

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 708

BY WAYS AND MEANS COMMITTEE

AN ACT

1 RELATING TO PUBLIC ASSISTANCE; AMENDING SECTION 39-5606, IDAHO CODE, TO
2 REMOVE A SUPPLEMENTAL COMPONENT AND TO PROVIDE FOR AN ADJUSTMENT TO
3 PAYMENTS UNDER CERTAIN CONDITIONS; AMENDING SECTION 56-102, IDAHO
4 CODE, TO REVISE DATES FOR DECREASING EACH SKILLED CARE FACILITY'S
5 QUARTERLY RATE, TO REMOVE PROVISIONS REGARDING INCENTIVE PAYMENTS AND
6 TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 56-113, IDAHO CODE, TO
7 REVISE THE REIMBURSEMENT RATE FOR INTERMEDIATE CARE FACILITIES FOR THE
8 MENTALLY RETARDED AND TO REMOVE A PROSPECTIVE RATE COMPONENT; AMENDING
9 SECTION 56-136, IDAHO CODE, TO REVISE A DATE THROUGH WHICH A CERTAIN
10 REIMBURSEMENT RATE SHALL REMAIN CONSTANT; AMENDING SECTION 56-209g,
11 IDAHO CODE, TO REMOVE A POLICY STATEMENT WITH REGARD TO REDUCTION OF
12 PHARMACY REIMBURSEMENT LEVELS FOR MEDICAID AND TO PROVIDE FOR A PERI-
13 ODIC COST SURVEY TO ESTABLISH A PHARMACY REIMBURSEMENT FEE SCHEDULE;
14 DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.
15

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

17 SECTION 1. That Section 39-5606, Idaho Code, be, and the same is hereby
18 amended to read as follows:

19 39-5606. PAYMENT TO BE MADE TO PROVIDER. Within the appropriations
20 provided by law, and as authorized by rule, the department shall reimburse
21 the provider for personal assistance services received by the participant.
22 To qualify for reimbursement, personal assistance services must be deliv-
23 ered in accordance with the participant's individual service plan and all
24 federal requirements.

25 The department will establish annually uniform reimbursement rates
26 for providers. This rate will be based on the prevailing hourly rate paid
27 for comparable positions in the state for nursing home industry employees.
28 ~~Providers shall also receive a fifty-five percent (55%) supplemental com-~~
29 ~~ponent to cover travel, administration, training and all payroll taxes and~~
30 ~~fringe benefits. For state fiscal year 2011, this rate will only be adjusted~~
31 ~~if the prevailing hourly rate for comparable positions is less than the rate~~
32 ~~paid during state fiscal year 2010.~~

33 The director shall promulgate and adopt such necessary rules to imple-
34 ment the requirements of this section.

35 SECTION 2. That Section 56-102, Idaho Code, be, and the same is hereby
36 amended to read as follows:

37 56-102. PRINCIPLES OF PROSPECTIVE RATES AND PAYMENT. The following
38 principles shall apply to the reimbursement of freestanding skilled care and
39 hospital based skilled care facilities and Idaho state veterans homes, with

1 the exception of the nursing facility at state hospital south, which shall be
2 reimbursed costs based on medicare reasonable cost provisions:

3 (1) Payments to facilities shall be through a prospective cost-based
4 system which includes facility-specific case mix adjustments. Details of
5 the methodology shall be set forth in rules based on negotiations between
6 the department, the state association(s) representing freestanding skilled
7 care facilities, and the state association(s) representing hospital based
8 skilled care facilities. In no event shall reimbursement to any facility ex-
9 ceed the usual and customary charges made to private pay patients; and

10 (2) Each skilled care facility's case mix index shall be calculated
11 quarterly and rates shall be adjusted based on the case mix of that facil-
12 ity's medicaid residents as of a certain date during the preceding quarter
13 as specified in rule; and

14 (3) With the exception of the nursing facilities at Idaho state veter-
15 ans homes, each skilled care facility's quarterly rate will be decreased two
16 and seven-tenths percent (2.7%) from July 1, 200910, through June 30, 201011;
17 and

