



Senate Bill No. 919

Public Act No. 19-97

AN ACT REMOVING THE TERM "HOMEMAKER" IN REFERENCE TO HOME HEALTH AIDE AGENCIES AND SERVICES.

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

Section 1. Section 17b-242 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2019*):

(a) The Department of Social Services shall determine the rates to be paid to home health care agencies and [homemaker-home] home health aide agencies by the state or any town in the state for persons aided or cared for by the state or any such town. For the period from February 1, 1991, to January 31, 1992, inclusive, payment for each service to the state shall be based upon the rate for such service as determined by the Office of Health Care Access, except that for those providers whose Medicaid rates for the year ending January 31, 1991, exceed the median rate, no increase shall be allowed. For those providers whose rates for the year ending January 31, 1991, are below the median rate, increases shall not exceed the lower of the prior rate increased by the most recent annual increase in the consumer price index for urban consumers or the median rate. In no case shall any such rate exceed the eightieth percentile of rates in effect January 31, 1991, nor shall any rate exceed the charge to the general public for similar services. Rates effective February 1, 1992, shall be based upon

Senate Bill No. 919

rates as determined by the Office of Health Care Access, except that increases shall not exceed the prior year's rate increased by the most recent annual increase in the consumer price index for urban consumers and rates effective February 1, 1992, shall remain in effect through June 30, 1993. Rates effective July 1, 1993, shall be based upon rates as determined by the Office of Health Care Access except if the Medicaid rates for any service for the period ending June 30, 1993, exceed the median rate for such service, the increase effective July 1, 1993, shall not exceed one per cent. If the Medicaid rate for any service for the period ending June 30, 1993, is below the median rate, the increase effective July 1, 1993, shall not exceed the lower of the prior rate increased by one and one-half times the most recent annual increase in the consumer price index for urban consumers or the median rate plus one per cent. The Commissioner of Social Services shall establish a fee schedule for home health services to be effective on and after July 1, 1994. The commissioner may annually modify such fee schedule if such modification is needed to ensure that the conversion to an administrative services organization is cost neutral to home health care agencies and [homemaker-home] home health aide agencies in the aggregate and ensures patient access. Utilization may be a factor in determining cost neutrality. The commissioner shall increase the fee schedule for home health services provided under the Connecticut home-care program for the elderly established under section 17b-342, effective July 1, 2000, by two per cent over the fee schedule for home health services for the previous year. The commissioner may increase any fee payable to a home health care agency or [homemaker-home] home health aide agency upon the application of such an agency evidencing extraordinary costs related to (1) serving persons with AIDS; (2) high-risk maternal and child health care; (3) escort services; or (4) extended hour services. In no case shall any rate or fee exceed the charge to the general public for similar services. A home health care agency or [homemaker-home] home health aide agency which, due to any material change in

Senate Bill No. 919

circumstances, is aggrieved by a rate determined pursuant to this subsection may, within ten days of receipt of written notice of such rate from the Commissioner of Social Services, request in writing a hearing on all items of aggrievement. The commissioner shall, upon the receipt of all documentation necessary to evaluate the request, determine whether there has been such a change in circumstances and shall conduct a hearing if appropriate. The Commissioner of Social Services shall adopt regulations, in accordance with chapter 54, to implement the provisions of this subsection. The commissioner may implement policies and procedures to carry out the provisions of this subsection while in the process of adopting regulations, provided notice of intent to adopt the regulations is published in the Connecticut Law Journal not later than twenty days after the date of implementing the policies and procedures. Such policies and procedures shall be valid for not longer than nine months.

(b) The Department of Social Services shall monitor the rates charged by home health care agencies and [homemaker-home] home health aide agencies. Such agencies shall file annual cost reports and service charge information with the department.

(c) The home health services fee schedule shall include a fee for the administration of medication, which shall apply when the purpose of a nurse's visit is limited to the administration of medication. Administration of medication may include, but is not limited to, blood pressure checks, glucometer readings, pulse rate checks and similar indicators of health status. The fee for medication administration shall include administration of medications while the nurse is present, the pre-pouring of additional doses that the client will self-administer at a later time and the teaching of self-administration. The department shall not pay for medication administration in addition to any other nursing service at the same visit. The department may establish prior authorization requirements for this service. Before implementing such

