SENATOR MOORE (22ND): I'll open the meeting for the Human Services Committee for public hearing. Comments from my Co-Chair, is not here, so, we'll -- I'll ask for my ranking.

CLERK: We're all set, Madam Chair.

SENATOR MOORE (22ND): Thank you. Oh, so we'll be hearing first from Kathleen Brennan.

KATHLEEN BRENnan: All set. Good morning. How are you? Good. So, good morning, Senator Moore and distinguished members of the Human Services Committee. My name is Kathleen Brennan and I am a Deputy Commissioner at the State of Connecticut Department of Social Services. I am pleased to be -- be before you today to testify in support of House Bill Number 7164, AN ACT IMPLEMENTING THE GOVERNOR'S BUDGET RECOMMENDATIONS FOR HUMAN SERVICES.

I'd like to take this opportunity to speak on various sections of the bill. I'm going to do my best. Do you have the written testimony? I'm going
to do my best to kind of -- [laughter] so, Sections 1 and 2 eliminate the cost of living adjustments for recipients of the Temporary Family Assistance, State Administered General Assistance and State Supplement for the Aged, Blind and Disabled programs. Connecticut is one of the few states that allows TFA recipients to retain their full cash assistance benefit if their employment earnings are less than or equal to the federal poverty level. State savings of $2.6 million dollars in fiscal year 2020 and $4.8 million dollars in fiscal year 2021 are anticipated.

Sections 3 and 6 remove rate increases for boarding homes over the biennium. Boarding home rate increases -- rate increases are based on actual costs reports submitted by facilities, barring any legislation to remove rate increases for a particular fiscal year. The bill maintains the minimum flat rate at current levels for boarding homes that choose not to submit annual cost reports. State savings of $1.7 million dollars in fiscal year 2020 and $3.7 million dollars in fiscal year 2021 are anticipated.

Section 7 removes rate increases for ICF/IIDs for the biennium. Again, state savings of $790,000 dollars in fiscal year 2020, and $1.7 million dollars in fiscal year 2021 are anticipated.

Sections 8 through 11 implement a number of provisions included in the Governor's budget related to nursing homes.

Section 8 eliminate statutorily required inflationary increases over the biennium. State saving of $14.4 million dollars in fiscal year 2020
and $30.6 million dollars in fiscal year 2021 are anticipated.

Section 8 also revises the calculation for nursing home rates to encourage higher quality and occupancy levels. Long-term care rebalancing efforts have left the state with a significant surplus of empty licensed nursing home beds despite the closure of 26 nursing homes within the past eight years. While optimal occupancy rates are typically around 95%, Connecticut's current statewide occupancy rate is approximately 86%, which equates to over 3,000 empty beds. To achieve an occupancy rate -- an occupancy rate of 95%, the closure of approximately 2,200 beds statewide would be necessary.

Section 8 also implements -- implements a rate rebasing effort in fiscal year 2020. Typically, when rates are rebased, rate reductions are limited to a stop loss, a mechanism that limits financial instability to nursing homes that would otherwise experience a significant reduction in their Medicaid rates.

Through this bill, a stop loss of up to 2% is available for those nursing homes with the high occupancy level or high quality measures. However, the stop loss provision is eliminated for any nursing home with an occupancy level of less than 70% or an overall rating of one star on Medicare's Nursing Home Compare website. State savings of $2.4 million dollars in fiscal year 2020 and $2.9 million dollars in fiscal year 2021 are anticipated.

Section 9 of the bill strengthens provisions related to nursing home receiverships and clarifies the timing of certain actions.
Sections 10 and 11 of the bill include language to streamline the process for nursing home operators of financially distressed homes that are voluntarily seeking closure and meet certain criteria.

While the bill waives the requirement for a public hearing prior to closure, it retains the full range of residents rights protections, including written notice to residents and responsible parties, rules for discharge, and the Long Term Care Ombudsman and Money Follows the Person provisions, essentially all resident protections elsewhere afforded under state and federal law remain unchanged.

Section 12 establishes in statute that a covenant not to compete is against public policy and shall be void and unenforceable. This ensures freedom of choice and freedom of movement between caregivers and clients and, by doing so, helps to protect the health, safety and well-being of individuals. A Medicaid provider in the home care program has a non-compete in their employment contracts. This agency continues to pursue legal action against their -- against -- against -- against caregivers, excuse me, that have left their employ but have continued to work for individual clients or another agency. They have also instituted or threatened legal action against other agencies that may hire their caregivers to continue caring for individual clients, thereby disrupting continuity of care and putting the health, safety and welfare of frail elderly and younger adults with disabilities at risk.

This statutory change is not, however, restricted to Medicaid. As a matter of public policy, the health and safety of frail elders or persons with
disabilities should not be disrupted by homemaker-companion or home health agencies that seek to protect their business interests at the cost of those they serve.

Section 11 -- I'm sorry, Section 13 institutes an asset test under the Medicare Savings Program. There are 40 states with an asset test equal to the federal minimum, currently $7,730 dollars for singles and $11,600 dollars for couples, two states with limits that are higher than the federal minimum and eight states that have no asset test. Prior to fiscal year 2010, Connecticut's income levels were in line with other states and, similarly, an asset test was in place.

This bill aligns Connecticut with the vast majority of other states by instituting an asset test equal to the federal minimum. The asset test will be effective July 1st, 2020. It is projected that this bill will reduce MSP expenditures by approximately 10%. State Medicaid expenditures related to the costs of deductibles, co-insurance and co-payments under the QMB program are expected to be reduced by $10.5 million dollars in fiscal year 2021. In addition, because Medicare premiums are covered through the diversion of Medicaid revenue, less revenue will need to be diverted to cover these costs, resulting in additional revenue to the state of $16.0 million dollars in federal year -- fiscal year 2021. In total, after factoring in the personnel and systems costs to implement the asset test, this proposal will result in net savings to the state of $25.6 million dollars in fiscal year 2021. Please note that a technical correction -- technical correction is needed on line 1111 of the bill, the effective date should be July 21st, 2020.
Sections 14 and 15 reduce the state's ever-increasing potential exposure to unbudgeted expenditures, while ensuring that providers with individually calculated rates based on cost report information continue to have an opportunity for those rates to be reviewed and corrected. This bill preserves that purpose, while reducing excessive appeals of broad, statewide rates that continue to expose the state to substantial and unbudgeted liability, as well as impose an excessive administrative burden for DSS.

Specifically, many hospitals have filed rehearing requests for most payment methodologies issued or amended in recent years, including reimbursement methodologies that apply to all acute care general hospitals. Collectively, hospitals are seeking various retroactive payment increases in the currently pending rate rehearing proceedings. The collective result could potentially expose the state to as much as $2.5 billion dollars or more in new, unbudgeted expenditures. Unless this statute is revised, that potential exposure is likely to continue increasing as the hospitals may continue to request rate hearing -- rehearing proceedings for statewide rates issued in future years.

This bill removes the rate appeal language from the home health rate statute, as well. The removal of this language will ensure that DSS is able to set rates in accordance with both federal requirements and available state appropriations without the risk of exposure to unbudgeted increased expenditures.

Furthermore, with the state modernizing hospital reimbursement to uniform rate methodologies and increased federal oversight of Medicaid rates, it is
neither necessary nor appropriate for providers to challenge the sufficiency of statewide rates.

Section 16 links hospital payments to readmission rates. It's intended to encourage better quality and outcomes by instituting a readmission payment adjustment of 15% for readmissions within 30 days after discharge for a related diagnosis. Based on calendar year 2017 data, readmission rates under HUSKY Health were above 10%, with 8,275 readmissions identified. State savings of $2.0 million dollars in fiscal year 2020 and $2.4 million dollars in fiscal year 2021 are anticipated.

Section 16 also ensures that Medicaid payments to hospitals are only made in compliance with federal law. This new language is necessary, because Medicaid payments to hospitals and various other providers, must comply with the federal Upper Payment Limit and other federal requirements. The UPL is a federal rule that certain Medicaid payments cannot be more than the state's reasonable estimate of Medicare payment, calculated based on federal rules and guidance. Payments above the UPL are not eligible for federal matching funds. Current hospital payment levels are now very close to the UPL, so this language is necessary to ensure that the state is not required to make any Medicaid payments that would not be eligible for federal matching funds.

The Governor's budget provides over $453.3 million dollars in supplemental payments for hospitals in each year of the biennium.

Section 17 requires that, of this amount, $15.0 million dollars in fiscal year 2020 and $45.0 million in fiscal year 2021 be distributed based on
certain quality performance measures. This will encourage hospitals to improve outcomes, resulting in better care for HUSKY Health members. In total, the above initiatives will result in state savings of $21.2 million dollars in fiscal year 2020 and $54.7 million dollars in fiscal year 2021, as well as additional revenue of $1.4 million dollars in fiscal year 2020 and $16.9 million dollars in fiscal year 2021.

The Department respectfully requests that the Committee take favorable action on House Bill Number 7164, AN ACT IMPLEMENTING THE GOVERNOR'S BUDGET RECOMMENDATIONS FOR HUMAN SERVICES. I'm available to answer questions. And I have a lot of subject matter experts who are going to help me out.

[laughter]

REP. WILSON PHEANIOUS (53RD): Thank you.

REP. ABERCROMBIE (83RD): Smart lady. [laughter]

REP. WILSON PHEANIOUS (53RD): Representative Abercrombie.

REP. ABERCROMBIE (83RD): All right. Good morning, Deputy Commissioner. Thank you for being here and thank you to -- your staff.

KATHLEEN BRENNAN: Thank you.

REP. ABERCROMBIE (83RD): So, where do I being. No, it's not too bad. Okay, good.

KATHLEEN BRENNAN: Overall.

REP. ABERCROMBIE (83RD): No. You're -- you're -- okay. [laughter] So, in -- in Section 2, that talks about the nursing home rates, the reduction of 2,200 beds, can you talk a little about the star
rating that's in place right now?

KATHLEEN BRENNAN: It's based on the Medicare star rating. Is that correct Chris?

CHRIS LEVINE: Good morning, Chris Levine from DSS. In the Governor's budget, were -- the star rating is Medicare compare, they evaluate nursing homes based upon all kinds of data, you know from staffing, to facilities, the -- the -- so, in the rebasing, we'd like to -- the Governor's budget proposes to not to waive the stop loss, if you had a one-star rating, which is the lowest, the lowest star rating. The number of nursing homes that would be effected would only be a few that would have an issued rate higher than the calculated rate and one star. It probably won't effect very many nursing homes.

REP. ABERCROMBIE (83RD): So, if somebody is at a -- a star one, right, one star, sorry, I didn't have enough coffee yet this morning. These early events kill me. So, if someone's at a one star, does DSS intervene to help them to become better than that? Like, do we have any protections in place that we want to make -- help someone get above a one star? And when you say a few, that's kind of generic. I'd like to have an exact number, also.

CHRIS LEVINE: Yeah. We'll have exact numbers in a month or so once we get all the cost reports in and we can evaluate them and kind of do some test review on those. Yeah. And then in terms of working with nursing homes to improve their quality, that's really a -- a function of the Department of Public Health. They do -- they're the survey agency that's contracted with CMS to do the surveys and that would fall under their purview.
REP. ABERCROMBIE (83RD): And how about intervening if they are in -- if they are a one star to try and get them to a higher star level? Do we intervene at all with help or anything like that?

CHRIS LEVINE: No. I think we'd have to ask the public health of -- what are the triggers -- what are the triggers for them to -- to -- to intervene proactively in that fashion.

REP. ABERCROMBIE (83RD): Okay. So, let's move on to Section 13, which is the asset test for the Medicare Savings Program. So, the guidelines are what are proposed in here which is the federal minimum, 7,560 for singles, 11,340 for couples. If we do institute a asset test, do we have to follow the federal guidelines under this program or do we have flexibility within -- because it is a -- a state supplemental program, do we have flexibility on the asset test?

KATHLEEN BRENNAN: It's my understanding we do have flexibility on that. I don't think we have to follow the federal minimum.

REP. ABERCROMBIE (83RD): And so, part of this is that DSS has to do a computer system, right, to be able to --

KATHLEEN BRENNAN: That's correct.

REP. ABERCROMBIE (83RD): -- do an asset test?

KATHLEEN BRENNAN: Uh-huh.

REP. ABERCROMBIE (83RD): We don't have an asset test currently in our program.

KATHLEEN BRENNAN: Yes.
REP. ABERCROMBIE (83RD): So, if we do this, do this asset test, can we also use this asset test in other programs that DSS offers?

KATHLEEN BRENNAN: I would assume that if we're -- if we're making a systematic change in order to collect the data that we need to do an asset test, that I would assume we could broaden it if we needed to. [crosstalk]

REP. ABERCROMBIE (83RD): But would we have to know that at the beginning as we're going into this? So, let me give you an example.

KATHLEEN BRENNAN: Yeah.

REP. ABERCROMBIE (83RD): Right? So, say we do do this asset test.

KATHLEEN BRENNAN: Right.

REP. ABERCROMBIE (83RD): Say we -- let's just use the figures that are here. We go with the 7,300 and 11,340, right, and you update your system to reflect that; right?

KATHLEEN BRENNAN: Right.

REP. ABERCROMBIE (83RD): Say we decide we want to do it and listen, I'm not trying to freak anybody out [laughter] some people that are watching this. I'm not [laughter] offering this further, but I'm just trying to ask the question. Say we decided that we wanted this to be part of the HUSKY Program.

KATHLEEN BRENNAN: Right.

REP. ABERCROMBIE (83RD): Right? At some point. Because I think the realization is, as a state, right --
KATHLEEN BRENNAN: Yeah.

REP. ABERCROMBIE (83RD): -- without an asset test, there may be individuals that really should not be on some of these programs --

KATHLEEN BRENNAN: Uh-huh.

REP. ABERCROMBIE (83RD): -- and people that are really in need are not getting those programs, let me just say it that way.

KATHLEEN BRENNAN: Uh-huh.

REP. ABERCROMBIE (83RD): Would -- would we have to know in advance if this asset test would be reflected in other programs? Or do we have the flexibility with the computer system to be able to add it in the future? Because it's expensive. Every time we --

KATHLEEN BRENNAN: Yes.

REP. ABERCROMBIE (83RD): -- have to tweak our computer system, it's -- it's expensive. So --

KATHLEEN BRENNAN: Peter?

PETER HADDLER: Hi.

KATHLEEN BRENNAN: Hi.

PETER HADDLER: I'm Peter Haddler. I'm a program manager here at DSS. Just to answer some of those questions. We do currently have asset tests for a number of programs, including the HUSKY C population in general, the -- the non-MAGI population, if you will. And the computer system is able to, you know, we have -- we have components in the system that are able to collect asset information. It's a matter of making a change for a whole other program that does
require additional changes. So, there's -- there's already, you know, the technology is there conceptually, it would just need to be developed specifically for MSP. And I think that, you know, another part of the component of the -- the cost that would come with this, is that, it is collecting a lot of information from people who we have never asked this particular information from. So, you know, for the past nine years, we haven't requested that people who are applying for MSP provide asset information. So, we don't have a lot of this asset information on something about two thirds of the people who are currently enrolled. Some people are also on other Medicaid programs and other cash programs that have asset tests. And if they have met those asset tests, they are likely to meet the asset -- any asset test that's imposed on MSP. And so, we know those folks are already going to be, you know, we have enough information to determine MSP-LIS asset test for them. But it's the rest of the folks that we would need to collect it for, run it through the system, and we need to have MSP specific metrics to be able to -- to do that.

REP. ABERCROMBIE (83RD): And so, can you talk through a little bit about what is the process for -- for an asset test. Because I don't think people understand the staff that goes involved and what it actually is from beginning to end. And I -- and I think it's a lot like what -- for this particular program, it would be a lot similar to what we do under the asset tests for nursing homes.

So, let's -- and then the other question is, and I don't think it's in here. Would we do a look back and could we do a look back onto the MSP? So, those would be the two questions.
PETER HADDLER: Sure. So, the second question first, you can't do a look back period. So, this would be a different asset test from what we currently do for nursing homes. Wherever you would set the standard for MSP, it would be a number that a person could come in one day and not be eligible, because they're over assets. And if they -- they, you know, put their assets somewhere else in a way that was, you know, not accounted, then they could become eligible the next day. So, there -- it -- it's not the same concept as the nursing home where you're looking back to see if people have reduced their assets to become eligible for the program. That is -- that's a federal requirement.

So, as far as the cost of -- of doing this asset test, we currently have a pretty highly automated process for renewing individuals once they've been determined eligible for MSP. I think approximately 85 percent of all of the current recipients were able to reevaluate their eligibility every year without having to gather information from clients.

With the asset test, at least initially, we'd have to collect it from everybody. And that's a pretty daunting task, you know, collecting from over 100,000, maybe 120,000 people, collecting current asset information to evaluate their eligibility. We -- one of the reasons that we've requested that this not be implemented until July 1st, 2020, is that we are putting in a asset verification system which is a more -- it's an electronic, you know, touch point that accesses a really large database of assets, you know, bank institutions, like that.
So, there's a way to -- as much as possible, we'd like to maintain that automated process. We are still in the early stages of that. We have a contract in place but we haven't begun flushing out the details of how that design would work. We are hopeful that we will be able to utilize it in a way that will allow us to not have to repeatedly go back to clients every year. And we may be able to, you know, administratively renew their -- their benefits. That -- there's a lot of details that need to be worked out on that side. So, that's -- the initial -- the initial list is going to be really significant, if this comes to, you know, to fruition. We are hopeful that it will become more streamlined once we have an asset verification system in place. But it's -- it's -- it's a bit of an unknown.

REP. ABERCROMBIE (83RD): And then, in Section 14 and 18, for the rate appeal language, right [laughter] I love the look, so, you list the providers who would -- who would be under this language. Hospitals, nursing facilities, and intermediate care facilities. Do we -- are those the only programs that have a rate appeal process? And why did you pick those three for this particular language? I'm trying to understand.

KATHLEEN BRENNAN: Chris? Right. No. So -- so, those are specifically in statute. They've always been in statute, that they've had the ability -- exactly. I apologize, it took a minute to get the brain rolling, coffee. [laughter] But yeah. So, it's in statute that they have this right to rate appeal. And that's what we're removing. So, it's as you mentioned, the hospitals, ICF, IIDs, RCHs, as well as home health agencies, as well, correct?
CHRIS LEVINE: With exception of home health agencies, yes.

KATHLEEN BRENNAN: Yes. Yeah.

CHRIS LEVINE: With the exception of home health, the -- the rates of -- oh, Chris Levine, sorry, DSS. With exception of home health, the rates are all derived from a methodology that's in the state plan, clearly defined. A lot of 'em use cost reports as the basis, another allocation methodology. So, there's a lot of moving parts in those types of rates. So -- and they receive annual updates. Even if there's no money in the budget for a rate increase, they still go through processes to make sure that the costs are allowable in those rates. A lot of the other rates that we issue are tied to Medicare or -- or stay static year to year. So, they don't change. The state plan is very simple. It says fee schedule, and then it references a fee schedule that's published on the system. So, these are the rates that have a more complicated underpinning and an annual process to be -- to up -- to have an update or to be reviewed on an annual basis.

REP. ABERCROMBIE (83RD): Okay. I'll open it up to others. Representative Case.

REP. CASE (63RD): Thank you, Madam Chair. Good morning. I guess, going back a little bit on MSP and the asset. I'm going to switch [crosstalk]. Before he gets up here, I have a question, and I'm trying to decipher and I'm sure Kathy and I will have much deeper things with this tomorrow, but when you look at the budget and stuff, and I know you talk a lot about it in here, from what the agency has put out and what the Governor has put out,
there's a big numbers difference. So, I'm just trying to figure out --

KATHLEEN BRENANN: [inaudible - 00:25:34]?

REP. CASE (63RD): -- what -- it's much less what the agency put out compared to what the Governor put out. So, I'm trying to find the differences of where it is. So, maybe Kathy, we can have a talk about that. Because I have it right in front of me here, it's --

KATHLEEN BRENANN: It shouldn't [inaudible - 00:25:48].