18 (4) The cost limits used for the direct care and indirect care costs
19 of rural hospital based skilled care facilities shall be higher than the
20 cost limits used for the direct care and indirect care costs of freestanding
21 skilled care and urban hospital based skilled care facilities; and

22 (5) In computing the direct care per diem rate neither medicaid-related
23 ancillary services nor raw food shall be case-mix adjusted; and

24 (6) Property costs shall not be subject to a cost limitation ~~or incen-~~
25 ~~tive~~. Property costs of freestanding skilled care facilities shall be re-
26 imbursement as described in section 56-108, Idaho Code, and property costs of
27 urban and rural hospital based skilled care facilities shall be reimbursed
28 as described in section 56-120, Idaho Code; and

29 (7) Cost limits shall apply to direct care costs and indirect care
30 costs. The cost limits shall be based on percentages above the bed-weighted
31 median of the combined costs of both freestanding skilled care and hospital
32 based skilled care facilities; and

33 (8) Costs exempt from cost limits are property taxes, property insur-
34 ance, utilities and costs related to new legal mandates as defined by rule;
35 and

36 (9) ~~An incentive payment shall be paid to those facilities with indi-~~
37 ~~rect per diem costs that are less than the established indirect care cost~~
38 ~~limit. The incentive payment is calculated by taking the difference between~~
39 ~~the cost limits and the provider's per diem indirect care cost times the in-~~
40 ~~centive percentage up to a maximum of nine dollars and fifty cents (\$9.50)~~
41 ~~per patient day. Freestanding skilled care and hospital based skilled care~~
42 ~~facilities shall receive the same percentage incentive payments for indi-~~
43 ~~rect care costs but no incentive payment for direct care costs. The percent-~~
44 ~~age at which the incentive payment will be set shall be based on negotiations~~
45 ~~between the department, the state association(s) representing freestanding~~
46 ~~skilled care facilities, and the state association(s) representing hospital~~
47 ~~based skilled care facilities; and~~

48 ~~(10)~~ A newly constructed facility shall be reimbursed at the median rate
49 for skilled care facilities of that type (freestanding or hospital based)
50 for the first three (3) full years of operation; and

1 (140) A facility adding new beds will have its rates for the three (3)
2 full years following the addition of the beds subjected to an additional re-
3 imbursement limitation. This limitation will apply beginning with the first
4 rate setting period which uses a cost report that includes the date when the
5 beds were added. The facility's rate will be limited to the bed-weighted av-
6 erage of two (2) rates: the facility's rate in effect immediately prior to
7 the rate first subject to the limitation and the median rate for skilled care
8 facilities of that type (freestanding or hospital based) at the time the beds
9 were added; and

10 (121) A facility acquired prior to the end of that facility's fiscal
11 year will be reimbursed at the rate then in effect for that facility until the
12 next cost report can be used for rate setting. If the department determines
13 that the facility is operationally or financially unstable, the department
14 may negotiate a reimbursement rate different than the rate then in effect for
15 that facility; and

16 (132) If the department determines that a facility is located in an un-
17 derserved area, or addresses an underserved need, the department may nego-
18 tiate a reimbursement rate different than the rate then in effect for that
19 facility; and

20 (143) From July 1, 1999, through June 30, 2002, the nursing facility in-
21 flation rate plus one percent (1%) per year shall be added to the costs re-
22 ported in a facility's cost report for purposes of setting that facility's
23 rate. The inflation rate to be used effective July 1, 2002, and the period of
24 its use will be based on negotiations between the department, the state asso-
25 ciation(s) representing freestanding skilled care facilities, and the state
26 association(s) representing hospital based skilled care facilities; and

27 (154) To control the growth in the cost limits, the increase in the
28 cost limits shall not exceed the skilled nursing facility inflation rate
29 established by data resources, inc., or its successor, plus two percent (2%)
30 per year for the period from July 1, 1999, through June 30, 2002. The maximum
31 rate of growth in the cost limits to be used effective July 1, 2002, and the
32 period of its use will be based on negotiations between the department, the
33 state association(s) representing freestanding skilled care facilities,
34 and the state association(s) representing hospital based skilled care
35 facilities; and

