

HOUSE BILL No. 4401

March 25, 2015, Introduced by Rep. VerHeulen and referred to the Committee on Appropriations.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending section 20161 (MCL 333.20161), as amended by 2013 PA
137.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 20161. (1) The department shall assess fees and other
2 assessments for health facility and agency licenses and
3 certificates of need on an annual basis as provided in this
4 article. Except as otherwise provided in this article, fees and
5 assessments shall be paid as provided in the following schedule:

6 (a) Freestanding surgical
7 outpatient facilities.....\$238.00 per facility.
8 (b) Hospitals.....\$8.28 per licensed bed.
9 (c) Nursing homes, county

1 medical care facilities, and
 2 hospital long-term care units.....\$2.20 per licensed bed.
 3 (d) Homes for the aged.....\$6.27 per licensed bed.
 4 (e) Clinical laboratories.....\$475.00 per laboratory.
 5 (f) Hospice residences.....\$200.00 per license
 6 survey; and \$20.00 per
 7 licensed bed.
 8 (g) Subject to subsection
 9 (13), quality assurance assessment
 10 for nursing homes and hospital
 11 long-term care units.....an amount resulting
 12 in not more than 6%
 13 of total industry
 14 revenues.
 15 (h) Subject to subsection
 16 (14), quality assurance assessment
 17 for hospitals.....at a fixed or variable
 18 rate that generates
 19 funds not more than the
 20 maximum allowable under
 21 the federal matching
 22 requirements, after
 23 consideration for the
 24 amounts in subsection
 25 (14) (a) and (i).

 26 (2) If a hospital requests the department to conduct a
 27 certification survey for purposes of title XVIII or title XIX of
 28 the social security act, the hospital shall pay a license fee

1 surcharge of \$23.00 per bed. As used in this subsection, "title
2 XVIII" and "title XIX" mean those terms as defined in section
3 20155.

4 (3) All of the following apply to the assessment under this
5 section for certificates of need:

6 (a) The base fee for a certificate of need is \$3,000.00 for
7 each application. For a project requiring a projected capital
8 expenditure of more than \$500,000.00 but less than \$4,000,000.00,
9 an additional fee of \$5,000.00 is added to the base fee. For a
10 project requiring a projected capital expenditure of
11 \$4,000,000.00 or more but less than \$10,000,000.00, an additional
12 fee of \$8,000.00 is added to the base fee. For a project
13 requiring a projected capital expenditure of \$10,000,000.00 or
14 more, an additional fee of \$12,000.00 is added to the base fee.

15 (b) In addition to the fees under subdivision (a), the
16 applicant shall pay \$3,000.00 for any designated complex project
17 including a project scheduled for comparative review or for a
18 consolidated licensed health facility application for acquisition
19 or replacement.

20 (c) If required by the department, the applicant shall pay
21 \$1,000.00 for a certificate of need application that receives
22 expedited processing at the request of the applicant.

23 (d) The department shall charge a fee of \$500.00 to review
24 any letter of intent requesting or resulting in a waiver from
25 certificate of need review and any amendment request to an
26 approved certificate of need.

27 (e) A health facility or agency that offers certificate of

1 need covered clinical services shall pay \$100.00 for each
2 certificate of need approved covered clinical service as part of
3 the certificate of need annual survey at the time of submission
4 of the survey data.

5 (f) The department ~~of community health~~ shall use the fees
6 collected under this subsection only to fund the certificate of
7 need program. Funds remaining in the certificate of need program
8 at the end of the fiscal year shall not lapse to the general fund
9 but shall remain available to fund the certificate of need
10 program in subsequent years.

11 (4) If licensure is for more than 1 year, the fees described
12 in subsection (1) are multiplied by the number of years for which
13 the license is issued, and the total amount of the fees shall be
14 collected in the year in which the license is issued.

15 (5) Fees described in this section are payable to the
16 department at the time an application for a license, permit, or
17 certificate is submitted. If an application for a license,
18 permit, or certificate is denied or if a license, permit, or
19 certificate is revoked before its expiration date, the department
20 shall not refund fees paid to the department.

21 (6) The fee for a provisional license or temporary permit is
22 the same as for a license. A license may be issued at the
23 expiration date of a temporary permit without an additional fee
24 for the balance of the period for which the fee was paid if the
25 requirements for licensure are met.