Senate Bill No. 919

change, the Commissioner of Social Services shall consult with the chairpersons of the joint standing committees of the General Assembly having cognizance of matters relating to public health and human services. The commissioner shall monitor Medicaid home health care savings achieved through the implementation of nurse delegation of medication administration pursuant to section 19a-492e, as amended by this act. If, by January 1, 2016, the commissioner determines that the rate of savings is not adequate to meet the annualized savings assumed in the budget for the biennium ending June 30, 2017, the department may reduce rates for medication administration as necessary to achieve the savings assumed in the budget. Prior to any rate reduction, the department shall report to the joint standing committees of the General Assembly having cognizance of matters relating to appropriations and the budgets of state agencies and human services provider specific cost and utilization trend data for those patients receiving medication administration. Should the department determine it necessary to reduce medication administration rates under this section, it shall examine the possibility of establishing a separate Medicaid supplemental rate or a pay-for-performance program for those providers, as determined by the commissioner, who have established successful nurse delegation programs.

(d) The home health services fee schedule established pursuant to subsection (c) of this section shall include rates for psychiatric nurse visits.

(e) The Department of Social Services, when processing or auditing claims for reimbursement submitted by home health care agencies and [homemaker-home] home health aide agencies shall, in accordance with the provisions of chapter 15, accept electronic records and records bearing the electronic signature of a licensed physician or licensed practitioner of a healthcare profession that has been submitted to the

Senate Bill No. 919

home health care agency or [homemaker home-health] home health aide agency.

(f) If the electronic record or signature that has been transmitted to a home health care agency or [homemaker-home] home health aide agency is illegible or the department is unable to determine the validity of such electronic record or signature, the department shall review additional evidence of the accuracy or validity of the record or signature, including, but not limited to, (1) the original of the record or signature, or (2) a written statement, made under penalty of false statement, from (A) the licensed physician or licensed practitioner of a health care profession who signed such record, or (B) if such licensed physician or licensed practitioner of a health care profession is unavailable, the medical director of the agency verifying the accuracy or validity of such record or signature, and the department shall make a determination whether the electronic record or signature is valid.

(g) The Department of Social Services, when auditing claims submitted by home health care agencies and [homemaker-home] home health aide agencies, shall consider any signature from a licensed physician or licensed practitioner of a health care profession that may be required on a plan of care for home health services, to have been provided in timely fashion if (1) the document bearing such signature was signed prior to the time when such agency seeks reimbursement from the department for services provided, and (2) verbal or telephone orders from the licensed physician or licensed practitioner of a health care profession were received prior to the commencement of services covered by the plan of care and such orders were subsequently documented. Nothing in this subsection shall be construed as limiting the powers of the Commissioner of Public Health to enforce the provisions of sections 19-13-D73 and 19-13-D74 of the regulations of Connecticut state agencies and 42 CFR 484.18(c).

(h) For purposes of this section, "licensed practitioner of a healthcare

Senate Bill No. 919

profession" has the same meaning as "licensed practitioner" in section 21a-244a.

Sec. 2. Subsection (a) of section 19a-490 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2019*):

(a) "Institution" means a hospital, short-term hospital special hospice, hospice inpatient facility, residential care home, nursing home facility, home health care agency, [homemaker-home] home health aide agency, behavioral health facility, assisted living services agency, substance abuse treatment facility, outpatient surgical facility, outpatient clinic, an infirmary operated by an educational institution for the care of students enrolled in, and faculty and employees of, such institution; a facility engaged in providing services for the prevention, diagnosis, treatment or care of human health conditions, including facilities operated and maintained by any state agency; and a residential facility for persons with intellectual disability licensed pursuant to section 17a-227 and certified to participate in the Title XIX Medicaid program as an intermediate care facility for individuals with intellectual disability. "Institution" does not include any facility for the care and treatment of persons with mental illness or substance use disorder operated or maintained by any state agency, except Whiting Forensic Hospital;

Sec. 3. Subsections (d) to (f), inclusive, of section 19a-490 of the general statutes are repealed and the following is substituted in lieu thereof (*Effective July 1, 2019*):

(d) "Home health care agency" means a public or private organization, or a subdivision thereof, engaged in providing professional nursing services and the following services, available twenty-four hours per day, in the patient's home or a substantially equivalent environment: [Homemaker-home] Home health aide

Senate Bill No. 919

services as defined in this section, physical therapy, speech therapy, occupational therapy or medical social services. The agency shall provide professional nursing services and at least one additional service directly and all others directly or through contract. An agency shall be available to enroll new patients seven days a week, twenty-four hours per day;

