



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2009 Assembly Bill 944

**Assembly
Amendment 1**

Memo published: April 21, 2010

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Under current law, political subdivisions are authorized to contract with other political subdivisions to create commissions to jointly exercise powers and duties required or authorized by law.

Assembly Bill 944 clarifies that a commission's arrangement with member counties to pay for the costs of operating a skilled care nursing facility or intermediate care facility (hereafter, "facility") does not violate federal and state Medicaid (MA) laws and regulations. Current MA laws and regulations prohibit billing a third party for the charges that are incurred for services that exceed the MA reimbursement rate.

The bill provides that payment of the assessments by the political subdivisions and acceptance of the assessments do not violate prohibitions against supplementing MA payments or billing a third party for MA services, provided certain conditions are satisfied. These conditions are:

- The entity is the named licensee for the facility.
- The entity is the MA-certified provider for the care facility and is the recipient of MA reimbursement for services provided by the facility.
- The entity owns or leases the building in which the facility is located.
- The entity provides, or contracts for provision of, facility services.
- The entity controls admissions and discharges from the facility.
- The entity allocates the costs of operating the facility, and of providing services to residents of the facility, among the political subdivisions that are parties to the contract and assesses each political subdivision that is a party to the contract the portion of the costs allocated to that political subdivision.

The bill also provides that:

- A commission's imposition of an assessment on a member for the costs incurred by the commission to operate the facility and to provide services to residents of the facility does not constitute billing a third party for services provided on behalf of an individual.
- A member's payment to the commission of the assessment does not constitute a purchase of services on behalf of an individual, regardless of whether the payment is made from the member's general fund, made pursuant to a purchase of services agreement between a member's human services department or other department and the commission, or by a combination of these payment methods.
- A commission's imposition of the assessment, a member's payment of the assessment, and acceptance of the payment by the commission do not constitute conduct prohibited under specified state and federal laws and regulations relating to MA reimbursement.

Assembly Amendment 1

Assembly Amendment 1 provides further clarification that assessments charged by the commission, and its acceptance of assessments, does not violate federal laws that prohibit supplementing MA payments or billing a third party for the additional costs; and these assessments are charges that are internal to the commission.

Legislative History

On April 20, 2010, the Assembly Committee on Aging and Long-Term Care introduced Assembly Amendment 1, recommended adoption of Assembly Amendment 1, and recommended passage of the bill, as amended, all on votes of Ayes, 7; Noes, 0.

LR:ty