26 (7) The department may charge a fee to recover the cost of
27 purchase or production and distribution of proficiency evaluation

1 samples that are supplied to clinical laboratories under section
2 20521(3).

3 (8) In addition to the fees imposed under subsection (1), a
4 clinical laboratory shall submit a fee of \$25.00 to the
5 department for each reissuance during the licensure period of the
6 clinical laboratory's license.

7 (9) The cost of licensure activities shall be supported by
8 license fees.

9 (10) The application fee for a waiver under section 21564 is
10 \$200.00 plus \$40.00 per hour for the professional services and
11 travel expenses directly related to processing the application.
12 The travel expenses shall be calculated in accordance with the
13 state standardized travel regulations of the department of
14 technology, management, and budget in effect at the time of the
15 travel.

16 (11) An applicant for licensure or renewal of licensure
17 under part 209 shall pay the applicable fees set forth in part
18 209.

19 (12) Except as otherwise provided in this section, the fees
20 and assessments collected under this section shall be deposited
21 in the state treasury, to the credit of the general fund. The
22 department may use the unreserved fund balance in fees and
23 assessments for the criminal history check program required under
24 this article.

25 (13) The quality assurance assessment collected under
26 subsection (1)(g) and all federal matching funds attributed to
27 that assessment shall be used only for the following purposes and

1 under the following specific circumstances:

2 (a) The quality assurance assessment and all federal
3 matching funds attributed to that assessment shall be used to
4 finance ~~medicaid~~-**MEDICAID** nursing home reimbursement payments.
5 Only licensed nursing homes and hospital long-term care units
6 that are assessed the quality assurance assessment and
7 participate in the ~~medicaid~~-**MEDICAID** program are eligible for
8 increased per diem ~~medicaid~~-**MEDICAID** reimbursement rates under
9 this subdivision. A nursing home or long-term care unit that is
10 assessed the quality assurance assessment and that does not pay
11 the assessment required under subsection (1)(g) in accordance
12 with subdivision (c)(i) or in accordance with a written payment
13 agreement with the state shall not receive the increased per diem
14 ~~medicaid~~-**MEDICAID** reimbursement rates under this subdivision
15 until all of its outstanding quality assurance assessments and
16 any penalties assessed ~~pursuant to~~-**UNDER** subdivision (f) have
17 been paid in full. ~~Nothing in this~~-**THIS** subdivision ~~shall be~~
18 ~~construed to~~-**DOES NOT** authorize or require the department to
19 overspend tax revenue in violation of the management and budget
20 act, 1984 PA 431, MCL 18.1101 to 18.1594.

21 (b) Except as otherwise provided under subdivision (c),
22 beginning October 1, 2005, the quality assurance assessment is
23 based on the total number of patient days of care each nursing
24 home and hospital long-term care unit provided to nonmedicare
25 patients within the immediately preceding year and shall be
26 assessed at a uniform rate on October 1, 2005 and subsequently on
27 October 1 of each following year, and is payable on a quarterly

1 basis, the first payment due 90 days after the date the
2 assessment is assessed.

3 (c) Within 30 days after September 30, 2005, the department
4 shall submit an application to the ~~federal centers~~ **CENTERS** for
5 ~~medicare~~ **MEDICARE** and ~~medicaid services~~ **MEDICAID SERVICES** to
6 request a waiver pursuant to ~~UNDER~~ 42 CFR 433.68(e) to implement
7 this subdivision as follows:

8 (i) If the waiver is approved, the quality assurance
9 assessment rate for a nursing home or hospital long-term care
10 unit with less than 40 licensed beds or with the maximum number,
11 or more than the maximum number, of licensed beds necessary to
12 secure federal approval of the application is \$2.00 per
13 ~~nonmedicare~~ **NON-MEDICARE** patient day of care provided within the
14 immediately preceding year or a rate as otherwise altered on the
15 application for the waiver to obtain federal approval. If the
16 waiver is approved, for all other nursing homes and long-term
17 care units the quality assurance assessment rate is to be
18 calculated by dividing the total statewide maximum allowable
19 assessment permitted under subsection (1)(g) less the total
20 amount to be paid by the nursing homes and long-term care units
21 with less than 40 or with the maximum number, or more than the
22 maximum number, of licensed beds necessary to secure federal
23 approval of the application by the total number of ~~nonmedicare~~
24 **NON-MEDICARE** patient days of care provided within the immediately
25 preceding year by those nursing homes and long-term care units
26 with more than 39, but less than the maximum number of licensed
27 beds necessary to secure federal approval. The quality assurance

1 assessment, as provided under this subparagraph, shall be
2 assessed in the first quarter after federal approval of the
3 waiver and shall be subsequently assessed on October 1 of each
4 following year, and is payable on a quarterly basis, the first
5 payment due 90 days after the date the assessment is assessed.

