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HOUSE BILL NO. 839

Offered January 24, 2000

A *BILL to amend the Code of Virginia by adding a section numbered 32.1-325.1:2, relating to certified nursing facilities.*

 Patron—Hamilton

 Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:**1. That the Code of Virginia is amended by adding a section numbered 32.1-325.1:2 as follows:**

§ 32.1-325.1:2. Medicaid reimbursement to certified nursing facilities; electronic database.

A. For the purposes of this section, the following definitions shall apply:

"Ancillary costs" means expenses associated with the provision of laboratory; radiology; speech, occupational and physical therapy; and kinetic therapy services.

"Department" means the Department of Medical Assistance Services.

"Direct care costs" means salaries, wages, benefits and other related costs of registered nurses, licensed practical nurses, certified nursing assistants, contract nursing labor, nursing administration, social services, activities, quality assurance and assessment functions, and the cost of medical directorship, pharmacy consultants, raw food and medical supplies.

"Resource Utilization Group methodology" or "RUG methodology" means a guideline mutually agreed upon by provider groups representing certified nursing facilities and the Department of Medical Assistance Services.

B. Effective July 1, 2000, the Director of Medical Assistance Services shall implement revisions of the existing payment system for reimbursement of nursing facilities. The revised payment system shall be comprised of two distinct components, i.e., operating and capital costs as follows:

1. The operating component shall include two distinct cost centers, i.e., direct care costs and indirect care costs.

2. The direct care cost center shall be calculated according to subsection C of this section.

C. The direct care cost center shall include:

1. Direct care costs.

2. Salaries, wages, benefits and other related costs for registered nurses, licensed practical nurses, certified nursing assistants, contract nursing labor, nursing administration and the cost of medical supplies shall be case mix adjusted on a semi-annual basis to reflect the change in facility-specific patient acuity. The existing Patient Intensity Rating System and associated resident assessment instruments shall continue to be used for purposes of determining patient acuity until such time as a RUG methodology is developed and implemented, which shall occur no later than January 1, 2001.

3. Ancillary costs that are included under the direct care costs shall be removed and reimbursed under a separate fee screen methodology. The Department shall evaluate the appropriateness of utilizing the existing Medicare Part B fee screen for reimbursement of such services.

D. The Department shall reimburse certified nursing facilities for direct care costs using facility-reported cost data from the prior fiscal year updated to reflect inflationary cost increases, i.e., a National Nursing Home Producer Price Index as developed and published by the Bureau of Labor Statistics. The Department shall annually determine the mean costs of nursing facility care on a geographic peer group basis and establish a direct care cost ceiling at 125% of the inflation-adjusted mean costs. Each certified nursing facility shall receive a prospective direct care payment rate based upon the lesser of the certified nursing facility's semi-annually case-mix adjusted prior year inflation-adjusted cost or the applicable semi-annually case-mix adjusted direct care peer group cost ceiling.

The Department shall not utilize a minimum occupancy adjustment for the calculation of direct care costs, rates or ceilings. The determination of both direct care and indirect costs shall be made without applying limits on compensation paid or cost of services for any unrelated party transaction, including but not limited to employment or contracting of facility administrators and medical directors.

E. The Department shall annually determine the mean certified nursing facility indirect costs on a geographic peer group basis and establish an indirect care rate at 110 percent of the inflation-adjusted mean costs. The Department shall also calculate mean indirect costs using facility-reported cost data from the prior fiscal year updated to reflect inflationary cost increases using the National Nursing Home Producer Price Index as developed and published by the Bureau of Labor Statistics.

The Department shall, however, continue to utilize this price-based methodology upon implementation

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60 of the RUG methodology, which shall occur no later than January 1, 2001. At such time the RUG
61 methodology for payment for indirect costs shall continue to be based upon a prospective price set at
62 110 percent of the inflation-adjusted mean costs.

63 F. The Department shall utilize a minimum occupancy adjustment for the calculation of
64 capital-related costs and indirect cost means based upon the lower of eighty-five percent or average
65 statewide occupancy for the prior calendar year less five percentage points.

66 F. The Department shall continue to recognize and reimburse for the direct costs and related
67 efficiency incentive payments associated with care provided to residents meeting the criteria for the
68 existing Specialized Care program until such time as a RUG methodology can be developed, which shall
69 be no later than January 1, 2001. The RUG methodology shall fairly recognize and reimburse certified
70 nursing facilities for costs associated with the specialized care patient population. Indirect costs
71 associated with the Medicaid Specialized Care program shall be paid in accordance with the RUG
72 methodology to become effective July 1, 2000.

73 G. The Department shall develop, publish and distribute all applicable Virginia certified nursing
74 facility regulations, the state plan for medical assistance services, Title XIX of the Social Security Act
75 and Health Care Financing Administration memoranda in a searchable electronic format. Such format
76 shall include, but not be limited to, distribution by CD-ROM and the Department's Internet web site.
77 Such information shall be available on or before July 1, 2000, and shall be updated periodically.