

**As Introduced**

**128th General Assembly  
Regular Session  
2009-2010**

**S. B. No. 295**

**Senator Patton**

**Cosponsors: Senators Wagoner, Goodman, Stewart, Wilson, Smith,  
Schuring**

**—**

**A B I L L**

To amend Section 309.30.25 of Am. Sub. H.B. 1 of the 1  
128th General Assembly, as subsequently amended, 2  
to revise the law governing Medicaid payments to 3  
nursing facilities for fiscal year 2011. 4

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That Section 309.30.25 of Am. Sub. H.B. 1 of the 5  
128th General Assembly, as amended by Sub. H.B. 198 of the 128th 6  
General Assembly, be amended to read as follows: 7

**Sec. 309.30.25. ~~FISCAL YEAR 2011~~ MEDICAID REIMBURSEMENT 8**  
SYSTEM FOR NURSING FACILITIES FOR THE FIRST HALF OF FISCAL YEAR 9  
2011 10

(A) As used in this section: 11

"Fiscal year 2010 partial rate" means the total rate a 12  
provider of a nursing facility is paid for nursing facility 13  
services the nursing facility provides on June 30, 2010, less the 14  
portion of that total rate that equals the sum of the workforce 15  
development incentive payment and consolidated services rate 16  
included in the total rate pursuant to divisions (D) and (E) of 17  
Section 309.30.20 of Am. Sub. H.B. 1 of the 128th General 18

Assembly. 19

"Franchise permit fee," "inpatient days," "Medicaid days," 20  
"nursing facility," and "provider" have the same meanings as in 21  
section 5111.20 of the Revised Code. 22

"Nursing facility services" means nursing facility services 23  
covered by the Medicaid program that a nursing facility provides 24  
to a resident of the nursing facility who is a Medicaid recipient 25  
eligible for Medicaid-covered nursing facility services. 26

(B) Except as otherwise provided by this section, the 27  
provider of a nursing facility that has a valid Medicaid provider 28  
agreement on June 30, 2010, and a valid Medicaid provider 29  
agreement during the first half of fiscal year 2011 shall be paid, 30  
for nursing facility services the nursing facility provides during 31  
~~fiscal year 2011~~ the period beginning July 1, 2010, and ending 32  
December 31, 2010, the rate calculated for the nursing facility 33  
under sections 5111.20 to 5111.33 of the Revised Code with the 34  
following adjustments: 35

(1) The cost per case mix-unit calculated under section 36  
5111.231 of the Revised Code, the rate for ancillary and support 37  
costs calculated under section 5111.24 of the Revised Code, the 38  
rate for tax costs calculated under section 5111.242 of the 39  
Revised Code, and the rate for capital costs calculated under 40  
section 5111.25 of the Revised Code shall each be adjusted as 41  
follows: 42

(a) Increase the cost and rates so calculated by two per 43  
cent; 44

(b) Increase the cost and rates determined under division 45  
(B)(1)(a) of this section by two per cent; 46

(c) Increase the cost and rates determined under division 47  
(B)(1)(b) of this section by one per cent. 48

(2) The mean payment used in the calculation of the quality incentive payment made under section 5111.244 of the Revised Code shall be, weighted by Medicaid days, three dollars and three cents per Medicaid day.

(3) The rate, after the adjustments under divisions (B)(1) and (2) of this section are made, shall be further adjusted by a percentage that the Department of Job and Family Services shall determine in consultation with the Ohio Health Care Association; Ohio Academy of Nursing Homes; and the Association of Ohio Philanthropic Homes, Housing, and Services for the Aging. The percentage shall be based on expending an amount equal to the amount determined as follows:

(a) Determine how much of the revenue to be generated under section 3721.51 of the Revised Code for fiscal year 2011 reflects the calculations made under divisions (A)(1) to (4) of section 3721.50 of the Revised Code;

(b) From the amount determined under division (B)(3)(a) of this section, subtract the portion of the amount to be expended under division (F) of this section that reflects the part of the calculation made under division (F)(2) of this section.

