



# House of Representatives

General Assembly

**File No. 263**

January Session, 2021

Substitute House Bill No. 6446

*House of Representatives, April 6, 2021*

The Committee on Human Services reported through REP. ABERCROMBIE of the 83rd Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

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

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

1 Section 1. Section 17b-265 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective July 1, 2021*):

3 (a) In accordance with 42 USC 1396k, the Department of Social  
4 Services shall be subrogated to any right of recovery or indemnification  
5 that an applicant or recipient of medical assistance or any legally liable  
6 relative of such applicant or recipient has against an insurer or other  
7 legally liable third party including, but not limited to, a self-insured  
8 plan, group health plan, as defined in Section 607(1) of the Employee  
9 Retirement Income Security Act of 1974, service benefit plan, managed  
10 care organization, health care center, pharmacy benefit manager, dental  
11 benefit manager, third-party administrator or other party that is, by  
12 statute, contract or agreement, legally responsible for payment of a  
13 claim for a health care item or service, for the cost of all health care items

14 or services furnished to the applicant or recipient, including, but not  
15 limited to, hospitalization, pharmaceutical services, physician services,  
16 nursing services, behavioral health services, long-term care services and  
17 other medical services, not to exceed the amount expended by the  
18 department for such care and treatment of the applicant or recipient. In  
19 the case of such a recipient who is an enrollee in a care management  
20 organization under a Medicaid care management contract with the state  
21 or a legally liable relative of such an enrollee, the department shall be  
22 subrogated to any right of recovery or indemnification which the  
23 enrollee or legally liable relative has against such a private insurer or  
24 other third party for the medical costs incurred by the care management  
25 organization on behalf of an enrollee.

26 (b) An applicant or recipient or legally liable relative, by the act of the  
27 applicant's or recipient's receiving medical assistance, shall be deemed  
28 to have made a subrogation assignment and an assignment of claim for  
29 benefits to the department. The department shall inform an applicant of  
30 such assignments at the time of application. Any entitlements from a  
31 contractual agreement with an applicant or recipient, legally liable  
32 relative or a state or federal program for such medical services, not to  
33 exceed the amount expended by the department, shall be so assigned.  
34 Such entitlements shall be directly reimbursable to the department by  
35 third party payors. The Department of Social Services may assign its  
36 right to subrogation or its entitlement to benefits to a designee or a  
37 health care provider participating in the Medicaid program and  
38 providing services to an applicant or recipient, in order to assist the  
39 provider in obtaining payment for such services. In accordance with  
40 subsection (b) of section 38a-472, a provider that has received an  
41 assignment from the department shall notify the recipient's health  
42 insurer or other legally liable third party including, but not limited to, a  
43 self-insured plan, group health plan, as defined in Section 607(1) of the  
44 Employee Retirement Income Security Act of 1974, service benefit plan,  
45 managed care organization, health care center, pharmacy benefit  
46 manager, dental benefit manager, third-party administrator or other  
47 party that is, by statute, contract or agreement, legally responsible for  
48 payment of a claim for a health care item or service, of the assignment

49 upon rendition of services to the applicant or recipient. Failure to so  
50 notify the health insurer or other legally liable third party shall render  
51 the provider ineligible for payment from the department. The provider  
52 shall notify the department of any request by the applicant or recipient  
53 or legally liable relative or representative of such applicant or recipient  
54 for billing information. This subsection shall not be construed to affect  
55 the right of an applicant or recipient to maintain an independent cause  
56 of action against such third party tortfeasor.

57 (c) Claims for recovery or indemnification submitted by the  
58 department, or the department's designee, shall not be denied solely on  
59 the basis of the date of the submission of the claim, the type or format of  
60 the claim, the lack of prior authorization or the failure to present proper  
61 documentation at the point-of-service that is the basis of the claim, if (1)  
62 the claim is submitted by the state within the three-year period  
63 beginning on the date on which the item or service was furnished; and  
64 (2) any action by the state to enforce its rights with respect to such claim  
65 is commenced within six years of the state's submission of the claim.

