
CHAPTER 60

NURSING FACILITY UTILIZATION FEE

Part 1

General Provisions

15-60-101. (Temporary) Definitions. For purposes of this chapter, unless the context requires otherwise, the following definitions apply:

(1) (a) "Bed day" means each 24-hour period that a resident of a nursing facility is present in the facility and receiving skilled nursing care or intermediate nursing care or in which a bed is held for a resident while the resident is on temporary leave from the facility.

(b) The term includes all periods of 24 hours described in subsection (1)(a), regardless of the source of payment. The term also includes the day of a resident's admission to a nursing facility and the day of the resident's death, even though the resident is present for less than a 24-hour period on these days.

(2) "Calendar quarter" means the period of 3 consecutive months ending March 31, June 30, September 30, or December 31.

(3) "Department" means the department of revenue.

(4) "Nursing facility" or "facility" means a health care facility licensed by the department of public health and human services as a nursing facility to provide skilled nursing care or intermediate nursing care. The term includes:

(a) nursing facilities, whether they are:

- (i) operated as nonprofit or for-profit facilities;
- (ii) freestanding or part of another health care facility; or
- (iii) publicly or privately operated; and

(b) the Montana mental health nursing care center provided for in 53-21-411.

(5) "Report" means the report of bed days required in 15-60-201.

(6) "Skilled nursing care" and "intermediate nursing care" have the same meaning as those terms are defined in 50-5-101.

(7) "Utilization fee" or "fee" means the fee required to be paid for each bed day in a nursing facility, as provided in 15-60-102. (*Void on occurrence of contingency—sec. 18, Ch. 746, L. 1991—see chapter compiler's comment.*)

15-60-102. (Temporary) Utilization fee for bed days in nursing facilities. (1) A nursing facility in the state shall pay to the department a utilization fee for each bed day in the facility in the following amounts:

(a) the amount of \$2.80, which must be applied to maintain the price-based average payment rate to nursing facilities at the fiscal year 2017 base amount;

(b) the amount of \$5.50 to be used to maintain the price-based average payment rate to nursing facilities at the fiscal year 2017 base amount as provided in 15-60-211;

(c) in fiscal year 2018, an additional amount of \$3 to be used to increase the price-based average payment rate to nursing facilities above the fiscal year 2017 base as provided in 15-60-211; and

(d) on and after July 1, 2018, an additional amount of \$7 to be used to increase the price-based average payment rate to nursing facilities above the fiscal year 2017 base as provided in 15-60-211.

(2) The fees collected must be deposited as follows:

(a) the amounts collected as provided in subsection (1)(a), in the general fund; and

(b) the amounts collected as provided in subsections (1)(b) through (1)(d), in the account in the state special revenue fund as provided in 15-60-211.

(3) A nursing facility may not place a fee created in this section on a patient's bill. (*Void on occurrence of contingency—sec. 18, Ch. 746, L. 1991—see chapter compiler's comment.*)

15-60-103. (Temporary) Relation to other taxes and fees. The utilization fee imposed under 15-60-102 is in addition to any other taxes and fees required by law to be paid by nursing facilities. (*Void on occurrence of contingency—sec. 18, Ch. 746, L. 1991—see chapter compiler's comment.*)

15-60-104. (Temporary) Rulemaking authority. The department of revenue may adopt rules necessary to implement and administer this chapter. (*Void on occurrence of contingency—sec. 18, Ch. 746, L. 1991—see chapter compiler's comment.*)

15-60-201. (Temporary) Reporting and collection of fee. (1) A nursing facility shall report to the department of revenue, following the end of each calendar quarter, the number of bed days in the facility during the quarter. The report must be in the form prescribed by the department and is due on or before the last day of the month following the close of each calendar quarter. The report must be accompanied by a payment in an amount equal to the fee required to be paid under 15-60-102.

(2) The department of public health and human services shall provide the department at the end of each calendar quarter with a list of facilities as defined in 15-60-101(4). (*Void on occurrence of contingency—sec. 18, Ch. 746, L. 1991—see chapter compiler's comment.*)

15-60-202. (Temporary) Audit — records. (1) The department of revenue may audit the records and other documents of any nursing facility to ensure that the proper utilization fee has been collected.

(2) The department may require the facility to provide records and other documentation, including books, ledgers, and registers, necessary for the department to verify the proper amount of the utilization fee paid.