REP. ABERCROMBIE (83RD): Representative, not to -- not to [laughter] help decide here, but are you talking numbers dollars?

KATHLEEN BRENANN: You can help me.

REP. ABERCROMBIE (83RD): Are you talking people? I'm sorry --

REP. CASE (63RD): Dollars.

REP. ABERCROMBIE (83RD): I'm not --

KATHLEEN BRENANN: Dollars.

REP. ABERCROMBIE (83RD): Okay. So, the dollar amount that the Governor's office put out --

KATHLEEN BREENAN: [cross talk]

REP. CASE (63RD): The agency's got $4.2 billion dollars. The Governor's office has $4.4 billion dollars. And then for 2020, the agency has $4.2 billion dollars and the Governor's office has $4.5 billion dollars.

REP. ABERCROMBIE (83RD): Okay.
REP. CASE (63RD): So, I'm just curious where these -- it's a -- it's a big difference when you're talking this department because of everybody you serve. So, we'll go on to the asset --

REP. ABERCROMBIE (83RD): And if they're --

REP. CASE (63RD): -- test.

REP. ABERCROMBIE (83RD): Yeah. And let me just interrupt for a moment. I apologize. And I think maybe this would be a better question for the Appropriations --

REP. CASE (63RD): No problem.

REP. ABERCROMBIE (83RD): -- when we're in there tomorrow [cross talk] think ahead.

KATHLEEN BRENNAN: Absolutely.

REP. ABERCROMBIE (83RD): I think is what the Representative is --

REP. CASE (63RD): Exactly.

REP. ABERCROMBIE (83RD): -- asking.

REP. CASE (63RD): Because I was looking through this as she was giving all the cost savings and stuff [cross talk].

KATHLEEN BRENNAN: Yeah.

REP. CASE (63RD): I wanted to reference to what we're going into at Health tomorrow.

KATHLEEN BRENNAN: Yeah.

REP. CASE (63RD): And see --

KATHLEEN BRENNAN: Fair enough. We'll cross reference and --
REP. CASE (63RD): Yeah.

KATHLEEN BRENNAN: -- and have a chat.

REP. CASE (63RD): It doesn't take much to confuse me. But anyways, so with the asset test, what are we talking about costs to do this? I know we had talked about this in a previous meeting of --

KATHLEEN BRENNAN: Uh-huh.

REP. CASE (63RD): -- Appropriations. But putting a system in process, but it's going to help us in the long run, what are the layout costs to do this?

PETER HADDLER: I believe those were accounted for in the proposal. I think that there's an estimate of personnel costs and system technology changes that are included. I --

MIKE GILBERT: Good morning. Mike Gilbert, CFO at DSS. So, the costs should be detailed in some of the documentation. But just to, you know, talk about it here, there are staffing costs. So, there are nine staff and the -- and the annual cost of those staff is approximately $500,000 dollars, a little bit higher than $500,000 dollars. There is some initial contractor support. You know, as Peter had mentioned, there is an initial heavy lift to get this up and operational. So, we have some funding in there for contractual supports and that's approximately $600,000 dollars.

Also, as Peter was mentioning the asset verification process, there is an ongoing fee associated with that, and that also is approximately $600,000 dollars. And then, there is an initial, you know, as -- was also discussed, there's initial system changes associated with this and those are $2.5
million dollars. So, that's the package of costs. And -- and the $2.5 million dollars is a one-time change for the systems [inaudible - 00:28:33] things that associated with that. So, that's one time. But the other costs would be ongoing that I mentioned for the staff and for the asset verification piece.

REP. CASE (63RD): Okay. So, within the budget, you have $2.792 million dollars including nine staff, and then ongoing after the -- it's been implemented it's $1.3 million dollars with 530 in staff -- $530,000 dollars in staff. Does that sound --

MIKE GILBERT: Correct. So, the -- the first year includes that large one-time system cost, which is why it's --

REP. CASE (63RD): So, the one-time --

MIKE GILBERT: -- out of synch.

REP. CASE (63RD): -- is $2.7 million dollars?

MIKE GILBERT: Well, $2.5 million dollars of that $2.7 million dollars is a one-time cost.

REP. CASE (63RD): Okay. Thank you. And how -- how many people do we anticipate? You say 10% is what we're targeting?

KATHLEEN BRENNAN: I think we mentioned that the expenditures would reduce by 10%. I don't know if, Peter, do you have an idea of numbers? I don't think --

PETER HADDLER: That's the anticipated number. I, you know, this is -- it's not exact science.

REP. CASE (63RD): So, you're talking between 10,000 and -- 10,000 and 13,000 people?
PETER HADDLER: The current enrolled across the MSP program is approximately 180,000 individuals. It depends on, you know, certain -- certain components of it are at a more costly benefit or a better benefit, depending on which angle you want to look at it from. So, it would depend on where the folks who would become ineligible are, whether they're at QMB band, SLMB, or the ALMB.

REP. CASE (63RD): Okay. So, with the asset test, which it's interesting that, you know, there's so many other states, there are 40 states that have tests that do this, it has nothing to do with income related. It's just assets that they have; is that correct?

PETER HADDLER: Every -- every state has an income test, as well. Ours is currently at a high -- the highest level is -- is equivalent to 246% of the federal poverty level, which is higher than -- than most states. So, there -- there's -- there's -- there's two pieces to it. There's, the -- both an income threshold and you would have the asset threshold, as well.

REP. CASE (63RD): So, my question is, so a lot -- the MSP is elderly and disabled?

PETER HADDLER: Correct. Someone who is on Medicare.

REP. CASE (63RD): So, they're on Medicare and they're able to work a part-time job; correct?

PETER HADDLER: They could have earned income or not. Right.
REP. CASE (63RD): So, if they have earned income and we have wage or statutory increase, that could push some more people off the program; correct?

PETER HADDLER: It would -- it would vary based on the circumstances. It is -- it's possible, yes.

REP. CASE (63RD): Okay. I looked through and -- and I'm sure we'll get into this more tomorrow, I think tomorrow is going to be a fun day, but in -- in a lot of your testimony, which I think we need to drill down, it's all our anticipated savings, anticipated savings, anticipated savings. [cross talk] It's hard to -- to drill down concrete savings until we know what the actual programs are. I think that's why some of the numbers that I'm looking at are -- we can't guarantee a savings, but you're hoping that what you're implementing within this package. And just for my -- on Sections 3 through -- through 6, can you just give me the definition of what you consider a boarding home?

KATHLEEN BRENNAN: Sure. That's residential care homes, CLAs, community living arrangements, CCHs, community care homes, and ICF/IDDs. And they're all defined in statute and regulations.

REP. CASE (63RD): Okay. Madam Chair, I think I'm all set until tomorrow. Thank you.

REP. ABERCROMBIE (83RD): Representative?

REP. WILSON PHEANIOUS (53RD): Yes. Good morning.

REP. ABERCROMBIE (83RD): Good morning.

REP. WILSON PHEANIOUS (53RD): I'm wondering in Sections 1 and 2, the cost of living adjustment, about how much money is -- is that per person? I mean, just an approximation. How much do -- how
much would -- would the cost of living adjustment have been if it were being provided?

MIKE GILBERT: So, the amount of cost of living adjustment, so when we build our current service --

REP. WILSON PHEANIOUS (53RD): Uh-huh.

MIKE GILBERT: -- request, because it's statutorily required, we do an estimate of that amount. So, we were estimating a 2.4% increase for 2020, an additional 2% increase for 2021. So, the average benefit payment is approximately $485 dollars. So, you know, 2.4% of -- I guess that would be in the range of $10 to $12 dollars, somewhere in that range, at 2.4%, a little bit lower at 2%.

REP. WILSON PHEANIOUS (53RD): Okay. And I'm just thinking about the [laughter] people who have to use very little bit of money and now we're talking about reducing it even further. Is there anything else in the budget that offsets this in anyway or that they're just expected to --

PETER HADDLER: Well, just one second. We're not reducing the amount, we're just not --

REP. WILSON PHEANIOUS (53RD): Not providing an amount that you ordinarily would provide. So, it's -- I know the rate is staying flat, but everything else is going up. So, that was -- that was a concern.

PETER HADDLER: So, the legislature has -- has withheld that -- that cost of living adjustment in 21 of the past 25 years --

REP. WILSON PHEANIOUS (53RD): Twenty-five years.
PETER HADDLER: -- for a CLA program and in 23 of the past 25 [inaudible - 00:34:10].

REP. WILSON PHEANIOUS (53RD): Okay. In Sections 3 and 6, removing the rate increase for nursing homes, it's currently based -- right now, it's based on the actual cost reports that are submitted. So, we're going to ignore those in the future and just provide a flat rate? Is that what I'm understanding? No, I just -- is that correct?

MIKE GILBERT: So, that -- that is correct. This has also been done for a number of years. The statutory requirement and the process, as Chris was describing earlier, there is a statutory process and a -- a processing regulation. So, these increases have been pulled back in many of the years. And so, this continues that process.

REP. WILSON PHEANIOUS (53RD): Uh-huh.

MIKE GILBERT: I -- I would mention that just a -- a caveat on that is, you know, we did give a rate increase of 2% earlier this state fiscal year.

REP. WILSON PHEANIOUS (53RD): Uh-huh.

MIKE GILBERT: And we did have a nursing home wage adjustment and I'm not sure, I'm sorry, of the exact timing of that. I think it goes back another year or perhaps two years. Sorry, 2016. So --

REP. WILSON PHEANIOUS (53RD): Uh-huh.

MIKE GILBERT: Those have then the more recent rate increases for nursing homes.

REP. WILSON PHEANIOUS (53RD): Did I understand Kathy, did I understand you to say there were certain quality improvements that you were looking
for or that you thought that this would contribute to increasing the quality? And I'm just not clear on --

KATHLEEN BRENNAN: For the -- for the hospitals and the -- we were talking about the value based payments associated with hospitals to ensure better quality or to promote better quality.

REP. WILSON PHEANIOUS (53RD): Can you tell me a little bit more about how that happens or --

KATHLEEN BRENNAN: Sure. But it has to do with the hospital readmission rate I --

REP. WILSON PHEANIOUS (53RD): Uh-huh.

KATHLEEN BRENNAN: -- think is what we're talking about there. [cross talk]

REP. WILSON PHEANIOUS (53RD): So, they put better services in and --

KATHLEEN BRENNAN: Correct. They --

REP. WILSON PHEANIOUS (53RD): -- more services in [cross talk].

KATHLEEN BRENNAN: Right now, we're looking at individuals and the percentage of readmits within a 30 day period after discharge. And, you know, taking a look to see whether or not those discharges were appropriate. That way, you know, and it helps to support or promote better care.

REP. WILSON PHEANIOUS (53RD): And have you been finding that that's [cross talk].

KATHLEEN BRENNAN: That hasn't been implemented yet.

REP. WILSON PHEANIOUS (53RD): Oh, okay. [cross talk]
KATHLEEN BRENNAN: That's -- that's correct. It has not yet been implemented. But it goes to our total, you know, looking at value based care and ensuring that we're paying for value in cases to help promote better health.

REP. WILSON PHEANIOUS (53RD): Please, yeah.

KATE MCEVOY: So, thank you so much for the question.

REP. WILSON PHEANIOUS (53RD): Good morning.

KATE MCEVOY: I'm Kate McEvoy. I'm the Director --

REP. WILSON PHEANIOUS (53RD): Uh-huh.

KATE MCEVOY: -- at Division of Health Services --

REP. WILSON PHEANIOUS (53RD): Good to see you.

KATE MCEVOY: -- DSS. Good morning. So, building on what the Commissioner said, the value based proposal includes, as one component, the readmissions, which we are already able to track the --

REP. WILSON PHEANIOUS (53RD): Uh-huh.

KATE MCEVOY: -- incidents of readmissions. We'll have specific data on that for the workgroup tomorrow. And we -- along with our peer states, aim to reduce the incidents of readmissions that are quite high in Connecticut. When we look at peoples' experience through discharge, you know, effective connections with primary care, and resuming stability in a community is overall, you know, preferable to a readmission. There are many exceptions for planned readmissions and especially for --
REP. WILSON PHEANIOUS (53RD): Uh-huh.

KATE MCEVOY: -- children. So, I want to be careful to state that. But the value based initiative, there's other examples that we put in the bill language. One of those is efforts to promote planned vaginal births as compared to caesarian.

REP. WILSON PHEANIOUS (53RD): Yeah.

KATE MCEVOY: There's a reference to examining, you know, opportunities for certain high cost medications including infusions, doing that in a community basis. So, some of these things are initial examples of what we'd be looking at. Because we are a self-insured Medicaid program, we have the opportunity to examine, on an individual basis, and also population basis, where we see medical claims, behavioral health claims, as those influence hospital use of ED and inpatient and what we can do to intercept. This is also a companion to our long-term services and supports rebalancing work.

REP. WILSON PHEANIOUS (53RD): Uh-huh.

KATE MCEVOY: So, when we want to optimize the amount of individuals who are discharged from the hospital to the community, as compared to another institutional setting, these are all examples. And Deputy Commissioner Brennan said, not yet implemented, but this is an important companion to the already existing portfolio valued based payment work that we're doing.

REP. WILSON PHEANIOUS (53RD): Okay. All right. Thank you for that answer. I appreciate it. I think Mr. Case asked the question about how many MSP people are actually going to be effected. I think
we got to that a few minutes ago. It sounded like 10% of the existing population. And I think -- I guess I was wondering about the appeals. It says that Section 17(b)-238 there are some existing appeals but apparently -- what -- what is this -- what are you -- what are we doing with those appeals?

KATHLEEN BRENNAN: So, we are -- let me just pull up the hospital rate appeals rate.

REP. WILSON PHEANIOUS (53RD): That's right.

KATHLEEN BRENNAN: We're not --

REP. WILSON PHEANIOUS (53RD): Yeah.

KATHLEEN BRENNAN: Yeah. We're -- we're removing that hospital rate appeal, right? Because, as Chris had mentioned, the way that the hospital rates are -- are developed in accordance with the state plans, and correct me if I'm wrong, and, you know, the -- as long as we're following the state plan to continue to get these rehearing requests, which are administratively burdensome for the agency and actually kind of exposed the state to unbudgeted liabilities, we're removing those.

REP. WILSON PHEANIOUS (53RD): I guess we -- I guess you're saying we don't have any choice. Okay.

REP. ABERCROMBIE (83RD): So, Deputy Commissioner, let's follow along that line of the appeals process.

KATHLEEN BRENNAN: Uh-huh.

REP. ABERCROMBIE (83RD): Currently, and I -- and listen, let's -- let's call it what it is. There's been an issue with the hospitals with appeals over
the last year. What's an average amount of appeals that you're getting? Can you do it? Can you break it down monthly? Can you break it down in a six-month period? I think that people need to understand --

KATHLEEN BRENNAN: Understand the volume --

REP. ABERCROMBIE (83RD): -- what we're talking about when we --

KATHLEEN BRENNAN: Sure.

REP. ABERCROMBIE (83RD): -- talk about appeals.

KATHLEEN BRENNAN: Yeah. Sure. Chris, I don't know if you have any additional detail. I can certainly give you screenshots of all my emails. I have all the rate --

CHRIS LEVINE: Yeah.

KATHLEEN BRENNAN: -- [laughter] rehearing requests that come in on a --

REP. ABERCROMBIE (83RD): I just think -- I think --

KATHLEEN BRENNAN: Yeah.

REP. ABERCROMBIE (83RD): -- my colleagues need to understand what we're talking about.

KATHLEEN BRENNAN: Yeah.

REP. ABERCROMBIE (83RD): We're not trying to take any --

KATHLEEN BRENNAN: Exactly.

REP. ABERCROMBIE (83RD): -- rights away. What we're saying is, is that it's become so over burdensome --
KATHLEEN BRENnan: Right.

REP. ABERCROMBIE (83RD): -- especially with certain providers, that we're trying to figure out how do we do every day business; right?

KATHLEEN BRENnan: That's correct.

REP. ABERCROMBIE (83RD): When we're all involved with the appeals process. So, I'd like numbers of what an average is.

KATHLEEN BRENnan: Sure.

REP. ABERCROMBIE (83RD): If you're not -- Chris, if you can't supply that now, if you want to do it for the workgroup. I think that would be helpful for people to understand what we're talking about. The magnitude is alarming. And I think that's -- that's what people have to understand.

KATHLEEN BRENnan: Sure.

REP. ABERCROMBIE (83RD): And then, it would also be important, through the appeals process, right, what are the outcomes.

KATHLEEN BRENnan: Correct.

REP. ABERCROMBIE (83RD): Right?

KATHLEEN BRENnan: Uh-huh.

REP. ABERCROMBIE (83RD): So, that's the other part. It's one thing to start down that path with the process, but then what happens --

KATHLEEN BRENnan: Exactly.

REP. ABERCROMBIE (83RD): -- at the end of the day. So, I think -- I think that would be important for people to know that and I think that's what
Representative Case was kind of getting at with some of these questions. So, let's red flag this for tomorrow.

KATHLEEN BRENNAN: Absolutely.

REP. ABERCROMBIE (83RD): For the Appropriation. And I will make sure that whenever we get at Appropriations, this Committee will also get that information, because of this bill coming through here --

KATHLEEN BRENNAN: Yeah.

REP. ABERCROMBIE (83RD): -- even if you're not on Appropriations subcommittee. Okay? And then, you talked about there's exceptions to the appeals process. No? Sorry. Let me put my other hat on for a minute. Sorry. [laughter] The hospital readmissions --

KATHLEEN BRENNAN: Yeah.

REP. ABERCROMBIE (83RD): -- I think, if I understood you correct -- correctly, and correct me if I'm wrong --

KATHLEEN BRENNAN: Uh-huh.

REP. ABERCROMBIE (83RD): There's exceptions to readmissions; right? So, there's certain -- they're not disabilities, there's certain reasons why you come into the --

KATHLEEN BRENNAN: Correct.

REP. ABERCROMBIE (83RD): -- hospital that, if you have to be readmit -- can we have a list of or -- or an idea of what that looks like?

KATHLEEN BRENNAN: Sure.
REP. ABERCROMBIE (83RD): For the readmission?

KATHLEEN BRENNAN: Absolutely.

REP. ABERCROMBIE (83RD): That might be helpful. I know, under federal law, currently hospitals get, for lack of better word, dinged, around readmission.

KATHLEEN BRENNAN: Correct.

REP. ABERCROMBIE (83RD): And I think that we probably have quite a few hospitals in Connecticut that get dinged --

KATHLEEN BRENNAN: Uh-huh.

REP. ABERCROMBIE (83RD): -- under Medicare.

KATHLEEN BRENNAN: Uh-huh.

REP. ABERCROMBIE (83RD): Right?

KATHLEEN BRENNAN: Uh-huh.

REP. ABERCROMBIE (83RD): So, I think part of what this language does is maybe put us in line with that.

KATHLEEN BRENNAN: That's right, yeah.

REP. ABERCROMBIE (83RD): My question to you is, and this is going to come up at subcommittee, because it came up in the original Approps hearing was, when someone comes in with, I don't know -- an elderly person comes in with some kind of infection.

KATHLEEN BRENNAN: Uh-huh.

REP. ABERCROMBIE (83RD): Right? If they come back within 30 days for that same action.

KATHLEEN BRENNAN: Uh-huh.
REP. ABERCROMBIE (83RD): Right? Do you pay, does DSS -- does Medicaid pay for that second round if it's the same treatment that they got 30 days ago?

KATHLEEN BRENNAN: Yeah. Right now, it does. Right now, we do. Correct.

REP. ABERCROMBIE (83RD): So -- so, just so you know, I think it's really important for you guys to be able to state that tomorrow.

KATHLEEN BRENNAN: Okay.

REP. ABERCROMBIE (83RD): I think there was some -- a little bit of confusion --

KATHLEEN BRENNAN: Yeah.

REP. ABERCROMBIE (83RD): -- in the Appropriations hearing and there were a lot of colleagues that were kind of upset because they were under the impression, and I will tell you, and they might be in the room, too, the hospitals were the ones that were saying that they weren't getting paid if someone came in for a readmission.

