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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 626 Session of  
2013

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INTRODUCED BY SMITH, FONTANA, WASHINGTON, TARTAGLIONE, WILEY AND  
KASUNIC, JUNE 24, 2013

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REFERRED TO PUBLIC HEALTH AND WELFARE, JUNE 24, 2013

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AN ACT

1 Amending the act of June 13, 1967 (P.L.31, No.21), entitled "An  
2 act to consolidate, editorially revise, and codify the public  
3 welfare laws of the Commonwealth," further providing for  
4 medical assistance payments for institutional care.

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 Section 1. Section 443.1(7) of the act of June 13, 1967  
8 (P.L.31, No.21), known as the Public Welfare Code, amended June  
9 30, 2011 (P.L.89, No.22) is amended by adding a subparagraph to  
10 read:

11 Section 443.1. Medical Assistance Payments for Institutional  
12 Care.--The following medical assistance payments shall be made  
13 on behalf of eligible persons whose institutional care is  
14 prescribed by physicians:

15 \* \* \*

16 (7) After June 30, 2007, payments to county and nonpublic  
17 nursing facilities enrolled in the medical assistance program as  
18 providers of nursing facility services shall be determined in  
19 accordance with the methodologies for establishing payment rates

1 for county and nonpublic nursing facilities specified in the  
2 department's regulations and the Commonwealth's approved Title  
3 XIX State Plan for nursing facility services in effect after  
4 June 30, 2007. The following shall apply:

5 \* \* \*

6 (v) Subject to Federal approval of such amendments as may be  
7 necessary to the Commonwealth's approved Title XIX State Plan,  
8 for each fiscal year beginning on or after July 1, 2013, the  
9 department shall establish regulations for resident care  
10 spending requirements for nonpublic nursing facilities. The  
11 department shall recoup the funds if the requirements are not  
12 met. The following shall apply to the recoupment of funds:

13 (A) The department shall recoup the funds if a nonpublic  
14 nursing facility does not spend at least ninety-five percent of  
15 the facility's medical assistance resident care component rate  
16 on allowable resident care costs as defined under the rate-  
17 setting methodology codified in 55 Pa. Code Ch. 1187. If a  
18 revenue adjustment neutrality factor to nonpublic nursing  
19 facility total medical assistance payment rates is in effect, as  
20 in subparagraph (iv), the resident care spending requirement  
21 shall be reduced so that the nonpublic nursing facility is  
22 required to spend at least ninety-five percent of the facility's  
23 medical assistance resident care component rate on allowable  
24 resident care costs as defined under the rate-setting  
25 methodology codified in 55 Pa. Code Ch. 1187.

26 (B) To determine whether a nonpublic nursing facility meets  
27 the requirement set forth in clause (A), the department shall  
28 compare the facility's allowable resident care cost per diem as  
29 reported in the facility's cost report and the medical  
30 assistance resident care component per diem spending requirement

1 for the corresponding period.

2 (C) If the allowable resident care cost per diem the  
3 facility incurred is less than the medical assistance resident  
4 care component per diem spending requirement, the nonpublic  
5 nursing facility shall remit to the department the difference  
6 between the amounts multiplied by the number of medical  
7 assistance days paid during the corresponding period. Medical  
8 assistance managed care organization or Long-Term Care Capitated  
9 Assistance Program medical assistance days shall be excluded  
10 from the calculation.

11 (D) Funds recouped by the department shall be directed back  
12 to the medical assistance program for nursing facility services  
13 and to cover any associated increased costs for administering  
14 this subparagraph.

15 (E) A nonpublic nursing facility that changes ownership or  
16 control shall be liable for any outstanding recoupment amount,  
17 including outstanding amounts related to periods prior to the  
18 change of ownership or control.

19 \* \* \*

20 Section 2. This act shall take effect in 60 days.