(3) A facility shall maintain and make available for inspection by the department sufficient records and other documentation to demonstrate the number of bed days in the facility subject to the utilization fee. The facility shall maintain these records for a period of at least 5 years from the date the report is due. (*Void on occurrence of contingency—sec. 18, Ch. 746, L. 1991—see chapter compiler's comment.*)

15-60-203. (Temporary) Periods of limitation. (1) Except as otherwise provided in this section, a deficiency may not be assessed or collected with respect to the quarter for which a report is filed unless the notice of additional fees proposed to be assessed is mailed within 5 years from the date the report was filed. For the purposes of this section, a report filed before the last day prescribed for filing is considered filed on the last day. If, before the expiration of the period prescribed for assessment of the fee, the facility consents in writing to an assessment after the 5-year period, the fee may be assessed at any time prior to the expiration of the period agreed upon.

(2) A refund or credit may not be paid or allowed with respect to the year for which a report is filed after 5 years from the last day prescribed for filing the report or after 1 year from the date of the overpayment, whichever period expires later, unless before the expiration of the period, the facility files a claim or the department has determined the existence of the overpayment and has approved the refund or credit. If the facility has agreed in writing under the provisions of subsection (1) to extend the time within which the department may propose an additional assessment, the period within which a claim for refund or credit is filed or a credit or refund allowed in the event no claim is filed is automatically extended. (*Void on occurrence of contingency—sec. 18, Ch. 746, L. 1991—see chapter compiler's comment.*)

15-60-204. (Temporary) Penalty and interest for delinquent fees — waiver. If the fee for any facility is not paid on or before the due date of the report as provided in 15-60-201(1), penalty and interest, as provided in 15-1-216, must be added to the fee. (*Void on occurrence of contingency—sec. 18, Ch. 746, L. 1991—see chapter compiler's comment.*)

15-60-205. (Temporary) Estimated fee on failure to file. For the purpose of ascertaining the correctness of any report or for the purpose of making an estimate of bed day use of any facility where information has been obtained, the department may:

(1) examine or cause to have examined by any designated agent or representative any books, papers, records, or memoranda bearing upon the matters required to be included in the report;

(2) require the attendance of any officer or employee of the facility rendering the report or the attendance of any other person in the premises having relevant knowledge; and

(3) take testimony and require production of any other material for its information. (*Void on occurrence of contingency—sec. 18, Ch. 746, L. 1991—see chapter compiler's comment.*)

15-60-206. (Temporary) Deficiency assessment — penalty and interest — hearing. (1) If the department determines that the amount of fees due is greater than the amount disclosed by the report, it shall mail to the facility a notice of the additional fees proposed to be assessed. Within 30 days after the mailing of the notice, the facility may file with the department a written protest against the proposed additional fees, setting forth the grounds upon which the protest is based, and may request in its protest an oral hearing or an opportunity to present additional evidence relating to its fees liability. If a protest is not filed, the amount of the additional fees proposed to be assessed becomes final upon the expiration of the 30-day period. If a protest is filed, the department shall reconsider the proposed assessment and, if the facility has requested, shall grant the facility an oral hearing. After consideration of the protest and the evidence presented at an oral hearing, the department's action upon the protest is final when it mails notice of its action to the facility.

(2) When a deficiency is determined and the fees become final, the department shall mail notice and demand to the facility for payment. Penalty and interest must be added to any deficiency assessment as provided in 15-1-216. (*Void on occurrence of contingency—sec. 18, Ch. 746, L. 1991—see chapter compiler's comment.*)

15-60-207. (Temporary) Closing agreements. (1) The director of the department or any person authorized in writing by the director is authorized to enter into an agreement with any facility relating to the liability of the facility in respect to the fees imposed by this chapter for any period.

(2) An agreement under this section is final and conclusive, and except upon a showing of fraud or malfeasance or misrepresentation of a material fact:

(a) the case may not be reopened as to matters agreed upon or the agreement modified by any officer, employee, or agent of this state; and

(b) in any suit, action, or proceeding under the agreement or any determination, assessment, collection, payment, abatement, refund, or credit made in accordance with the agreement, the agreement may not be annulled, modified, set aside, or disregarded. (*Void on occurrence of contingency—sec. 18, Ch. 746, L. 1991—see chapter compiler's comment.*)

15-60-208. (Temporary) Credit for overpayment — interest on overpayment. (1) If the department determines that the amount of fees, penalty, or interest due for any year is less than the amount paid, the amount of the overpayment must be credited against any fees, penalty, or interest then due from the facility and the balance must be refunded to the facility or its successor through reorganization, merger, or consolidation or to its shareholders upon dissolution.