KATHLEEN BRENNAN: Okay.

REP. ABERCROMBIE (83RD): So, listen, I just think it's important for people to have the facts. So, I'm just kind of giving you the heads up for that --

KATHLEEN BRENNAN: Sure.

REP. ABERCROMBIE (83RD): -- for tomorrow.

KATHLEEN BRENNAN: I would guess if that they were a Medicare patient, they are being dinged; right, I mean, if it was Medicare?

REP. ABERCROMBIE (83RD): And -- and -- and it could be.
KATHLEEN BRENNAN: Yeah.

REP. ABERCROMBIE (83RD): So, we know what happens in this building. People merge --

KATHLEEN BRENNAN: Yeah.

REP. ABERCROMBIE (83RD): -- Medicare and Medicaid.

KATHLEEN BRENNAN: Medicaid? Yes.

REP. ABERCROMBIE (83RD): Right. So, it could be that simple, that they --

KATHLEEN BRENNAN: Yeah.

REP. ABERCROMBIE (83RD): -- thought it was a Medicaid when it was a Medicare.

KATHLEEN BRENNAN: Medicare. Yeah.

REP. ABERCROMBIE (83RD): So, I get that. But I think it's going to be important for tomorrow, because you guys are gonna get hit on that again.

KATHLEEN BRENNAN: Okay.

REP. ABERCROMBIE (83RD): Further questions? Yeah. Hi, how are you?

REP. MASTROFRANCESCO (80TH): Very well, Madam Chair. Thank you very much. Thank you very much for your testimony. You're always so thorough and I really appreciate it.

KATHLEEN BRENNAN: Thank you.

REP. MASTROFRANCESCO (80TH): As -- as a newbie, I would say [laughter], I appreciate all the detail. A couple of questions I wonder if you could help me with. I guess Section 8, it's regarding the nursing homes, the -- is the goal to have the occupancy of
the nursing homes at 95% due to reimbursement for Medicaid or Medicare?

KATHLEEN BRENnan: Go ahead, Chris.

CHRIS LEVINE: Chris Levine, DSS. Yeah, the -- our -- our reimbursement system is -- is designed to -- for nursing homes to be -- to function at an occupancy between 90 and 95%, ideally. And the reason why that's in our state plan is that the federal government doesn't want to pay for excess capacity in -- in the infrastructure. So, if you're running all your nursing homes at 70% occupancy, the cost for maintaining those empty wings and those empty beds --

REP. MASTROFRANCESCO (80TH): Uh-huh.

CHRIS LEVINE: -- is considered excess space. So, in our state plan, we have a 90% occupancy requirement. But if it can get into 95, that's where the nursing homes are profitable and stay at the most -- are stable and -- and profitable in that 90 to 95. So, 95 is ideal.

REP. MASTROFRANCESCO (80TH): So, you -- we will -- if -- if it falls below 90%, we will not get reimbursed any federal reimbursement for Medicare or Medicaid? I guess I'm trying to find out what is this threshold on the -- for the level --

CHRIS LEVINE: Yeah.

REP. MASTROFRANCESCO (80TH): -- that we need to maintain the nursing homes to be reimbursed --

CHRIS LEVINE: In -- in the rate --

REP. MASTROFRANCESCO (80TH): -- the exact number?
CHRIS LEVINE: Yeah. In the rate setting system, when we do a rebasing, what we do is we, even though your occupancy may be 70%, when we calculate your rate, we add in extra days to bring it up to 90% occupancy, which essentially reduces, you know it's a -- it's a divisor, so -- so, instead of 70% occupancy, we're dividing it by 90% occupancy, which lowers your allowed rate and then the rate setting system will determine -- depending on the -- the choices we make of how much we allow the rate to go down.

REP. MASTROFRANCESCO (80TH): Correct. So, I -- I --

CHRIS LEVINE: [cross talk]

REP. MASTROFRANCESCO (80TH): -- guess let me just rephrase the question. What is the exact percent reimbursement we get from the government percentage wise and what does it have to reflect? Or do our nursing homes have to be -- does one nursing home have to be at 90% to get reimbursed from the government and what's that percentage? Are you telling me that they -- you --

CHRIS LEVINE: No. We --

REP. MASTROFRANCESCO (80TH): -- have to be 90% or no?

CHRIS LEVINE: We don't differentiate payment, we don't --

REP. MASTROFRANCESCO (80TH): I guess I'm not understanding.

CHRIS LEVINE: Yeah. We pay for every Medicaid client that's in -- in the building. It's just the rate setting system will penalize nursing homes that
are not at 90% when we do a rebase. So, it's not every year, but when we do a rebasing, if you're below 90%, you could get a little --

REP. MASTROFRANCESCO (80TH): Less money --

CHRIS LEVINE: -- bit of a rate --

REP. MASTROFRANCESCO (80TH): -- back?

CHRIS LEVINE: A little bit of a rate hit, then prospectively, you're rate's going to be a little bit less. So, you get paid less through a reduced rate but you still get paid for every client.

REP. MASTROFRANCESCO (80TH): Right. So -- so the goal is to get it to at least 90 or 95%, so we get the full reimbursement; is that --

CHRIS LEVINE: So, you're --

REP. MASTROFRANCESCO (80TH): Am I --

CHRIS LEVINE: So, you're not subject to any rate penalties when we do a rebasing.

REP. MASTROFRANCESCO (80TH): Okay. And that would be the purpose of consolidating some of the homes because some are at 80% or 70%?

CHRIS LEVINE: Yeah. Statewide is about 86, 87%.

REP. MASTROFRANCESCO (80TH): Okay.

CHRIS LEVINE: But we have a lot of homes, you know, two-thirds of the homes are above 90%. It's just, we have more and more homes that are falling below that 85% kind of critical threshold. And they become --

REP. MASTROFRANCESCO (80TH): Yeah.

CHRIS LEVINE: -- financially unstable and --
REP. MASTROFRANCESCO (80TH): Right.

CHRIS LEVINE: -- and then they're -- they don't have the money to improve the buildings and it -- it can be a downward spiral.

REP. MASTROFRANCESCO (80TH): Is -- has there been a study done or do we know what the cause of the decline in residents at a nursing home? Is it affordability?

KATHLEEN BRENNAN: No, I think --

REP. MASTROFRANCESCO (80TH): I mean, what is the reason that we've seen that?

KATHLEEN BRENNAN: It's a great question. And actually, we've seen because it's part of our rebalancing agenda. I mean, what is happening nationwide, and Connecticut has been a leader in this. People want to age in home. They want to be served at home. So, it's -- it's more cost effective.

REP. MASTROFRANCESCO (80TH): Right.

KATHLEEN BRENNAN: It's better for -- for the residents of the state of Connecticut. So, that's what we're seeing and that's what we're trying to continue to support and propose. So, it's not just rates. It is being cared for at home instead of in a -- a nursing facility. Don't get me wrong, we all understand that nursing facilities play a very important role. But if people can age at home and be cared for at home, that's the preferred method.

REP. MASTROFRANCESCO (80TH): Do -- do we ever see any denials possibly from a nursing home because they don't quality? Maybe they're Medicare or
Medicaid will not pay and -- and are they ever denied?

KATHLEEN BRENNAN: Denied -- denied admission to --

REP. MASTROFRANCESCO (80TH): Yeah.

KATHLEEN BRENNAN: No.

REP. MASTROFRANCESCO (80TH): No?

KATHLEEN BRENNAN: Level -- yeah, it's based on level of care. I apologize. It's not just -- so, it -- it -- they might not -- you know, from a financial perspective, they may meet the income levels to be admitted into the nursing facility, but they may -- may not have that level of care for a -- a nursing home care.

REP. MASTROFRANCESCO (80TH): Right. And then, of course, if they are a private pay, right, they would be --

KATHLEEN BRENNAN: Correct.

REP. MASTROFRANCESCO (80TH): -- more likely to be denied, if they can afford it. Private pay, I would assume, yes.

KATHLEEN BRENNAN: Yes.

REP. MASTROFRANCESCO (80TH): Would that be -- would that be good?


REP. MASTROFRANCESCO (80TH): Okay. I know we talked a lot about -- I want to just talk a minute about the asset test. You had mentioned that we use the asset task on -- test, excuse me, on HUSKY C --
KATHLEEN BRENNAN: HUSKY C.

REP. MASTROFRANCESCO (80TH): -- and other programs. Can you tell me what other programs we use the asset test on?

KATHLEEN BRENNAN: SNAP. Peter? I'll bring the expert up. [laughter]

REP. ABERCROMBIE (83RD): That's federal, Kathy.

KATHLEEN BRENNAN: Yeah, federal and state. I apologize. Thank you, Representative. You're right.

PETER HADDLER: Hi.

REP. MASTROFRANCESCO (80TH): Hi.

PETER HADDLER: There are asset tests on our cash programs in addition to the HUSKY C, aged, blind, disabled population for Medicaid coverage. Those are the big ones. There's an asset test for a certain -- a certain small population in -- in the SNAP arena, as well. But that is not the -- the norm for that program.

REP. MASTROFRANCESCO (80TH): Okay. And how about the income test? What programs do we use for that?

PETER HADDLER: All of them.

REP. MASTROFRANCESCO (80TH): All of 'em? And I think Representative Case might have touched on this, on the TFA program, how many people would be effected by that, if they use the asset test? Or is that just income only for the --? the --

PETER HADDLER: I think we already have --

REP. MASTROFRANCESCO (80TH): -- family assistance?
PETER HADDLER: TFA, MSP?

REP. MASTROFRANCESCO (80TH): I'm sorry. No. No. The family assistance -- the cash family --

PETER HADDLER: Family assistance.

PETER HADDLER: That already has an asset test. It's really quite stringent. It's substantially more restrictive than what is being proposed for MSP.

REP. MASTROFRANCESCO (80TH): It's just income?

PETER HADDLER: No, asset test.

REP. MASTROFRANCESCO (80TH): It's not income at all?

PETER HADDLER: It's both.

REP. MASTROFRANCESCO (80TH): It's just asset? It's both?

PETER HADDLER: Yes.

REP. MASTROFRANCESCO (80TH): So -- so, would -- let's just say people were on the family assistance program are -- are doing some sort of work and minimum wage has increased. Would that affect that test?

PETER HADDLER: We currently --

REP. MASTROFRANCESCO (80TH): Income test that we would have -- we -- we would lose people on that program. Is that possible?

PETER HADDLER: There's -- there are not currently changes being proposed to the program itself that would be part of the calculation of eligibility. We do currently allow folks who are receiving TFA to
earn up to 100% of the federal poverty level and is excluded from the calculation of eligibility. So, they have an opportunity to earn money and not necessarily lose benefits right away. But that's part of the existing program.

REP. MASTROFRANCESCO (80TH): It is? Okay. Thank you. And then, Section 12, if you -- can you elaborate a little bit more on the -- it was establishes in statute that a covenant not to compete against public policy and shall be void and unenforceable. If I'm just not understanding, I thought federal permits non-compete clauses. So, can you elaborate a little bit more on that and explain to me why it's just specific to this industry? I'm confused on this section here. Would you.

KATHLEEN BRENNAN: Yeah. I -- I -- I --

REP. MASTROFRANCESCO (80TH): Would you --

KATHLEEN BRENNAN: -- don't know your question about the -- the federal mandate. I'm not certain about that. This for us has come about in the home care industry. We experienced it last year, I believe, when we were struggling with certain providers who were potentially leaving the system and we were seeking to ensure that the clients they served could maintain some coordination of care with their -- with the provider that they had or their -- the actual caregiver that they had. And we found that the caregivers were being told that they -- they could not. Other agencies that we were looking to help address the clients that needed or might need services were not allowed to try to take care of those people because of the non-compete clause. And it just, honestly, it -- it seemed to us that it was
disrupting the continuity of care, and it was based on a business need for that organization. And so, for us, we think it's against public policy and shouldn't be enforceable.

REP. MASTROFRANCESCO (80TH): Can -- can -- can -- can you or -- or direct me so I can look up what the public policy is on that?

KATHLEEN BRENNAN: Sure -- I'm not sure there is a public policy. I think that's what we're trying to make right now --

REP. MASTROFRANCESCO (80TH): Oh, okay. Because it said --

KATHLEEN BRENNAN: -- by the --

REP. MASTROFRANCESCO (80TH): -- here, that it's against public policy. So, I'm assuming --

KATHLEEN BRENNAN: I think it says -- [cross talk]

REP. MASTROFRANCESCO (80TH): There is some kind of a statute or a law out there, when I saw that.

KATHLEEN BRENNAN: Right.

REP. MASTROFRANCESCO (80TH): So, I was just curious where can I find that.

KATHLEEN BRENNAN: I'm going to ask Kate. She can probably give a little bit more detail. I think she's right in the mix of that.

KATE MCEVOY: Yeah. Thank you very much for the question. And just again, building on what Deputy Commissioner Brennan said, we -- we -- from our seat supporting Medicaid members, our -- our reason for being is to make sure that people have a choice and access to the benefits that they wish to avail
themselves under in the program. The federal Medicaid statute emphasizes that freedom of choice for Medicaid members. In all of the CMS programs, there's always that emphasis on the individual being able to select his or her providers. So, we have an interest in supporting that freedom of choice for a person. That, in our opinion, transcends that right of a provider to retain low wage caregivers.

We're also concerned about this, as Deputy Commissioner Brennan said, in the context of our long-term services and supports rebalancing agenda, we have a very important interest in all the facets that enable people to remain independent and have choice in the community. One of which is sufficient work force and we're all concerned. There's a very large cadre of people who are low wage workers, who perform this very difficult work. We want to give them supports in being able to change employment if they wish to without constraints on them.

And it is our understanding, we're not experts in this field of law, that that non-competes are more typically used for high salaried people with specific technical expertise as compared to a situation where someone does not have those types of facets; there's no skills or expertise that's unique to these agencies; this is a broadly performed function.

And so, for the interest of Medicaid members and also supporting the often low wage workers who support them, we would like to make sure that there are not those constraints on migrating between agencies.

REP. MASTROFRANCESCO (80TH): So, I -- I guess I'm just trying to understand. So, if somebody was to
leave a business, you're saying that they should be able to use that same person? Because usually, when you -- when go somewhere, you chose, everybody has the freedom to choose a company that they want to choose. I don't see how that would change at all. Usually people want to -- you -- you go to a specific company, unless it's a private person. So, they still have that option to choose a private company -- that company and -- as -- as opposed to the employees. Usually that's the way it works.

And in that industry, I've seen, because I've worked in the industry a little bit, it's a big turnover; right? It's like being in the hospital. You have a nurse on staff this hour, things change. You're constantly -- I -- I believe that industry has probably one of the largest turnovers of employees than any industry I have seen; right? So, it's hard to say well, you know, this is the -- the specific caregiver I want. And that's why people choose a company as opposed to a person. So, can you elaborate on that a little bit?

KATE MCEVOY: Yeah. No --

REP. MASTROFRANCESCO (80TH): I --

KATE MCEVOY: I certainly appreciate your perspective and your direct experience. I would actually say that, for people served by our programs, and a notable example is the Connecticut Home Care Program for Elders. We're serving about 16,000 older adults in that program. And that's really the program in which the scenario arose where one provider was seeking to prevent its employees from being reemployed by another entity. There is a very strong preference for the relationship with the direct caregiver that -- and -- and, in fact,
there's research literature to say that preserving that continuity actually improves outcomes.

So, if an individual -- in -- in this case, as Deputy Commissioner Brennan indicated, if a provider is not going to be serving in the Medicaid program or there's some disruption to their participation, and a caregiver and a client both want to go to another agency, we think that that should be permitted, because that supports continued service to that individual. And I think in general because of turnover, that kind of continuity of support to people is already challenging and enough in its own right. So --

REP. MASTROFRANCESCO (80TH): Right.

KATE MCEVOY: -- intercepting it with non-compete agreements, to us, does not seem to support the members' interests, and that's really our reason for being.

REP. MASTROFRANCESCO (80TH): So, would this be just specific to reimbursement, companies that take reimbursement for Medicare or Medicaid?

KATHLEEN BRENNAN: No. We think that just as a general rule, it should be -- and it's against public policy that we should -- it should be non-compete cord should be void and unenforceable.

REP. MASTROFRANCESCO (80TH): Right. Because I -- I do know that it's -- I mean, federal law at this point does --

KATHLEEN BRENNAN: Yeah.

REP. MASTROFRANCESCO (80TH): -- allow businesses to, you know, hire people and put a non-compete clause for whatever for whatever it is that they
deem. And I -- but I do understand the continuity with -- with patients and -- and a caregiver. But although that industry, like I said, I believe their turnover rate for employees --

KATHLEEN BRENNAN: Uh-huh.

REP. MASTROFRANCESCO (80TH): -- is probably as high as 50% --

KATHLEEN BRENNAN: Uh-huh.

REP. MASTROFRANCESCO (80TH): -- on any given day.

KATHLEEN BRENNAN: Uh-huh.

REP. MASTROFRANCESCO (80TH): It's very, very high. So, I don't know if that -- that necessarily will achieve that. They're -- you're going to get a turnover anyway.

KATHLEEN BRENNAN: Uh-huh.

REP. MASTROFRANCESCO (80TH): And it's just a ramped -- it's just -- it's a constant, constant turnover in those industries. So -- okay. I -- I just wanted to know specifically, you said it was against public policy and I was --

KATHLEEN BRENNAN: Uh-huh.

REP. MASTROFRANCESCO (80TH): -- wondering where is the Connecticut law showing that it's against public policy. But that's more of an opinion.

KATHLEEN BRENNAN: Right. Right.

REP. MASTROFRANCESCO (80TH): It's an opinion. It's not a fact.

KATHLEEN BRENNAN: Correct. Yes. Exactly.

KATHLEEN BRENNAN: Thank you.

REP. MASTROFRANCESCO (80TH): Okay.

KATHLEEN BRENNAN: Yes. And I think it's important, as Kate has mentioned, I mean [laughter], we are trying to actually help these low income wage workers, technically -- you know, for the majority of women, women low income wage workers. So --

REP. MASTROFRANCESCO (80TH): Thank you. Thank you for that. I'm -- I'm almost done. A [laughter] couple more questions.

KATHLEEN BRENNAN: No problem. [laughter]

REP. MASTROFRANCESCO (80TH): On the -- the readmission rates, and I know we talked a lot about this during and I'm sure we'll talk more about it in our Appropriations subcommittee meeting, do you know exactly what prompted this specific language in the Governor's budget to -- about the readmission rates? About the readmission 10%? Is there a high? What -- what prompted that conversation; any idea? You may not even know that answer, but --

KATHLEEN BRENNAN: Well, I think -- I think part of it is, again, a focus on quality. If you have readmission rate, which right now appears to be about 10%, I think, is what our numbers showed, that, you know, we're paying, you know, are -- are people being discharged from hospitals too soon, and then coming back, and being readmitted as an inpatient, and we're paying again for the same diagnosis during -- within a 30-day period. So, it's obviously not only a financial situation but it's more importantly a value based concern.
REP. MASTROFRANCESCO (80TH): And -- and I think we have data for that. I believe --

KATHLEEN BRENNAN: Yes.

REP. MASTROFRANCESCO (80TH): -- Representative Abercrombie asked you for data as to exactly how many.

KATHLEEN BRENNAN: Yes.

REP. MASTROFRANCESCO (80TH): And any specific medical cause do we know? Is there a certain average, well it's common that somebody with a UTI may get readmitted after -- may have to go back to the emergency room or so forth within 30 days. Are there certain specific --

KATHLEEN BRENNAN: Uh-huh.

REP. MASTROFRANCESCO (80TH): -- medical reasons?

KATHLEEN BRENNAN: Yeah. We are -- we have that information. We're going to be bringing that with us tomorrow.


KATHLEEN BRENNAN: Absolutely.

REP. MASTROFRANCESCO (80TH): Perfect. And then you -- and the other part here says payments above the UPL are not eligible for federal matching funds and that the current hospital payment levels are very close. Can you explain that? I mean, why is that and how?