6 (ii) If the waiver is approved, continuing care retirement
7 centers are exempt from the quality assurance assessment if the
8 continuing care retirement center requires each center resident
9 to provide an initial life interest payment of \$150,000.00, on
10 average, per resident to ensure payment for that resident's
11 residency and services and the continuing care retirement center
12 utilizes all of the initial life interest payment before the
13 resident becomes eligible for medical assistance under the
14 state's ~~medicaid~~-**MEDICAID** plan. As used in this subparagraph,
15 "continuing care retirement center" means a nursing care facility
16 that provides independent living services, assisted living
17 services, and nursing care and medical treatment services, in a
18 campus-like setting that has shared facilities or common areas,
19 or both.

20 (d) Beginning May 10, 2002, the department ~~of community~~
21 ~~health~~ shall increase the per diem nursing home ~~medicaid~~-**MEDICAID**
22 reimbursement rates for the balance of that year. For each
23 subsequent year in which the quality assurance assessment is
24 assessed and collected, the department ~~of community health~~ shall
25 maintain the ~~medicaid~~-**MEDICAID** nursing home reimbursement payment
26 increase financed by the quality assurance assessment.

27 (e) The department ~~of community health~~ shall implement this

1 section in a manner that complies with federal requirements
2 necessary to assure that the quality assurance assessment
3 qualifies for federal matching funds.

4 (f) If a nursing home or a hospital long-term care unit
5 fails to pay the assessment required by subsection (1)(g), the
6 department ~~of community health~~ may assess the nursing home or
7 hospital long-term care unit a penalty of 5% of the assessment
8 for each month that the assessment and penalty are not paid up to
9 a maximum of 50% of the assessment. The department ~~of community~~
10 ~~health~~ may also refer for collection to the department of
11 treasury past due amounts consistent with section 13 of 1941 PA
12 122, MCL 205.13.

13 (g) The ~~medicaid~~ **MEDICAID** nursing home quality assurance
14 assessment fund is established in the state treasury. The
15 department ~~of community health~~ shall deposit the revenue raised
16 through the quality assurance assessment with the state treasurer
17 for deposit in the ~~medicaid~~ **MEDICAID** nursing home quality
18 assurance assessment fund.

19 (h) The department ~~of community health~~ shall not implement
20 this subsection in a manner that conflicts with 42 USC 1396b(w).

21 (i) The quality assurance assessment collected under
22 subsection (1)(g) shall be prorated on a quarterly basis for any
23 licensed beds added to or subtracted from a nursing home or
24 hospital long-term care unit since the immediately preceding July
25 1. Any adjustments in payments are due on the next quarterly
26 installment due date.

27 (j) In each fiscal year governed by this subsection,

1 ~~medicaid~~**MEDICAID** reimbursement rates shall not be reduced below
2 the ~~medicaid~~**MEDICAID** reimbursement rates in effect on April 1,
3 2002 as a direct result of the quality assurance assessment
4 collected under subsection (1)(g).

5 (k) The state retention amount of the quality assurance
6 assessment collected ~~pursuant to~~**UNDER** subsection (1)(g) shall be
7 equal to 13.2% of the federal funds generated by the nursing
8 homes and hospital long-term care units quality assurance
9 assessment, including the state retention amount. The state
10 retention amount shall be appropriated each fiscal year to the
11 department ~~of community health~~ to support ~~medicaid~~**MEDICAID**
12 expenditures for long-term care services. These funds shall
13 offset an identical amount of general fund/general purpose
14 revenue originally appropriated for that purpose.

