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H.386

Introduced by Representatives Keenan of St. Albans City, Dakin of
Colchester, Fagan of Rutland City, Hooper of Montpelier,
Juskiewicz of Cambridge, Lanpher of Vergennes, Rosenquist of
Georgia, and Yacovone of Morristown

Referred to Committee on

Date:

Subject: Taxation; health; Medicaid; provider taxes; home health agencies

Statement of purpose of bill as introduced: This bill proposes to revise the
home health agency provider tax base, establish a cap on total home health
agency provider tax revenues, and create an annual inflationary increase for
home health agency Medicaid rates.

An act relating to home health agency provider taxes

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 33 V.S.A. § 900 is amended to read:

§ 900. DEFINITIONS

~~Unless otherwise required by the context, the words and phrases in this
chapter shall be defined as follows~~ As used in this chapter:

* * *

1 (7) “Home health agency” means an entity that has received a certificate
2 of need from the State to provide home health services and is certified to
3 provide services pursuant to 42 U.S.C. § 1395x(o).

4 Sec. 2. 33 V.S.A. § 904 is amended to read:

5 § 904. RATE SETTING

6 (a) The Director shall establish by rule procedures for determining payment
7 rates for care of State-assisted persons to nursing homes and to such other
8 providers as the Secretary shall direct, as well as for inflationary rate increases
9 to home health agencies. The Secretary shall have the authority to establish
10 rates that the Secretary deems sufficient to ensure that the quality standards
11 prescribed by section 7117 of this title are maintained, subject to the provisions
12 of section 906 of this title. Beginning in State fiscal year 2003, the Medicaid
13 budget for care of State-assisted persons in nursing homes shall employ an
14 annual inflation factor which is reasonable and which adequately reflects
15 economic conditions, in accordance with the provisions of Section 5.8 of the
16 ~~regulations promulgated~~ rules adopted by the Division of Rate Setting
17 (“Methods, Standards, and Principles for Establishing Medicaid Payment Rates
18 for Long-Term Care Facilities”).

19 (b) No payment shall be made to any nursing home, on account of any
20 State-assisted person, unless the nursing home is certified to participate in the

1 State/federal medical assistance program and has in effect a provider
2 agreement.

3 Sec. 3. 33 V.S.A. § 911 is added to read:

4 § 911. INFLATION FACTOR FOR HOME HEALTH AGENCIES

5 The rates for home health agencies shall be increased by an annual inflation
6 factor commensurate with the average statewide inflation factor applicable to
7 all nursing homes pursuant to this chapter. The Division shall calculate the
8 aggregate inflation factor applicable to nursing homes annually according to
9 the procedure adopted by rule and shall report it to the Department of Vermont
10 Health Access for application to home health agency rates beginning on July 1.

11 Sec. 4. 33 V.S.A. § 1951 is amended to read:

12 § 1951. DEFINITIONS

13 As used in this subchapter:

14 (1) “Assessment” means a tax levied on a health care provider pursuant
15 to this chapter.

16 (2)(A) “Core home health ~~care~~ and hospice services” means:

17 (i) those medically necessary skilled nursing, home health aide,
18 therapeutic, and personal care attendant services, provided exclusively in the
19 home by home health agencies. Core home health services do not include
20 private duty nursing, hospice, homemaker, or physician services, or services
21 provided under early periodic screening, diagnosis, and treatment (EPSDT),

1 ~~traumatic brain injury (TBI), high technology programs, or services provided~~
2 ~~by a home for persons who are terminally ill as defined in subdivision 7102(3)~~
3 ~~of this title~~ home health services provided by Medicare-certified home health
4 agencies that are covered under Title XVIII (Medicare) or XIX (Medicaid) of
5 the Social Security Act;

6 (ii) services covered under the adult and pediatric High
7 Technology Home Care programs;

8 (iii) personal care, respite care, and companion care services
9 provided through the Choices for Care program contained within Vermont's
10 Global Commitment to Health Section 1115 Medicaid demonstration;

11 (iv) hospice services; and

12 (v) home health and hospice services covered under a health
13 insurance or other health benefit plan offered by a health insurer, as defined in
14 18 V.S.A. § 9402.

15 (B) The term "core home health and hospice services" shall not
16 include any other service provided by a home health agency, including:

17 (i) private duty nursing;

18 (ii) case management services;

19 (iii) homemaker services;

1 the time of submission, a copy of which shall be provided on or before May 1
2 of each year to the Department.

3 (3) For providers who begin operations as a home health agency after
4 January 1, 2005, the tax shall be assessed as follows:

5 ~~(1)~~(A) Until such time as the home health agency submits audited
6 financial statements for its first full year of operation as a home health agency,
7 the Commissioner, in consultation with the home health agency, shall annually
8 estimate the amount of tax payable and shall prescribe a schedule for interim
9 payments.

10 ~~(2)~~(B) At such time as the full-year audited financial statement is filed,
11 the final assessment shall be determined, and the home health agency shall pay
12 any underpayment or the Department shall refund any overpayment. The
13 assessment for the State fiscal year in which a provider commences operations
14 as a home health agency shall be prorated for the proportion of the State fiscal
15 year in which the new home health agency was in operation.

16 * * *

17 Sec. 6. 2016 Acts and Resolves No. 134, Sec. 32 is amended to read:

18 Sec. 32. HOME HEALTH AGENCY ASSESSMENT FOR FISCAL
19 ~~YEARS YEAR~~ 2017 AND 2018

20 Notwithstanding any provision of 33 V.S.A. § 1955a(a) to the contrary, for
21 fiscal ~~years year~~ 2017 and 2018 only, the amount of the home health agency

1 assessment under 33 V.S.A. § 1955a for each home health agency shall be 3.63
2 percent of its annual net patient revenue.

3 Sec. 7. EFFECTIVE DATES

4 (a) Secs. 1–3 (rate setting) shall take effect on passage and shall apply to
5 home health agency rates on and after July 1, 2018.

6 (b) Secs. 4 and 5 (provider tax) and 6 (FY 2017 tax rate) shall take effect
7 on July 1, 2017.

8 (c) This section shall take effect on passage.