KATHLEEN BRENNAN: I'm going to ask Mike to come up or -- no, Chris.

REP. MASTROFRANCESCO (80TH): See, as -- as the new --
KATHLEEN BRENNAN: Chris. Chris.

REP. MASTROFRANCESCO (80TH): -- legislator, I get to ask all these detailed questions. [laughter]

CHRIS LEVINE: Chris Levine from DSS. In tomorrow's presentation --

REP. MASTROFRANCESCO (80TH): Yeah.

CHRIS LEVINE: -- there's a nice white paper explaining the UPL process and why and how. But in a nutshell, the federal government limits Medicaid reimbursement levels to -- not to exceed what Medicare pays. So -- did I say that right?

KATHLEEN BRENNAN: Yes.

CHRIS LEVINE: So, CMS considers Medicare payments as kind of like the golden rule for Medicaid -- Medicaid payments. So, we can pay up to what Medicaid would pay, but we can't exceed it. So --

REP. MASTROFRANCESCO (80TH): That would be the reimbursement?

CHRIS LEVINE: Yeah. The Connecticut --

REP. MASTROFRANCESCO (80TH): For the hospital?

CHRIS LEVINE: Yeah. So, if we pay --

REP. MASTROFRANCESCO (80TH): You can pay up to --

CHRIS LEVINE: -- $10,000 dollars -- if Medicare -- Medicare pays $10,000 dollars for this particular hospital stay, our overall reimbursement for that hospital stay cannot exceed $10,000 dollars, either. So, it's just a -- a limit that CMS put in place to -- to help control costs that states were starting to incur. And, you know, federal -- the
federal government is a partial payer -- majority payer for the majority of the country.

REP. MASTROFRANCESCO (80TH): You mentioned [cross talk] -- you mentioned in your testimony, the current hospital payment levels are now very close. How?

CHRIS LEVINE: When you combine our DRG payments, which is our reimbursement system --

REP. MASTROFRANCESCO (80TH): Uh-huh.

CHRIS LEVINE: -- and supplemental payments, we are getting close to the UPL, the -- that upper limit in what we can pay and still draw federal revenue down from the federal government.

REP. MASTROFRANCESCO (80TH): Is that because the hospitals -- that the -- the costs involved? Are the hospitals charging more or -- I -- I'm confused.

CHRIS LEVINE: It's --

KATHLEEN BRENNAN: No -- it's on the -- the rate before the --

CHRIS LEVINE: Yeah.

KATHLEEN BRENNAN: -- DRG, which is the diagnosis related group. It's the -- the amount that we'll pay for a certain diagnosis. But also, the supplemental payments that have gone to the hospitals. Last year, I'm not sure how frequently that -- that -- when you put those together, so it's not just the DRG, it's the DRG plus the supplemental payments that's bringing the -- the rate up to the Medicare level --

CHRIS LEVINE: Yes.
KATHLEEN BRENNAN: -- close to the UPL, which is the upper payment limit.

CHRIS LEVINE: It's an -- it's an annual test that we have to submit to [inaudible - 01:05:37].

KATHLEEN BRENNAN: Right.

REP. MASTROFRANCESCO (80TH): Okay. I -- I think that's it. I'm sure I'll get more information tomorrow in the -- in our subcommittee meeting. But I thank you very much for your patience with me [laughter] and answering all my questions. Thank you, Madam Chair.

REP. ABERCROMBIE (83RD): No, thank you, Representative. It's great to have you on this Committee and asking some of the questions that some of us assume everybody knows. And just a little -- just a little history, so you know. So, we are a state that has promoted Aging in Place. I've been here 14 years and I think we started MFP, which is Money Follows the Person, over eight years ago. Am I correct --

REP. MASTROFRANCESCO (80TH): You're absolutely correct.

REP. ABERCROMBIE (83RD): -- in my -- in remembering?

REP. MASTROFRANCESCO (80TH): Uh-huh.

REP. ABERCROMBIE (83RD): And what that did was, it took people that were in the Money Follows the Person, exactly what the acronym says, and it took people from nursing homes and put them in the community. So, I think that's one of the reasons why you see a decline in nursing homes. Because we believe that people have the right to age no matter
what their illness is, where they want. Having said that, and I always say this, there will always be a place in the state for nursing homes. I know nursing homes sometimes get nervous when we talk about Aging in Place. Nobody's saying that there isn't a place for nursing homes, because it's a higher level of skill that people need and people should have that option. And we, as a state, have said, we want people to have options. And that's why you're going to see a lot of this -- a lot of this language in the Governor's -- which, you know, we're here to talk about it, looked at individuals' right.

The non-compete clause, right, is about continuity of care for individuals. If I have a caregiver and I'm really comfortable with that caregiver, but that caregiver wants to go someplace else. I should have the right to be able to have that caregiver with them. So, we've done a lot around that personal care assistants. You know, we really tried to make it so that people have choice. That people can be self-directed; right? That I have ownership of who comes into my house. So, that's what a lot of this language goes to. And any further things that you need, you can always ask our OLR. Jen, over there, they do some great reports on programs, when they came around, you know, how many years. You know, we've got over 5,500, is the number; right, that have transitioned from nursing homes into the community? That's amazing and we were the first ones to do it.

Uh-huh.

REP. ABERCROMBIE (83RD): So, I -- you know, I get excited about some of this stuff --
REP. MASTROFRANCESCO (80TH): -- because we've done some great stuff in this state that we don't always get credit for. [cross talk] So, I like people to know that we really try to give, you know, our seniors options in this state. So, I just -- [cross talk].

REP. MASTROFRANCESCO (80TH): That's wonderful. Thank you, Representative.

REP. ABERCROMBIE (83RD): Yeah. I'm going to take your job now. I'm going to take your job. But no, I mean it's, you know, for new people they don't --

REP. MASTROFRANCESCO (80TH): Oh, absolutely.

REP. ABERCROMBIE (83RD): -- understand how far we've come, you know, as a state on some of these programs.

REP. MASTROFRANCESCO (80TH): Yeah.

REP. ABERCROMBIE (83RD): -- and why we do what we do. And that's why it's great when you ask the questions, because then it opens up to some of us, like Representative Case and myself, who have been around for a while, to tell you about the history of things; right? You don't want to today? [cross talk] I can't -- I can't volunteer you? [laughter]

KATHLEEN BRENNAN: And -- and -- this Governor's budget also provides us with some additional support for MSP so that we can continue to pursue and get more people back into the community where they wanna be.

REP. ABERCROMBIE (83RD): Right. And having said that, I'm not saying that I'm agreeing with everything that's in this proposal. [laughing]
KATHLEEN BRENNAN: Understood.

REP. ABERCROMBIE (83RD): Just for clarification.

KATHLEEN BRENNAN: Understood.

REP. ABERCROMBIE (83RD): Even if I'm being a little bit of a cheerleader there’s everything in this that I like.

KATHLEEN BRENNAN: Understood.

REP. ABERCROMBIE (83RD): Representative Hughes, do you have any questions? I know you kind of came into late. I just want to give you the opportunity before we let the Commissioner and her staff go.

REP. HUGHES (135TH): Oh, thanks for working with us. I work in the field all the time and -- and -- and -- and trying to find options for folks. And -- and also, I wanna say that the -- a lot of the long-term care services are working really hard to avoid readmission rates.

KATHLEEN BRENNAN: Yes.

REP. HUGHES (135TH): Because it costs everybody and it's so disruptive to the patient.

KATHLEEN BRENNAN: Patient, yeah.

REP. HUGHES (135TH): So, you know, patient centered services is -- is, you know, is the standard that we're all trying to work together on. And I appreciate you sort of leading in that --

KATHLEEN BRENNAN: Way.

REP. HUGHES (135TH): -- way.

KATHLEEN BRENNAN: Well, thank you.
REP. ABERCROMBIE (83RD): Any further questions or comments? Seeing none, thank you Deputy Commissioner. It's so great --

KATHLEEN BRENNAN: Thank you.

REP. ABERCROMBIE (83RD): -- to see you. And thank you --

KATHLEEN BRENNAN: It's always good to see you.

REP. ABERCROMBIE (83RD): -- to your staff and their expertise.

KATHLEEN BRENNAN: Thank you. And we'll see you tomorrow. We'll --

REP. ABERCROMBIE (83RD): Yes, you will.

KATHLEEN BRENNAN: -- have our Wheaties.

REP. ABERCROMBIE (83RD): Yes, you will. And I'll have lots of coffee for you.

KATHLEEN BRENNAN: Okay. Thank you.

REP. ABERCROMBIE (83RD): [Laughter] It'll be a long afternoon.

KATHLEEN BRENNAN: Thank you very much.

REP. ABERCROMBIE (83RD): We've exhausted the first hour for elected officials. So, now we're gonna move back and forth. Our first person up for, I just want to make sure I have the right list here, okay. First person for the public, just so everybody understands, now, when we go back to the public portion, you have three minutes. We would really appreciate you adhering to the three minutes. We'll have a little buzzer that will go off. So, the first person in -- up is Anna Doroghazi. Did I

ANNA DOROZHAI: Good morning. And thank you, Representative Abercrombie, and members of the Committee. My name is Anna Doroghazi, and I'm one of the Advocacy Directors at AARP Connecticut. Thanks for the opportunity to speak today on House Bill Number 7164. There are a lot of things that we like about the Governor's proposed budget.

But I'm here today to urge your opposition to the proposed asset test for the Medicare Savings Programs. MSP helps eligible enrollees pay for expenses related to Medicare. So, depending on which of the three levels of MSP a person qualifies for based on their income, they can get assistance paying for their medical insurance premiums, or they can get more comprehensive assistance that pays premiums, deductibles, and co-pays for Medicare's medical insurance and hospital insurance.

What I want to emphasize today, is that anyone who enrolls in any level of the Medicare Savings Programs, also automatically receives a federal benefit called the Low Income Subsidy, which is also sometimes called Extra Help. And this pays for most of the out-of-pocket costs related to a person's Medicare Part D prescription drug coverage. As we know, prescription drugs can be a huge expense to seniors, to anybody and the Low Income Subsidy saves the average recipient nearly $5,000 dollars a year. In his proposal, Governor Lamont mentions that Connecticut is one of just a handful of states that doesn't apply the asset test to MSP. But there's a history behind this
policy, that I want to spend a little time talking about, because I think it's important to understand.

Connecticut used to operate a program called the Connective Pharmaceutical Assistance Contract for the Elderly and Disabled Program, which is more commonly referred to as ConnPACE. This was a really popular program that helped non-Medicaid eligible seniors and people with disabilities pay for Medicare Part D premiums and prescription drug co-payments. It was pretty similar to Low Income Subsidy.

In 2009, the General Assembly passed legislation to raise income limits and eliminate the asset test for the Medicare Savings Program in order to align MSP eligibility with ConnPACE eligibility. The goal of this alignment was to encourage seniors to move out of the state-funded ConnPACE program and into MSP, which would automatically enroll them in the federally-funded Low Income Subsidy. DSS began moving seniors from ConnPACE to MSP and the Low Income Subsidy on a voluntary basis in 2010.

In 2011, additional legislation was passed that no longer allowed Medicare-eligible individuals to enroll in ConnPACE. And then, at the end of 2013, the ConnPACE program closed altogether.

So, in short, the Medicare Savings Programs and associated Low Income Subsidy were presented to Connecticut seniors as a viable and equivalent alternative to ConnPACE. Now, that ConnPACE is no longer operational, seniors who lose their eligibility for the Medicare Savings Program is about 18,000 would under this proposal. They would
also lose their eligibility for the Low Income Subsidy and have nowhere to turn for assistance related to Medicare Part D and prescription medication.

My written testimony that I submitted includes two OLR reports from 2009 and 2011 that talk about this movement from ConnPACE to MSP in more detail and can back up this idea that the Low Income Subsidy was intended to provide Connecticut seniors with prescription drug coverage that was at least as comprehensive is what ConnPACE was offering.

At the time, seniors were told not to worry about this transition. And now, we're at a point were 18,000 of them are at risk of losing these important benefits. We appreciate the difficult financial position that the state's in, but we hope that Connecticut's older residents are going to be considered and valued, and that the promises made to them in previous years, will be honored in this budget. Thank you.

REP. HUGHES (135TH): Yes. Thank you so much. So, can you just explain for the Committee that -- the -- the Low Income Subsidy is part of the federal --

ANNA DOROGHAZI: It is.

REP. HUGHES (135TH): -- dollars that we get for that. And it's part of the -- the Medicare that we paid into. That those seniors that actually already paid into that, that's part of their -- it's part of their earnings, essentially.

ANNA DOROGHAZI: Right. And -- and what -- what's so nice about the Low Income Subsidy is that it's not a cost to the state. And that was the impetus
behind that movement from ConnPACE to the Low Income Subsidy is that it took a state-funded program and replaced with a federally-funded --

REP. HUGHES (135TH): -- federally-funded.

ANNA DOROGHAZI: -- program. So, any kind of savings that we're seeing realized in the budget doesn't take into account that we're --

REP. HUGHES (135TH): We're losing --

ANNA DOROGHAZI: -- having a loss -

REP. HUGHES (135TH): -- all of the federal dollars, which I don't think we're going to get back. So, that's what I wanted to really look and -- and maybe the Governor didn't understand that, which is possible, but I am hearing an outcry from my seniors that this is their benefits that they paid into and if we don't have an equivalent response to that, then we have no business taking their benefit away.

ANNA DOROGHAZI: Yeah. Well it --

REP. HUGHES (135TH): It's like -- yeah.

ANNA DOROGHAZI: Right. Like if -- if we're saying you can only have $7,200 dollars in assets, but you have to pay an extra $5,000 dollars a year now for your medication, it -- all we're doing is kind of taking people's lifecare savings and giving it straight to the pharmaceutical companies, and then making them eligible for that [crosstalk].

REP. HUGHES (135TH): And having no federal dollars coming back, that they've already paid in. So --

ANNA DOROGHAZI: Right. Correct.
REP. HUGHES (135TH): So, they've paid into for the Medicare and this -- yeah. I feel like it's owed to them. So, yeah, I'm with you on that.

ANNA DOROGHAZI: Thank you.

REP. HUGHES (135TH): That's my --

REP. WILSON PHEANIOUS (53RD): Representative Case.

REP. CASE (63RD): Thank you. I'm kind of excited about the asset test, to be honest with you. In years we've talked about this, and do you think it's fair to somebody on MPS, who has a house in Florida and a house in Connecticut?

ANNA DOROGHAZI: So, your house -- one of your houses would be excluded under the asset test anyway. So, you could in theory have an enormous house and still be eligible for this program, as long as your assets are below a certain amount.

REP. CASE (63RD): But if you, see the asset is still what 277% of the federal poverty level, so it's going to take a lot to get people down. So, if you have people who have large amount of assets, is it fair that they take these dollars away from people who are actually eligible for 'em but haven't applied for 'em?

ANNA DOROGHAZI: I mean, if they haven't applied for the benefit, I don't know that it's being taken away from them. I think it --

REP. CASE (63RD): I think we can serve more people and I think there's some people who are utilizing the system. I know, because we -- we wanted to do this last year, we had a outcry of people that come for MSP, as Representative Hughes said, who -- who live for this and -- and need it. And I agree with
that. But I think if we don't have an asset test to find out where these people lie financially and they're way above the poverty level, do you still think that they're eligible for the MSP?

ANNA DOROGHAZI: I mean I think the risk is who in that sort of low-middle income category do we disadvantage through this program in order to target what realistically is probably a very small subset of people who have some kind of assets or other -- other forms of earnings available to them that are enrolling in the program.

REP. CASE (63RD): Okay. I -- I don't think we're going to get anywhere with this argument. [laughter] I think the Governor has put a 10% which is very low target. But if we are only one of four states that doesn't do an asset test or whatever the amount it is, I don't have it front of me, we have been asking for years for our very lucrative benefits in the state of Connecticut to at least do an asset test so we know where people are. There are ways of putting assets behind you so that we can't see 'em. But if you have three cars, two houses, which I'll be honest with you, I know people on MSP who have that and I know people you have Renters' Rebate who have that. So, I am fully inclined that we need asset tests. It's not going to hurt the people who actually need the benefit and deserve the benefit. I also think we can help more people --

ANNA DOROGHAZI: Uh-huh.

REP. CASE (63RD): -- and get more dollars to the people who have it with an asset test. So, I don't mean to take a total difference with you, but it doesn't hurt to look and see what the people have so
we can try to service more people. Thank you. Thank you, Madam Chair.

REP. WILSON PHEANIOUS (53RD): Are there -- are there other questions? Go ahead, Representative Hughes.

REP. HUGHES (135TH): Thank you, Madam Chair. The only thing is we haven't really explored the administrative headache of -- of doing that, as well, which puts a undue burden on a lot of these seniors. Look, I deal with a lot of seniors that, you know, they're not gonna be filling out online forms. They have very much frustration with the -- with the phone system, with -- you know, trying to contact Medicare to even change a change of address. I mean, they're just like, you know, they're -- they're -- the -- this is not very user friendly, no matter who it is in terms of as a means testing. So, that's another component. I -- you know, that -- that needs to be considered in -- in -- in implementing a means test. And -- and again, it would be denying some seniors federal money that they have paid into. And I think they have a right to that, as -- as they've expected that. So, can you speak to what that means testing might look like implementing administratively, especially on the seniors themselves?

ANNA DOROGHAZI: Yeah. So, I think when the Assistant Commissioner was here, I think she had mentioned nine additional staff at an ongoing expense of about $500,000 dollars plus $2.792 million dollars in initial start-up costs related to some of the technology. And then, I think, as far as what you're talking about, kind of the individual workload for the folks who'd be required to produce
some of this, I think one of the side effects, you could see, is the people who are rightly eligible for the program are going to say, like, I can't do this bureaucratic headache. I'm gonna --

REP. HUGHES (135TH): Uh-huh.

ANNA DOROGHAZI: -- step away and not engage in the process and partake in this benefit that I'm rightly eligible for, even if I do kind of meet all those qualifications. And I think the people who are most likely to kind of take that step back, are going to be the people who are most disadvantaged in other ways, who have the least access to resources or assistance, who are sick, who -- who can't kind of engage the process that way.

REP. WILSON PHEANIOUS (53RD): Yes, Mr. Case.

REP. CASE (63RD): Thank you, for the second time. In -- just for Representative Hughes, we did have this conversation earlier and, you know, this is a significant amount of money put forward for staff to try to ease the burden on the people. And trust me, I think it's a benefit that really helps the people who need it. And I -- I think by looking into maybe some of the bad apples that are taking advantage of this -- this program, we're really going to be able to expand who we can help. My question to you is, and as we ask the Deputy Commissioner, a lot of the seniors and disabled that are on this also worked, so, with an increase up to $15 dollars an hour on minimum wage, that's an asset going into their checking account, is that also, gonna pull people off of this program?
ANNA DOROGHAZI: I mean, we're not taking a position on minimum wage or any benefit cliff issues. So, I'm not --

REP. CASE (63RD): Okay.

ANNA DOROGHAZI: -- really prepared to comment on that.

REP. CASE (63RD): Their assets are gonna increase significantly and --

ANNA DOROGHAZI: Their income would, not necessarily their assets.

REP. CASE (63RD): But their income -- their checking account is the asset.

ANNA DOROGHAZI: I mean, there's also an income test that's applied to MSP that I think would be triggered prior to --

REP. CASE (63RD): Right.

ANNA DOROGHAZI: Yeah.

REP. CASE (63RD): I think -- I -- and just, you know, maybe in the past, it's -- I think we're just tryin' to find out where we can best put the dollars and service the most people that can benefit from this. And I'll tell you what, if we find out that there are none, then our job is done and we wipe our hands and we move forward. But if we find that there are 10% of the people who are way over the threshold, lucky for them, you know, they can -- they can afford to do things and we're gonna be able to service others. So --

ANNA DOROGHAZI: Yeah. And -- and I appreciate your concern about how -- how do we really target limited
resources to -- to the people who need it and can benefit the most.

REP. CASE (63RD): Yeah. So, thank you.
ANNA DOROGHAZI: Yeah. Thank you.