(2) Except as provided in subsection (3), interest is allowed on overpayments at the same rate as is charged on unpaid taxes, as provided in 15-1-216, due from the due date of the report or from the date of overpayment, whichever date is later, to the date the department approves refunding or crediting of the overpayment. Interest does not accrue during any period during which the processing of a claim for refund is delayed more than 30 days by reason of failure of the facility to furnish information requested by the department for the purpose of verifying the amount of the overpayment.

(3) Interest is not allowed:

(a) if the overpayment is refunded within 6 months from the date the report is due or from the date the return is filed, whichever is later; or

(b) if the amount of interest is less than \$1.

(4) A payment not made incident to a discharge of actual utilization fee liability or a payment reasonably assumed to be imposed by this chapter is not considered an overpayment with respect to which interest is allowable. (*Void on occurrence of contingency—sec. 18, Ch. 746, L. 1991—see chapter compiler's comment.*)

15-60-209. (Temporary) Warrant for distraint. If the utilization fee is not paid when due, the department of revenue may issue a warrant for distraint as provided in Title 15, chapter 1, part 7. (*Void on occurrence of contingency—sec. 18, Ch. 746, L. 1991—see chapter compiler's comment.*)

15-60-210. (Temporary) Disposition of fee. (1) Except as provided in subsection (2), all proceeds from the collection of utilization fees, including penalties and interest, must, in accordance with the provisions of 17-2-124, be deposited in the general fund.

(2) Utilization fees, including penalties and interest, collected from the Montana mental health nursing care center must be allocated as follows:

(a) 30% to the state general fund; and

(b) 70% to the prevention and stabilization account in the state special revenue fund established pursuant to 53-6-1101 to the credit of the department of public health and human services to finance, administer, and provide health and human services. (*Void on occurrence of contingency—sec. 18, Ch. 746, L. 1991—see chapter compiler's comment.*)

15-60-211. State special revenue account. (1) There is a nursing facility utilization fee account in the state special revenue fund as provided in 17-2-102.

(2) (a) All money collected under 15-60-102(1)(b) through (1)(d) must be deposited in this account.

(b) Money collected under 15-60-102(1)(b) must be used by the department of public health and human services for the purpose of maintaining the average price paid for medicaid nursing facility services at the fiscal year 2017 level under the price-based reimbursement system used to establish medicaid payment rates to nursing homes.

(c) All money collected under 15-60-102(1)(c) and (1)(d) must be used by the department of public health and human services for the purpose of:

(i) increasing the average price paid for medicaid nursing facility services above the fiscal year 2017 level under the price-based reimbursement system used to establish medicaid payment rates to nursing homes; and

(ii) in each year of the biennium beginning July 1, 2017, providing a wage increase of 50 cents per hour to certified nursing assistants working in nursing facilities, provided in increments of 25 cents per hour every 6 months.

(3) Money remaining in this account at the end of a fiscal year may not be expended or transferred for any other purpose and is subject to appropriation by a subsequent legislature for purposes consistent with subsection (2).

CHAPTER 66

HOSPITAL FACILITY UTILIZATION FEE

Part 1

General Provisions

15-66-101. (Temporary) Definitions. For purposes of this chapter, the following definitions apply:

(1) (a) "Hospital" has the meaning provided in 50-5-101 and includes a critical access hospital as defined in 50-5-101.

(b) The term does not include the Montana state hospital or a hospital or facility operated by the state, a political subdivision of the state, the United States, or an Indian tribe or any facility authorized under the Indian Health Care Improvement Act.

(2) (a) "Hospital outpatient revenue" means the gross revenue from a hospital's charges for services provided on an outpatient basis.

(b) The term does not include charges for professional services provided as part of the outpatient treatment.

(3) (a) "Inpatient bed day" means a day of inpatient care provided to a patient in a hospital. A day begins at midnight and ends 24 hours later. A part of a day, including the day of admission, counts as a full day. The day of discharge or death is not counted as a day. If admission and discharge or death occur on the same day, the day is considered a day of admission and is counted as one inpatient bed day. Inpatient bed days include all inpatient hospital benefit days as defined for medicare reporting purposes in section 20.1 of chapter 3 of the centers for medicare and medicaid services publication 100-02, the Medicare Benefit Policy Manual. Inpatient bed days also include all nursery days during which a newborn infant receives care in a nursery.

