

P.L. 2020, CHAPTER 90, *approved September 16, 2020*
Assembly, No. 4547 (*First Reprint*)

1 **AN ACT** concerning nursing facilities and making an appropriation.

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3 **BE IT ENACTED** *by the Senate and General Assembly of the State*
4 *of New Jersey:*

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6 1. a. Notwithstanding the provisions of any law or regulation
7 to the contrary, and subject to any federal approvals as may be
8 required, effective October 1, 2020 through June 30, 2021, the
9 reimbursement rate for Class I, Class II, and Class III nursing
10 facilities shall be equal to the rate received on September 30, 2020,
11 plus a 10 percent adjustment. Each facility shall use no less than 60
12 percent of the rate adjustment provided under this section for the
13 sole purpose of increasing wages or supplemental pay for certified
14 nurse aides providing direct care. The remainder of the rate
15 adjustment shall be used for other costs related to coronavirus
16 disease 2019 preparedness and response, including enhancing
17 infection control measures, cleaning, reconfiguration of the facility
18 to support cohorting, procurement of personal protective equipment,
19 testing, or other staff wages and needs.

20 b. To ensure compliance with the provisions of this section,
21 any facility receiving the rate adjustment pursuant to this section
22 shall provide:

23 (1) wage and cost data in a manner and form prescribed by the
24 Commissioner of Human Services; and

25 (2) attestations from the facility owner of adherence to the
26 following infection control protocols, which shall be submitted in a
27 manner and form as shall be prescribed the Commissioner of
28 Health, and which may be required on an ongoing basis:

29 (a) the facility has an outbreak response plan in place as
30 required pursuant to section 1 of P.L.2019, c.243 (C.26:2H-12.87),
31 which plan shall be made available to the public through the
32 facility's Internet website and include effective communication
33 methods for conveying information concerning outbreaks of
34 infectious diseases consistent with the requirements of paragraph
35 (2) of subsection b. of section 1 of P.L.2019, c.243 (C.26:2H-12.87)
36 and guidance issued by the Department of Health; provided that,
37 facilities certified by the federal Centers for Medicare and Medicaid
38 Services may effect notification in compliance with the provisions
39 of subsection (g) of 42 CFR s.483.80;

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly ASE committee amendments adopted August 24, 2020.

1 (b) the facility has used the personal protective equipment burn
2 rate calculator made available by the federal Centers for Disease
3 Control and Prevention and:

4 (i) if the facility is not part of a system with eight or more
5 facilities, the facility has at least a two-month supply of personal
6 protective equipment on hand, in accordance with Executive
7 Directive No. 20-026; or

8 (ii) if the facility is part of a system of eight or more facilities,
9 the facility has at least a one-month supply of personal protective
10 equipment on hand, in accordance with Executive Directive No. 20-
11 026;

12 (c) the facility has registered with the Department of Health,
13 authorized the department to access data, and is providing
14 information in accordance with the requirements of Executive
15 Directive No. 20-026; and

16 (d) the facility has implemented a respiratory protection
17 program that complies with the respiratory protection standard for
18 employees established by the federal Occupational Safety and
19 Health Administration, including fit testing and training in donning
20 and doffing personal protective equipment.

21 c. A facility receiving a rate adjustment pursuant to this section
22 that has been cited by the Department of Health for two repeat
23 infection control violations during the period from October 1, 2020
24 through June 30, 2021, including, but not limited to, citations for
25 repeat violations of the staff and resident testing requirements
26 outlined in Executive Directive No. 20-026, may be subject to
27 recoupment of the rate adjustment by the State in an amount not to
28 exceed the total value of the rate adjustment.

29 d. A facility that fails to meet any requirement of this section
30 may be subject to recoupment of the adjustment by the State in an
31 amount not to exceed the total value of the rate adjustment. Any
32 attestation required under paragraph (2) of subsection b. of this
33 section that is filed after a deadline established by the Department
34 of Health or June 30, 2021, whichever is earlier, shall be considered
35 a failure to meet the requirements of this section.

36 e. The Commissioner of Health shall transmit to the
37 Commissioner of Human Services information on any facility that
38 may be subject to recoupment of the rate adjustment as provided in
39 subsection c. or subsection d. of this section.

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41 2. The Commissioner of Human Services shall apply for such
42 State plan amendments or waivers as may be necessary to
43 implement the provisions of this act and to secure federal financial
44 participation for State Medicaid expenditures under the federal
45 Medicaid program and shall receive approval for such State plan
46 amendments or waivers prior to the implementation of this act.

1 3. There is appropriated from the General Fund to the
2 Department of Human Services ¹a one-time appropriation of¹ \$62.3
3 million for the purposes of effectuating the provisions of this act.

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5 4. The provisions of this act shall be severable, and if any
6 phrase, clause, sentence, or provision is deemed unenforceable, the
7 decision of the court shall not affect the validity of the remaining
8 provisions of this act.

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10 5. This act shall take effect immediately.

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15 Authorizes temporary rate adjustment for certain nursing
16 facilities; appropriates \$62.3 million.