

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1529 Nursing Facilities
SPONSOR(S): Robaina
TIED BILLS: **IDEN./SIM. BILLS:** SB 2096

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Elder Affairs & Long Term Care (Sub)</u>	<u>9 Y, 0 N</u>	<u>Meyer</u>	<u>Liem</u>
2) <u>Future of Florida's Families</u>	<u></u>	<u></u>	<u></u>
3) <u>Health Care</u>	<u></u>	<u></u>	<u></u>
4) <u>Appropriations</u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

The bill requires the Agency for Health Care Administration to require that some of the Medicaid reimbursement that a nursing home receives as a per diem payment, be used to increase wages, benefits, or a combination of the two to eligible employees. The amount of the "wage and benefit pass-through" provided by each nursing facility must be sufficient to provide a \$1.00 per hour increase in wages or benefits for facility staff excepting pool staff, the administrator, the director of nursing, home office who are not directly employed by and assigned exclusively to the facility. Bonuses cannot be paid from the pass-through amount. The pass through funds cannot be used by a facility to reduce the percentage of costs currently paid for employee benefits.

The bill takes effect July 1, 2003.

The bill does not have a fiscal impact because it seeks to redirect existing Medicaid reimbursements.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|--|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

1. The bill extends the authority of the Medicaid program to require that nursing facilities “pass-through” enough of the Medicaid per diem reimbursement to increase designated staff’s salaries by \$1.00 per hour.

B. EFFECT OF PROPOSED CHANGES:

Staff are Important to Quality

The Legislatively created Task Force on Availability and Affordability of Long-Term Care (Task Force) in 2000 studied a wide variety of issues related to long term care in the state. By way of background, the Task Force noted that national nursing home reform passed in 1987 (known as OBRA 87) focused significant attention on staffing as a key component in assuring quality care.¹

Shortage of Staff

In January 2000, the Secretary of DOEA submitted its report on recruitment, training, employment and retention issues related to certified nursing assistants in Florida. The report found that almost all regions of the state are experiencing a shortage of trained CNAs. The report concluded that the low unemployment rate and ample job openings contributed to CNA turnover. To quote the report, “Therefore, the primary cause of the CNA shortage is that CNAs are not remaining CNAs.”

The group “Citizens for Long Term Care”ⁱⁱ issued their report: Long Term Care Financing and the Long-Term Care Workforce Crisis: Causes and Solutions in January of 2003. They document the challenges facing long term care providers as they attempt to attract and retain direct care workers. For example they report the wage disparity between three “entry level” jobs. In 2000, the median wage per hour for a personal care worker was \$7.50; for a file clerk it was \$8.99; and, for a receptionist it was \$9.63. The report goes on to argue that unlike a clerk or a receptionist, a personal care worker is expected to take on work that is more physically and emotionally demanding, frequently with few or no benefits in an industry that is not valued by most people.

Nursing Home Reimbursement

As of July 1, 2000, there were 648 nursing homes participating in the Florida Medicaid program. Nursing home per diem rates are facility specific and are an aggregation of four separate accounting components: operating costs; patient care; property; and return on equity (ROE) for money invested and used in providing patient care (Reimbursement Panel).

Direct Care Staffing Adjustment

The direct care staffing adjustment was implemented April 1, 2000 as an adjustment to each nursing home’s patient care component. The adjustment was intended to assist nursing homes to recruit and retain direct care staff (RNs, LPNs, and CNAs) based on research that suggested a correlation between quality of care and low staff turnover, and adequate staffing ratios. The annualized budget was \$31.7 million dollars. The legislation directed that nursing homes with the

poorer staffing ratio would receive a higher adjustment or “add-on” than those homes that had a higher staffing ratio. According to the report of the Medicaid Reimbursement Panel, as of April 1, 2000, the increase ranged from fifty cents to \$2.81 per Medicaid patient day. The average was \$1.96.

Other States: Wage Pass-Through Legislation

In 1998-99 budget cycles, Michigan implemented a wage pass-through provision and continued through 1999-2000. The goal appears to have been to improve staff retention.ⁱⁱⁱ The pass-through was available only for an increase in wages or benefits. Bonuses were not allowed.

California, Michigan, Wisconsin, and Massachusetts, have passed “wage pass-through” legislation. Former Wisconsin Governor Tommy Thompson signed a five percent wage pass through for CNAs and cited his concern about the high rate of turnover as one justification.

The “wage pass-through” in HB 1569 provides an increase of \$1 per hour in wages or benefits. The administrator and director of nursing, agency, temporary, pool or home-office staffs are excluded from the wage pass-through.

C. SECTION DIRECTORY:

Section 1 directs the Medicaid agency to implement the “wage pass-through” for eligible employees.

Section 2 provides that bill takes effect upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

No new revenues are identified.

2. Expenditures:

No new expenditures are required.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Eligible nursing facility employees would receive a wage increase of \$1.00 per hour or to be given new or improved benefits or to decrease the costs borne by employees of benefits.

Nursing home providers would have slightly less flexibility in how they chose to use the Medicaid reimbursement dollars.

D. FISCAL COMMENTS:

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The Agency for Health Care Administration is granted authority to write an administrative rule to implement the provisions of the bill including the determination of the methods of allocation to be used by facilities, the determination of the amount to be earmarked, and any needed reports.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

End Notes

ⁱ From the Task Force's Informational Report: By establishing minimum standards for licensure level of "nursing" staff, OBRA87 recognized the relationship among licensure level, numbers of nurses per resident and resident outcomes in long-term care facilities. Page 512, PDF: http://www.fpeca.usf.edu/Task_Force/Publications/Documents/finalreportnew.PDF

ⁱⁱ Long-Term Care Financing and the Long-Term Care Workforce Crisis: Causes and Solutions, prepared for the Citizens for Long Term Care by the Paraprofessional Healthcare Institute. The Citizens' group included: AARP, Alzheimer's Association, American Association of Homes and Services for the Aging, American Health Care Association; American Network of Community Options and Resources; The Arc of the United States; Greater New York Hospital Association; MetLife Insurance; National Association for Home Care; National Committee to Preserve Social Security; Service Employees International Union.

ⁱⁱⁱ Medicaid Reimbursement Panel: Final Report. December 8, 2000. Based on material included in Appendix H.