



General Assembly

February Session, 2014

Raised Bill No. 5441

LCO No. 1697



Referred to Committee on HUMAN SERVICES

Introduced by:
(HS)

AN ACT CONCERNING DIRECT PAYMENT OF RESIDENTIAL CARE FACILITIES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 17b-83 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 The aid granted under the state supplement program or the
4 temporary family assistance program shall be in the form of money
5 payments and shall be made by the commissioner within available
6 Department of Social Services appropriations, directly to a licensed
7 residential care home, as defined in section 19a-490, a state-operated
8 facility, as defined in section 17a-458, a boarding house, as defined in
9 section 47a-50, the applicant or other person entitled to receive the
10 same at such regular intervals as the Commissioner of Social Services
11 determines, provided the payments of the costs of medical care and
12 such other charges in connection with the care and maintenance of a
13 beneficiary as the commissioner deems necessary and reasonable may
14 be made to the licensed residential care home, state-operated facility,
15 boarding house, applicant or to those persons furnishing such services

16 by the commissioner. Ninety per cent of clean claims for payments to
17 persons furnishing such services shall be made no later than thirty
18 days from receipt of the request for payment and ninety-nine per cent
19 shall be made within ninety days of such receipt. For the purposes of
20 this section "clean claim" means a claim which can be processed
21 without obtaining additional substantiation from the person
22 furnishing such services or other person entitled to receive payment. A
23 claim submitted by any such person who is under investigation for
24 fraud or abuse shall not be considered a clean claim.

25 Sec. 2. Section 17b-601 of the general statutes is repealed and the
26 following is substituted in lieu thereof (*Effective from passage*):

27 The Commissioner of Social Services shall adopt regulations in
28 accordance with the provisions of chapter 54 establishing the method
29 by which payments are made for recipients of the state supplement
30 program who are residents of licensed residential care homes, as
31 defined in section 19a-490, a state-operated facility, as defined in
32 section 17a-458, and a boarding house, as defined in section 47a-50.
33 Such regulations shall provide for the safeguarding of residents'
34 personal funds with respect to any homes, state-operated facilities or
35 boarding houses that handle such funds. Regulations concerning
36 payment [to] for residents shall provide for payment to the [recipient]
37 licensed residential care home, state-operated facility or boarding
38 house for the period during which the recipient makes [the] such
39 home, facility or house his or her residence, without regard to periods
40 during which the recipient is absent, provided the recipient can
41 reasonably be expected to return to the home, facility or house before
42 the end of the month following the month in which the recipient leaves
43 the home, facility or house. If the department determines that a
44 resident of a home, facility or house who applies for state supplement
45 benefits is eligible for such benefits, the department shall pay the
46 home, facility or house at a per diem or monthly rate less any applied
47 income due from the resident. Any retroactive adjustment to the rate
48 of such a home, facility or house by the commissioner that results in

49 money due to such home, facility or house shall be made to such
50 home, facility or house directly, and any such adjustment that results
51 in an overpayment to the home, facility or house shall be paid by the
52 home, facility or house to the department. If a retroactive adjustment
53 to the rate of such home, facility or house results in a current resident
54 becoming eligible for state supplement benefits, and such resident
55 applies for state supplement benefits, the department may determine
56 the start date of eligibility for state supplement benefits to be the later
57 of the resident's admission date or the date ninety days prior to the
58 date the department receives the application. The commissioner shall
59 continue to make payments to licensed residential care homes, state-
60 operated facilities or boarding houses in accordance with reserved bed
61 regulations until the effective date of the regulations adopted pursuant
62 to this section.

63 Sec. 3. Subsection (a) of section 17b-340 of the 2014 supplement to
64 the general statutes is repealed and the following is substituted in lieu
65 thereof (*Effective from passage*):

66 (a) The rates to be paid by or for persons aided or cared for by the
67 state or any town in this state to licensed chronic and convalescent
68 nursing homes, to chronic disease hospitals associated with chronic
69 and convalescent nursing homes, to rest homes with nursing
70 supervision, to licensed residential care homes, as defined by section
71 19a-490, and to residential facilities for persons with intellectual
72 disability which are licensed pursuant to section 17a-227 and certified
73 to participate in the Title XIX Medicaid program as intermediate care
74 facilities for individuals with intellectual disabilities, for room, board
75 and services specified in licensing regulations issued by the licensing
76 agency shall be determined annually, except as otherwise provided in
77 this subsection, after a public hearing, by the Commissioner of Social
78 Services, to be effective July first of each year except as otherwise
79 provided in this subsection. Such rates shall be determined on a basis
80 of a reasonable payment for such necessary services, which basis shall
81 take into account as a factor the costs of such services. Cost of such