(b) The term does not include observation days or days of care in a swing bed, as defined in 50-5-101.

(4) "Patient" means an individual obtaining skilled medical and nursing services in a hospital. The term includes newborn infants.

(5) "Report" means the report of inpatient bed days and hospital outpatient revenue required in 15-66-201.

(6) "Utilization fee" or "fee" means the fees required to be paid as provided in 15-66-102. *(Void on occurrence of contingency—sec. 18, Ch. 390, L. 2003—see chapter compiler's comment; terminates June 30, 2025, on occurrence of contingency—sec. 48, Ch. 415, L. 2019.)*

15-66-101. (Temporary — effective on occurrence of contingency) Definitions. For purposes of this chapter, the following definitions apply:

(1) (a) "Hospital" means a facility licensed as a hospital pursuant to Title 50, chapter 5, and includes a critical access hospital.

(b) The term does not include the Montana state hospital.

(2) (a) "Inpatient bed day" means a day of inpatient care provided to a patient in a hospital. A day begins at midnight and ends 24 hours later. A part of a day, including the day of admission, counts as a full day. The day of discharge or death is not counted as a day. If admission and discharge or death occur on the same day, the day is considered a day of admission and is counted as one inpatient bed day. Inpatient bed days include all inpatient hospital benefit days as defined for medicare reporting purposes in section 20.1 of chapter 3 of the centers for medicare and medicaid services publication 100-02, the Medicare Benefit Policy Manual. Inpatient bed days also include all nursery days during which a newborn infant receives care in a nursery.

(b) The term does not include observation days or days of care in a swing bed, as defined in 50-5-101.

(3) "Patient" means an individual obtaining skilled medical and nursing services in a hospital. The term includes newborn infants.

(4) "Report" means the report of inpatient bed days required in 15-66-201.

(5) "Utilization fee" or "fee" means the fee required to be paid for each inpatient bed day, as provided in 15-66-102. *(Void on occurrence of contingency—sec. 18, Ch. 390, L. 2003—see chapter compiler's comment.)*

15-66-102. (Temporary) Utilization fees — inpatient bed days — hospital outpatient revenue. (1) Each hospital in the state shall pay to the department a utilization fee in the amount of \$70 for each inpatient bed day.

(2) Each hospital shall pay to the department a utilization fee in the amount of 0.90% of hospital outpatient revenue.

(3) (a) Except as provided in subsection (3)(b), all proceeds from the collection of utilization fees, including penalties and interest, must, in accordance with the provisions of 17-2-124, be deposited to the credit of the department of public health and human services in the state special revenue account provided for in 53-6-149.

(b) The department shall deposit 54% of the amount paid in accordance with subsection (2) in the Montana HELP Act special revenue account provided for in 53-6-1315. *(Void on occurrence of contingency—sec. 18, Ch. 390, L. 2003—see chapter compiler's comment; terminates June 30, 2025, on occurrence of contingency—sec. 48, Ch. 415, L. 2019.)*

15-66-102. (Temporary — effective on occurrence of contingency) Utilization fee for inpatient bed days. (1) Each hospital in the state shall pay to the department a utilization fee in the amount of \$50 for each inpatient bed day.

(2) All proceeds from the collection of utilization fees, including penalties and interest, must, in accordance with the provisions of 17-2-124, be deposited to the credit of the department of public health and human services in a state special revenue account as provided in 53-6-149. *(Void on occurrence of contingency—sec. 18, Ch. 390, L. 2003—see chapter compiler's comment.)*

15-66-103. (Temporary) Relation to other taxes and fees. The utilization fees imposed under 15-66-102 are in addition to any other taxes and fees required to be paid by hospitals. *(Void on occurrence of contingency—sec. 18, Ch. 390, L. 2003—see chapter compiler's comment; terminates June 30, 2025, on occurrence of contingency—sec. 48, Ch. 415, L. 2019.)*

15-66-103. (Temporary — effective on occurrence of contingency) Relation to other taxes and fees. The utilization fee imposed under 15-66-102 is in addition to any other taxes and fees required to be paid by hospitals. *(Void on occurrence of contingency—sec. 18, Ch. 390, L. 2003—see chapter compiler's comment.)*

