

## §1708. Appropriations for aid of public and private hospitals and nursing homes

**1. Compensation for hospitals.** Such sums of money as may be appropriated by the Legislature in aid of public and private hospitals shall be expended under the direction of the department, and the expense of administration shall be charged to the appropriation of that department for general administration. The department is authorized to compensate hospitals located in the State of New Hampshire within 15 miles from the Maine - New Hampshire state line or hospitals located in the Provinces of Quebec or New Brunswick, Canada, within 5 miles of the international boundary, for cases where the hospital care is for persons resident in the State of Maine and, in the judgment of the commissioner, adequate local hospital facilities are not available. The department may compensate hospitals at such rates as it may establish for hospital care of persons whose resources or the resources of whose responsible relatives are insufficient therefor, except as provided in subsection 2. Bills itemizing the expenses of such hospital care, when approved by the department and audited by the State Controller, shall be paid by the Treasurer of State.

[PL 1975, c. 365, §1 (RPR).]

### **2. Compensation for nursing homes.**

[PL 1991, c. 528, Pt. E, §17 (RP); PL 1991, c. 528, Pt. E, §18 (AFF); PL 1991, c. 528, Pt. RRR (AFF); PL 1991, c. 591, Pt. E, §17 (RP); PL 1991, c. 591, Pt. E, §18 (AFF).]

#### **2-A. Base-year revisions.**

[PL 1991, c. 528, Pt. E, §19 (RP); PL 1991, c. 528, Pt. E, §20 (AFF); PL 1991, c. 528, Pt. RRR (AFF); PL 1991, c. 591, Pt. E, §19 (RP); PL 1991, c. 591, Pt. E, §20 (AFF).]

**3. Compensation for nursing homes.** A nursing home, as defined under section 1812-A, or any portion of a hospital or institution operated as a nursing home, when the State is liable for payment for care, must be reimbursed at a rate established by the Department of Health and Human Services pursuant to this subsection. The department may not establish a so-called "flat rate." This subsection applies to all funds, including federal funds, paid by any agency of the State to a nursing home for patient care. The department shall establish rules concerning reimbursement that:

A. Take into account the costs of providing care and services in conformity with applicable state and federal laws, rules, regulations and quality and safety standards; [PL 1991, c. 528, Pt. E, §21 (NEW); PL 1991, c. 528, Pt. E, §22 (AFF); PL 1991, c. 528, Pt. RRR (AFF); PL 1991, c. 591, Pt. E, §21 (NEW); PL 1991, c. 591, Pt. E, §22 (AFF).]

A-1. [PL 2001, c. 666, Pt. A, §1 (RP); PL 2001, c. 666, Pt. E, §1 (AFF).]

B. Are reasonable and adequate to meet the costs incurred by efficiently and economically operated facilities; [PL 1995, c. 696, Pt. A, §32 (AMD).]

C. Are consistent with federal requirements relative to limits on reimbursement under the federal Social Security Act, Title XIX; [PL 2001, c. 666, Pt. A, §1 (AMD); PL 2001, c. 666, Pt. E, §1 (AFF).]

D. Ensure that any calculation of an occupancy percentage or other basis for adjusting the rate of reimbursement for nursing facility services to reduce the amount paid in response to a decrease in the number of residents in the facility or the percentage of the facility's occupied beds excludes all beds that the facility has removed from service for all or part of the relevant fiscal period in accordance with section 333. If the excluded beds are converted to residential care beds or another program for which the department provides reimbursement, nothing in this paragraph precludes the department from including those beds for purposes of any occupancy standard applicable to the residential care or other program pursuant to duly adopted rules of the department; [PL 2013, c. 594, §1 (AMD).]

E. Contain an annual inflation adjustment that:

- (1) Recognizes regional variations in labor costs and the rates of increase in labor costs determined pursuant to the principles of reimbursement and establishes at least 4 regions for purposes of annual inflation adjustments; and
- (2) Uses the applicable regional inflation factor as established by a national economic research organization selected by the department to adjust costs other than labor costs or fixed costs; and [PL 2013, c. 594, §1 (AMD).]

F. Establish a nursing facility's base year every 2 years and increase the rate of reimbursement beginning July 1, 2014 and every year thereafter until June 30, 2018. For the state fiscal year beginning July 1, 2018, the base year for each facility is its fiscal year that ended in the calendar year 2016. For state fiscal years beginning on or after July 1, 2019, subsequent rebasing must be based on the most recent cost report filings available. The department may provide a mechanism for subsequent adjustments to base year costs to reflect any material difference between as-filed cost reports used in rebasing and subsequent determinations of audited, allowable costs for the same fiscal period. The department's rules must provide that, beginning in the state fiscal year beginning July 1, 2018, the rates set for each rebasing year must include an inflation adjustment for a cost-of-living percentage change in nursing facility reimbursement each year in accordance with the United States Department of Labor, Bureau of Labor Statistics Consumer Price Index nursing homes and adult day care services index.

Any rebasing done pursuant to this paragraph may not result in a nursing facility receiving a reimbursement rate that is lower than the rate in effect on June 30, 2018. [PL 2021, c. 29, Pt. R, §1 (AMD).]

Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2021, c. 29, Pt. R, §1 (AMD).]

#### 4. Medicaid savings.

[PL 2011, c. 655, Pt. T, §1 (RP).]

#### SECTION HISTORY

PL 1975, c. 293, §4 (AMD). PL 1975, c. 365, §1 (RPR). PL 1989, c. 567 (AMD). PL 1989, c. 886, §1 (AMD). PL 1991, c. 528, §§E17,19,21 (AMD). PL 1991, c. 528, §§E18,20,22, RRR (AFF). PL 1991, c. 591, §§E17,19,21 (AMD). PL 1991, c. 591, §§E18,20,22 (AFF). PL 1991, c. 622, §M8 (AMD). PL 1991, c. 622, §M9 (AFF). PL 1993, c. 410, §YY1 (AMD). PL 1995, c. 696, §§A32,33 (AMD). RR 2001, c. 2, §A33 (COR). PL 2001, c. 666, §A1 (AMD). PL 2001, c. 666, §E1 (AFF). PL 2003, c. 689, §B6 (REV). PL 2011, c. 655, Pt. T, §1 (AMD). PL 2013, c. 594, §1 (AMD). PL 2017, c. 460, Pt. B, §1 (AMD). PL 2021, c. 29, Pt. R, §1 (AMD).

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