REP. WILSON PHEANIOUS (53RD): Thank you. Are there other questions? Then thank you very much for your testimony.
ANNA DOROGHAZI: Thank you.
REP. WILSON PHEANIOUS (53RD): It's appreciated. Next on board is Amy Porter.

AMY PORTER: Good morning.
SENATOR MOORE: You're welcome.

AMY PORTER: Distinguished members of the Human Services Committee, good morning. My name is Amy Porter and I'm the commissioner for the Department of Rehabilitation Services. I want to thank you for the opportunity to offer testimony today in support of House Bill Number 7163, AN ACT IMPLEMENTING THE GOVERNOR'S BUDGET RECOMMENDATIONS FOR THE DEPARTMENT OF AGING AND DISABILITY SERVICES. Simply stated, this bill would give our agency a new name and I'm here to offer my support for that and explain why we think it's a good idea.

When the State Department on Aging became part of DORS last yet, we committed to serving both older adults and people with disabilities, in a way that ensures that each group receives the best of our energy, our talents, and our expertise. As we committed to this very committee last year, we had many conversations with stakeholder groups, from both the aging and disability communities as well as
agency partners and staff. We wanted broad participation as we started to shape what our future might look like. And we wanted to incorporate the feedback into our agency's overall and ongoing strategic planning framework. As part of these stakeholder conversations, we talked about structure of the agency, we talked about the mission of the agency, we talked about the -- the name itself, and a few themes emerged.

The first theme that we heard was that prompting independence should really be highlighted as a central focus for our agency. This is important for both people with disabilities and for older adults. So, incorporating that feedback, and in recognition of our new and broader purpose as an agency, we adopted a new mission statement, which is maximizing opportunities for the independence and wellbeing of people with disabilities and older adults in Connecticut.

Another common theme that surfaced was the real value in adding the word "aging" in a new agency name. We want everyone to know about what we do. We want everybody to know where to find services and access the services for this very important component of -- of our work. Most especially, we want older adults to be able to find us, the folks that are actually going to benefit from those services.

A third theme, as we were having these conversations, was a recognition that there might be a better, more all-encompassing word for the work we do with people with disabilities. While "rehabilitation" is a component of what we do, we have vocational rehabilitation programs, and that's
a crucial part of work. We do so much more that's not covered by the word "rehabilitation." So, to many, we heard that the term "disability services" just does a better job of telling people what we do and who we serve.

Based on these conversations, our conversations with the administration and with all of you, we're eager to modernize the language and create a more inclusive identity. And we believe that the new name, "Department of Aging and Disability Services" best accomplishes our goals of inclusion, clarity, and effectively describing our full mission.

I want to thank the committee for your support and your attention, and for allowing me to offer this testimony. I look forward to continuing to work with all of you on this important matter and to answer any questions you may have.

REP. WILSON PHEANIOUS (53RD): Thank you very much and congratulations on the difficult work I know it was to bring those two areas together. I do wonder, where there any -- um -- serious disconnects between the two populations that you had difficulty with in particular?

AMY PORTER: I don't -- I think the first reaction for a lot of people, similar to any change, I think the first reaction is well, why would you do that? And so, we were able to talk about the fact that, at a federal level, there is a -- a model for this. There -- there's the Administration on Community Living has both aging and --

REP. WILSON PHEANIOUS (53RD): Uh-huh.
AMY PORTER: -- services for older adults in -- in the same place and with people with disabilities. We were able to talk about that. We were able to talk about the idea that, when you're looking at a person and you're focusing your services on the individual, then what you're trying to understand is what are the functional needs of that individual. 

REP. WILSON PHEANIOUS (53RD): Right.

AMY PORTER: And it doesn't matter what the disability is, what the age is, those functional needs are going to translate across various groups. So, I think once we were able to have that conversation with people, it got us past that first well, why would you do that? And I think they were really helpful conversations for us --

REP. WILSON PHEANIOUS (53RD): Uh-huh.

AMY PORTER: -- to be thinking about what can we do to leverage those -- those opportunities. And now, we -- we have an aging and disability model that I think can help people who might be experiencing both at -- at the same time.

REP. WILSON PHEANIOUS (53RD): Well, thank you very much. Are there other questions? Representative --

REP. MASTROFRANCESCO (80TH): Thank you, Madam Chair.


REP. MASTROFRANCESCO (80TH): Thank you very much for your testimony. I appreciate it. Can you kind of just kind of give me an overview of exactly what the department does? What type of services? Would you mind doing that for me?
AMY PORTER: Sure, we -- we have historically been a disability services agency and then aging services were added last year. We provide services in kind of five major categories: employment, independent living, education, access, and advocacy. We have employment programs both for people with disabilities and for older adults. We have education programs, particularly, for students who are blind or have a visual impairment. We work a lot with access and assistive technology, trying to help people understand what they might be able to use to help. You know, I heard the aging in place conversation earlier today. There's aging in place and there's also people with disabilities living in the community and maximizing their independence. So, that's kind of broadly the categories.

We also have within our agency, the -- we have a staff of individuals who make determinations about whether somebody's eligible for Social Security benefits. And we have some specialized disability components, a whole host of -- of programs.

REP. MASTROFRANCESCO (80TH): Okay. Thank you. So, you assist the public in, like, you said, helping them find employment for elderly and disabled people.

AMY PORTER: Right.

REP. MASTROFRANCESCO (80TH): Correct?

AMY PORTER: Yeah. We do that and we have -- and -- and getting them connected to services around nutrition services, around caregiver support. So, a whole host of programs --

REP. MASTROFRANCESCO (80TH): Okay.
AMY PORTER: -- that we can connect.

REP. MASTROFRANCESCO (80TH): Is there anything specific in the Governor's budget proposal that stands out to you that's significant from the prior year, in -- within your department that you can speak of?

AMY PORTER: No, we're -- our -- our budget is stable and we're able to provide the -- these services and supports that we had been providing prior to this sort of change for our agency. And actually, we're excited about the opportunity to look at how we might leverage some of our opportunities to -- to have the two programs together.

REP. MASTROFRANCESCO (80TH): Okay. And you don't see any significant change?

AMY PORTER: No.


AMY PORTER: Thank you.

REP. MASTROFRANCESCO (80TH): Thank you, madam.

AMY PORTER: Certainly.


REP. SANTIAGO (84TH): Thank you, Madam Chair. Thank you for coming in to -- to talk about the name change. I just have a couple of questions. You said that one of the key components was access, access to what?
AMY PORTER: We're talking about access for people with disabilities or -- or older adults with functional needs, that's where the assistive technology might come in; access to services, helping people understand how to make sure that -- so that maybe somebody gets a new job, trying to help the employer understand how to make an accommodation for this individual; access to -- to different types of assistive technology.

REP. SANTIAGO (84TH): Okay. So, I know you also said advocacy. So, if someone calls you and is having issues with -- with a disability, it could be mental disability, it could be physical disability, any kind of disability, and they're looking for access to a place where they can get rehab services or get a -- a doctor that might -- they might have to go to anything like, medical services, do you help with that?

AMY PORTER: We -- we would try to help -- we -- we try to talk -- answer the phone and talk to people when they call and try to figure out where somebody might need to -- to go. We don't provide all those services. We're not providing medical services, but we would try to get people to their next best step for them. We would provide advocacy services with our partners with employers as we work together. We also have the Long Term Care Ombudsman Program under the Department of Rehab Services and their whole structure is around advocating for residents of long term care facilities. So, we have advocacy built into what we do.

REP. SANTIAGO (84TH): Huh. Okay. I'm just asking because I -- it's -- so, do you get a lot of calls, like, do people call you first before they go 211 or
the -- or do they call 211 first and then call you for services?

AMY PORTER: You know, I -- I think --

REP. SANTIAGEO (84TH): Do you have a working relationship?

AMY PORTER: We do have a working relationship with 211. As a matter of fact, we're -- all the Human Service Agencies right now are updating their information to make sure that's current for 211 so they know where to go. I think a lot of people do use 211 as a resource. We get random calls and -- and again we -- we pride ourselves on being able to answer the phone and get people to the -- the right agency. But there are a lot of agencies that work with people with disabilities. So, some of it's just about knowing where the next best step for that person might be and -- and try to get them referred in that direction.

REP. SANTIAGO (84TH): So, you also help -- so, you must be working together with the Connecticut Department of Labor with people with disabilities and helping them find jobs?

AMY PORTER: Yeah. We have a great relationship with the Department of Labor. They also have a Disability Employment Initiative, a grant that we do a lot of activities, coordinated activities, job fairs, career fairs with that particular initiative. So, we have a great working relationship there.

REP. SANTIAGO (84TH): Okay. Thank you. Thank you for coming in. And thank you, Madam Chair.

AMY PORTER: Thank you.
REP. ABERCROMBIE (83RD): Hi, Commissioner. It's so nice to see you.

AMY PORTER: Good morning.

REP. ABERCROMBIE (83RD): I just want to take the opportunity to say thank you for the name change. I wish Representative Wood was here, but we had talked about this last year. We thought it was important to give the agency the opportunity to come up with the name change on their own.

AMY PORTER: Right.

REP. ABERCROMBIE (83RD): I am -- I'm thankful that you put some of the stakeholders together to decide what that name was going to be. And I like the name change. So, I just want to take the opportunity to say thank you.

AMY PORTER: Thank you.

REP. WILSON PHEANIOUS (53RD): I just have one final question.

AMY PORTER: Of course.

REP. WILSON PHEANIOUS (53RD): With so much of an outcry from aging community, a feeling of loss of an agency and were there issues that they raised?

AMY PORTER: I -- I think when -- when the State Department on Aging was eliminated --

REP. WILSON PHEANIOUS (53RD): Uh-huh.

AMY PORTER: -- I think there was concern. Originally, the idea was to split the State Unit on Aging was going to go to the Department of Social Services and the Long Term Care Ombudsman Program --

REP. WILSON PHEANIOUS (53RD): Uh-huh.
AMY PORTER: -- was going to go to the Office of Policy and Management, there was concern there, concern about the elimination but concern about splitting up the services.

REP. WILSON PHEANIOUS (53RD): Uh-huh.

AMY PORTER: And so, I think there was a -- a lot of conversation, very open dialogue with the administration and the legislature and the staff to try to figure out, well, what might work? Where's an agency where we might be able to keep those components together --

REP. WILSON PHEANIOUS (53RD): [crosstalk]

AMY PORTER: -- and avoid any potential conflict of interest? And we had already been doing some of the back office functions for the State Department on Aging at that point. We -- we were on the same floor at --

REP. WILSON PHEANIOUS (53RD): Uh-huh.

AMY PORTER: -- 55 Farmington. So -- so, it made a lot of sense. And for me having seen the aging and disability model at a federal level, I think it made a lot of sense to me. So, we did hear -- we heard the concern there. And I think, when we able to come up with a different solution, it took some of that anxiety away about splitting up the different programs, and -- and folks seemed pretty on board. The stakeholders were incredibly supportive --

REP. WILSON PHEANIOUS (53RD): Right.

AMY PORTER: -- and obviously, concerned about well, where is Aging Services going to fit? How is it --

REP. WILSON PHEANIOUS (53RD): Yeah.
AMY PORTER: -- gonna look? But when we did our -- our conversations with the various stakeholders, we didn't -- you know, we asked broadly, what are the --

REP. WILSON PHEANIOUS (53RD): Yeah.

AMY PORTER: -- things we should be thinking about? What should be -- we be concerned about? And we weren't hearing a lot of concern about the merger.


REP. HUGHES (135TH): Thank you, Madam Chair. We do know -- you didn't talk about the numbers, but that our aging population in -- in Connecticut is expected to at least, I think, not double, but like 30% over the next ten, 15 years, and that there is tremendous overlap with different needs. And as, I trained in the third-year medical students, unless you're going into pediatrics, like two-thirds of your patients are all going to be, you know, aging. No matter what specialty you are, they're -- they're going to be in our -- in our aging demographic. So, you need to learn about that specifically because these are the majority of your patients. So, that -- I think I applaud this. This makes so much sense because we see much of the overlaps of needs and -- and the services. And it really speaks to universal design of really trying to provide accessible -- universally, you know, accessible services.

AMY PORTER: Yeah. That's great. A lot of the principles that we operate from, really are grounded in universal design, making sure that things are accessible for everybody, and that helps people with
disabilities or folks with functional needs as they move forward. So, thank you for that.

REP. WILSON PHEANIOUS (53RD): Are there other questions? Hearing none. Thank you very much for your testimony and all of your work in this field --

AMY PORTER: Thank you.

REP. WILSON PHEANIOUS (53RD): -- which has been going on years and it's been instrumental.

AMY PORTER: Great. Thank you.

REP. WILSON PHEANIOUS (53RD): You're welcome. Okay. We're going back to the public list and Senator Markley.

REP. ABERCROMBIE (83RD): Just to give you kudos, you'll always be Senator Markley to me. Welcome. We miss you so much.

JOE MARKLEY: I did my -- my best to get a different title [laughter] you understand. [laughter]

REP. ABERCROMBIE (83RD): Yes, you did.

JOE MARKLEY: Thank you.

REP. ABERCROMBIE (83RD): But we are happy to have you here.

JOE MARKLEY: Thank you so much, Madam Chair. It's a pleasure to be with you, Representative Case and my friends on the Committee. My name is Joe Markley. I'm -- it's a pleasure to be in this familiar room with you all. And it's also a pleasure to be here on behalf of Companions and Homemakers and -- or -- outfit that I dealt with, of course, as a member of the Human Services Committee, a company that I always felt was very passionate
about the issues that affected them. And I respected them for that and I respected them also for the fact that I felt they, right or wrong, they always had a point. And the point was not simply their own interest, but what they felt was right for the industry, as a whole.

We're in the business, in this building, of adjudicating disagreements, and I think that we do that best when we focus on what the point is. When we look at the facts with an open mind and with a determination to do what's best for the people of Connecticut.

We, at Companions and Homemakers, feel that Section 12 of House Bill Number 7164, the human services implementor is really an existential threat to private home care agencies. The first half of the restriction on covenants is of no concern to -- to us at all, nor to the other home care agencies that I'm familiar with. All of whom I've talked to have restrictions on solicitation. But the restriction on an employee being able to work for another home care agency simultaneously, subsequently in the same area, none of that is a problem. In fact, it's common in the industry that people work for multiple agencies and that people have their own clients simultaneously.

It's only the second part that concerns us, which the second part would mean that we could not prohibit an employee of our home care agency or any another home care agency could, from either converting a private customer -- a customer that we connected them with into a private client, taking them off the books or taking that client with them to another agency. If that is permitted to happen,
in time, we would no longer be an agency. We'd just be a referral service. We'd be sending people out to homes and they could then make their own arrangements with those clients and have that business themselves.

We feel we perform a very important service. We vet the caregivers. We train them. We ensure that there's a substitute available at short notice, if somebody can't do it. Those are advantages of your -- that we offer as an agency over an individual one-on-one relationship.

We've been a critical part of the Money Follows a Person Program that was discussed early, a very cost-efficient part of it. It's an -- these are in-state companies that employ, certainly, upwards of 10,000 people and serve a comparable number.

I would urge you not to put this industry at risk by passing this section. And I thank you for your time and would be happy to answer your questions.


REP. CASE (63RD): Thank you, Madam Chair. Good morning, Mr. Markley. How are you?

JOE MARKLEY: Fine. Thank you, Representative.

REP. ABERCROMBIE (83RD): Give him respect.

REP. CASE (63RD): Senator Markley, okay.

JOE MARKLEY: Joe is also okay. [laughter]

REP. CASE (63RD): Or others. A question for you in -- in -- in reading through this, I think we've talked about this in the past in this committee, but do you feel as though the home care industry is
being singled out on this? Why do you think this is coming forward?

JOE MARKLEY: Well, I do think we're singled out. I'd say, it's -- it's the only industry that's affected. These non-compete agreements and non-solicitation agreements are common in all kinds of businesses. The department mentioned that they were more common in high-skilled areas. I'm not sure I agree with that.

I have twice been in a position where I had to sign such an agreement, once as a realtor, for obvious reasons, that a broker wouldn't want to have a realtor list houses and then just up and go to a different brokerage.

And repeatedly, when I worked as a tutor for a student preparing for the college board, something I'm probably likely to start doing again shortly. And again, in those situations, I -- if I go to work for a company that places tutors, I -- they -- they vet me, they do a criminal background check, they train me in their own techniques, they make me -- I may be a good test taker and a good teacher, but they give me specific tools for doing the kind of job that I'm doing. They then place me in contact with the students, whether it's a class full of students or an individual student. And obviously, they're charging the student more than they're paying me, otherwise they wouldn't be able to exist as a business. Once the contact is made with the student, if I had the power to say to the student hey, let's cut out the middleman, now that we're together, now that I'm trained, now that I'm vetted, now that you know that you like me, it would be very easy to cut them off. But in a short order, there
wouldn't be any more of these tutoring services in existence. And what would be lost in that case is the same as what would be lost in this case. The company which provides the training and the oversight and -- and that makes the connection and makes the appropriate connection.

I think one of the things I'd say about Companions and Homemakers, just being in the office there, is you realize that a great deal of what they do is focused on who is it -- not just who's the next person on the list, but who do we have that is good for this particular circumstance.

And the other thing you lose, is the reliability of employment. I mean, again, speaking as -- as somebody that tutors, I could put an ad on Craigslist, and maybe, I'd get somebody and maybe somebody would -- would find me. But nobody would have any assurances and it could only -- only be as good as the next response.

If I have a company that's employing me, they're going to want to keep me employed. And that's certainly the case with the homemakers, that we can -- clients come and go all the time, but a good -- a good homemaker can be kept employed. And it's in our interest as a company to employ them.

We also provide these people with health insurance, worker's compensation is paid, there's a retirement plan available to them, all things that wouldn't be there without -- without an agency. It's been a model that's bene in existence for a long time. And I think we would be taking a great chance to do something that would undermine it as much as this section would.
REP. CASE (63RD): Thank you. And -- and in my other life besides here, working my private job, I have a no-compete. So, I can't go and do the job that I do with somebody else. I can but not -- I can't take the same clients that I work with. I think we're seeing it in other areas of government.

I know the Commissioner of the State Police, I mean they came forward because they could put people through the training program, but they have no way of keeping the person with the State Police. The local municipalities train people for police officers. After they do training, they go to work for a month, they get a better job with more money with another municipality. So, they don't have no-compete.

So, I think everybody's struggling with this. And personally, I like to see some type of a -- a agreement that, if the company like mine, spends x amount of dollars in training me, I have loyalty to them.

But I do understand the healthcare industry also, it's difficult because, when a worker is with a client for such a period of time, but then moves to another agency, they tend to want to stay with that client. So, how do you break that off? But then, again, the agency that they're originally with did all the training and put all the money forward. So, I guess we got to work on it and figure out a compromise on -- on how we move forward with this. Any suggestions?

JOE MARKLEY: Well, the -- the first thing I'd say, I think the number that this bill would -- it addresses a relatively small number of situations like this. And in order to correct those situations
from the perspective of the department, I think they -- they do real permanent damage to an entire model of service provision. And we run the risk, when we talk about wanting to have more options of saying this -- this particular proposal, in the name of creating more options, might actually eliminate the option of having an agency in the long term.

I would say that if there's a need to address this, it's perhaps something that needs to be looked at over a period of time. I mean, I -- I don't want to be the man to be suggesting studies, but if -- if you -- but obviously one thing about being up here, is you don't have to have a formal study to spend time during the off-session to look at something. We've got the resources with the -- with a wonderful staff, which I'm familiar with myself and many people in the business that would be happy to sit around a table and try to figure something out.

What I'm worried about is something like this passing now and then finding out afterwards what the bad consequences are. And it -- it's the same thing, I -- I -- I guess I'd always say you're __ won't surprise, surprise you is first no harm. It's -- it's easy to take a misstep but awfully hard to undo it.

REP. CASE (63RD): Thank you, Senator. Thank you Madam Chair.

JOE MARKLEY: Thank you, Representative Case.

