



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-5882/1
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2023 SENATE BILL 1028

February 13, 2024 - Introduced by Senator CABRAL-GUEVARA, cosponsored by Representatives SNYDER, ROZAR, KURTZ and SUMMERFIELD. Referred to Committee on Health.

1 **AN ACT** *to create* 49.45 (3n) and 49.45 (6r) of the statutes; **relating to:**
2 supplemental payments to hospitals with avoidable patient days and an
3 enhanced rate to nursing homes for bariatric and extensive wound care under
4 the Medical Assistance program.

Analysis by the Legislative Reference Bureau

This bill requires the Department of Health Services, at the beginning of each quarter starting with the quarter that begins on July 1, 2024, and ending with the quarter that begins on April 1, 2025, to provide a supplemental payment under the Medical Assistance program to hospitals that have qualifying avoidable patient days. Under the bill, a qualifying avoidable patient day means any day following the seventh consecutive day on which a high-acuity patient was eligible for discharge from a hospital, as reasonably identified by the hospital, and the hospital was not able to identify a setting to which the patient could be safely discharged. The Medical Assistance program is a joint federal and state program that provides health services to individuals who have limited financial resources.

Under the bill, in each quarter during the period described in the bill, DHS must distribute a total of \$5,000,000 plus any matching federal funds to hospitals that have qualifying avoidable patient days. The bill provides that DHS must pay to each of these hospitals a percentage of the total distribution that equals the hospital's percentage of the total number of qualifying avoidable patient days reported by all hospitals for the applicable quarterly reporting period. The bill requires that DHS limit the maximum amount of funding to any hospital under the

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bill in accordance with any federal rules concerning hospital-specific funding limits. The bill provides that in order to receive a portion of the quarterly supplemental funding that DHS distributes each quarter, a hospital must submit, by a specific deadline, the total number of qualifying avoidable patient days at the hospital for the relevant period.

The bill requires DHS to submit any necessary request to the federal Department of Health and Human Services for a state plan amendment or waiver of federal Medicaid law to receive federal matching funds for the supplemental payments to hospitals under the bill. The bill also provides that DHS must implement the supplemental payments regardless of whether federal approval is received.

The bill also requires DHS, during the 2023-25 fiscal biennium, to develop an enhanced rate for reimbursement under the Medical Assistance program for bariatric and extensive wound care needs for nursing home residents who are admitted on or after July 1, 2024. Under the bill, the calculated cost of the enhanced rate developed by the department may not exceed \$10,000,000. The bill provides that once DHS has developed an enhanced rate, DHS must implement that rate. Under the bill, in seeking reimbursement under any enhanced rate implemented, a nursing home may claim only one enhanced rate type for a resident and may not claim both a bariatric care needs enhanced reimbursement rate and an extensive wound care enhanced reimbursement rate for the same resident at the same time.

The bill requires that DHS apply certain standards with respect to the enhanced rates developed. For the bariatric care needs enhanced rate, a nursing home must identify bariatric care needs by a minimum data set assessment at admission indicating a body mass index equal to or greater than 40 and total or extensive assistance with activities of daily living. The bariatric care needs enhanced rate applicable for a resident must be available for the duration of the resident's stay at the nursing home. Under the bill, an enhanced rate for bariatric care needs may be used to provide reimbursement for specialized mattresses, diets, medical supplies, extra staff for transfers, as well as more expensive or specialized transportation services. Finally, the enhanced rate for bariatric care needs may only be applicable if the resident is admitted to the nursing home directly from a hospital; the resident is non-ambulatory; and the person needs at least a two-person assist with a lift.

With regard to an extensive wound care needs enhanced rate developed under the bill, a nursing home must identify extensive wound care needs by a prior authorization process that includes consideration of the number and stage of wounds, the cost and frequency of necessary interventions and supplies, including including vacuum-assisted closure of wounds, nutritional supplements, specialized mattresses, and wheelchair cushions. The bill provides that the enhanced rate for extensive wound care needs may only be applicable if the resident is admitted to the nursing home directly from a hospital and the resident did not acquire the wound or wounds while a resident of the nursing home.

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For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 49.45 (3n) of the statutes is created to read:

2 **49.45 (3n) SUPPLEMENTAL PAYMENTS TO HOSPITALS.** (a) In this subsection:

3 1. “High-acuity patient” means any of the following:

4 a. A hospital patient with bariatric care needs, identified by a minimum data
5 set assessment indicating a body mass index equal to or greater than 40 and a need
6 for total or extensive assistance with activities of daily living, who is non- or
7 semi-ambulatory, and needs at least a two-person assist with a lift.

8 b. A hospital patient who has a disability, has a need for extensive wound care,
9 has a mental illness, has high behavior needs, has a substance use disorder, is
10 receiving intravenous fluid or intravenous medication, or requires dialysis.

11 2. “Qualifying avoidable patient day” means any day following the 7th
12 consecutive day on which a high-acuity patient was eligible for discharge from a
13 hospital, as reasonably identified by the hospital, and the hospital was not able to
14 identify a setting to which the patient could be safely discharged.