(C) Except as provided in division (G) of this section, if the rate determined for a nursing facility under division (B) of this section for nursing facility services provided during the first half of fiscal year 2011 is more than one hundred two and twenty-five hundredths per cent of the nursing facility's fiscal year 2010 partial rate, the Department of Job and Family Services shall reduce the nursing facility's rate determined under division (B) of this section for the first half of fiscal year 2011 so that the rate is not more than one hundred two and twenty-five hundredths per cent of the nursing facility's fiscal year 2010 partial rate. Except as provided in division (G) of this section, if the rate determined for a nursing facility under division (B)

of this section for nursing facility services provided during the 81  
first half of fiscal year 2011 is less than ninety-nine per cent 82  
of the nursing facility's fiscal year 2010 partial rate, the 83  
Department shall increase the nursing facility's rate determined 84  
under division (B) of this section for the first half of fiscal 85  
year 2011 so that the rate is not less than ninety-nine per cent 86  
of the nursing facility's fiscal year 2010 partial rate. 87

(D) After the adjustments under divisions (B) and (C) of this 88  
section are made to a nursing facility's rate for the first half 89  
of fiscal year 2011 ~~rate~~, the Department of Job and Family 90  
Services shall increase the nursing facility's rate for the first 91  
half of fiscal year 2011 ~~rate~~ by the amount of real estate taxes 92  
reported on the nursing facility's cost report for calendar year 93  
2004 divided by the number of inpatient days reported on that cost 94  
report if the nursing facility had a credit regarding its real 95  
estate taxes reflected on its cost report for calendar year 2003. 96

(E) After the adjustments under divisions (B), (C), and (D) 97  
of this section are made to a nursing facility's rate for the 98  
first half of fiscal year 2011 ~~rate~~, the Department of Job and 99  
Family Services shall increase the nursing facility's rate for the 100  
first half of fiscal year 2011 ~~rate~~ by five dollars and seventy 101  
cents per Medicaid day. This increase shall be known as the 102  
workforce development incentive payment. The total amount of 103  
workforce development incentive payments paid to providers of 104  
nursing facilities shall be used to improve nursing facilities' 105  
employee retention and direct care staffing levels, including by 106  
increasing wages paid to nursing facilities' direct care staff. 107  
Not later than September 30, 2012, the Department shall submit a 108  
report to the Governor and, in accordance with section 101.68 of 109  
the Revised Code, the General Assembly detailing the impact that 110  
the workforce development incentive payments have on nursing 111  
facilities' employee retention, direct care staffing levels, and 112

direct care staff wages. 113

(F) After the adjustment under division (E) of this section 114  
is made to a nursing facility's rate for the first half of fiscal 115  
year 2011 ~~rate~~, the Department of Job and Family Services shall 116  
increase the nursing facility's rate for the first half of fiscal 117  
year 2011 ~~rate~~ by the consolidated services rate per Medicaid day. 118  
The consolidated services rate shall equal the sum of the 119  
following: 120

(1) Three dollars and ninety-one cents; 121

(2) The amount calculated under divisions (A)(1) to (4) of 122  
section 3721.50 of the Revised Code for fiscal year 2011. 123

(G) If the fiscal year 2010 rate for a nursing facility as 124  
initially determined under division (B) of Section 309.30.20 of 125  
Am. Sub. H.B. 1 of the 128th General Assembly is not subject to an 126  
adjustment under division (C) of that section, the nursing 127  
facility's rate for the first half of fiscal year 2011 ~~rate~~ as 128  
initially determined under division (B) of this section shall not 129  
be subject to an adjustment under division (C) of this section 130  
regardless of whether the nursing facility's rate for the first 131  
half of fiscal year 2011 ~~rate~~ as initially determined under 132  
division (B) of this section would, if not for this division, be 133  
subject to the adjustment. 134

~~If the fiscal year 2011 rate for a nursing facility as 135  
initially determined under division (B) of this section is not 136  
subject to an adjustment under division (C) of this section, the 137  
nursing facility's rate shall not be subject to an adjustment 138  
under that division for the remainder of fiscal year 2011 139  
regardless of any other adjustment made to the nursing facility's 140  
fiscal year 2011 rate under sections 5111.20 to 5111.33 of the 141  
Revised Code. 142~~

