

AN ACT

ENTITLED, An Act to allow the transfer of funds from certain nursing facilities to the intergovernmental transfer fund.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That chapter 28-6 be amended by adding thereto a NEW SECTION to read as follows:

Terms used in this Act mean:

- (1) "Department," the Department of Social Services;
- (2) "Fiscal period," up to a twelve-month period determined by the department;
- (3) "Funding pool," pool of funds established in accordance with section 2 of this Act;
- (4) "Intergovernmental transfer fund," the fund established to hold the federal portion of the monetary difference between the medicaid payment and the medicare upper limits maximum allowable reimbursement, less transaction fees paid to publicly owned and operated nursing facilities;
- (5) "Medical assistance," the medicaid program authorized by Title XIX of the Social Security Act, 42 U.S.C.1396d, as amended through January 1, 2000, which provides medical assistance to eligible individuals and is operated under § 28-6-1;
- (6) "Medicare," the Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965 and as amended through January 1, 2000;
- (7) "Nursing facility," any facility participating in medicaid that is licensed, maintained, and operated for the express or implied purpose of providing care to one or more persons, whether for consideration or not, who are not acutely ill but require nursing care and related medical services of such complexity as to require professional nursing care under the direction of a physician twenty-four hours a day;
- (8) "Political subdivision," any municipality or county;
- (9) "Publicly owned and operated nursing facility," a nursing facility that is owned and

operated by a political subdivision of the state and is participating in medicaid.

Section 2. That chapter 28-6 be amended by adding thereto a NEW SECTION to read as follows:

The department shall establish a funding pool consisting of an amount annually calculated by multiplying the total of all medical assistance resident days of all nursing homes during the fiscal period during which a resident was eligible for and received benefits under chapter 28-6 times an amount that does not exceed the amount that can reasonably be estimated to be paid under payment principles established under medicare, reduced by the medical assistance payment rates set for each such resident, for each such day, during the fiscal period.

Section 3. That chapter 28-6 be amended by adding thereto a NEW SECTION to read as follows:

In addition to any payment made pursuant to a rate set under this Act, and notwithstanding any other provision of this Act, the department shall pay to each publicly owned and operated nursing facility participating under the provisions of this Act an amount determined by:

- (1) Dividing that facility's total medical assistance resident days for the fiscal period by the total medical assistance resident days of all publicly owned and operated nursing facilities participating under the provisions of this Act for the fiscal period; and
- (2) Multiplying a decimal fraction determined under subdivision (1), times the funding pool amount determined under section 2 of this Act.

Section 4. That chapter 28-6 be amended by adding thereto a NEW SECTION to read as follows:

Each publicly owned and operated nursing facility participating under the provisions of this Act, immediately upon receiving a payment under section 3 of this Act, shall remit the amount of that payment, less a transaction fee, to the department for credit to:

- (1) The intergovernmental transfer fund in an amount equal to the applicable federal medical assistance percentage times the total remittance to the department, less the transaction fee; and
- (2) The department's other funds for all remaining amounts.

Section 5. That chapter 28-6 be amended by adding thereto a NEW SECTION to read as follows:

Notwithstanding any other provision of law governing the operation of a publicly owned and operated nursing facility, a publicly owned and operated nursing facility participating under the provisions of this Act may receive and immediately upon receipt shall remit payments provided under section 3 and 4 of this Act. No payment is required under this section for any period in which the use of funds for the purposes of this Act are prohibited due to action by the secretary of the United States Department of Health and Human Services.

Section 6. That chapter 28-6 be amended by adding thereto a NEW SECTION to read as follows:

There is hereby established in the state treasury a fund known as the intergovernmental transfer fund. The fund shall include revenue received from publicly owned and operated nursing facilities for remittance to the fund under section 4 of this Act. The department shall administer the fund and shall adopt procedures for participation by publicly owned and operated nursing facilities. All moneys designated for the fund from whatever source derived shall be deposited with the state treasurer in the intergovernmental transfer fund. The amounts in the intergovernmental transfer fund shall be invested pursuant to §§ 4-5-23 and 4-5-26 and the earnings shall be deposited in the intergovernmental transfer fund.

Section 7. That chapter 28-6 be amended by adding thereto a NEW SECTION to read as follows:

Funds appropriated to the department for purposes authorized under § 28-6-1 may be used for the purposes of making payments pursuant to section 3 of the Act each fiscal year.

Section 8. That chapter 28-6 be amended by adding thereto a NEW SECTION to read as follows:

The department may promulgate rules pursuant to chapter 1-26 for the administration of this Act. The rules may include criteria for establishing, funding, and administering the pool, criteria for participation in the intergovernmental transfer, penalties for failing to immediately remit the funds to the department, criteria for the transfer of funds, the establishment of transaction fees, and other policies to facilitate the administration of the intergovernmental transfer fund or the funding pool.

Section 9. That chapter 28-6 be amended by adding thereto a NEW SECTION to read as follows:

This Act does not create an entitlement to any funds. The department may disburse funds to the extent funds are available and, within its discretion, to the extent such appropriations are approved.

Section 10. That § 28-6-1 be amended to read as follows:

28-6-1. The Department of Social Services may provide medical services and medical or remedial care on behalf of persons having insufficient income and resources to meet the necessary cost thereof, if the person has exhausted all other possible public and private medical and remedial care programs, income or benefits, with the exception of county poor relief, in accordance with rules which the secretary of social services shall adopt pursuant to chapter 1-26 in accordance with the provisions of Title XIX and Title XXI of the federal Social Security Act, as amended to January 1, 2000. The rules shall specify the individuals and services for which state funds or federal financial participation are available and may include:

- (1) The amount, scope, and duration of medical and remedial services;
- (2) The basis for and extent of provider payments on behalf of an eligible person;
- (3) The establishment and collection of copayments, premiums, fees, or charges for sharing the cost of risk protection or services provided to persons. All such collections shall be remitted to the general fund;
- (4) Methods of administration found necessary for the operation of the medical assistance program;
- (5) Safeguards against the disclosure or improper use of information, required by statutory law to be held confidential, concerning applicants for or recipients of medical assistance; and
- (6) Such other requirements as may be necessary to obtain federal financial participation in the medical assistance program.

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I certify that the attached Act originated in the
SENATE as Bill No. 124

Secretary of the Senate

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President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 124
File No. _____
Chapter No. _____

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Received at this Executive Office this _____ day of _____, 20____ at _____ M.

By _____
for the Governor

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The attached Act is hereby approved this _____ day of _____, A.D., 20____

Governor

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STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State