
OLR Bill Analysis

sHB 6560

AN ACT CONCERNING TIMELY PAYMENTS AND TRAINING FOR PERSONAL CARE ATTENDANTS.

SUMMARY

The bill requires fiscal intermediaries (i.e., payroll service providers) to provide timely payments (i.e., on a regular payment date or within 48 hours after resolving any issue delaying payment) to personal care attendants (PCAs) employed by a consumer under the following state-funded programs:

- Medicaid Acquired Brain Injury Waiver Program;
- Medicaid PCA Waiver Program for adults with disabilities;
- Connecticut Home Care Program for Elders;
- Connecticut Home Care Program for Disabled Adults Pilot Program;
- Individual, Family Support, and Comprehensive Medicaid waivers programs administered by DDS; and
- any other state-funded program that provides PCA services.

It requires a fiscal intermediary to provide clear and timely communication to PCAs about payment discrepancies, payment confirmation, or a change in consumer (i.e., client) status that may affect timely payment to them, including:

1. sufficient notice to allow a PCA to address any issue with submitted time records to receive correct payment on his or her regular payment date;
2. a specific and accessible means to address an issue that may

affect payment in time to receive the correct payment on the PCA's regular payment date; and

3. a method for a PCA to receive the correct payment within 48 hours after a payment discrepancy has been resolved.

The bill subjects a fiscal intermediary that fails to make timely payments to a PCA in violation of the bill's provisions to a fine (by the state agency administering the program) of \$25 for each day timely wage payment was delayed. To the extent this provision of the bill applies to existing contracts, it may implicate the Contracts Clause of the U.S. Constitution (see BACKGROUND).

By law, the state and the union representing state-funded PCAs may contract directly with a non-profit labor management trust to provide PCA training and related services at cost. The training contract must be authorized under the collective bargaining agreement between the state and the PCA union and the trust providing the services must be authorized to receive payments from an employer under federal labor law. The bill replaces this authorization by instead allowing the Personal Care Attendant Workforce Council to solicit proposals for PCA training and related services.

EFFECTIVE DATE: Upon passage, except the contracting provision is effective July 1, 2021.

BACKGROUND

Contracts Clause of the U.S. Constitution

The Contracts Clause (Article I, Section 10) bars states from passing laws that impair the obligation of contracts. When analyzing an alleged contracts clause violation, the threshold inquiry for a court is whether a state law has substantially impaired a contractual relationship. If so, in deciding whether to uphold the law at issue, the court must determine whether the (1) law has a legitimate and important public purpose and (2) adjustment of the rights of the parties to the contractual relationship was reasonable and appropriate in light of that purpose (*Energy Reserves Group, Inc. v. Kansas Power &*

Light Co., 459 U.S. 400, 411-413 (1983)).

Related Bills

sSB 942 (File 219), favorably reported by the Labor and Public Employees Committee, similarly requires fiscal intermediaries to provide PCAs with a way to address pay discrepancies and receive their pay, but imposes a fine of \$100 per violation, per day, until the violation is corrected.

SB 1075, favorably reported by the Government Administration and Elections Committee, imposes similar requirements on responders to a request for proposals for the provision of PCA payroll services.

COMMITTEE ACTION

Human Services Committee

Joint Favorable Substitute

Yea 19 Nay 0 (03/18/2021)