66 (d) When a recipient of medical assistance has personal health  
67 insurance in force covering care or other benefits provided under such  
68 program, payment or part-payment of the premium for such insurance  
69 may be made when deemed appropriate by the Commissioner of Social  
70 Services. [Effective January 1, 1992, the] The commissioner shall limit  
71 reimbursement to medical assistance providers for coinsurance and  
72 deductible payments under Title XVIII of the Social Security Act to  
73 assure that the combined Medicare and Medicaid payment to the  
74 provider shall not exceed the maximum allowable under the Medicaid  
75 program fee schedules.

76 (e) No self-insured plan, group health plan, as defined in Section  
77 607(1) of the Employee Retirement Income Security Act of 1974, service  
78 benefit plan, managed care plan, or any plan offered or administered by  
79 a health care center, pharmacy benefit manager, dental benefit manager,  
80 third-party administrator or other party that is, by statute, contract or  
81 agreement, legally responsible for payment of a claim for a health care

82 item or service, shall contain any provision that has the effect of denying  
83 or limiting enrollment benefits or excluding coverage because services  
84 are rendered to an insured or beneficiary who is eligible for or who  
85 received medical assistance under this chapter. No insurer, as defined  
86 in section 38a-497a, shall impose requirements on the state Medicaid  
87 agency, which has been assigned the rights of an individual eligible for  
88 Medicaid and covered for health benefits from an insurer, that differ  
89 from requirements applicable to an agent or assignee of another  
90 individual so covered.

91 (f) The Commissioner of Social Services shall not pay for any services  
92 provided under this chapter if the individual eligible for medical  
93 assistance has coverage for the services under an accident or health  
94 insurance policy.

95 (g) An insurer or other legally liable third party, upon receipt of a  
96 claim submitted by the department or the department's designee, in  
97 accordance with the requirements of subsection (c) of this section, for  
98 payment of a health care item or service covered under a state medical  
99 assistance program administered by the department, shall, not later  
100 than ninety days after receipt of the claim or not later than ninety days  
101 after the effective date of this section, whichever is later, (1) make  
102 payment on the claim, (2) request information necessary to determine  
103 its legal obligation to pay the claim, or (3) issue a written reason for  
104 denial of the claim. Failure to pay, request information necessary to  
105 determine legal obligation to pay or issue a written reason for denial of  
106 a claim not later than one hundred twenty days after receipt of the claim,  
107 or not later than one hundred twenty days after the effective date of this  
108 section, whichever is later, creates an uncontestable obligation to pay  
109 the claim. The provisions of this subsection shall apply to all claims,  
110 including claims submitted by the department or the department's  
111 designee prior to July 1, 2021.

112 (h) On and after July 1, 2021, an insurer or other legally liable third  
113 party who has reimbursed the department for a health care item or  
114 service paid for and covered under a state medical assistance program

115 administered by the department shall, upon determining it is not liable  
116 and at risk for cost of the health care item or service, request any refund  
117 from the department not later than twelve months from the date of its  
118 reimbursement to the department.

119 Sec. 2. Section 17b-340d of the general statutes is repealed and the  
120 following is substituted in lieu thereof (*Effective October 1, 2021*):

121 (a) The Commissioner of Social Services [may] shall implement an  
122 acuity-based methodology for Medicaid reimbursement of nursing  
123 home services. [In the course of developing such a system, the  
124 commissioner shall review the skilled nursing facility prospective  
125 payment system developed by the Centers for Medicare and Medicaid  
126 Services, as well as other methodologies used nationally, and shall  
127 consider recommendations from the nursing home industry.]  
128 Notwithstanding the provisions of section 17b-340, as amended by this  
129 act, beginning on October 1, 2021, and ending on June 30, 2022, and each  
130 fiscal year ending on June thirtieth thereafter, the Commissioner of  
131 Social Services shall establish Medicaid rates paid to nursing home  
132 facilities based on cost years ending on September thirtieth in  
133 accordance with the following:

134 (1) Case-mix adjustments to the direct care component shall be made  
135 or phased in effective October 1, 2021, and updated every quarter  
136 thereafter. The transition to acuity-based reimbursement shall be cost  
137 neutral and based on cost reports for the fiscal year ending June 30, 2018.

