

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SIXTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 22**

FINAL READING

Introduced by Kolterman, 24.

Read first time January 10, 2019

Committee: Health and Human Services

1 A BILL FOR AN ACT relating to nursing facilities; to amend sections  
2 71-2097, 71-2098, and 71-20,100, Reissue Revised Statutes of  
3 Nebraska; to redefine a term; to change provisions relating to  
4 distribution of the Nursing Facility Penalty Cash Fund; to harmonize  
5 provisions; and to repeal the original sections.  
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 71-2097, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3 71-2097 For purposes of sections 71-2097 to 71-20,101:

4 (1) Civil penalty includes ~~penalties include~~ any remedy ~~remedies~~  
5 required under federal law and includes ~~include~~ the imposition of a civil  
6 money penalty ~~monetary penalties~~;

7 (2) Department means the Department of Health and Human Services;

8 (3) Federal regulations for participation in the medicaid program  
9 means the regulations found in 42 C.F.R. parts 442 and 483, as amended,  
10 for participation in the medicaid program under Title XIX of the federal  
11 Social Security Act, as amended; and

12 (4) Nursing facility means any intermediate care facility or nursing  
13 facility, as defined in sections 71-420 and 71-424, which receives  
14 federal and state funds under Title XIX of the federal Social Security  
15 Act, as amended.

16 Sec. 2. Section 71-2098, Reissue Revised Statutes of Nebraska, is  
17 amended to read:

18 71-2098 (1) The department may assess, enforce, and collect civil  
19 penalties against a nursing facility which the department has found in  
20 violation of federal regulations for participation in the medicaid  
21 program pursuant to the authority granted to the department under section  
22 81-604.03.

23 (2) If the department finds that a violation is life threatening to  
24 one or more residents or creates a direct threat of serious adverse harm  
25 to one or more residents, a civil penalty shall be imposed for each day  
26 the deficiencies which constitute the violation exist. The department may  
27 assess an appropriate civil penalty for other violations based on the  
28 nature of the violation. Any civil money ~~monetary~~ penalty assessed shall  
29 not be less than fifty dollars nor more than ten thousand dollars for  
30 each day the facility is found to be in violation of such federal  
31 regulations. Any civil money penalty ~~Monetary penalties~~ assessed shall

1 include interest at the rate specified in section 45-104.02, as such rate  
2 may from time to time be adjusted.

3 Sec. 3. Section 71-20,100, Reissue Revised Statutes of Nebraska, is  
4 amended to read:

5 71-20,100 (1) The Nursing Facility Penalty Cash Fund is created. Any  
6 civil money penalty ~~Monetary penalties~~ collected by the department as  
7 part of any civil penalty imposed pursuant to section 71-2098 or in  
8 accordance with the federal Social Security Act, as amended, and imposed  
9 by the Centers for Medicare and Medicaid Services pursuant to 42 C.F.R.  
10 488.431 and disbursed to the department in accordance with 42 C.F.R.  
11 488.433 or imposed by the department pursuant to 42 C.F.R. 488.432 shall  
12 be remitted to the State Treasurer for credit to such fund. The state  
13 investment officer shall invest any money in the fund available for  
14 investment pursuant to the Nebraska Capital Expansion Act and the  
15 Nebraska State Funds Investment Act.

16 (2) The department shall adopt and promulgate rules and regulations  
17 which establish circumstances under which the department may distribute  
18 funds from the Nursing Facility Penalty Cash Fund. Funds collected as  
19 part of a civil money penalty imposed by the Centers for Medicare and  
20 Medicaid Services of the United States Department of Health and Human  
21 Services as described in subsection (1) of this section shall be  
22 distributed in accordance with the federal Social Security Act, as  
23 amended, and the ~~to protect the health or property of individuals~~  
24 ~~residing in nursing facilities which the department has found in~~  
25 ~~violation of federal regulations for participation in the medicaid~~  
26 ~~program, to support activities that benefit nursing home residents as~~  
27 ~~provided in 42 C.F.R. 488.433.~~ ~~Circumstances considered as a basis for~~  
28 ~~distribution from the fund include paying costs to:~~

- 29 (a) ~~Relocate residents to other facilities;~~  
30 (b) ~~Maintain the operation of a nursing facility pending correction~~  
31 ~~of violations;~~

1           ~~(c) Close a nursing facility; and~~

2           ~~(d) Reimburse residents for personal funds lost.~~

3           Sec. 4. Original sections 71-2097, 71-2098, and 71-20,100, Reissue

4 Revised Statutes of Nebraska, are repealed.