15-66-104. (Temporary) Rulemaking. The department may adopt rules necessary to implement and administer this chapter. *(Void on occurrence of contingency—sec. 18, Ch. 390, L. 2003—see chapter compiler's comment.)*

15-66-201. (Temporary) Reporting and collection of fees. (1) On or before March 31 of each year, a hospital shall file with the department an annual report of the number of inpatient bed days and of hospital outpatient revenue during the preceding year beginning January 1 and ending December 31. The report must be in the form prescribed by the department. The report must be accompanied by a payment in an amount equal to the fees required to be paid under 15-66-102.

(2) On or before January 31 of each year, the department of public health and human services shall provide the department with a list of hospitals licensed and operating in the state and subject to the provisions of 15-66-102 during the preceding year beginning January 1 and ending December 31. *(Void on occurrence of contingency—sec. 18, Ch. 390, L. 2003—see chapter compiler's comment; terminates June 30, 2025, on occurrence of contingency—sec. 48, Ch. 415, L. 2019.)*

15-66-201. (Temporary — effective on occurrence of contingency) Reporting and collection of fee. (1) On or before January 31 of each year, a hospital shall file with the department an annual report of the number of inpatient bed days during the preceding year beginning January 1 and ending December 31. The report must be in the form prescribed by the department. The report must be accompanied by a payment in an amount equal to the fee required to be paid under 15-66-102.

(2) On or before January 31 of each year, the department of public health and human services shall provide the department with a list of hospitals licensed and operating in the state during the preceding year beginning January 1 and ending December 31. *(Void on occurrence of contingency—sec. 18, Ch. 390, L. 2003—see chapter compiler's comment.)*

15-66-202. (Temporary) Audit — records. (1) The department may audit the records and other documents of any hospital to ensure that the proper utilization fees have been collected.

(2) The department may require the hospital to provide records and other documentation, including books, ledgers, and registers, necessary for the department to verify the proper amount of the utilization fee paid.

(3) A hospital shall maintain and make available for inspection by the department sufficient records and other documentation to demonstrate the number of inpatient bed days in the facility and the hospital outpatient revenue subject to the utilization fees. The facility shall maintain these records for a period of at least 5 years from the date the report is due. *(Void on occurrence of contingency—sec. 18, Ch. 390, L. 2003—see chapter compiler's comment; terminates June 30, 2025, on occurrence of contingency—sec. 48, Ch. 415, L. 2019.)*

15-66-202. (Temporary — effective on occurrence of contingency) Audit — records. (1) The department may audit the records and other documents of any hospital to ensure that the proper utilization fee has been collected.

(2) The department may require the hospital to provide records and other documentation, including books, ledgers, and registers, necessary for the department to verify the proper amount of the utilization fee paid.

(3) A hospital shall maintain and make available for inspection by the department sufficient records and other documentation to demonstrate the number of inpatient bed days in the facility subject to the utilization fee. The facility shall maintain these records for a period of at least 5 years from the date the report is due. *(Void on occurrence of contingency—sec. 18, Ch. 390, L. 2003—see chapter compiler's comment.)*

15-66-203. (Temporary) Periods of limitation. (1) Except as otherwise provided in this section, a deficiency may not be assessed or collected with respect to the year for which a report is filed unless the notice of additional fees proposed to be assessed is mailed within 5 years from the date the report was filed. For the purposes of this section, a report filed before the last day prescribed for filing is considered filed on the last day. If, before the expiration of the period prescribed for assessment of the fees, the hospital consents in writing to an assessment after the 5-year period, the fees may be assessed at any time prior to the expiration of the period agreed upon.