82 services shall include reasonable costs mandated by collective
83 bargaining agreements with certified collective bargaining agents or
84 other agreements between the employer and employees, provided
85 "employees" shall not include persons employed as managers or chief
86 administrators or required to be licensed as nursing home
87 administrators, and compensation for services rendered by proprietors
88 at prevailing wage rates, as determined by application of principles of
89 accounting as prescribed by said commissioner. Cost of such services
90 shall not include amounts paid by the facilities to employees as salary,
91 or to attorneys or consultants as fees, where the responsibility of the
92 employees, attorneys, or consultants is to persuade or seek to persuade
93 the other employees of the facility to support or oppose unionization.
94 Nothing in this subsection shall prohibit inclusion of amounts paid for
95 legal counsel related to the negotiation of collective bargaining
96 agreements, the settlement of grievances or normal administration of
97 labor relations. The commissioner may, in [his] the commissioner's
98 discretion, allow the inclusion of extraordinary and unanticipated
99 costs of providing services which were incurred to avoid an immediate
100 negative impact on the health and safety of patients. The commissioner
101 may, in [his] the commissioner's discretion, based upon review of a
102 facility's costs, direct care staff to patient ratio and any other related
103 information, revise a facility's rate for any increases or decreases to
104 total licensed capacity of more than ten beds or changes to its number
105 of licensed rest home with nursing supervision beds and chronic and
106 convalescent nursing home beds. The commissioner may so revise a
107 facility's rate established for the fiscal year ending June 30, 1993, and
108 thereafter for any bed increases, decreases or changes in licensure
109 effective after October 1, 1989. Effective July 1, 1991, in facilities which
110 have both a chronic and convalescent nursing home and a rest home
111 with nursing supervision, the rate for the rest home with nursing
112 supervision shall not exceed such facility's rate for its chronic and
113 convalescent nursing home. All such facilities for which rates are
114 determined under this subsection shall report on a fiscal year basis
115 ending on the thirtieth day of September. Such report shall be

116 submitted to the commissioner by the thirty-first day of December. The
117 commissioner may reduce the rate in effect for a facility which fails to
118 submit a complete and accurate report on or before such date by an
119 amount not to exceed ten per cent of such rate. If a licensed residential
120 care home fails to submit a complete and accurate report, the
121 department shall notify such home of the failure and the home shall
122 have thirty days from the date the notice was issued to submit a
123 complete and accurate report. If a licensed residential care home fails
124 to submit a complete and accurate report within thirty days from the
125 date of notice, such home shall not receive a retroactive rate increase.
126 The commissioner shall annually, on or before the fifteenth day of
127 February, report the data contained in the reports of such facilities to
128 the joint standing committee of the General Assembly having
129 cognizance of matters relating to appropriations. For the cost reporting
130 year commencing October 1, 1985, and for subsequent cost reporting
131 years, facilities shall report the cost of using the services of any nursing
132 pool employee by separating said cost into two categories, the portion
133 of the cost equal to the salary of the employee for whom the nursing
134 pool employee is substituting shall be considered a nursing cost and
135 any cost in excess of such salary shall be further divided so that
136 seventy-five per cent of the excess cost shall be considered an
137 administrative or general cost and twenty-five per cent of the excess
138 cost shall be considered a nursing cost, provided if the total nursing
139 pool costs of a facility for any cost year are equal to or exceed fifteen
140 per cent of the total nursing expenditures of the facility for such cost
141 year, no portion of nursing pool costs in excess of fifteen per cent shall
142 be classified as administrative or general costs. The commissioner, in
143 determining such rates, shall also take into account the classification of
144 patients or boarders according to special care requirements or
145 classification of the facility according to such factors as facilities and
146 services and such other factors as he deems reasonable, including
147 anticipated fluctuations in the cost of providing such services. The
148 commissioner may establish a separate rate for a facility or a portion of
149 a facility for traumatic brain injury patients who require extensive care

