AN ACT EXTENDING COST REPORTING DEADLINES FOR LONG-TERM CARE FACILITIES.

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

Section 1. Subsection (a) of section 17b-340 of the general statutes is repealed and the following is substituted in lieu thereof (Effective July 1, 2015):

(a) For purposes of this subsection, (1) a "related party" includes, but is not limited to, any company related to a chronic and convalescent nursing home through family association, common ownership, control or business association with any of the owners, operators or officials of such nursing home; (2) "company" means any person, partnership, association, holding company, limited liability company or corporation; (3) "family association" means a relationship by birth, marriage or domestic partnership; and (4) "profit and loss statement" means the most recent annual statement on profits and losses finalized by a related party before the annual report mandated under this subsection. The rates to be paid by or for persons aided or cared for by the state or any town in this state to licensed chronic and convalescent...
nursing homes, to chronic disease hospitals associated with chronic and convalescent nursing homes, to rest homes with nursing supervision, to licensed residential care homes, as defined by section 19a-490, and to residential facilities for persons with intellectual disability that are licensed pursuant to section 17a-227 and certified to participate in the Title XIX Medicaid program as intermediate care facilities for individuals with intellectual disabilities, for room, board and services specified in licensing regulations issued by the licensing agency shall be determined annually, except as otherwise provided in this subsection, after a public hearing, by the Commissioner of Social Services, to be effective July first of each year except as otherwise provided in this subsection. Such rates shall be determined on a basis of a reasonable payment for such necessary services, which basis shall take into account as a factor the costs of such services. Cost of such services shall include reasonable costs mandated by collective bargaining agreements with certified collective bargaining agents or other agreements between the employer and employees, provided "employees" shall not include persons employed as managers or chief administrators or required to be licensed as nursing home administrators, and compensation for services rendered by proprietors at prevailing wage rates, as determined by application of principles of accounting as prescribed by said commissioner. Cost of such services shall not include amounts paid by the facilities to employees as salary, or to attorneys or consultants as fees, where the responsibility of the employees, attorneys, or consultants is to persuade or seek to persuade the other employees of the facility to support or oppose unionization. Nothing in this subsection shall prohibit inclusion of amounts paid for legal counsel related to the negotiation of collective bargaining agreements, the settlement of grievances or normal administration of labor relations. The commissioner may, in the commissioner's discretion, allow the inclusion of extraordinary and unanticipated costs of providing services that were incurred to avoid an immediate negative impact on the health and safety of patients. The commissioner may, in the commissioner's discretion, based upon review of a facility's
costs, direct care staff to patient ratio and any other related
information, revise a facility's rate for any increases or decreases to
total licensed capacity of more than ten beds or changes to its number
of licensed rest home with nursing supervision beds and chronic and
convalescent nursing home beds. The commissioner may so revise a
facility's rate established for the fiscal year ending June 30, 1993, and
thereafter for any bed increases, decreases or changes in licensure
effective after October 1, 1989. Effective July 1, 1991, in facilities that
have both a chronic and convalescent nursing home and a rest home
with nursing supervision, the rate for the rest home with nursing
supervision shall not exceed such facility's rate for its chronic and
convalescent nursing home. All such facilities for which rates are
determined under this subsection shall report on a fiscal year basis
ending on September thirtieth. Such report shall be submitted to the
commissioner by [December thirty-first] February fifteenth. Each for-
profit chronic and convalescent nursing home that receives state
funding pursuant to this section shall include in such annual report a
profit and loss statement from each related party that receives from
such chronic and convalescent nursing home fifty thousand dollars or
more per year for goods, fees and services. No cause of action or
liability shall arise against the state, the Department of Social Services,
any state official or agent for failure to take action based on the
information required to be reported under this subsection. The
commissioner may reduce the rate in effect for a facility that fails to
submit a complete and accurate report on or before [December thirty-
first] February fifteenth by an amount not to exceed ten per cent of
such rate. If a licensed residential care home fails to submit a complete
and accurate report, the department shall notify such home of the
failure and the home shall have thirty days from the date the notice
was issued to submit a complete and accurate report. If a licensed
residential care home fails to submit a complete and accurate report
not later than thirty days after the date of notice, such home may not
receive a retroactive rate increase, in the commissioner's discretion.
The commissioner shall, annually, on or before [February fifteenth]
April first, report the data contained in the reports of such facilities to
the joint standing committee of the General Assembly having
cognizance of matters relating to appropriations and the budgets of
state agencies. For the cost reporting year commencing October 1,
1985, and for subsequent cost reporting years, facilities shall report the
cost of using the services of any nursing pool employee by separating
said cost into two categories, the portion of the cost equal to the salary
of the employee for whom the nursing pool employee is substituting
shall be considered a nursing cost and any cost in excess of such salary
shall be further divided so that seventy-five per cent of the excess cost
shall be considered an administrative or general cost and twenty-five
per cent of the excess cost shall be considered a nursing cost, provided
if the total nursing pool costs of a facility for any cost year are equal to
or exceed fifteen per cent of the total nursing expenditures of the
facility for such cost year, no portion of nursing pool costs in excess of
fifteen per cent shall be classified as administrative or general costs.
The commissioner, in determining such rates, shall also take into
account the classification of patients or boarders according to special