36 (165) To control declines in the cost limits, the cost limits for the pe-
37 riod from July 1, 1999, through June 30, 2002, shall not be lower than the
38 respective cost limits effective July 1, 1999. The minimum cost limits to
39 be used effective July 1, 2002, and the period of their use will be based on
40 negotiations between the department, the state association(s) representing
41 freestanding skilled care facilities, and the state association(s) repre-
42 senting hospital based skilled care facilities; and

43 (176) Rates shall be rebased annually. Rate setting shall be prospec-
44 tive with new rates effective July 1 of each year, using the principles ~~ap-~~
45 ~~plying~~ applied to skilled care facilities set forth in this chapter and the
46 rules promulgated pursuant to this chapter. There will be no settlement be-
47 tween actual costs incurred during the rate year and the rate itself. Rates
48 will be established using the most recent audited cost report trended for-
49 ward to the rate year. Rates for skilled care facilities with unaudited cost
50 reports will be interim rates established by the department until a rate is

1 calculated based on an audited cost report. The draft audit of a cost report
 2 submitted by a facility shall be issued by the department no later than five
 3 (5) months from the date all information required for completion of the audit
 4 is filed with the department; and

5 (187) Changes of more than fifty cents (50¢) per patient day in al-
 6 lowable costs resulting from federal or state law or rule changes shall be
 7 treated as costs separate from the cost limitations until such time as they
 8 become part of the data used for calculating the cost limits and in cost
 9 reports used for rate setting; and

10 (198) If a review of the data submitted by a facility reveals errors that
 11 result in an incorrect case mix index, the department may retroactively ad-
 12 just the facility's rate and pay the facility any amount by which the facil-
 13 ity was underpaid or recoup from the facility any amount by which the facil-
 14 ity was overpaid; and

15 (2019) The rates established under the principles set forth in this sec-
 16 tion shall be phased in using a combination of the reimbursement methodology
 17 in effect as of state fiscal year 1999 and the principles set forth in this
 18 section and in rules based on negotiations between the department, the state
 19 association(s) representing freestanding skilled care facilities, and the
 20 state association(s) representing hospital based skilled care facilities.
 21 Effective July 1, 2001, the phase in provisions will no longer apply and the
 22 department shall pay rates solely based on the principles set forth in this
 23 section and the applicable rules.

24 SECTION 3. That Section 56-113, Idaho Code, be, and the same is hereby
 25 amended to read as follows:

26 56-113. INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED. (1)
 27 Services provided by intermediate care facilities for the mentally re-
 28 tardated, with the exception of state operated facilities, shall be paid in
 29 accordance with the provisions of this section, and not as provided in any
 30 other section of this chapter, unless otherwise provided in this section.
 31 State operated facilities shall be reimbursed costs based on medicare
 32 reasonable cost provisions.

33 (2) ~~Except as otherwise provided in this section, intermediate care fa-~~
 34 ~~ilities for the mentally retarded shall remain at the rate paid in state~~
 35 ~~fiscal year 2009 through June 30, 2010. Thereafter, i~~Intermediate care fa-
 36 ~~cilities for the mentally retarded shall be reimbursed based on a prospec-~~
 37 ~~tive rate system without retrospective settlement effective October~~ July 1,
 38 ~~1996~~ 2010, using audited cost reports for the calendar year ending 2008 with-
 39 out cost or cost limit adjustments for inflation. In no event, shall pay-
 40 ments to this class of facility exceed, in the aggregate, the amount which
 41 would be reimbursed using medicare cost reimbursement methods as defined in
 42 the medicare provider reimbursement manual (HCFA - pub. 15).

43 (3) The prospective rate shall consist of the following components:

44 (a) A component for reasonable property costs which shall be computed
 45 using the property rental rate methodology set forth in section 56-108,
 46 Idaho Code, with the exceptions that the base rate shall exclude major
 47 moveable equipment and grandfathered rates will not apply. The initial
 48 base rate shall be eight dollars and ninety-four cents (\$8.94) for fa-
 49 cilities that accommodate residents in wheelchairs and five dollars and

1 eighty-one cents (\$5.81) for facilities that cannot accommodate resi-
 2 dents in wheelchairs. The rates shall be adjusted annually as provided
 3 in section 56-108, Idaho Code; and