(e) ["Homemaker-home health aide agency"] "Home health aide agency" means a public or private organization, except a home health care agency, which provides in the patient's home or a substantially equivalent environment supportive services which may include, but are not limited to, assistance with personal hygiene, dressing, feeding and incidental household tasks essential to achieving adequate household and family management. Such supportive services shall be provided under the supervision of a registered nurse and, if such nurse determines appropriate, shall be provided by a social worker, physical therapist, speech therapist or occupational therapist. Such supervision may be provided directly or through contract;

(f) ["Homemaker-home health aide services"] "Home health aide services" as defined in this section shall not include services provided to assist individuals with activities of daily living when such individuals have a disease or condition that is chronic and stable as determined by a physician licensed in the state; [of Connecticut;]

Sec. 4. Subsection (k) of section 19a-490 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2019*):

(k) "Home health agency" means an agency licensed as a home health care agency or a [homemaker-home] home health aide agency;

Sec. 5. Section 19a-490g of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2019*):

Senate Bill No. 919

The Department of Public Health shall develop and produce a consumer guide of bilingual information on home health care agencies and [homemaker-home] home health aide agencies.

Sec. 6. Subsections (h) and (i) of section 19a-491 of the general statutes are repealed and the following is substituted in lieu thereof (*Effective July 1, 2019*):

(h) The commissioner may require as a condition of the licensure of home health care agencies and [homemaker-home] home health aide agencies that each agency meet minimum service quality standards. In the event the commissioner requires such agencies to meet minimum service quality standards as a condition of their licensure, the commissioner shall adopt regulations, in accordance with the provisions of chapter 54, to define such minimum service quality standards, which shall (1) allow for training of [homemaker-home] home health aides by adult continuing education, (2) require a registered nurse to visit and assess each patient receiving [homemaker-home] home health aide services as often as necessary based on the patient's condition, but not less than once every sixty days, and (3) require the assessment prescribed by subdivision (2) of this subsection to be completed while the [homemaker-home] home health aide is providing services in the patient's home.

(i) No person acting individually or jointly with any other person shall establish, conduct, operate or maintain a home health care agency or [homemaker-home] home health aide agency without maintaining professional liability insurance or other indemnity against liability for professional malpractice. The amount of insurance which such person shall maintain as insurance or indemnity against claims for injury or death for professional malpractice shall be not less than one million dollars for one person, per occurrence, with an aggregate of not less than three million dollars.

Senate Bill No. 919

Sec. 7. Section 19a-492d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2019*):

On and after October 1, 2007, a nurse who is employed by an agency licensed by the Department of Public Health as a home health care agency or a [homemaker-home] home health aide agency may administer influenza and pneumococcal vaccines to persons in their homes, after an assessment for contraindications, without a physician's order in accordance with a physician-approved agency policy that includes an anaphylaxis protocol. In the event of an adverse reaction to the vaccine, such nurse may also administer epinephrine or other anaphylaxis medication without a physician's order in accordance with the physician-approved agency policy. For purposes of this section, "nurse" means an advanced practice registered nurse, registered nurse or practical nurse licensed under chapter 378.

Sec. 8. Section 19a-492e of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2019*):

(a) For purposes of this section "home health care agency" has the same meaning as provided in section 19a-490, as amended by this act. Notwithstanding the provisions of chapter 378, a registered nurse may delegate the administration of medications that are not administered by injection to [homemaker-home] home health aides who have obtained certification and recertification every three years thereafter for medication administration in accordance with regulations adopted pursuant to subsection (b) of this section, unless the prescribing practitioner specifies that a medication shall only be administered by a licensed nurse. Any [homemaker-home] home health aide who obtained certification in the administration of medications on or before June 30, 2015, shall obtain recertification on or before July 1, 2018.

(b) (1) The Commissioner of Public Health shall adopt regulations, in accordance with the provisions of chapter 54, to carry out the

Senate Bill No. 919

provisions of this section. Such regulations shall require each home health care agency that serves clients requiring assistance with medication administration to (A) adopt practices that increase and encourage client choice, dignity and independence; (B) establish policies and procedures to ensure that a registered nurse may delegate allowed tasks of nursing care, to include medication administration, to [homemaker-home] home health aides when the registered nurse determines that it is in the best interest of the client and the [homemaker-home] home health aide has been deemed competent to perform the task; (C) designate [homemaker-home] home health aides to obtain certification and recertification for the administration of medication; and (D) ensure that such [homemaker-home] home health aides receive such certification and recertification.