REP. ABERCROMBIE (83RD): [laughter] Representative Hughes.

REP. HUGHES (135TH): So, thank you, Madam Chair. I have encountered this overlap between really wonderful caregivers that become the adult foster
caregivers under the Home care Program, but then they can't continue as a companion and a homemaker in my understanding. So, would this -- and I'm hoping that your understanding, would this change, that we're proposing, help those caregivers continue in both capacities?

JOE MARKLEY: I really can't answer that. And I wonder my colleague feels like he would be better suited for it?

DAVID DENVER: May I Madam?

REP. ABERCROMBIE (83RD): So, out of respect for you, Senator, I'm going to -- I'm going to give you leeway here. But you know, normally we don't, you know, allow individuals from the public to come up and have someone speak. But I will give you the --

JOE MARKLEY: I --

REP. ABERCROMBIE (83RD): -- courtesy.

JOE MARKLEY: I appreciate it. I have to say I didn't know. I wasn't paying that much attention for the last eight years. [laughter]

DAVID DENVER: Madam Chair, thank you very much for this opportunity. And -- and Representative, if I understand your question correctly, I -- I think the answer is that, if you're talking about someone providing both skilled and non-skilled services, then it's most likely that you wouldn't have this -- this issue, because the individuals who work for the homemaker companion agencies are strictly unskilled personnel.


JOE MARKLEY: Thank you.
REP. HUGHES (135TH): Yeah, we're talking about --

JOE MARKLEY: That was David Denver.

REP. HUGHERS (135TH): -- and that clarifies. Thanks.

REP. ABERCROMBIE (83RD): So, just a -- a -- a final question for you. So, when you sign a non-compete, right, when you apply and we'll use you as an example, only because you put yourself out there. So, when you go for a job and there's a non-compete clause in there, right, are you told that there's a non-compete or is your level of education at a point where you read the application fully and see that's there a non-compete?

JOE MARKLEY: That's great [laughter]. It's a good question. I'm not sure I can give you an honest answer as to whether in when I've done it, I found it was told or I have to say to some extent assumed that -- that -- that it would be in -- in those circumstances. And I think, rather than -- the department said that these are common in higher skilled jobs. I think they're common in jobs in which there's personal contact where a relationship is developed between an employee of a company and -- and a client of the company. So, sales would be another area that you would expect to see non-compete clauses in because they wouldn't -- you -- a company wouldn't want to see it's salesmen go and take their sales force off.

So, in both those cases, Representative, I guess I'd say, is working with a brokerage, as a realtor and working with a tutoring company as a teacher, I -- I might've assumed that it was in there, maybe it
wasn't in there. But I -- I would've figured that they -- they'd have such a clause.

REP. ABERCROMBIE (83RD): Okay. That's fair. So, my understanding is that this is the only industry in the healthcare field that does have a non-compete clause, is that your understanding? And if not, do you know any -- any other providers that have the non-compete?

JOE MARKLEY: I can't answer that. And I won't -- I won't impose on your hospitality again, but I guess, I would say, I would be surprised if this was the only industry in the healthcare area that has a non-compete but I can't answer the question.

REP. ABERCROMBIE (83RD): And then my final question is, so for the individuals that are not aware that they're signing this, which is what we're hearing is the bigger issue at this point, what happens if they do go and try to bring this client with them?

JOE MARKLEY: They --

REP. ABERCROMBIE (83RD): What's going right now in real time for these individuals?

JOE MARKLEY: They are liable to -- to legal action, but it has been a very -- very rare thing. And I think that one of the reasons you put it in the contract is so that people know what the rules are and they don't it. I guess I'd say that if there's a feeling that people are not being properly informed about contracts, that's -- that's a different problem than saying, we have to alter the contracts because they're not being informed. Maybe we have to expect or require that the terms of the contract be made more transparent at the time.
REP. ABERCROMBIE (83RD): And I think that's part of the issue, is that these individuals don't know that they're signing that. I will say, and I don't have the exact number in front of me, but the number of court actions --

JOE MARKLEY: Hmm.

REP. ABERCROMBIE (83RD): -- is much higher than people would realize for this population and we're talking entry level. Do you know what the average salary is --

JOE MARKLEY: I --

REP. ABERCROMBIE (83RD): -- for a person in this field?

JOE MARKLEY: I don't know the average salary, but I know the range. I know this, that if we -- if it -- if we increase the minimum wage to $15, it -- it seems likely that people in this field will be affected.

REP. ABERCROMBIE (83RD): So, right now it's currently probably $10 to $12 dollars --

JOE MARKLEY: I think --

REP. ABERCROMBIE (83RD): -- per hour they're getting paid?

JOE MARKLEY: I think -- I think more like $12 dollars, but again it's not my expertise.

REP. ABERCROMBIE (83RD): And that's fair. And I'm -- and -- and don't think that I'm trying to put on the spot.

JOE MARKLEY: I know.
REP. ABERCROMBIE (83RD): We're just having the dialogue and you happen to be the person, and maybe there's other people that are going to testify that can answer those questions. So, that's why I'm putting it out there. Further questions or comments? Oh, yes we haven't had you ask any questions.

REP. D'AMELIO: I know.

REP. ABERCROMBIE (83RD): So, nice to have you participate. [laughter] I don't know. [laughter]

REP. D'AMELIO (71ST): Thank you, Madam Chair. I've been in this building a long time, and I learned a long time ago this is my first time on a committee is just sit and learn. [laughter] One question, are the clients subjected to signing a contract like a long-term contract with the agency for the services you provide?

JOE MARKLEY: No. They can get services for very brief periods of time. I -- I'm not sure at what point a contractual situation with a client might be entered into, but it's possible to get at least from Companions and Homemakers, its' possible to get services just, you know, for a -- a small number of hours within a given week for instance. It's not something that you have to commit to weeks or months of care.

REP. D'AMELIO (71ST): Okay, so -- so the client really has not a long term obligation with -- with the company?

JOE MARKLEY: No. No.

REP. D'AMELIO (71ST): Okay. And when -- when -- when an employee does leave, and you find out that
they might be providing services to the individual that you contracted with, do you notify that client to tell them that it's really kind of like, you know, not proper because a person signs some kind of an agreement with you guys?

JOE MARKLEY: Again, I will -- I -- I could take a guess at that, but I'd rather not guess and give you the wrong answer. So, I can't -- I can't answer that, either, about the function of the company.

REP. D'AMELIO (71ST): Now, the company does provide oversight though; right? I mean, to make sure that these -- the services are being rendered properly and there's no abuse. And if there's anything that's, you know, going on between the client and -- and you know, and -- and your provider, you guys take full responsibility for all that?

JOE MARKLEY: Certainly, that's one of the -- the most important things to the company is to have it like any company. Like, as you well know, there's nothing more important than your reputation when you have a business. So, the last -- so, a business like Companions and Homemakers and the many other home care agencies have a great interest in -- in making sure nothing bad happens on their watch. Again, it's impossible to prevent it altogether, but you do the best you can.

And -- and I think also that, I -- I said before that the advantage of the agency is that because they have a -- a large staff, they can come up with a substitute on short notice. If the situation isn't working out, they're in a position to bring in a different care provider, too, if that's necessary on short notice rather than a circumstance of -- with somebody hiring individually, who, if they get
rid of one person, might either rush into another situation or have to wait a long period of time before they find the right person again.

REP. D'AMELIO (71ST): This clause is -- is, like, if we were to adopt this clause, the entire model would be in jeopardy. I mean the -- the services that are being providing by, not only Companion and Homemakers, but others, would probably be in jeopardy throughout the state?

JOE MARKLEY: That is certainly our fear. And I would say that over the last couple of days, I had occasion to talk to a number of administrators at other home care agencies. All of 'em -- all the ones I talked to had similar non-solicitation clauses. All of them I talked to, were in the same situation as Companions and Homemakers. No restriction on taking clients, as long as you're not taking them from -- from the company. So, they allow people to work for multiple agencies. They allow people to have their own clients. But in all classes, they say, yeah, we have a clause to -- to prevent people from leaving with our clients for a certain period -- for a set period of time.

In the case of Companions and Homemakers, it's for six months. After that, there's no restriction at all. But we feel that without that, the -- the whole agency model could very quickly be undercut.

REP. D'AMELIO (71ST): Thank you. Thank you, Senator Markley. It was great to see you again.

JOE MARKLEY: Thank you Representative.

REP. D'AMELIO (71ST): Thank you, Madam Chair.
JOE MARKLEY: It's good to see you.

REP. MASTROFRANCESCO (80TH): Thank you, Madam Chair. Thank you being here, Senator Markley. It's a pleasure to see you here. You mentioned that Companions and Homemakers and their non-compete, they still allow their employees to work another job, right, with perhaps one of their competitors? They can still do that, correct?

JOE MARKLEY: Yes. With their competitors or on their own --

REP. MASTROFRANCESCO (80TH): Oh. On that --

JOE MARKLEY: -- their private -- their own private client.

REP. MASTROFRANCESCO (80TH): And then, all you're asking them is that if they leave, that they do not try to take that client with them for a minimum of six months. It doesn't seem unreasonable to me.

JOE MARKLEY: They're restricted from taking a -- an existing client from Companions and Homemakers and it extends six months beyond their term of service.

REP. MASTROFRANCESCO (80TH): And just from my experience, when these jobs -- the jobs that the Companions and Homemakers where the caregivers are there, they're there -- it's really -- for a lot of them, it's a temporary stop; maybe they're going to school to be a nurse, maybe they are trying to better their career. And it's just a stepping stone for them to learn about something.

And I -- it -- the -- the turnover rate is so high in that industry, it would certainly be detrimental to the businesses like Companions and Homemakers,
because somebody -- many -- many times you will have somebody work for Companion and Homemaker or home services and they may only stay there for two months, because the turnover is so high in that industry.

And I'm fearful that, if this piece of legislation is passed, it will seriously damper the -- the home -- you know, home care agencies with their ability to keep clients. And I -- I -- I agree with what you said, you would basically just become a referral service.

If it was an industry where people have longevity and they're working there maybe five or six years, even a few years, I -- I can understand that. But when you have such a turnover rate that is so high, it would be pretty difficult for your business to keep its clients, because people would just from client -- from business to business. And it's very -- very common and -- and that is basically my concern about us adding this language in here. So, I certainly sympathize with you. I -- I -- I couldn't agree more, only because I have seen it.

You know, it's like in a sales job, you know. You -- you work in a sales job. You -- I develop the rapport with that customer as a salesperson and I may leave that -- that industry, and I may go to another industry. And, you know, we have non-compete clause. It's very common today for people to know that they have a non-compete. Maybe -- maybe it's an area where we need to focus on insuring that the businesses that the industry informs new people that are being hired, that they know that there is a non-compete, that we're being very generous. Go ahead -- you can go ahead and
work on your own, and certainly work for somebody else, but just understand, that there is some sort of a non-compete. Maybe it's an education process we need to -- to do that, as opposed to enforcing a mandate on -- on the business.

JOE MARKLEY: I agree, Representative. And I -- I will find out a little more about what our -- our procedure is at the company as far as that goes, because it seems to me that it's in everybody's interest. This is not a case where you want somebody to make a mistake so you can jump on 'em. It's a case, where you want them to know what the rules are up front so that -- so that everyone's comfortable with them. So, it -- it seems like it behooves employers in all these cases to be as clear about what the -- what the clauses are.

REP. MASTROFRANCESCO (80TH): I -- I couldn't agree more. That's all I have. Thank you, Senator Markley. I appreciate you --

JOE MARKLEY: Thank you --

REP. MASTROFRANCESCO (80TH): -- comments.

JOE MARKLEY: -- Representative.

REP. ABERCROMBIE (83RD): So, I -- I'm just going counter on a couple of things that were said here today.

JOE MARKLEY: Yeah.

REP. ABERCROMBIE (83RD): And you and I have always worked well together and we disagree to disagree respectfully. And I'll always respected you and your opinion. So, I just want to state that.
But I look at this from a different lens. I look at this from the lens that these are low-wage workers, that the only reason why they're [laughter] going from agency to agency, is so that they don't have to work two, three jobs. I look at this as a state that has provided home care and has -- and we allow people to be self-directed, and it's actually a term we use. I should have the right to hire whoever I want, to be able -- to be my caregiver, and I do have a rapport with that person and that person should be able to work for me.

So, I, you know, I don't see a problem with this non-compete clause. I think that if everything was fair and everybody was making a good living wage in these jobs, you wouldn't have people having to go from company to company. And I believe that in the -- in the home care arena, this is probably one of the few industries that does, and we'll get more information on it, that does do a non-compete clause. And I think it's -- I think that we're targeting an -- an area of individuals that make a very low wage, $10 to $12 dollars and that's why they go from business to business. So, I'm just going to put that out there.

And Senator, I'm so happy to see you. I always love seeing you. I loved seeing you at the breakfast the other day. And, you know, I wish you all the best in the future. And please, feel free to always come back and visit us.

JOE MARKLEY: I think this is my cameo appearance for the session. [laughter] But I very much appreciate the kind words. And it is a pleasure to see you. And -- and thank you all very much.
REP. ABERCROMBIE (83RD): Thank you and have a great -- and have a great day. We're going to go back to the elected officials. And the last person on the -- on the list is -- and I always say your name wrong. I'm so sorry. Mairead?

MAIREAD PAINTER: Mairead.

REP. ABERCROMBIE (83RD): Mairead?

MAIREAD PAINTER: Correct.

REP. ABERCROMBIE (83RD): Mairead?

MAIREAD PAINTER: Mairead.

REP. ABERCROMBIE (83RD): Mairead Panter -- Painter --

MAIREAD PAINTER: Painter.

REP. ABERCROMBIE (83RD): -- from the Long Term Care Ombudsman. Thank you for being here.

MAIREAD PAINTER: Good -- good morning. No, good afternoon. Good afternoon Representative Abercrombie and distinguished members of the Human Service Committee. My name is Mairead Painter. And I'm here to discuss with you this morning and testify on House Bill Number 7164, AN ACT IMPLEMENTING THE GOVERNOR'S BUDGET RECOMMENDATION FOR HUMAN SERVICES.

The Long Term Care Ombudsman Program appreciates the Governor's recommendations regarding the changes needed to the long term care system in Connecticut. We're hopeful that the proposed changes to the current process will strengthen the quality of our nursing homes and improve the care residents receive. We are always greatly concerned when a nursing home closes and the impact that it has.
We also understand that, due to our systems current -- currently being over bedded, we are seeing extremely low census in some of the buildings, as well as poor quality of care. We are hopeful that these changes will prompt nursing homes with a healthy census and increase the services, as well as the quality received.

In Section 10(c) of this bill, it addresses changes in the process related to poor quality care homes as indicated by the star rating as well as low census, and the fact that they may no longer be viable. In this section, it is proposed that there be no public hearing held. We support this change as we recognize that having a public hearing gives individuals hope that there can be a positive outcome, and that in these cases, it can and sometimes does, cause harm. I want to note that this only for cases where there is a low star rating and low census in the building, causing the building no longer to be viable, and that is consistent with the strategic rebalancing plan.

Due to the change in this language, I respectfully request that Section 10(c) of the bill be amended. We have been speaking to the administration about this language that we would like to have added. We're looking to have it added in. There's already a requirement that a letter be sent at the time of request for closure from our office. And we'd like it to be required that, as part of that letter, it's amended to say the date and time when representatives from the Long Term Care Ombudsman office, as well as Department of Public Health, will be on-site in the building to meet with residents and families regarding their rights in this process. We would put that in our letter from our office
providing that to them, just to be sure that they know what their rights.

Our office appreciates how difficult these changes are and the impact to individuals. However, I am thankful for the work -- I'm thankful to work in a state with partners that strive to make these difficult changes in order to improve the system that is impacting the most vulnerable and create the highest quality of care for the people that we serve. I thank you for your time and I'm available for questions.

REP. ABERCROMBIE (83RD): Thank you for your testimony. And thank you for being here today. And I think, even though we've only known each other a short period of time, I just want to say that the individuals that you represent which are seniors and our --

MAIREAD PAINTER: Uh-huh.

REP. ABERCROMBIE (83RD): -- most vulnerable population, you do a great job.

MAIREAD PAINTER: Thank you.

REP. ABERCROMBIE (83RD): And I've learned a lot from you and I've been up here 14 years. So, I'm always appreciative of learning new things through the process. So, thank you for that. So, you know, I'm going to put on my Appropriations hat --

MAIREAD PAINTER: Sure.

REP. ABERCROMBIE (83RD): -- for one second. So, the letter that goes out on behalf of your office, you can do that at no or low cost adding that language to the letter?
MAIREAD PAINTER: It's at no cost. Currently, we print it out. We would be adding a section and that is hand delivered and then the nursing home is required to mail it out with the notice from the nursing home.

REP. ABERCROMBIE (83RD): Okay, that would -- 'cause I think that's very helpful when we start talking about, you know, we -- we've had agencies come before us that have asked to have things added, and next thing you know, there's -- it goes through Appropriations [laughter] --

MAIREAD PAINTER: Uh-huh.

REP. ABERCROMBIE (83RD): -- and there's, you know, $500,000 dollar [laughter] price tag, 'cause they already had everything printed. So, that -- I -- and I think that's probably something that we should really consider. I think that's appropriate when we're sending out these letters to our individuals. Questions? No? No? Well, you did just a great job.

MAIREAD PAINTER: Thanks.

REP. ABERCROMBIE (83RD): Thank you.

MAIREAD PAINTER: Thank you very much.

REP. ABERCROMBIE (83RD): Could you just send -- just in case, can you just send a separate email to my office about adding that language?

MAIREAD PAINTER: Sure. I'll send it with --

REP. ABERCROMBIE (83RD): About the letter --

MAIREAD PAINTER: -- the letter of where it would [cross talk].
REP. ABERCROMBIE (83RD): That'd be great.

MAIREAD PAINTER: Perfect.

REP. ABERCROMBIE (83RD): Thank you --

MAIREAD PAINTER: Thank you.

REP. ABERCROMBIE (83RD): -- very much. So, that's all the elected officials that have signed up. So, now we're going to go back to the -- the public, and we're back to the three minutes. And the first person up is my friend, Matt Barrett.

MATTHEW BARRETT: I'll bring out that secret weapon when they're needed. Good afternoon and thank you Representative Abercrombie and to the distinguished members of the Human Services Committee. For the record, my name is Matthew Barrett and I'm President and CEO of the Connecticut Association of Health Care Facilities and the Connecticut Center for Assisted Living. CAHCF/CCAL is a 160 member trade associate of skilled nursing facilities and assisted living communities. And I thank you for this opportunity to offer testimony concerning House Bill Number 7164, AN ACT IMPLEMENTING THE GOVERNOR'S BUDGET RECOMMENDATIONS FOR HUMAN SERVICES.

There are several provisions concerning policy and appropriations for Connecticut nursing homes in the legislation. As background, this year marks another year of flat funding for nursing homes in the Connecticut state budget. We're very aware and mindful and understanding of Connecticut's fiscal challenges. However, we think it remains critically important to express to the Connecticut General Assembly that investing this year in our skilled nursing facilities must be a priority.
Regrettably, the proposed biannual budget removes all statutory and regulatory inflationary increases for nursing homes, in a year, where this help is essential. This amounts to a $90-million dollar reduction for nursing homes during this biannual budget period, and affectively means that Connecticut nursing homes -- nursing home general rates have been flat now for 12 years. In addition, Medicaid expenditures for nursing homes will be -- will be reduced another $10.7 million dollars by 2021 through a new recalculation, rebasing, of nursing home rates and -- and also a proposed multi-faceted policy initiative to reduce nursing home bed capacity by another 2,200 beds statewide.

The proposed statutory language to implement the Medicaid rate component provisions are included in Section 8 of the bill. Specifically, Section 8 would freeze nursing home rates for the biannual period. Property improvements would be allowed. The proposal includes a provision to limit a nursing home's rate decrease -- the nursing home's rate decreased caused by the rebasing to 2%. A stop loss provision would -- would not apply when nursing homes have a one star quality rating or they are -- have capacity under or occupancy under 70%.