(2) A refund or credit may not be paid or allowed with respect to the year for which a report is filed after 5 years from the last day prescribed for filing the report or after 1 year from the date of the overpayment, whichever period expires later, unless before the expiration of the period, the hospital files a claim or the department has determined the existence of the overpayment and has approved the refund or credit. If the hospital has agreed in writing under the provisions of subsection (1) to extend the time within which the department may propose an additional assessment, the period within which a claim for refund or credit is filed or a credit or refund is allowed if a claim is not filed is automatically extended. *(Void on occurrence of contingency—sec. 18, Ch. 390, L. 2003—see chapter compiler's comment; terminates June 30, 2025, on occurrence of contingency—sec. 48, Ch. 415, L. 2019.)*

15-66-203. (Temporary — effective on occurrence of contingency) Periods of limitation. (1) Except as otherwise provided in this section, a deficiency may not be assessed or collected with respect to the year for which a report is filed unless the notice of additional fees proposed to be assessed is mailed within 5 years from the date the report was filed. For the purposes of this section, a report filed before the last day prescribed for filing is considered filed on the last day. If, before the expiration of the period prescribed for assessment of the fee, the hospital consents in writing to an assessment after the 5-year period, the fee may be assessed at any time prior to the expiration of the period agreed upon.

(2) A refund or credit may not be paid or allowed with respect to the year for which a report is filed after 5 years from the last day prescribed for filing the report or after 1 year from the date of the overpayment, whichever period expires later, unless before the expiration of the period, the hospital files a claim or the department has determined the existence of the overpayment and has approved the refund or credit. If the hospital has agreed in writing under the provisions of subsection (1) to extend the time within which the department may propose an additional assessment, the period within which a claim for refund or credit is filed or a credit or refund is allowed if a claim is not filed is automatically extended. *(Void on occurrence of contingency—sec. 18, Ch. 390, L. 2003—see chapter compiler's comment.)*

15-66-204. (Temporary) Penalty and interest for delinquent fees — waiver. If the fees for any hospital are not paid on or before the due date of the report as provided in 15-66-201, penalty and interest, as provided in 15-1-216, must be added to the fees. *(Void on occurrence of contingency—sec. 18, Ch. 390, L. 2003—see chapter compiler's comment; terminates June 30, 2025, on occurrence of contingency—sec. 48, Ch. 415, L. 2019.)*

15-66-204. (Temporary — effective on occurrence of contingency) Penalty and interest for delinquent fees — waiver. If the fee for any hospital is not paid on or before the due date of the report as provided in 15-66-201, penalty and interest, as provided in 15-1-216, must be added to the fee. *(Void on occurrence of contingency—sec. 18, Ch. 390, L. 2003—see chapter compiler's comment.)*

15-66-205. (Temporary) Department authority to request information. For the purpose of ascertaining the correctness of any report or for the purpose of making an estimate of inpatient bed day use or hospital outpatient revenue of any hospital for which information has been obtained, the department may:

(1) examine or cause to have examined by any designated agent or representative any books, papers, records, or memoranda bearing on the matters required to be included in the report;

(2) require the attendance of any officer or employee of the facility rendering the report or the attendance of any other person in the premises having relevant knowledge; and

(3) take testimony and require production of any other material for its information. *(Void on occurrence of contingency—sec. 18, Ch. 390, L. 2003—see chapter compiler's comment; terminates June 30, 2025, on occurrence of contingency—sec. 48, Ch. 415, L. 2019.)*

15-66-205. (Temporary — effective on occurrence of contingency) Estimated fee on failure to file. For the purpose of ascertaining the correctness of any report or for the purpose of making an estimate of inpatient bed day use of any hospital for which information has been obtained, the department may:

(1) examine or cause to have examined by any designated agent or representative any books, papers, records, or memoranda bearing upon the matters required to be included in the report;

(2) require the attendance of any officer or employee of the facility rendering the report or the attendance of any other person in the premises having relevant knowledge; and

(3) take testimony and require production of any other material for its information. (*Void on occurrence of contingency—sec. 18, Ch. 390, L. 2003—see chapter compiler's comment.*)

15-66-206. (Temporary) Deficiency assessment — penalty and interest — hearing. (1) If the department determines that the amount of fees due is greater than the amount disclosed by the report, it shall mail to the hospital a notice of the additional fees proposed to be assessed. Within 30 days after the mailing of the notice, the hospital may file with the department a written protest against the proposed additional fees, setting forth the grounds upon which the protest is based, and may request in its protest an oral hearing or an opportunity to present additional evidence relating to its fees liability. If a protest is not filed, the amount of the additional fees proposed to be assessed becomes final upon the expiration of the 30-day period. If a protest is filed, the department shall reconsider the proposed assessment and, if the hospital has requested, shall grant the hospital an oral hearing. After consideration of the protest and the evidence presented at an oral hearing, the department's action upon the protest is final when it mails notice of its action to the hospital.