138 (2) Geographic peer groupings of facilities shall be established by the  
139 Department of Social Services pursuant to regulations adopted in  
140 accordance with subsection (b) of this section.

141 (3) Allowable costs shall be divided into the following five cost  
142 components: (A) Direct costs, which shall include salaries for nursing  
143 personnel, related fringe benefits and nursing pool costs; (B) indirect  
144 costs, which shall include professional fees, dietary expenses,  
145 housekeeping expenses, laundry expenses, supplies related to patient  
146 care, salaries for indirect care personnel and related fringe benefits; (C)

147 fair rent, which shall be defined in regulations adopted in accordance  
148 with subsection (b) of this section; (D) capital-related costs, which shall  
149 include property taxes, insurance expenses, equipment leases and  
150 equipment depreciation; and (E) administrative and general costs,  
151 which shall include maintenance and operation of plant expenses,  
152 salaries for administrative and maintenance personnel and related  
153 fringe benefits. For (i) direct costs, the maximum cost shall be equal to  
154 one hundred thirty-five per cent of the median allowable cost of that  
155 peer grouping; (ii) indirect costs, the maximum cost shall be equal to one  
156 hundred fifteen per cent of the state-wide median allowable cost; (iii)  
157 fair rent, the amount shall be calculated utilizing the amount approved  
158 pursuant to section 17b-353; (iv) capital-related costs, there shall be no  
159 maximum; and (v) administrative and general costs, the maximum shall  
160 be equal to the state-wide median allowable cost.

161 (4) For the period beginning on October 1, 2021, and ending on June  
162 30, 2022, the commissioner may, in the commissioner's discretion and  
163 within available appropriations, provide pro rata fair rent increases to  
164 facilities which have documented fair rent additions placed in service in  
165 the cost report year ending on September 30, 2019, that are not otherwise  
166 included in the rates issued.

167 (5) There shall be no increase to rates based on inflation or any  
168 inflationary factor for the period beginning on October 1, 2021, and  
169 ending on June 30, 2023.

170 (6) For purposes of computing minimum allowable patient days,  
171 utilization of a facility's certified beds shall be determined at a minimum  
172 of ninety per cent of capacity, except for new facilities and facilities  
173 which are certified for additional beds which may be permitted a lower  
174 occupancy rate for the first three months of operation after the effective  
175 date of licensure.

176 (7) Rates determined under this section shall comply with federal  
177 laws and regulations.

178 (b) The Commissioner of Social Services may implement policies as

179 necessary to carry out the provisions of this section while in the process  
180 of adopting the policies as regulations, provided that prior to  
181 implementation the policies are posted (1) on the eRegulations System  
182 established pursuant to section 4-173b and (2) the Department of Social  
183 Services' Internet web site.

184 Sec. 3. Section 17b-340 of the general statutes is repealed and the  
185 following is substituted in lieu thereof (*Effective July 1, 2021*):

186 (a) For purposes of this subsection, (1) a "related party" includes, but  
187 is not limited to, any company related to a chronic and convalescent  
188 nursing home through family association, common ownership, control  
189 or business association with any of the owners, operators or officials of  
190 such nursing home; (2) "company" means any person, partnership,  
191 association, holding company, limited liability company or corporation;  
192 (3) "family association" means a relationship by birth, marriage or  
193 domestic partnership; and (4) "profit and loss statement" means the  
194 most recent annual statement on profits and losses finalized by a related  
195 party before the annual report mandated under this subsection. The  
196 rates to be paid by or for persons aided or cared for by the state or any  
197 town in this state to licensed chronic and convalescent nursing homes,  
198 to chronic disease hospitals associated with chronic and convalescent  
199 nursing homes, to rest homes with nursing supervision, to licensed  
200 residential care homes, as defined by section 19a-490, and to residential  
201 facilities for persons with intellectual disability that are licensed  
202 pursuant to section 17a-227 and certified to participate in the Title XIX  
203 Medicaid program as intermediate care facilities for individuals with  
204 intellectual disabilities, for room, board and services specified in  
205 licensing regulations issued by the licensing agency shall be determined  
206 annually, except as otherwise provided in this subsection [, after a  
207 public hearing,] by the Commissioner of Social Services, to be effective  
208 July first of each year except as otherwise provided in this subsection.  
209 Such rates shall be determined on a basis of a reasonable payment for  
210 such necessary services, which basis shall take into account as a factor  
211 the costs of such services. Cost of such services shall include reasonable  
212 costs mandated by collective bargaining agreements with certified