15 (b) 1. At the beginning of each quarter starting with the quarter that begins on
16 July 1, 2024, and ending with the quarter that begins on April 1, 2025, the
17 department shall pay to hospitals that have qualifying avoidable patient days a
18 payment as calculated under this paragraph.

19 2. Each quarter during the period described under subd. 1., the department
20 shall distribute \$5,000,000 plus any matching federal funds to the hospitals
21 described under subd. 1.

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1 3. Subject to subd. 4., the department shall pay to each hospital described
2 under subd. 1. a percentage of the distribution under subd. 2. that equals the
3 hospital's percentage of the total number of qualifying avoidable patient days
4 reported by all hospitals for the applicable quarterly reporting period.

5 4. The department shall limit the maximum amount of funding to any hospital
6 under this paragraph in accordance with any federal rules concerning
7 hospital-specific funding limits.

8 (c) 1. To receive a portion of the quarterly supplemental funding the
9 department distributes on July 1, 2024, a hospital seeking a payment under this
10 subsection shall submit to the department by May 1, 2024, the total number of
11 qualifying avoidable patient days at the hospital between January 1, 2024, and
12 March 31, 2024.

13 2. To receive a portion of the quarterly supplemental funding the department
14 distributes on October 1, 2024, a hospital seeking a payment under this subsection
15 shall submit to the department by August 1, 2024, the total number of qualifying
16 avoidable patient days at the hospital between April 1, 2024, and June 30, 2024.

17 3. To receive a portion of the quarterly supplemental funding the department
18 distributes on January 1, 2025, a hospital seeking a payment under this subsection
19 shall submit to the department by November 1, 2024, the total number of qualifying
20 avoidable patient days at the hospital between July 1, 2024, and September 30, 2024.

21 4. To receive a portion of the quarterly supplemental funding the department
22 distributes on April 1, 2025, a hospital seeking a payment under this subsection shall
23 submit to the department by February 1, 2025, the total number of qualifying
24 avoidable patient days at the hospital between October 1, 2024, and December 31,
25 2024.

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1 (d) The department shall submit any necessary request to the federal
2 department of health and human services for a state plan amendment or waiver of
3 federal Medicaid law to receive federal matching funds for the supplemental
4 payments to hospitals under this subsection. The department shall implement this
5 subsection regardless of whether the federal approval of any necessary state plan
6 amendment or waiver of federal Medicaid law, as specified in this paragraph, is
7 received.

8 **SECTION 2.** 49.45 (6r) of the statutes is created to read:

9 49.45 (6r) NURSING HOME RATES FOR BARIATRIC AND EXTENSIVE WOUND CARE NEEDS.

10 (a) During the 2023-25 fiscal biennium, the department shall develop an enhanced
11 rate for reimbursement under the Medical Assistance program under this
12 subchapter for bariatric and extensive wound care needs for nursing home residents
13 who are admitted on or after July 1, 2024. The calculated cost of the enhanced rate
14 developed by the department under this subsection may not exceed \$10,000,000.
15 Once the department has developed a rate under this subsection, the department
16 shall implement the enhanced rate.

17 (b) In seeking reimbursement under the enhanced rate implemented under
18 this subsection, a nursing home may claim only one enhanced rate type for a resident
19 and may not claim both an enhanced bariatric care reimbursement rate and an
20 enhanced extensive wound care reimbursement rate for the same resident at the
21 same time.

22 (c) With respect to a bariatric care needs enhanced rate developed under this
23 subsection, the department shall apply all of the following standards:

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1 1. A nursing home shall identify bariatric care needs by a minimum data set
2 assessment at admission indicating a body mass index equal to or greater than 40
3 and total or extensive assistance with activities of daily living.

4 2. A bariatric care needs rate applicable for a resident under this subsection
5 shall be available for the duration of the resident's stay at the nursing home.

6 3. An enhanced rate for bariatric care needs may be used to provide
7 reimbursement for specialized mattresses, diets, medical supplies, extra staff for
8 transfers, as well as more expensive or specialized transportation services.

9 4. The enhanced rate for bariatric care needs shall only be applicable if all of
10 the following apply:

11 a. The resident is admitted to the nursing home directly from a hospital.

12 b. The resident is non- or semi-ambulatory.

13 c. The resident needs at least a two-person assist with a lift.

14 (d) With respect to an extensive wound care needs enhanced rate developed
15 under this subsection, the department shall apply all of the following standards:

16 1. A nursing home shall identify extensive wound care needs by a prior
17 authorization process that includes consideration of the number and stage of
18 wounds, the cost and frequency of necessary interventions and supplies, including
19 including vacuum-assisted closure of wounds, nutritional supplements, specialized
20 mattresses, and wheelchair cushions.

21 2. The enhanced rate for extensive wound care needs may only be applicable
22 if all of the following are true:

23 a. The resident is admitted to the nursing home directly from a hospital.