(2) When a deficiency is determined and the fees become final, the department shall mail notice and demand for payment to the hospital. Penalty and interest must be added to any deficiency assessment as provided in 15-1-216 from the date specified in 15-66-201 for payment of the fees. A certificate by the department of the mailing of the notices specified in this section is prima facie evidence of the computation and levy of the deficiency in the fees and of the giving of the notice. (*Void on occurrence of contingency—sec. 18, Ch. 390, L. 2003—see chapter compiler's comment.*)

15-66-207. (Temporary) Closing agreements. (1) The director of the department or any person authorized in writing by the director may enter into an agreement with a hospital relating to the liability of the hospital with respect to the fees imposed by this chapter for any period.

(2) An agreement under this section is final and conclusive and, except upon a showing of fraud or malfeasance or misrepresentation of a material fact:

(a) in a case involving the agreement, the agreement may not be reopened as to matters agreed upon or modified by any officer, employee, or agent of this state; and

(b) the agreement may not be annulled, modified, set aside, or disregarded in any suit, action, or proceeding concerning the agreement or concerning any determination, assessment, collection, payment, abatement, refund, or credit made in accordance with the agreement. (*Void on occurrence of contingency—sec. 18, Ch. 390, L. 2003—see chapter compiler's comment.*)

15-66-208. (Temporary) Credit for overpayment — interest on overpayment. (1) If the department determines that the amount of fees, penalty, or interest due for any period is less than the amount paid, the amount of the overpayment must be credited against any fees, penalty, or interest due from the hospital at that time and the balance must be refunded to the hospital or its successor through reorganization, merger, or consolidation or to its shareholders upon dissolution.

(2) Except as provided in subsection (3), interest is allowed on overpayments at the same rate as is charged on unpaid taxes, as provided in 15-1-216, from the due date of the report or from the date of overpayment, whichever date is later, to the date the department approves refunding or crediting of the overpayment. Interest does not accrue during any period during which the processing of a claim for refund is delayed more than 30 days by reason of failure of the hospital to furnish information requested by the department for the purpose of verifying the amount of the overpayment.

(3) Interest is not allowed:

(a) if the overpayment is refunded within 6 months from the date the report is due or from the date the return is filed, whichever is later; or

(b) if the amount of interest is less than \$1.

(4) A payment not made incident to a discharge of actual utilization fee liability or a payment reasonably assumed to be imposed by this chapter is not considered an overpayment with respect to which interest is allowable. *(Void on occurrence of contingency—sec. 18, Ch. 390, L. 2003—see chapter compiler's comment.)*

15-66-209. (Temporary) Warrant for distraint. If the utilization fee is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7. *(Void on occurrence of contingency—sec. 18, Ch. 390, L. 2003—see chapter compiler's comment.)*

53-6-149. State special revenue fund account — administration. (1) There is a hospital medicaid reimbursement account in the state special revenue fund provided for in 17-2-102.

(2) All money collected under 15-66-102[, except for the money deposited pursuant to 15-66-102(3)(b) into the Montana HELP Act special revenue account provided for in 53-6-1315,] must be deposited in the account.

(3) Money in the account must be used by the department of public health and human services to provide funding [no later than May 5 of each year] for increases in medicaid payments to hospitals and for the costs of collection of the fee and other administrative activities associated with the implementation of increases in the medicaid payments to hospitals. *(Bracketed language terminates June 30, 2025, on occurrence of contingency—sec. 48, Ch. 415, L. 2019.)*

53-6-1315. (Temporary) Montana HELP Act special revenue account. (1) There is a Montana HELP Act account in the state special revenue fund to the credit of the department.

(2) Money from the following sources must be deposited in the account:

- (a) the taxpayer integrity fees provided for in 15-30-2660;
- (b) the outpatient hospital utilization fee provided for in 15-66-102(3)(b);
- (c) the health service corporation fee provided for in 33-2-714; and
- (d) premiums paid by members pursuant to 53-6-1307.

(3) Money in the account must be used to pay for:

(a) the state share of costs, including benefits and administrative costs, of providing health care services under this part; and

(b) grants made under the HELP Act employer grant program provided for in 39-12-106.

(4) Money from the account must be used for the benefits and administrative costs of providing health care services under this part before any general fund is expended on the costs. *(Terminates June 30, 2025, on occurrence of contingency—sec. 48, Ch. 415, L. 2019.)*