In this regard, we are recommending an alternative, to the Governor's excess bed reduction strategy that could achieve a significant reduction in licensed bed capacity but avoid the harsh consequences of the rebasing of the rates. Specifically, providing a new opportunity for nursing homes with excess license bed capacity to voluntarily reduce bed supply during FY 2020, could lead to a significant reduction in bed supply during the first year of the two-year budget period, but in a manner that might
but not jeopardize the nursing home's financial viability as proposed -- as proposed in the rebasing. But it is in line with the bed reduction concept. Under this approach, the full negative consequences of the rebasing, would not take effect until 2021 for nursing homes with excess bed supply that have not voluntarily reduced beds.

We're advancing this proposal at this time because, if adopted, the policy would provide a very strong incentive for nursing homes to voluntarily reduce licensed beds during the first year of the biannual period, and this would significantly advance the state's policy to accelerate Long Term Services and Supports rebalancing again, but not in a way necessarily through closures alone.

And so, I have included language in my testimony that would implement that provision. We're also recommending a technical change in Section 8 of the bill, also included in my testimony.

Moving on to Sections 9, 10, and 11 of the Governor's bill, as proposed we think --

REP. ABERCROMBIE (83RD): So, Matt, can you summarize the --

MATTHEW BARRETT: Yes, I can.

REP. ABERCROMBIE (83RD): -- the --

MATTHEW BARRETT: I just would say that Sections 9 and 10 seem to be a reasonable approach to, in a very narrow way, expediting the -- the closure and the receivership process.

And if I could also mention, that an associate to our testimony with Section 14 and 15 of -- of testimony submitted by Collaborative Healthcare
providers, including the Hospitalist Association, our -- our -- our good friends at LeadingAge Connecticut, and a number of other provider groups. We think it's fundamentally unfair to curtail provider appeal rights as provided in that section. And again, thank you so much for the opportunity to testify and -- and -- and I'd be happy to answer any questions that you might have.

REP. ABERCROMBIE (83RD): Thank you, Matt. And thank you for your good work. Questions? No? Seeing none, thank you very much. Have --

MATTHEW BARRETT: Thank you.

REP. ABERCROMBIE (83RD): -- a great day. Rhonda, Saw you already there. So nice to have you back.

RHONDA BOISVERT: Make sure my knees are working, you know [laughter] so the -- okay. Members of the Human Services Committee, I am here to testify in opposition to Section 6 of HB No. 7164, which sets the cap on residential care home rates. My name is Rhonda Boisvert. I am the owner of Pleasant View Manor Residential Care Home in Watertown. And I'm the past President of Connecticut Association of Residential Care Homes.

My home has 18 residents between the ages of 34 and 80. The residents require assistance with meal preparation, medication monitoring, laundry, and help navigating medical appointments. Our home also has a strong component of recreation provided, which includes indoor and community activities. Every resident we serve has a psychiatric diagnosis. Our goal is to provide a stable, healthy, and clean atmosphere and demonstrate that the residents can live successfully in a -- in a community setting.
We all -- we do all of this for a rate of $85 dollars per day. In fact, the average rate of a residential care home is about $92 dollars a day, a similar cost to adult daycare, despite providing full time oversight. The overwhelming majority of our funding is from residents on State Supplement, limiting the ability of most homes to raise revenue from private pay residents.

For the last ten years, I have consistently come to testify on our capped rates and the inability to receive a cost based rate. In fact, for about seven of the last ten years, our rates have been completely frozen. In the other years, our rates have been only minimum increases which do not nearly keep up with the rate of inflation.

I am proud of how my home and other residential care homes in the industry have worked our budgets to get by, despite a challenging -- a very challenging decade. On a few occasions, it meant not personally taking a salary. On other occasions, I had to put operating expenditures on my personal credit card.

Most importantly, though, is the ability to pay our -- our employees a fair wage. We value our employees who deserve so much more for the work they do with a challenging but rewarding population. I employ eight people and they make me very proud. I can't expect to keep employees that don't get raises when they can turn to alternative jobs with less responsibilities. This is -- is especially true, since over the last five years, our employees have been given increased responsibilities such as taking a medication course and being responsible for administering medications to our residents, saving the state significant dollars.
Unfortunately, paying employees the necessary wages to attract new people to our industry continues to be a challenge, resulting in employee turnover for many homes. Our industry strives to employ people in long-term careers so that they can establish and maintain relationships with our residents. This leads to a better long-term health outcome, stability in the home, and savings to our state.

The inconsistent funding also makes running our businesses difficult to run. We are constantly having to make repairs that are subject to state inspections. I'm wrapping, personally, my family has loaned money into the facility. We have had difficulty obtaining a loan in the past several years as our business doesn't appear to be stable enough to a bank. My accountant has even gone so far as to recommend selling the business and that's something that I don't want to do.

I urge the Committee to reject HB No. 7164, Section 6, and unfreeze the cap on residential care home rates. I urge the Committee -- the Committee to come and -- who makes these rates frozen, to come and visit us at our home, to come unannounced. I urge all of you to do the same thing. We would love for you to come out and see what we do, to see our homes. There's 100 -- probably 101 or 102 homes in the state of Connecticut, they're spread all over Connecticut. We are feeling a little undervalued at this point. So, it's been a long ten years.

REP. ABERCROMBIE (83RD): Yeah. I agree with you there. Thank you for your testimony. Quick question for you, is every member in your home a Medicaid recipient? Do you have any private pay?
RHONDA BOISVERT: I don't have any private pay, some homes do. Mine are all Medicaid.

REP. ABERCROMBIE (83RD): And you said that you have eight employees?

RHONDA BOISVERT: Yes.

REP. ABERCROMBIE (83RD): What is their -- what is their background? Are they -- 'cause I heard you say something about training and medication, are they nurses? Are they --

RHONDA BOISVERT: No --

REP. ABERCROMBIE (83RD): -- CNA --

RHONDA BOISVERT: No. No.

REP. ABERCROMBIE (83RD): What are they?

RHONDA BOISVERT: No. No. No. We -- we had this -- DSS had us set up for this medication course so that nurses wouldn't -- we wouldn't have to pay the nurses -- they wouldn't have to pay the nurses to come in and, you know, give medication, 'cause a lot of the homes were doing that. So, we have a medication course that we have to take. And -- and then we also, you know, have to go every three years to -- what's the word, retraining. Yeah, so.

REP. ABERCROMBIE (83RD): So, are these --

RHONDA BOISVERT: Our -- our people that start out between like $11 and $12 dollars an hour, have to take that medication course. And, you know, that's a huge added responsibility for -- for our staff to do that. It -- it -- I mean I think that it's very serious with the medications that they have to give out, you know. So, it's -- but they're trained well. I feel like the -- the person that the state
has picked for the -- the company trains them really well. But still, you know, it's -- it can be a little scary.

REP. ABERCROMBIE (83RD): Well, part of -- so med -- med administration, which is something I was involved with --

RHONDA BOISVERT: Yes.

REP. ABERCROMBIE (83RD): -- probably six years ago --

RHONDA BOISVERT: Yes.

REP. ABERCROMBIE (83RD): -- when we did this --

RHONDA BOISVERT: Yes.

REP. ABERCROMBIE (83RD): -- you know, the whole idea was to try and save some of the Medicaid dollars that we're paying --

RHONDA BOISVERT: Yes.

REP. ABERCROMBIE (83RD): -- you know, nurses to go in. My understanding is, there's also criteria in place, so that if it's a, say a patient that has psychotic episodes, you would definitely want a nurse to still go in and do those meds. So, I think that we put protections in place.

RHONDA BOISVERT: Uh-huh. Yeah.

REP. ABERCROMBIE (83RD): It's, you know, the reverse is, do we go to med boxes; right?

RHONDA BOISVERT: Right.

REP. ABERCROMBIE (83RD): Do you actually need somebody to go in and just administer --

RHONDA BOISVERT: Right.
REP. ABERCROMBIE (83RD): -- these? So, it's really a lower level. And I think for your employees, that you said, are making I think $11 dollars an hour, it's a skill [cross talk] that they can go any place with.

RHONDA BOISVERT: Right.

REP. ABERCROMBIE (83RD): I think it makes them more employable over all; right?

RHONDA BOISVERT: Yes, it does. It does --

REP. ABERCROMBIE (83RD): So --

RHONDA BOISVERT: -- make them more employable.

REP. ABERCROMBIE (83RD): So, I think it's a positive --

RHONDA BOISVERT: Uh-huh.

REP. ABERCROMBIE (83RD): -- versus, you know, a negative.

RHONDA BOISVERT: Right.

REP. ABERCROMBIE (83RD): But -- but I'm still not understanding, so the eight employees --

RHONDA BOISVERT: Uh-huh.

REP. ABERCROMBIE (83RD): -- they're not CNAs, who -- are they home care provider? Who are they? What -- what -- what's -- what's the qualifications to work for you?

RHONDA BOISVERT: They come, they fill out an application. Some of them come with experience, maybe form another home, some of 'em come with CNA experience although they don't have to be a CNA to come -- to get a job with us. You know, we're not a
medical model. We're a residential care home. A home in the community. And so -- so, we just -- we -- we interview them. You know, we tell them what we want out of them.

And I mean, right now, I have eight of probably the best employees that I've had in the last 20 years. We went through a horrific fire. We were out -- we were closed down for four months last year, and they still came to work every day, got in a van and went to visit all the residents that were displaced to different homes.

REP. ABERCROMBIE (83RD): So, that is great staff.

RHONDA BOISVERT: Yeah. They are.

REP. ABERCROMBIE (83RD): So, let me ask you this, so, for -- for a -- a person to be a participant in a residential care home, right, what's the criteria that they have to meet? So, where would these individuals be if they weren't in your -- in these homes?

RHONDA BOISVERT: Some of 'em come from -- the last couple of people I came -- I received as residents, they came from the their own apartments. They weren't doing well. They did have people in place, you know, I -- I guess from other agencies go in and, you know, give them their medication and give, you know, help with cooking or taking them shopping. But it just didn't work out. So, we got people -- we get people from the -- the emergency rooms, the -- the psychiatric units in the general hospitals, a lot of 'em come. And we just -- we get calls, a lot of calls from families who say that their -- their, you know, aunt, uncle, sister, brother need -- need to live with someone. So,
we -- they go through the application and we -- if we feel that we can take them on and give them a good quality of life, then we take them.

REP. ABERCROMBIE (83RD): No, I definitely feel that you do provide a -- a great service. I'm just, you know, we have a lot of new members --

RHONDA BOISVERT: Uh-huh.

REP. ABERCROMBIE (83RD): -- so, I just want them to understand, you know, what you do. Do your -- the individuals in your home, are they -- do they all have an individual rooms? Do you have same that two, three in a room? How big is the facility --

RHONDA BOISVERT: Yeah.

REP. ABERCROMBIE (83RD): -- you run?

RHONDA BOISVERT: The facility -- I have 18 people. It's a big colonial house, you know. It's two floors. I -- there's four rooms that are private -- that are single rooms. They are not private pay, but they're single rooms. And then there's -- the rest are two -- two people to a room. Three is not allowed, so --


RHONDA BOISVERT: Yeah.

REP. ABERCROMBIE (83RD): Questions?

REP. WILSON PHEANIOUS (53RD): Yes. Yes, thank you. I note in your testimony, you were saying that you're able to provide this service for $85 dollars a day, which is less than the $92 dollars that other similarly situated --

RHONDA BOISVERT: Yeah.
REP. WILSON PHEANIOUS (53RD): -- people are doing.

RHONDA BOISVERT: Yes.

REP. WILSON PHEANIOUS (53RD): How do you -- how do you manage that?

RHONDA BOISVERT: Very carefully.


RHONDA BOISVERT: I'm -- I'm telling you that if you want to know to cut a budget --

REP. WILSON PHEANIOUS (53RD): Uh-huh.

RHONDA BOISVERT: -- get your employees together --

REP. WILSON PHEANIOUS (53RD): To help. Yes.

RHONDA BOISVERT: -- and ask them --

REP. WILSON PHEANIOUS (53RD): Uh-huh.

RHONDA BOISVERT: Give the -- get their advice. And -- and so, we've been able to maneuver food budgets and, you know, and stuff like that. Not to say that we're, you know, not giving good food and -- and whatever, but just it's things like that, you know. And turning off air conditioners in the rooms when they're not --

REP. WILSON PHEANIOUS (53RD): Uh-huh.

RHONDA BOISVERT: -- in the summertime, when they're not in their room, and stuff like that. So, ask your employees. We have finagled things around --

REP. WILSON PHEANIOUS (53RD): Uh-huh.

RHONDA BOISVERT: -- and, you know.
REP. WILSON PHEANIOUS (53RD): Thank you. And who regulates you externally? Is it DSS?

RHONDA BOISVERT: Who?

REP. WILSON PHEANIOUS (53RD): I'm sorry. I'm wondering who licenses or checks on the quality in your homes.

RHONDA BOISVERT: The Department of Health.

REP. WILSON PHEANIOUS (53RD): Department of Health?

RHONDA BOISVERT: Yes.

REP. WILSON PHEANIOUS (53RD): Okay.

RHONDA BOISVERT: Yeah.

REP. WILSON PHEANIOUS (53RD): All right. Thank you.

RHONDA BOISVERT: Okay.

REP. ABERCROMBIE (83RD): Further --

RHONDA BOISVERT: I want --

REP. ABERCROMBIE (83RD): -- further questions --

RHONDA BOISVERT: -- I want to really extend that offer to come and visit our homes, if you ever get a chance, if you're just driving by, you're just going through Watertown, say, oh, let me stop there, at Pleasant View Manor and see what goes on there.

REP. ABERCROMBIE (83RD): Further questions or comments? No? Thank you, Rhonda. And thank you for being here.

RHONDA BOISVERT: Okay.
REP. ABERCROMBIE (83RD): I think this is like the third time we've seen you in the last couple of weeks. So --

RHONDA BOISVERT: Yes. Thanks for having me.

REP. ABERCROMBIE (83RD): -- thank you for coming up. We do appreciate it. Next is Karen Siegel from Voices. I -- I was wondering where you went. I saw you over there before.

KAREN SIEGEL: Good afternoon, Senator Moore, Representative Abercrombie, Senator Logan, Representative Case, and esteemed members of the Committee. My name is Karen Siegel, and I'm testifying today on behalf of Connecticut Voices for Children. We're a research-based child advocacy organization working to ensure that all Connecticut children have an equitable opportunity to achieve their full potential. And thank you for the opportunity to testify on the Governor's budget recommendations for human services.

I submitted more detailed testimony in writing and I hope to use this time simply to address the need to carefully evaluate cost-saving measures in our Medicaid program. Connecticut's Medicaid program is nationally recognized for its physical efficiency and it's especially crucial for that reason to ensure that attempts to save money do not inadvertently result in poor quality of life or difficulty in accessing services for Medicaid enrollees. Evidence to date suggests that health reforms can widen racial disparities when they're not implemented with health equity as a clear and measurable goal.
So, in particular, we recommend transparency in the
design and evaluation of utilization management and
hospital readmission rate reduction programs.
Utilization management can be a helpful tool in
limiting the use of a broad array of prescription
drugs or services that are unnecessary for specific
interventions. But it can also serve as a barrier
to care by adding administrative burden for
interventions or medications that are both expensive
and necessary.

Similarly, hospital readmission rates can be reduced
by improving the health of patients and increasing
coordination with community-based services, but they
can also drop when mortality rates increase. An
existing hospital readmission rate reduction program
has been criticized for using inadequate quality
control, failing to account for variations in the
socioeconomic status of the populations served by
different hospitals. For example, individuals who
have complex chronic illnesses who lack adequate
foot and house may find it really difficult to
manage an illness and avoid readmission.

So, we support very much the Innovative Housing
Support Collaboration that's noted in the budget
recommendations and stress that evaluation and
transparency in this initiative also could offer
future areas for innovation. And further, we
recommend regular and ongoing reporting on the churn
or cycling in and out of Medicaid that's been
anecdotally reported to MAPOC -- to the MAPOC,
identifying and ameliorating the causes of
unnecessary churn, can save administrate costs, and
it also improve access to care.
And finally, our written testimony notes that as the legislature considers raising the minimum wage, we urge consideration of the health and insurance needs of low-income families. Given that parent eligibility for a Husky was reduced in 2015, we're concerned about -- about the options for families who are currently unable to afford health insurance. So, thank you for your time. And I'm happy to take any questions.

REP. ABERCROMBIE (83RD): Thank you. And thank you for your great work. Questions? Seeing none, thank you. And thank you for your testimony. It's always very helpful as we're making these decisions. So --

KAREN SIEGEL: Thank you.


SUZANNE CLARK: Good afternoon members of the Committee. My name is Suzanne Clark. I'm the Secretary/Treasurer of 1199 and the former head of the nursing home team. I'm speaking on behalf of Jesse Martin, who had to go. My name is Jesse Martin and I am a Vice President of SEIU District 1199 New England. Our union represents about 26,000 health care workers in Connecticut, specifically, 7,000 nursing home workers at 65 nursing homes. These employees work with residents as nurses, certified nursing -- nursing assistants, licensed practical nurses, dietary and housekeeping aides and recreation aides. They're the backbone of the delivery system for Connecticut's elderly who reside in nursing homes and suffer from dementia, Alzheimer's, and other things.
I'm testifying today against House Bill Number 7164. This bill proposes devastating changes to the nursing home industry; 1199 is not only institutionally opposed to it, but also morally opposed to it. Reading the bill, it is apparent that the goal is to reduce beds in the nursing home industry by freezing bed reimbursements, and radically reducing reimbursement rates, when bed census gets low, which will result in closures, resident deaths, and the elimination of thousands of worker jobs throughout the state. In a move that's particularly callous, this bill also proposes the elimination of the residents' ability to have a say in what happens in their home by eliminating the requirement that a public hearing be held before they're evicted from their homes.

The proposed changes in this bill are going to have a -- a distressing effect on the nursing homes, including, and especially, in the Hartford and the other urban areas. These areas, in which nursing homes are vitally important to the communities they exist in, not only as a -- to provide the life of the residents, but also because family members live in those same neighborhoods, and it makes it extremely difficult for them to be able to visit their family and their loved ones and provide that personal support and that emotional support.

If this bill continues with the current language, nursing home closures are very likely. Closures affect the residents who live there, many of whom would be homeless otherwise, and the workers, obviously, that provide care at these facilities. Over the past decade, eight nursing homes have closed in Hartford area, employing large numbers of Hartford residents. The destructiveness of this
policy is obvious to us that work or live in the Hartford, but much so less -- much less so to those proposing this bill. For example, when Alexandria Manor in Bloomfield closed, 225 jobs lost; Greensprings in East Hartford closed, approximately 175 jobs lost; Blair Manor closed in Enfield, 150 jobs lost. As we know at 1199, the loss of these jobs in a community have a harmful ripple effect that's devastating to our overall economy.

In addition, the closure of nursing homes lead to traumatic and, at times, deadly results for the residents who live there. Transfer trauma is real. There are many well-documented cases of nursing homes closing that have led to the death of the residents that were too sick to move, or residents whose experience being moved was so emotionally and physically traumatic, that it led to their death.

I finish my testimony really looking at an example of the -- what the effect of reimbursement rates and -- bed freezing -- freezing the bed rates can have on a company. Attached to the testimony that I'll be providing, is a report from the State Ombudsman at Rosegarden's Rehab in Waterbury, which is now closed. The State of Connecticut was going to take over the facility in 2018 because of the insufficient resources being put into the care, resulting in immoral and/or illegal standards in care. The operator filed for bankruptcy to prevent this from happening and to continue to operate the facility.

On page 9, you'll see in the report, that the patient care Ombudsman noted that the nutritional adequacy of the diet is of concern. There was nothing but pizza and breaded chicken patties being
served to the residents. This type of care is not what we want for our family members. It's not the proper resources when people need to cut resources, you don't want to know the way the way that they cut them. They -- you know, they may, at times, at best, follow the -- the standards of the law, but they do not provide a -- a life of dignity and that we would want our family members to live in.