care requirements or classification of the facility according to such
factors as facilities and services and such other factors as the
commissioner deems reasonable, including anticipated fluctuations in
the cost of providing such services. The commissioner may establish a
separate rate for a facility or a portion of a facility for traumatic brain
injury patients who require extensive care but not acute general
hospital care. Such separate rate shall reflect the special care
requirements of such patients. If changes in federal or state laws,
regulations or standards adopted subsequent to June 30, 1985, result in
increased costs or expenditures in an amount exceeding one-half of
one per cent of allowable costs for the most recent cost reporting year,
the commissioner shall adjust rates and provide payment for any such
increased reasonable costs or expenditures within a reasonable period
of time retroactive to the date of enforcement. Nothing in this section
shall be construed to require the Department of Social Services to
adjust rates and provide payment for any increases in costs resulting
from an inspection of a facility by the Department of Public Health. Such assistance as the commissioner requires from other state agencies or departments in determining rates shall be made available to the commissioner at the commissioner's request. Payment of the rates established pursuant to this section shall be conditioned on the establishment by such facilities of admissions procedures that conform with this section, section 19a-533 and all other applicable provisions of the law and the provision of equality of treatment to all persons in such facilities. The established rates shall be the maximum amount chargeable by such facilities for care of such beneficiaries, and the acceptance by or on behalf of any such facility of any additional compensation for care of any such beneficiary from any other person or source shall constitute the offense of aiding a beneficiary to obtain aid to which the beneficiary is not entitled and shall be punishable in the same manner as is provided in subsection (b) of section 17b-97. For the fiscal year ending June 30, 1992, rates for licensed residential care homes and intermediate care facilities for individuals with intellectual disabilities may receive an increase not to exceed the most recent annual increase in the Regional Data Resources Incorporated McGraw-Hill Health Care Costs: Consumer Price Index (all urban)-All Items. Rates for newly certified intermediate care facilities for individuals with intellectual disabilities shall not exceed one hundred fifty per cent of the median rate of rates in effect on January 31, 1991, for intermediate care facilities for individuals with intellectual disabilities certified prior to February 1, 1991. Notwithstanding any provision of this section, the Commissioner of Social Services may, within available appropriations, provide an interim rate increase for a licensed chronic and convalescent nursing home or a rest home with nursing supervision for rate periods no earlier than April 1, 2004, only if the commissioner determines that the increase is necessary to avoid the filing of a petition for relief under Title 11 of the United States Code; imposition of receivership pursuant to sections 19a-542 and 19a-543; or substantial deterioration of the facility's financial condition that may be expected to adversely affect resident care and the continued
operation of the facility, and the commissioner determines that the
continued operation of the facility is in the best interest of the state.
The commissioner shall consider any requests for interim rate
increases on file with the department from March 30, 2004, and those
submitted subsequently for rate periods no earlier than April 1, 2004.
When reviewing an interim rate increase request the commissioner
shall, at a minimum, consider: (A) Existing chronic and convalescent
nursing home or rest home with nursing supervision utilization in the
area and projected bed need; (B) physical plant long-term viability and
the ability of the owner or purchaser to implement any necessary
property improvements; (C) licensure and certification compliance
history; (D) reasonableness of actual and projected expenses; and (E)
the ability of the facility to meet wage and benefit costs. No interim
rate shall be increased pursuant to this subsection in excess of one
hundred fifteen per cent of the median rate for the facility’s peer
grouping, established pursuant to subdivision (2) of subsection (f) of
this section, unless recommended by the commissioner and approved
by the Secretary of the Office of Policy and Management after
consultation with the commissioner. Such median rates shall be
published by the Department of Social Services not later than April
first of each year. In the event that a facility granted an interim rate
increase pursuant to this section is sold or otherwise conveyed for
value to an unrelated entity less than five years after the effective date
of such rate increase, the rate increase shall be deemed rescinded and
the department shall recover an amount equal to the difference
between payments made for all affected rate periods and payments
that would have been made if the interim rate increase was not
granted. The commissioner may seek recovery of such payments from
any facility with common ownership. With the approval of the
Secretary of the Office of Policy and Management, the commissioner
may waive recovery and rescission of the interim rate for good cause
shown that is not inconsistent with this section, including, but not
limited to, transfers to family members that were made for no value.
The commissioner shall provide written quarterly reports to the joint
standing committees of the General Assembly having cognizance of matters relating to aging, human services and appropriations and the budgets of state agencies, that identify each facility requesting an interim rate increase, the amount of the requested rate increase for each facility, the action taken by the commissioner and the secretary pursuant to this subsection, and estimates of the additional cost to the state for each approved interim rate increase. Nothing in this subsection shall prohibit the commissioner from increasing the rate of a licensed chronic and convalescent nursing home or a rest home with nursing supervision for allowable costs associated with facility capital improvements or increasing the rate in case of a sale of a licensed chronic and convalescent nursing home or a rest home with nursing supervision, pursuant to subdivision (15) of subsection (f) of this section, if receivership has been imposed on such home.

This act shall take effect as follows and shall amend the following sections:

| Section 1 | July 1, 2015 | 17b-340(a) |

**Statement of Purpose:**
To extend the time long-term care facilities have to file cost reports with the state.

[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.]