4 (b) A component for forecasted reasonable day treatment costs which
 5 shall be subject to a per patient day limit as provided in rule; and

6 (c) A component for all other allowable costs as determined in accor-
 7 dance with department rules which shall be subject to a limitation based
 8 on a percentage of the forecasted median for such costs of intermediate
 9 care facilities for the mentally retarded, excluding state operated fa-
 10 cilities; and

11 ~~(d) A component that provides an efficiency increment payment of twenty~~
 12 ~~cents (20¢) for each one dollar (\$1.00) per patient day that the facil-~~
 13 ~~ity is under the limit described in subsection (3) (c) of this section up~~
 14 ~~to a maximum payment of three dollars (\$3.00) per patient day.~~

15 (4) The director may require retrospective settlement as provided by
 16 rule in limited circumstances including, but not limited to:

17 (a) The facility fails to meet quality of care standards; or

18 (b) The facility is new or operated by a new provider, until such time as
 19 a prospective rate is set; or

20 (c) The prospective rate resulted from fraud, abuse or error.

21 (5) The director shall have authority to provide by rule, exceptions to
 22 the limitations described in subsection (3) of this section.

23 (6) The director shall promulgate the rules necessary to carry out the
 24 provisions of this section.

25 SECTION 4. That Section 56-136, Idaho Code, be, and the same is hereby
 26 amended to read as follows:

27 56-136. PHYSICIAN AND DENTIST REIMBURSEMENT. (1) The rate of reim-
 28 bursement for all medicaid-covered physician and dentist services rendered
 29 to medicaid recipients shall remain at the rate paid in state fiscal year
 30 2009 through June 30, 201~~0~~1. Thereafter, the reimbursement rate for all
 31 medicaid-covered physician and dentist services rendered to medicaid recip-
 32 ients shall be adjusted each fiscal year. Each fiscal year adjustment shall
 33 be determined by the director and shall equal the year over year inflation
 34 rate forecasted as of the midpoint of the fiscal year by the all item, goods
 35 and services index in the pacific northwest as published by global insights,
 36 inc., or its successor. Such forecast index shall be the last published
 37 forecast prior to the start of the fiscal year. Provided however, an adjust-
 38 ment may exceed the index rate cited in this section at the discretion of the
 39 legislature.

40 (2) Actual payments made by the director to each physician and den-
 41 tist shall not exceed the usual and customary charges made to private pay
 42 patients.

43 (3) For the purposes of this section:

44 (a) "Physician" means a person licensed to practice medicine pursuant
 45 to chapter 18, title 54, Idaho Code.

46 (b) "Dentist" means a person licensed to practice dentistry pursuant to
 47 chapter 9, title 54, Idaho Code.

48 (4) The amount to be paid under the provisions of this section shall in
 49 no event exceed any limitations imposed by federal law or regulation.

1 SECTION 5. That Section 56-209g, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 56-209g. PHARMACY REIMBURSEMENT. (1) Medicaid pharmacy reimbursement
4 levels are a combination of the cost of the drug and a dispensing fee which
5 includes such pharmaceutical care services as counseling, obtaining a
6 patient history, documentation, and dispensing. ~~From and after January 1,
7 1995, through June 30, 1998, it shall be the policy of the state of Idaho
8 that there be no reduction of pharmacy reimbursement levels for medicaid
9 under title XIX of the social security act except as necessary to comply with
10 federal regulations, 42 CFR 447.331 through 447.334, as implemented in the
11 state of Idaho.~~ Effective July 1, 1998, pharmacy reimbursement levels may
12 be adjusted in accordance with rules promulgated by the director through
13 negotiated rulemaking with interested parties including representatives of
14 the pharmacy profession.

15 (2) The department will utilize periodic state cost surveys to obtain
16 the most accurate pharmacy drug acquisition costs in establishing a pharmacy
17 reimbursement fee schedule. Pharmacies participating in the Idaho medicaid
18 program are required to participate in these periodic state cost surveys by
19 disclosing the costs of all drugs net of any special discounts or allowances.

20 SECTION 6. An emergency existing therefor, which emergency is hereby
21 declared to exist, Section 5 of this act shall be in full force and effect on
22 and after passage and approval, and retroactively to April 1, 2010.