(H) Not later than October 1, 2010, the Department of Job and 143

Family Services shall determine the rates to be paid providers of 144  
nursing facilities under this section. Until the rates are 145  
determined, the Department shall continue to pay a provider the 146  
rate the provider is paid for nursing facility services the 147  
provider's nursing facility provides on June 30, 2010. When the 148  
Department determines the rates to be paid under this section, the 149  
Department shall pay the rates retroactive to July 1, 2010. 150

(I) If the United States Centers for Medicare and Medicaid 151  
Services requires that the franchise permit fee be reduced or 152  
eliminated, the Department of Job and Family Services shall reduce 153  
the amount it pays providers of nursing facility services under 154  
this section as necessary to reflect the loss to the state of the 155  
revenue and federal financial participation generated from the 156  
franchise permit fee. 157

(J) The Department of Job and Family Services shall follow 158  
this section in determining the rate to be paid to the provider of 159  
a nursing facility that has a valid Medicaid provider agreement on 160  
June 30, 2010, and a valid Medicaid provider agreement during the 161  
first half of fiscal year 2011 notwithstanding anything to the 162  
contrary in sections 5111.20 to 5111.33 of the Revised Code. 163

**Section 2.** That existing Section 309.30.25 of Am. Sub. H.B. 1 164  
of the 128th General Assembly, as amended by Sub. H.B. 198 of the 165  
128th General Assembly, is hereby repealed. 166

**Section 3. MEDICAID REIMBURSEMENT SYSTEM FOR NURSING 167  
FACILITIES FOR THE SECOND HALF OF FISCAL YEAR 2011 168**

(A) As used in this section: 169

"Franchise permit fee," "inpatient days," "Medicaid days," 170  
"nursing facility," and "provider" have the same meanings as in 171  
section 5111.20 of the Revised Code. 172

"Nursing facility services" means nursing facility services 173

covered by the Medicaid program that a nursing facility provides 174  
to a resident of the nursing facility who is a Medicaid recipient 175  
eligible for Medicaid-covered nursing facility services. 176

(B) Except as otherwise provided by this section, the 177  
provider of a nursing facility that has a valid Medicaid provider 178  
agreement on December 31, 2010, and a valid Medicaid provider 179  
agreement during the second half of fiscal year 2011 shall be 180  
paid, for nursing facility services the nursing facility provides 181  
during the period beginning January 1, 2011, and ending June 30, 182  
2011, the rate calculated for the nursing facility under sections 183  
5111.20 to 5111.33 of the Revised Code with the following 184  
adjustments: 185

(1) The cost per case mix-unit calculated under section 186  
5111.231 of the Revised Code, the rate for ancillary and support 187  
costs calculated under section 5111.24 of the Revised Code, the 188  
rate for tax costs calculated under section 5111.242 of the 189  
Revised Code, and the rate for capital costs calculated under 190  
section 5111.25 of the Revised Code shall each be adjusted as 191  
follows: 192

(a) Increase the cost and rates so calculated by two per 193  
cent; 194

(b) Increase the cost and rates determined under division 195  
(B)(1)(a) of this section by two per cent; 196

(c) Increase the cost and rates determined under division 197  
(B)(1)(b) of this section by one per cent. 198

(2) After the adjustment under division (B)(1) of this 199  
section is made to a nursing facility's cost per case mix-unit, 200  
the nursing facility's cost per case mix-unit shall be further 201  
adjusted by adding to it the amount determined as follows: 202

(a) Determine the mean per diem rate for July 1, 2010, for 203  
all nursing facilities in the state, weighted by Medicaid days, 204

calculated under Section 309.30.25 of Am. Sub. H.B. 1 of the 128th  
General Assembly, as amended by Sub. H.B. 198 of the 128th General  
Assembly;