213 collective bargaining agents or other agreements between the employer  
214 and employees, provided "employees" shall not include persons  
215 employed as managers or chief administrators or required to be licensed  
216 as nursing home administrators, and compensation for services  
217 rendered by proprietors at prevailing wage rates, as determined by  
218 application of principles of accounting as prescribed by said  
219 commissioner. Cost of such services shall not include amounts paid by  
220 the facilities to employees as salary, or to attorneys or consultants as  
221 fees, where the responsibility of the employees, attorneys, or consultants  
222 is to persuade or seek to persuade the other employees of the facility to  
223 support or oppose unionization. Nothing in this subsection shall  
224 prohibit inclusion of amounts paid for legal counsel related to the  
225 negotiation of collective bargaining agreements, the settlement of  
226 grievances or normal administration of labor relations. The  
227 commissioner may, in the commissioner's discretion, allow the inclusion  
228 of extraordinary and unanticipated costs of providing services that were  
229 incurred to avoid an immediate negative impact on the health and safety  
230 of patients. The commissioner may, in the commissioner's discretion,  
231 based upon review of a facility's costs, direct care staff to patient ratio  
232 and any other related information, revise a facility's rate for any  
233 increases or decreases to total licensed capacity of more than ten beds or  
234 changes to its number of licensed rest home with nursing supervision  
235 beds and chronic and convalescent nursing home beds. The  
236 commissioner may, in the commissioner's discretion, revise the rate of a  
237 facility that is closing. An interim rate issued for the period during  
238 which a facility is closing shall be based on a review of facility costs, the  
239 expected duration of the close-down period, the anticipated impact on  
240 Medicaid costs, available appropriations and the relationship of the rate  
241 requested by the facility to the average Medicaid rate for a close-down  
242 period. The commissioner may so revise a facility's rate established for  
243 the fiscal year ending June 30, 1993, and thereafter for any bed increases,  
244 decreases or changes in licensure effective after October 1, 1989.  
245 Effective July 1, 1991, in facilities that have both a chronic and  
246 convalescent nursing home and a rest home with nursing supervision,  
247 the rate for the rest home with nursing supervision shall not exceed such

248 facility's rate for its chronic and convalescent nursing home. All such  
249 facilities for which rates are determined under this subsection shall  
250 report on a fiscal year basis ending on September thirtieth. Such report  
251 shall be submitted to the commissioner by February fifteenth. Each for-  
252 profit chronic and convalescent nursing home that receives state  
253 funding pursuant to this section shall include in such annual report a  
254 profit and loss statement from each related party that receives from such  
255 chronic and convalescent nursing home fifty thousand dollars or more  
256 per year for goods, fees and services. No cause of action or liability shall  
257 arise against the state, the Department of Social Services, any state  
258 official or agent for failure to take action based on the information  
259 required to be reported under this subsection. The commissioner may  
260 reduce the rate in effect for a facility that fails to submit a complete and  
261 accurate report on or before February fifteenth by an amount not to  
262 exceed ten per cent of such rate. If a licensed residential care home fails  
263 to submit a complete and accurate report, the department shall notify  
264 such home of the failure and the home shall have thirty days from the  
265 date the notice was issued to submit a complete and accurate report. If  
266 a licensed residential care home fails to submit a complete and accurate  
267 report not later than thirty days after the date of notice, such home may  
268 not receive a retroactive rate increase, in the commissioner's discretion.  
269 The commissioner shall, annually, on or before April first, report the  
270 data contained in the reports of such facilities [to the joint standing  
271 committee of the General Assembly having cognizance of matters  
272 relating to appropriations and the budgets of state agencies] on the  
273 department's Internet web site. For the cost reporting year commencing  
274 October 1, 1985, and for subsequent cost reporting years, facilities shall  
275 report the cost of using the services of any nursing pool employee by  
276 separating said cost into two categories, the portion of the cost equal to  
277 the salary of the employee for whom the nursing pool employee is  
278 substituting shall be considered a nursing cost and any cost in excess of  
279 such salary shall be further divided so that seventy-five per cent of the  
280 excess cost shall be considered an administrative or general cost and  
281 twenty-five per cent of the excess cost shall be considered a nursing cost,  
282 provided if the total nursing pool costs of a facility for any cost year are