To reiterate, 1199 is against this bill. Let me be very clear, if this bill passes, residents will die. Thank you.

REP. ABERCROMBIE (83RD): So, okay. So, with all due respect, I mean, I think that's a little harsh to say that residents are going to die if nursing home facilities close. Nursing home facilities do close and we have not had deaths due to that. So, just for the record, I think that's a little bit more of a -- a harsh comment to make around what's going on with the nursing homes. My question to you is, right now there's a hearing that takes place before a closure; right? So, what's the purpose of the hearing? And then, how many cases has there been a hearing that has helped keep the facility open?

SUZANNE CLARK: There definitely have been cases in which the hearing present sufficiency amount of information to give further cause for consideration. I don't know statistics wise the number off the top of my head. But really, part of an essential function is for the community for the family members for residents themselves to be able to speak about. A -- a broader picture that you might see that's presented from the overall ownership, from the overall operators, who, in some cases, might have a
self-interest in closing down the home at that point, in order to sell off the property for another place, or -- you know, there's a -- it becomes a vested interest in the operator, for a -- a -- one scenario or another. And the people who most often are left in -- without a voice, are the residents in the community. And that is a critical thing that we cannot take away from them.

Just, also, I wanted to note, on -- as far as your question on it, I am not trying to make any kind of claim that every resident dies when a home closes and -- and people are transferred. But factually, a significant number, because I've been the one that talked to the resident -- talked to the employees as they're following and tracking as -- as residents are moved from one home to another. And that -- that transfer trauma does, and we have seen repeatedly, residents who, you know, passed before their time should have been because of those closures. And so, it's not something that I -- I -- I want to give a false sense that it is every single person but there is a very, very clear reality that that has an effect on a -- on a certain number of the residents when that happens.

REP. ABERCROMBIE (83RD): Well, I -- I do agree with you that I think there is a level of trauma to individuals. But my understanding is DPH did do an investigation as to individuals passing because of that and there has -- my understanding is there wasn't any evidence to prove that that was the case. So, you know, if we're going to talk facts, I think we need to stay on that line. Questions from individuals?  Senator Moore.
SENATOR MOORE (22ND): Thank you for your testimony. So, are you opposed to the overall bill, or do you have sections of it that you're opposed to? You mentioned that there's specific in the bill that you oppose? Can you point out what that is?

SUZANNE CLARK: Yeah. I think some of the most significant pieces, and I won't, by any means, attempt to make every reference to every piece, but most significantly, freezing the nursing home rates, the nursing home industry is significantly underfunded. The need to be able to put sufficient funding to keep up with the cost of living, the operating expenses of the nursing home, and to maintain staff that are able to live in dignity and with a living wage, is incredibly important. And so, it's extremely concerning that there would be a freeze and not putting in the kind of money that needs to be. The other major aspect of -- at issue with it, we have with this bill, is putting a -- reducing the bed rate on those whose census is below 70.

Again, I -- you know, I've been with working with nursing homes in Connecticut since '99, and as many of us know, you can't keep track of what the name is as opposed to the address. The only way you can figure out which nursing home it is, at times, is to track down the address because they are sold so frequently, and that because one operator is not successfully running it, does not mean it can't be sold and another operator could successfully run it. There's a lot of different factors that play a part in it. And so, to automatically put a -- a reduced bed rate on a -- on a nursing home once it
falls below 70% census, I would ensure that that facility will fail.

And then, as I mentioned earlier, the -- the need to have -- to have the closures as a part -- the closure hearings as a part of that. Those are three main pieces that I'd like to speak on.

REP. WILSON PHEANIOUS (53RD): Yes, good morning -- or good afternoon. I'm wondering if you're finding, as nursing homes are closed and many of -- of your members are being laid off or being -- being moved out because of those closures, are you finding that they are being reabsorbed into work as people are either moving home or staying at home instead of going into nursing homes? Are you finding that there's a -- a market for these people that are being displaced by nursing home closures or --

SUZANNE CLARK: To some --

REP. WILSON PHEANIOUS (53RD): -- are there problems [crosstalk]?

SUZANNE CLARK: -- degree, people find other work on it. In some places, people have -- have not and have had an extended period of time that -- in a -- a -- and have not been able to find other employment. You know, what I find is an increasingly difficult problem, is the number of our members who work at two and three jobs and have a per diem on the weekend, the number of hours that they have with -- with their family, the number of hours that they're just working on the floor, taking -- it's difficult enough to look at trying to --

REP. WILSON PHEANIOUS (53RD): Yeah.
SUZANNE CLARK: -- a 40-hour job at one nursing home, but the number of people who have to then maintain a second job, is just through the roof. It's not a way to treat our caregivers.

REP. WILSON PHEANIOUS (53RD): And there are no -- are you aware of any programs that are helping people make the changes. We -- we heard testimony earlier, and I know that we are trying to make the shift from having people in nursing homes is -- is, you know, when they don't absolutely have to be and allowing them to age, you know, in -- in place at home. And I'm just wondering, is there anything going on in the industry that is helping people be able to make the move from providing care in a nursing home setting to care in the --

SUZANNE CLARK: I --

REP. WILSON PHEANIOUS (53RD): -- home.

SUZANNE CLARK: I know that there are programs in place that allow for and help Department of Labor coming in when a facility is closing to look at reeducation --

REP. WILSON PHEANIOUS (53RD): Reeducation and training.

SUZANNE CLARK: -- and training.

REP. WILSON PHEANIOUS (53RD): Yes.

SUZANNE CLARK: As -- as you heard from, you know, several speakers before me, the -- looking at some of the other jobs that are out there in say, the home care industry --

REP. WILSON PHEANIOUS (53RD): Uh-huh.
SUZANNE CLARK: -- that these are not quality jobs, to be frank. The level of pay, the lack of benefits, the comparison of quality jobs that are being closed and moving to the working poor, people that would easily qualify for massive state assistance while working, you know, one and two -- two jobs is a -- is not an agreeable alternative to having a -- the higher-quality job.

REP. WILSON PHEANIOUS (53RD): Thank you.

REP. ABERCROMBIE (83RD): Further questions or comments? Seeing none. Thank you for being here. We appreciate it.

SUZANNE CLARK: Thank you.

REP. ABERCROMBIE (83RD): Mag Morelli, followed by Dennis Patouhas.

DENNIS PATOUHAS: That's it.


MAG MORELLI: Thank you. And good afternoon, Senator Moore, Representative Abercrombie, members of the Human Services Committee. My name is Mag Morelli and I'm the President of LeadingAge Connecticut, a statewide membership association representing not-for-profit provider organizations serving older adults across the continuum of aging services. On behalf of LeadingAge Connecticut, I'm pleased to be here to testify on aging services as they're addressed in the House Bill Number 7164 [sic].

Our testimony focuses on the Medicaid program, a rebalance of our system of long-term services and supports, and the Medicaid rates of reimbursement.
We've provided extensive written testimony, so I will just summarize.

As you know, Connecticut's Medicaid program has successfully transitioned to a managed-fee for service model and has developed several care-delivery initiatives, including the Strategic Initiative to Rebalance the State system of providing long-term services and supports.

And we support the Governor's proposal to maintain that Medicaid program, a managed-fee for service system, as well as his proposals for enhancing the rebalancing effort. LeadingAge Connecticut has long supported the rebalancing effort, and we remain committed to working with the state in all the various aspects of the plan. Toward that goal, our written testimony outlines a proposal to encourage the voluntary reduction of nursing home beds in the next two years. Not only will a bed reduction strategy facilitate the rebalance effort, but we believe that a thoughtful reduction of the bed supply will also help bring financial stability to the nursing home sector, allowing it to maintain a stable workforce and provide quality resident care. We also will be better positioned to implement the new acuity-based rate system for nursing home reimbursement that DSS is developing.

While the Governor's budget proposal does contain some elements of encouraging or inducing bed reduction, through more efficient and consistent receivership process and expedited closure process for nursing homes with low census or low-quality ratings, and a rebasing of the rates which will have a negative impact on certain homes with low census...
or low-quality ratings, we are suggesting additional tools and incentives to encourage -- encourage voluntary reduction.

Regarding the rates of reimbursement, let me begin by saying that our members appreciate the Governor's proposal to annualize the rate increases granted during the previous administration, and which were applied solely to direct-care wages. Unfortunately, however, these increases were not enough to make up for years of receiving no increases, and now, this budget proposes to freeze the rates for the next two years. As the rates remained stagnant for many years, the costs associated with delivering the -- the delivery of quality care, both in the community and in the nursing home, continue to rise, causing the gap between rates and costs to widen. Now, the gap could widen even further, if the General Assembly enacts the Governor's proposal to increase the minimum wage, we will -- which will impact all of aging services.

So, while we appreciate the recent increases, we urge the Committee to recommend an annual increase in the Medicaid reimbursement rates across the continuum of long-term services and supports, as well as increases to specifically address the additional costs due to a minimum wage increase, if it is enacted. Quality services and supports and health care for aging adults cannot be sustained without rates of reimbursement to cover the costs of providing them.

We also oppose Sections 14 and 15 of the bill, which propose to reduce provider appeal rates. And we have also signed onto that joint testimony that was
submitted from the Collaborative of Health Care Associations.

And finally, as we begin working with the Department of Social Services toward the development of acuity rate setting system for nursing homes, we would encourage the legislature's involvement as this will be a major change to the nursing home reimbursement system, and will potentially have a major impact on the industry. We believe that having the legislature involved early on and throughout the process will be beneficial. As I said, I provided extensive written testimony. I'd be happy to answer any questions. Thank you.

REP. ABERCROMBIE (83RD): Thank you Mag. And thank you for your hard work. Questions? Wow, good job.

MAG MORELLI: [laughter]

REP. ABERCROMBIE (83RD): Thank you.

MAG MORELLI: Thank you.

REP. ABERCROMBIE (83RD): And we have your testimony, so I'm sure we'll be reviewing it as we go through this process.

MAG MORELLI: Thank you very much.

REP. ABERCROMBIE (83RD): Dennis.

DENNIS PATOUHAS: Not many people get it right the first time.

MAG MORELLI: Thank you.

DENNIS PATOUHAS: Very good. [laughter] Thank you very much. My name is Dennis Patouhas and I am the owner of Comfort Keepers of Lower Fairfield County. We're based in Norwalk. I am here to represent
myself, Comfort Keepers, and the Home Care Association of America. I was a past officer of the Association, and I was up here more than a few times testifying on various bills.

But I'm talking about House Bill Number 7164, specifically Section 12, and 12(1) which is the -- the non-compete section of the bill. It is something that I -- I think we all have testified that people need to be able to move around. We don't always have assignments for our -- our caregivers. And we understand and have understood for 18 years that they have to make a living and they will go where they need to go to get work because the come back and we have -- we have a very long retention rate with our caregivers, between five and six years. And that is due to the fact that we're flexible and we bring them back if they were good enough to have before they left, they're good enough to have when they come back. So, you know, it -- it's just a function of the business.

The problem that we've got is with the second section of the bill, 12(2), and that has an element that I -- I'll call the words innocuous of the -- the terminology of -- I have to put my own -- specific individual is the term that's used. And I think it was crafted very conveniently. But to understand what that is, is a client of ours. That's what the specific individual means. And it's someone that we have found, we've nurtured, we've helped, we may or may not get them as a client, but, you know, we've -- we've worked with them. We've expended tremendous amounts of -- of time and -- and resources to get.
And something that we found, now we're an organization of over 700 offices nationally. Being 18 years old, we started when it was very infantile and we basically, as an organization, Companions in Homemakers, preceded us. We took a disorganized task group of workers and we formalized them and created an industry where we protected them in the ways of taxation. They -- they're -- they're -- they were paid salaries -- wages. Their -- their taxes are withheld. We provide Workmen's Compensation. We protect the -- they -- they have paid holidays. They have paid vacations. The client is protected because they're not subject to the risk of the caregiver getting injured while working for them and having no protection, and then being the subject of a suit. And we protect the caregiver in the same way.

So, as this -- this industry has -- has grown, it's become more dominant and as -- as part of that, is what is expended in -- in getting a client. We found that it takes at least 18 months to nurture a client from the point that they first recognized that there is a need for help for a relative or for themselves but denial is more than a river in Egypt and it takes up to 18 months for people to come around to the final decision that, yeah, I need to do this. And during that entire period, we're in touch with them. We may -- we may start with them. We may stop with them. It -- it may not be the right time. We don't over -- oversell services because the last thing you want is somebody sitting around collecting pay and apparently not doing anything, although, you haven't fallen in six months since we got there, we -- we -- we sometimes are not given credit for that [laughter]. But -- so, when a
client becomes a client of ours, often times they become repeat events. They get better. They think that they're okay. We leave. A year goes by, they may come back and want services again. And that -- that can repeat itself over and over.

And by nature of the language in 12(2), is giving to the former caregiver, because a caregiver working for us doesn't need to do this, but it's solicitation of my client and taking that client away from us, who is an asset to us. And like any business, if you don't have the ability to protect your assets, then you don't have an ability to protect your business. And that is a problem that could occur from a caregiver recruiting a number of clients and using us as a marketing stage to find those clients, or it could be a competitor that hires caregivers with the understanding that those caregivers, as part of the deal, will bring those clients with them. And that's plundering. It's stealing in -- in -- in many respects. And that's what we are afraid this will open up.

Massachusetts understands the issue and they have taken non-compete and non-solicitation and they broke into part. And many of the arguments that you're making about non-compete, they made. But non-solicitation, they've upheld. And most states recognize non-competition -- or non-solicitation, I'm sorry. Besides that, I -- I -- I question why the home care, homemaker, companion agencies industry has been carved out specifically for this treatment. I know it's not the Governors necessarily that wrote this, so, but I said, what did we do to the Governor that got him mad at us? Because it --
REP. ABERCROMBIE (83RD): Well, this --

DENNIS PATOUHAS: -- seems as to be selective.

REP. ABERCROMBIE (83RD): Right. So -- thank -- thank you for your testimony. But just to be clear, this language has been floating around for the last four years. This isn't new. It was in the budget of either last year or the year before. And because it became a bipartisan, I think it was part of the negotiations at that point. But it's -- this isn't new. So, this isn't something new to this administration.

DENNIS PATOUHAS: No. I --

REP. ABERCROMBIE (83RD): I'll just say that. And thank you for your testimony. We do appreciate it. And we -- we appreciate your work. My question to you is, do you work with Access agencies?

DENNIS PATOUHAS: I'm not sure [crosstalk].

REP. ABERCROMBIE (83RD): So, we have -- we have Access agencies throughout the state; right? Do you work with any of them?

DENNIS PATOUHAS: We -- we're private pay. We don't participate in any state programs.

REP. ABERCROMBIE (83RD): So, you don't work with any of the Access agencies for employment or you have no connection with them --

DENNIS PATOUHAS: No.

REP. ABERCROMBIE (83RD): -- at all?

DENNIS PATOUHAS: No, we don't.

REP. ABERCROMBIE (83RD): Okay. And then, of the individuals from your business that have left and
you feel that they have gone against a contract, how many have you brought suit against?

DENNIS PATOUHAS: We've not had to sue anybody. But we've pointed out -- well, first of all, the non-compete portion of our contract, I've omitted completely. All I have is the non-solicitation provision in my contract.

REP. ABERCROMBIE (83RD): Oh, that's interesting.

DENNIS PATOUHAS: But where a caregiver has attempted to solicit my client, we have brought that to the attention of the client and to the caregiver, and we've advised both that that's contrary to our policy and that it constitutes theft of services. We're more than happy to work something out. But you know, if someone comes to us and says, we can't afford your services. We really love Suzie. Well, can -- how can we work it out? That has happened on occasion and we've worked it out. But if it comes to us that it's done surreptitiously, then we -- we will try to flex our muscle, but we've never sued anybody.


REP. CASE (63RD): Thank you, Madam Chair. Thank you for testifying.

DENNIS PATOUHAS: Thank you.

REP. CASE (63RD): I found your testimony was interesting. I -- I think the solicitation part is -- is -- is interesting and I agree with that. Whereas, you know, it -- it's sort of the happy medium of the non-compete towards the solicitation.

DENNIS PATOUHAS: Right.
REP. CASE (63RD): But I also -- I applaud you for your testimony when you said earlier, you said, you're happy if -- if you don't have the cliental that your workers can go and work somewhere, but then come back and work with your client. Is that what you --

DENNIS PATOUHAS: I've -- I've had to tell one caregiver who desperately wanted to stay on until I had an assignment for her. I said, go. Go. You -- you have to go and get paid. And right now, we -- we're in a loll, and I don't have a case for you. I -- I can't see you just sitting there waiting for us. So, of course, I -- I want them to be gainfully employed somewhere.

REP. CASE (63RD): Well, I --

DENNIS PATOUHAS: If they can't do it.

REP. CASE (63RD): I thank you for comin' and testifying. And I think the -- the two words between solicitation and compete, I think we'll really look at, because, that solidifies a lot of different things. Because you also have to think about you treat your employees in such a way where not necessarily from other companies, but they can also be your frontline people to bring clients to you when you need them.

DENNIS PATOUHAS: And they have.

REP. CASE (63RD): So --

DENNIS PATOUHAS: And we reward --

REP. CASE (63RD): It works --

DENNIS PATOUHAS: -- them for that.
REP. CASE (63RD): -- both ways. But I like the word solicitation rather than non-compete, because it allows them to go elsewhere but not solicit people who you take care of. So --

DENNIS PATOUHAS: Right.

REP. CASE (63RD): I appreciate --

DENNIS PATOUHAS: And -- and --

REP. CASE (63RD): -- you comin' --

DENNIS PATOUHAS: -- that's even -- that's for a period of time. It's -- it's -- in our case, I know Companions and Homemakers does it for six months, we do it for 12 months. But it -- it -- there's a finite window there. And we realize that there -- there may be a circumstance where down the road, they -- they do work for that client. But you know, at least we want to have it protected for a period of time because it's a value to us.

REP. CASE (63RD): And I think you're fair in what you said, when Representative Abercrombie asked you about suit, but I think most companies, unless it's -- it's a much larger business, you're bringing to the attention of the worker that you're in possibility of -- of violating what you had signed.

DENNIS PATOUHAS: Right.

REP. CASE (63RD): So, it's not necessarily but just letting them know that you're aware of what's going and there could be further things, because I don't think, us, in the Human Services Agency really want to go after somebody that's -- that's trying to help people and work with people, but make them understand that --
DENNIS PATOUHAS: Make them understand that --

REP. CASE (63RD): Yes.

DENNIS PATOUHAS: -- what they're doing is --

REP. CASE (63RD): So, I appreciate --

DENNIS PATOUHAS: -- going after --

REP. CASE (63RD): -- that.

DENNIS PATOUHAS: -- you know, it's somebody that we --

REP. CASE (63RD): I appreciate you doing that not --

DENNIS PATOUHAS: -- worked hard to get.

REP. CASE (63RD): -- yeah, not taking the legal route.

DENNIS PATOUHAS: Right.

REP. CASE (63RD): -- but just showing them. So, thank you for testifying. I -- I think that's -- that's really stuck in my time -- my head, the solicitation towards the non-compete. Because that -- that's sort of -- that's a happy medium. So, thank you, sir. I appreciate it.

DENNIS PATOUHAS: Okay. Thank you.

REP. ABERCROMBIE (83RD): Yeah. We were just saying that, too, that it's what's the different in the -- difference in the definition. I totally agree with you. The only thing I will disagree with you, Representative, is that last year I was sent a note from Legal Services, and I don't remember, I can get, I don't remember the amount, but there were a
lot more legal actions taken than anybody was aware of and that's why I've tried to get to that number and just ask specifically. So, thank you so much for your --

DENNIS PATOUHAS: Thank you.

REP. Abercrombie (83rd): -- testimony, sir. We do appreciate it. Have a good day. So, that concludes everyone that has signed up for this public hearing. Is there anyone that has not signed up that would like to testify? Seeing none, we will close this public hearing, and we will have a meeting next Tuesday, the 19th at 10:00 a.m., followed by a public hearing. Thank you, everyone.