150 but not acute general hospital care. Such separate rate shall reflect the
151 special care requirements of such patients. If changes in federal or state
152 laws, regulations or standards adopted subsequent to June 30, 1985,
153 result in increased costs or expenditures in an amount exceeding one-
154 half of one per cent of allowable costs for the most recent cost
155 reporting year, the commissioner shall adjust rates and provide
156 payment for any such increased reasonable costs or expenditures
157 within a reasonable period of time retroactive to the date of
158 enforcement. Nothing in this section shall be construed to require the
159 Department of Social Services to adjust rates and provide payment for
160 any increases in costs resulting from an inspection of a facility by the
161 Department of Public Health. Such assistance as the commissioner
162 requires from other state agencies or departments in determining rates
163 shall be made available to [him] the commissioner at [his] the
164 commissioner's request. Payment of the rates established [hereunder]
165 pursuant to this section shall be conditioned on the establishment by
166 such facilities of admissions procedures which conform with this
167 section, section 19a-533 and all other applicable provisions of the law
168 and the provision of equality of treatment to all persons in such
169 facilities. The established rates shall be the maximum amount
170 chargeable by such facilities for care of such beneficiaries, and the
171 acceptance by or on behalf of any such facility of any additional
172 compensation for care of any such beneficiary from any other person
173 or source shall constitute the offense of aiding a beneficiary to obtain
174 aid to which [he] the beneficiary is not entitled and shall be punishable
175 in the same manner as is provided in subsection (b) of section 17b-97.
176 For the fiscal year ending June 30, 1992, rates for licensed residential
177 care homes and intermediate care facilities for individuals with
178 intellectual disabilities may receive an increase not to exceed the most
179 recent annual increase in the Regional Data Resources Incorporated
180 McGraw-Hill Health Care Costs: Consumer Price Index (all urban)-All
181 Items. Rates for newly certified intermediate care facilities for
182 individuals with intellectual disabilities shall not exceed one hundred
183 fifty per cent of the median rate of rates in effect on January 31, 1991,

184 for intermediate care facilities for individuals with intellectual
185 disabilities certified prior to February 1, 1991. Notwithstanding any
186 provision of this section, the Commissioner of Social Services may,
187 within available appropriations, provide an interim rate increase for a
188 licensed chronic and convalescent nursing home or a rest home with
189 nursing supervision for rate periods no earlier than April 1, 2004, only
190 if the commissioner determines that the increase is necessary to avoid
191 the filing of a petition for relief under Title 11 of the United States
192 Code; imposition of receivership pursuant to sections 19a-541 to 19a-
193 549, inclusive; or substantial deterioration of the facility's financial
194 condition that may be expected to adversely affect resident care and
195 the continued operation of the facility, and the commissioner
196 determines that the continued operation of the facility is in the best
197 interest of the state. The commissioner shall consider any requests for
198 interim rate increases on file with the department from March 30, 2004,
199 and those submitted subsequently for rate periods no earlier than
200 April 1, 2004. When reviewing a rate increase request the
201 commissioner shall, at a minimum, consider: (1) Existing chronic and
202 convalescent nursing home or rest home with nursing supervision
203 utilization in the area and projected bed need; (2) physical plant long-
204 term viability and the ability of the owner or purchaser to implement
205 any necessary property improvements; (3) licensure and certification
206 compliance history; (4) reasonableness of actual and projected
207 expenses; and (5) the ability of the facility to meet wage and benefit
208 costs. No rate shall be increased pursuant to this subsection in excess
209 of one hundred fifteen per cent of the median rate for the facility's peer
210 grouping, established pursuant to subdivision (2) of subsection (f) of
211 this section, unless recommended by the commissioner and approved
212 by the Secretary of the Office of Policy and Management after
213 consultation with the commissioner. Such median rates shall be
214 published by the Department of Social Services not later than April
215 first of each year. In the event that a facility granted an interim rate
216 increase pursuant to this section is sold or otherwise conveyed for
217 value to an unrelated entity less than five years after the effective date

218 of such rate increase, the rate increase shall be deemed rescinded and
219 the department shall recover an amount equal to the difference
220 between payments made for all affected rate periods and payments
221 that would have been made if the interim rate increase was not
222 granted. The commissioner may seek recovery from payments made to
223 any facility with common ownership. With the approval of the
224 Secretary of the Office of Policy and Management, the commissioner
225 may waive recovery and rescission of the interim rate for good cause
226 shown that is not inconsistent with this section, including, but not
227 limited to, transfers to family members that were made for no value.
228 The commissioner shall provide written quarterly reports to the joint
229 standing committees of the General Assembly having cognizance of
230 matters relating to aging, human services and appropriations and the
231 budgets of state agencies, that identify each facility requesting an
232 interim rate increase, the amount of the requested rate increase for
233 each facility, the action taken by the commissioner and the secretary
234 pursuant to this subsection, and estimates of the additional cost to the
235 state for each approved interim rate increase. Nothing in this
236 subsection shall prohibit the commissioner from increasing the rate of
237 a licensed chronic and convalescent nursing home or a rest home with
238 nursing supervision for allowable costs associated with facility capital
239 improvements or increasing the rate in case of a sale of a licensed
240 chronic and convalescent nursing home or a rest home with nursing
241 supervision, pursuant to subdivision (15) of subsection (f) of this
242 section, if receivership has been imposed on such home.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	17b-83
Sec. 2	<i>from passage</i>	17b-601
Sec. 3	<i>from passage</i>	17b-340(a)

Statement of Purpose:

To establish direct Medicaid payment to residential care facilities and more timely and accurate reporting from such facilities.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]