(b) Determine what the mean per diem rate for July 1, 2010,  
for all nursing facilities in the state, weighted by Medicaid  
days, would be as calculated under Section 309.30.25 of Am. Sub.  
H.B. 1 of the 128th General Assembly, as amended by Sub. H.B. 198  
of the 128th General Assembly, if the adjustment provided for by  
division (C) of that section were not made;

(c) Determine the difference between the amounts determined  
under divisions (B)(2)(a) and (b) of this section;

(d) Determine the average amount by which the per diem rate  
for July 1, 2010, for all nursing facilities in the state,  
weighted by Medicaid days, was increased by the adjustment made  
under division (B)(3) of Section 309.30.25 of Am. Sub. H.B. 1 of  
the 128th General Assembly, as amended by Sub. H.B. 198 of the  
128th General Assembly;

(e) To the amount determined under division (B)(2)(c) of this  
section, add the amount determined under division (B)(2)(d) of  
this section;

(f) To the amount determined under division (B)(2)(e) of this  
section, add the consolidated services rate determined under  
division (F) of Section 309.30.25 of Am. Sub. H.B. 1 of the 128th  
General Assembly, as amended by Sub. H.B. 198 of the 128th General  
Assembly;

(g) Divide the amount determined under division (B)(2)(f) of  
this section by the mean semiannual case-mix score calculated  
under section 5111.232 of the Revised Code for July 1, 2010, for  
all nursing facilities in the state, weighted by Medicaid days.

(3) The mean payment used in the calculation of the quality  
incentive payment made under section 5111.244 of the Revised Code



shall be, weighted by Medicaid days, three dollars and three cents 236  
per Medicaid day. 237

(C) After the adjustments under division (B) of this section 238  
are made to a nursing facility's rate for the second half of 239  
fiscal year 2011, the Department of Job and Family Services shall 240  
increase the nursing facility's rate for the second half of fiscal 241  
year 2011 by the amount of real estate taxes reported on the 242  
nursing facility's cost report for calendar year 2004 divided by 243  
the number of inpatient days reported on that cost report if the 244  
nursing facility had a credit regarding its real estate taxes 245  
reflected on its cost report for calendar year 2003. 246

(D) After the adjustments under divisions (B) and (C) of this 247  
section are made to a nursing facility's rate for the second half 248  
of fiscal year 2011, the Department of Job and Family Services 249  
shall increase the nursing facility's rate for the second half of 250  
fiscal year 2011 by five dollars and seventy cents per Medicaid 251  
day. This increase shall be known as the workforce development 252  
incentive payment. The total amount of workforce development 253  
incentive payments paid to providers of nursing facilities shall 254  
be used to improve nursing facilities' employee retention and 255  
direct-care staffing levels, including by increasing wages paid to 256  
nursing facilities' direct-care staff. Not later than September 257  
30, 2012, the Department shall submit a report to the Governor 258  
and, in accordance with section 101.68 of the Revised Code, the 259  
General Assembly detailing the impact that the workforce 260  
development incentive payments have on nursing facilities' 261  
employee retention, direct-care staffing levels, and direct-care 262  
staff wages. The report may be combined with the report required 263  
by division (E) of Section 309.30.25 of Am. Sub. H.B. 1 of the 264  
128th General Assembly, as amended by Sub. H.B. 198 of the 128th 265  
General Assembly. 266

(E) If the United States Centers for Medicare and Medicaid 267

Services requires that the franchise permit fee be reduced or 268  
eliminated, the Department of Job and Family Services shall reduce 269  
the amount it pays providers of nursing facility services under 270  
this section as necessary to reflect the loss to the state of the 271  
revenue and federal financial participation generated from the 272  
franchise permit fee. 273

(F) The Department of Job and Family Services shall follow 274  
this section in determining the rate to be paid to the provider of 275  
a nursing facility that has a valid Medicaid provider agreement on 276  
December 31, 2010, and a valid Medicaid provider agreement during 277  
the second half of fiscal year 2011 notwithstanding anything to 278  
the contrary in sections 5111.20 to 5111.33 of the Revised Code. 279