OLR Bill Analysis

sHB 6446

AN ACT CONCERNING THE GOVERNOR'S BUDGET RECOMMENDATIONS FOR HUMAN SERVICES.

SUMMARY

This bill requires the Department of Social Services (DSS) to implement acuity-based Medicaid rates for nursing homes beginning in the second quarter of FY 22 (i.e., October 1, 2021), thus replacing current law's cost-based rates. It establishes categories and limits for allowable cost components for acuity-based rates and requires DSS, through regulations, to establish peer groupings of facilities for calculating certain allowable costs.

The bill also eliminates certain hearing and reporting requirements for cost-based rate determinations for residential care homes and intermediate care facilities for individuals with intellectual disabilities (ICF-IDs). It allows the DSS commissioner to provide certain fair rent increases to (1) ICF-IDs and residential care homes for FYs 22 and 23 and (2) nursing homes for the final nine months of FY 22.

Additionally, the bill establishes deadlines for insurers and other legally liable third parties to (1) act on claims DSS submits for covered health care items and services and (2) request refunds from DSS when they determine they are not liable for a claim for which they reimbursed DSS.

Lastly, the bill eliminates obsolete provisions and makes other minor, conforming, and technical changes.

EFFECTIVE DATE: July 1, 2021, except provisions implementing acuity-based rates for nursing homes are effective October 1, 2021.

§§ 2 & 3 — ACUITY-BASED MEDICAID RATES FOR NURSING HOMES

Transition to Acuity-Based Rates

Current law requires DSS to annually determine cost-based rates for room, board, and services provided by nursing homes, residential care homes, and ICF-IDs and allows DSS to establish acuity-based rates for nursing homes. Beginning with the second quarter of FY 22 (i.e., October 1, 2021), the bill requires, rather than allows, DSS to establish acuity-based rates. (Generally, acuity-based rates refer to rates that vary based on, among other things, the facility's patient case mix.) It requires that the transition to acuity-based rates be cost-neutral and based on FY 18 cost reports.

The bill requires DSS to base rates on cost years ending September 30. When establishing these rates, DSS must (1) make or phase in case-mix adjustments to the direct care component of rates, effective October 1, 2021, and update them quarterly and (2) establish geographic peer groupings of facilities under regulations the department adopts. The bill requires that the acuity-based rates DSS establishes comply with federal law and regulations.

The bill establishes five cost components for allowable costs under the acuity-based rates. Current law establishes similar components for cost-based ratemaking. However, the bill's acuity-based provisions limit them as shown in Table 1:

Table 1: Cost Components for Acuity-Based Ratemaking

Component	***Included Costs***	***Limit***
Direct costs	Nursing personnel salaries and related fringe benefits and nursing pool costs	135% of the median allowable cost in the applicable peer grouping
Indirect costs	Professional fees, dietary expenses, housekeeping and laundry expenses, patient care supplies, and salaries and related fringe benefits for indirect care personnel	115% of the statewide median allowable cost

Fair rent	Defined in regulations adopted by the department	Calculated using the amount approved through DSS's certificate of need process
Capital-related costs	Property taxes, insurance expenses, equipment leases, and equipment depreciation	No maximum limit
Administrative and general costs	Plant maintenance and operation expenses, and salaries and related fringe benefits for administrative and maintenance personnel	State-wide median allowable cost

Other Requirements

The bill requires DSS to determine a facility's certified bed utilization at a minimum of 90% of capacity for purposes of computing minimum allowable patient days. New facilities and facilities certified for additional beds may be permitted a lower occupancy rate for the first three months of operation after their licensure becomes effective.

The bill prohibits inflationary rate increases to nursing homes for FYs 22 and 23 once acuity-based ratemaking becomes effective (i.e., October 1, 2021 to June 30, 2023). However, it allows the DSS commissioner, in her discretion and within available appropriations, to provide proportional fair rent increases in the final three quarters of FY 22 (i.e., October 1, 2021 to June 30, 2022) to nursing homes with documented fair rent additions placed in service in the cost report year ending September 30, 2019, that are not otherwise included in the issued rates.

§§ 3 & 4 — COST-BASED RATEMAKING

General Provisions

By law, nursing homes, residential care homes, and ICF-IDs must submit annual reports to DSS on their costs, and, for nursing homes, information on certain related parties doing business with the facilities. For nursing homes, the bill appears to eliminate these statutory

reporting requirements once acuity-based ratemaking becomes effective. For all facilities, the bill eliminates a requirement that DSS hold a public hearing before making its annual cost-based rate determinations. Current law requires DSS to report the data in facility reports to the Appropriations Committee annually by April 1. The bill instead requires DSS report this data on its website.

Current law requires DSS to adopt regulations to specify any other allowable services required by a medical assistance beneficiary living in a facility but not already covered in cost-based rates. The bill instead allows DSS to implement policies and procedures as necessary to carry out provisions on cost-based ratemaking broadly for facilities under existing law and under the bill. DSS must publish notice of intent to adopt regulations on the eRegulations System within 20 days after implementing the policy or procedure.

The bill also eliminates a provision in current law requiring the DSS commissioner to allow residential care homes to use debt service instead of allowable property costs if she determines that a loan to be issued to the home by the Connecticut Housing Finance Authority is reasonable.

FYs 22 and 23 Rates

For ICF-IDs, the bill extends, for FYs 22 and 23, a provision in current law allowing the DSS commissioner to provide fair rent increases to facilities that have undergone a material change in circumstances related to fair rent with an approved certificate of need.

For residential care home rates for FY 22, the bill allows the DSS commissioner, in her discretion and within available appropriations, to provide proportional fair rent increases to facilities with documented fair rent additions placed in service in the cost year ending September 30, 2020, that are not otherwise included in the rates. For FY 23, the bill allows the commissioner to do the same for documented fair rent additions placed in service in the cost year ending September 30, 2021.

§ 1 — INSURER DEADLINES FOR DSS CLAIMS

Existing law authorizes DSS to recover claims from an insurer or other legally liable third party when the state pays for a health care service for which the third party is legally responsible. The bill requires these entities to act on a claim submitted by DSS for payment for health care items or services covered by a state medical assistance program within the later of 90 days after receiving the claim or September 29, 2021. Within this timeframe, these entities must (1) make a payment on the claim, (2) request necessary information to determine its legal obligation to pay the claim, or (3) issue a written reason for denying the claim. If the entity fails to act on a claim within the later of 120 days of receiving a claim or October 29, 2021, the failure creates an uncontestable obligation to pay the claim. The bill applies these provisions to all DSS claims, including those submitted before July 1, 2021.

The bill also establishes a deadline for insurers and other legally liable third parties to request a refund from DSS if they determine they are not liable for the cost of a health care item or service for which they have reimbursed the department. It requires these entities to request refunds from DSS within 12 months after the reimbursement date.

COMMITTEE ACTION

Human Services Committee

Joint Favorable Substitute
Yea 19 Nay 0 (03/18/2021)