(2) The regulations shall establish certification and recertification requirements for medication administration and the criteria to be used by home health care agencies that provide services for clients requiring assistance with medication administration in determining (A) which [homemaker-home] home health aides shall obtain such certification and recertification, and (B) education and skill training requirements, including ongoing training requirements for such certification and recertification.

(3) Education and skill training requirements for initial certification and recertification shall include, but not be limited to, initial orientation, training in client rights and identification of the types of medication that may be administered by unlicensed personnel, behavioral management, personal care, nutrition and food safety, and health and safety in general.

(c) Each home health care agency shall ensure that, on or before January 1, 2013, delegation of nursing care tasks in the home care setting is allowed within such agency and that policies are adopted to employ [homemaker-home] home health aides for the purposes of

Senate Bill No. 919

allowing nurses to delegate such tasks.

(d) A registered nurse licensed pursuant to the provisions of chapter 378 who delegates the task of medication administration to a [homemaker-home] home health aide pursuant to this section shall not be subject to disciplinary action based on the performance of the [homemaker-home] home health aide to whom tasks are delegated, unless the [homemaker-home] home health aide is acting pursuant to specific instructions from the registered nurse or the registered nurse fails to leave instructions when the nurse should have done so, provided the registered nurse: (1) Documented in the patient's care plan that the medication administration could be properly and safely performed by the [homemaker-home] home health aide to whom it is delegated, (2) provided initial direction to the [homemaker-home] home health aide, and (3) provided ongoing supervision of the [homemaker-home] home health aide, including the periodic assessment and evaluation of the patient's health and safety related to medication administration.

(e) A registered nurse who delegates the provision of nursing care to another person pursuant to this section shall not be subject to an action for civil damages for the performance of the person to whom nursing care is delegated unless the person is acting pursuant to specific instructions from the nurse or the nurse fails to leave instructions when the nurse should have done so.

(f) No person may coerce a registered nurse into compromising patient safety by requiring the nurse to delegate the administration of medication if the nurse's assessment of the patient documents a need for a nurse to administer medication and identifies why the need cannot be safely met through utilization of assistive technology or administration of medication by certified [homemaker-home] home health aides. No registered nurse who has made a reasonable determination based on such assessment that delegation may

Senate Bill No. 919

compromise patient safety shall be subject to any employer reprisal or disciplinary action pursuant to chapter 378 for refusing to delegate or refusing to provide the required training for such delegation. The Department of Social Services, in consultation with the Department of Public Health and home health care agencies, shall develop protocols for documentation pursuant to the requirements of this subsection. The Department of Social Services shall notify all licensed home health care agencies of such protocols prior to the implementation of this section.

(g) The Commissioner of Public Health may implement policies and procedures necessary to administer the provisions of this section while in the process of adopting such policies and procedures as regulations, provided notice of intent to adopt regulations is published in the Connecticut Law Journal not later than twenty days after the date of implementation. Policies and procedures implemented pursuant to this section shall be valid until the time final regulations are adopted.

Sec. 9. Subsection (a) of section 19a-495 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2019*):

(a) The Department of Public Health shall, after consultation with the appropriate public and voluntary hospital planning agencies, establish classifications of institutions. The department shall, in the Public Health Code, adopt, amend, promulgate and enforce such regulations based upon reasonable standards of health, safety and comfort of patients and demonstrable need for such institutions, with respect to each classification of institutions to be licensed under sections 19a-490 to 19a-503, inclusive, as amended by this act, including their special facilities, as will further the accomplishment of the purposes of said sections in promoting safe, humane and adequate care and treatment of individuals in institutions. The department shall adopt such regulations, in accordance with chapter 54, concerning

Senate Bill No. 919

home health care agencies and [homemaker-home] home health aide agencies.

Sec. 10. Subdivision (2) of subsection (a) of section 19a-905 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2019*):

(2) "Health care facility or institution" means a hospital, nursing home, rest home, home health care agency, [homemaker-home] home health aide agency, emergency medical services organization, assisted living services agency, outpatient surgical facility and an infirmary operated by an educational institution for the care of students enrolled in, and faculty and employees of, such institution.

Sec. 11. Subdivision (7) of section 20-670 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2019*):

(7) "Homemaker-companion agency" means (A) any public or private organization that employs one or more persons and is engaged in the business of providing companion services or homemaker services, or (B) any registry. "Homemaker-companion agency" shall not include a home health care agency, as defined in subsection (d) of section 19a-490, as amended by this act, or a [homemaker-home] home health aide agency, as defined in subsection (e) of section 19a-490.

Approved July 1, 2019