
2 facility fails to pay the full amount of a nursing facility assessment when due, there shall be
3 added to the assessment, unless waived by the department for reasonable cause, a penalty
4 equal to five percent (5%) of the amount of the assessment that was not paid when due. Any
5 subsequent payments shall be credited first to unpaid assessment amounts rather than to penalty
6 or interest amounts, beginning with the most delinquent installment.

7 (2) In addition to the penalty identified in subsection (1) of this section, the department
8 may seek any of the following remedies for failure of any nursing facility to pay its assessment
9 when due:

- 10 (a) Withhold any medical assistance reimbursement payments until such time as the
11 assessment amount is paid in full;
12 (b) Suspend or revoke the nursing facility license; or
13 (c) Develop a plan that requires the nursing facility to pay any delinquent assessment in
14 installments.

15 56-1510. RULEMAKING AUTHORITY. The department shall adopt rules to
16 implement the provisions of this chapter.

17 56-1511. QUARTERLY NURSING FACILITY ADJUSTMENT PAYMENTS. (1) All
18 nursing facilities, with the exception of the state and county-owned facilities, shall be eligible
19 for quarterly nursing facility adjustments.

20 (2) For the purpose of this section, "nursing facility days" are days of nursing facility
21 services paid for by the Idaho medical assistance program for the applicable state fiscal year.

22 (a) For state fiscal year 2010, medicaid days for each provider's cost report ending in
23 calendar year 2008, shall be utilized to determine the nursing facility adjustment payment.

24 (b) For state fiscal year 2011, medicaid days for each provider's cost report ending in
25 calendar year 2009, shall be utilized to determine the nursing facility adjustment payment.

26 (3) Adjustment payments shall be paid on a quarterly basis to reimburse covered
27 medicaid expenditures in the aggregate within the upper payment limit.

28 (4) Each quarterly payment shall be made no later than thirty (30) days after the receipt
29 of the last quarterly deposit of the nursing facility assessments required in section 56-1504,
30 Idaho Code.

31 (5) The provisions of this section shall be null, void and of no force and effect on July 1,
32 2011.