15 ~~(l) Beginning October 1, 2015, the department shall no longer~~
16 ~~assess or collect the quality assurance assessment or apply for~~
17 ~~federal matching funds.~~ The quality assurance assessment
18 collected under subsection (1)(g) shall no longer be assessed or
19 collected after September 30, 2011, in the event that the quality
20 assurance assessment is not eligible for federal matching funds.
21 Any portion of the quality assurance assessment collected from a
22 nursing home or hospital long-term care unit that is not eligible
23 for federal matching funds shall be returned to the nursing home
24 or hospital long-term care unit.

25 (14) The quality assurance dedication is an earmarked
26 assessment collected under subsection (1)(h). That assessment and
27 all federal matching funds attributed to that assessment shall be

1 used only for the following purpose and under the following
2 specific circumstances:

3 (a) To maintain the increased ~~medicaid~~**MEDICAID**
4 reimbursement rate increases as provided for in subdivision (c).

5 (b) The quality assurance assessment shall be assessed on
6 all net patient revenue, before deduction of expenses, less
7 ~~medicare~~**MEDICARE** net revenue, as reported in the most recently
8 available ~~medicare~~**MEDICARE** cost report and is payable on a
9 quarterly basis, the first payment due 90 days after the date the
10 assessment is assessed. As used in this subdivision, "~~medicare~~
11 **MEDICARE** net revenue" includes ~~medicare~~**MEDICARE** payments and
12 amounts collected for coinsurance and deductibles.

13 (c) Beginning October 1, 2002, the department ~~of community~~
14 ~~health~~ shall increase the hospital ~~medicaid~~**MEDICAID**
15 reimbursement rates for the balance of that year. For each
16 subsequent year in which the quality assurance assessment is
17 assessed and collected, the department ~~of community health~~ shall
18 maintain the hospital ~~medicaid~~**MEDICAID** reimbursement rate
19 increase financed by the quality assurance assessments.

20 (d) The department ~~of community health~~ shall implement this
21 section in a manner that complies with federal requirements
22 necessary to assure that the quality assurance assessment
23 qualifies for federal matching funds.

24 (e) If a hospital fails to pay the assessment required by
25 subsection (1)(h), the department ~~of community health~~ may assess
26 the hospital a penalty of 5% of the assessment for each month
27 that the assessment and penalty are not paid up to a maximum of

1 50% of the assessment. The department ~~of community health~~ may
2 also refer for collection to the department of treasury past due
3 amounts consistent with section 13 of 1941 PA 122, MCL 205.13.

4 (f) The hospital quality assurance assessment fund is
5 established in the state treasury. The department ~~of community~~
6 ~~health~~ shall deposit the revenue raised through the quality
7 assurance assessment with the state treasurer for deposit in the
8 hospital quality assurance assessment fund.

9 (g) In each fiscal year governed by this subsection, the
10 quality assurance assessment shall only be collected and expended
11 if ~~medicaid~~ **MEDICAID** hospital inpatient DRG and outpatient
12 reimbursement rates and disproportionate share hospital and
13 graduate medical education payments are not below the level of
14 rates and payments in effect on April 1, 2002 as a direct result
15 of the quality assurance assessment collected under subsection
16 (1)(h), except as provided in subdivision (h).

17 (h) The quality assurance assessment collected under
18 subsection (1)(h) shall no longer be assessed or collected after
19 September 30, 2011 in the event that the quality assurance
20 assessment is not eligible for federal matching funds. Any
21 portion of the quality assurance assessment collected from a
22 hospital that is not eligible for federal matching funds shall be
23 returned to the hospital.

24 (i) The state retention amount of the quality assurance
25 assessment collected pursuant to subsection (1)(h) shall be equal
26 to 13.2% of the federal funds generated by the hospital quality
27 assurance assessment, including the state retention amount. The

1 state retention percentage shall be applied proportionately to
2 each hospital quality assurance assessment program to determine
3 the retention amount for each program. The state retention amount
4 shall be appropriated each fiscal year to the department of
5 ~~community health~~ to support ~~medicaid~~ **MEDICAID** expenditures for
6 hospital services and therapy. These funds shall offset an
7 identical amount of general fund/general purpose revenue
8 originally appropriated for that purpose.

9 (15) The quality assurance assessment provided for under
10 this section is a tax that is levied on a health facility or
11 agency.

12 (16) As used in this section, ~~"medicaid"~~ **"MEDICAID"** means
13 that term as defined in section 22207.