283 equal to or exceed fifteen per cent of the total nursing expenditures of  
284 the facility for such cost year, no portion of nursing pool costs in excess  
285 of fifteen per cent shall be classified as administrative or general costs.  
286 The commissioner, in determining such rates, shall also take into  
287 account the classification of patients or boarders according to special  
288 care requirements or classification of the facility according to such  
289 factors as facilities and services and such other factors as the  
290 commissioner deems reasonable, including anticipated fluctuations in  
291 the cost of providing such services. The commissioner may establish a  
292 separate rate for a facility or a portion of a facility for traumatic brain  
293 injury patients who require extensive care but not acute general hospital  
294 care. Such separate rate shall reflect the special care requirements of  
295 such patients. If changes in federal or state laws, regulations or  
296 standards adopted subsequent to June 30, 1985, result in increased costs  
297 or expenditures in an amount exceeding one-half of one per cent of  
298 allowable costs for the most recent cost reporting year, the  
299 commissioner shall adjust rates and provide payment for any such  
300 increased reasonable costs or expenditures within a reasonable period  
301 of time retroactive to the date of enforcement. Nothing in this section  
302 shall be construed to require the Department of Social Services to adjust  
303 rates and provide payment for any increases in costs resulting from an  
304 inspection of a facility by the Department of Public Health. Such  
305 assistance as the commissioner requires from other state agencies or  
306 departments in determining rates shall be made available to the  
307 commissioner at the commissioner's request. Payment of the rates  
308 established pursuant to this section shall be conditioned on the  
309 establishment by such facilities of admissions procedures that conform  
310 with this section, section 19a-533 and all other applicable provisions of  
311 the law and the provision of equality of treatment to all persons in such  
312 facilities. The established rates shall be the maximum amount  
313 chargeable by such facilities for care of such beneficiaries, and the  
314 acceptance by or on behalf of any such facility of any additional  
315 compensation for care of any such beneficiary from any other person or  
316 source shall constitute the offense of aiding a beneficiary to obtain aid  
317 to which the beneficiary is not entitled and shall be punishable in the

318 same manner as is provided in subsection (b) of section 17b-97. [For the  
319 fiscal year ending June 30, 1992, rates for licensed residential care homes  
320 and intermediate care facilities for individuals with intellectual  
321 disabilities may receive an increase not to exceed the most recent annual  
322 increase in the Regional Data Resources Incorporated McGraw-Hill  
323 Health Care Costs: Consumer Price Index (all urban)-All Items. Rates  
324 for newly certified intermediate care facilities for individuals with  
325 intellectual disabilities shall not exceed one hundred fifty per cent of the  
326 median rate of rates in effect on January 31, 1991, for intermediate care  
327 facilities for individuals with intellectual disabilities certified prior to  
328 February 1, 1991.] Notwithstanding any provision of this section, the  
329 Commissioner of Social Services may, within available appropriations,  
330 provide an interim rate increase for a licensed chronic and convalescent  
331 nursing home or a rest home with nursing supervision for rate periods  
332 no earlier than April 1, 2004, only if the commissioner determines that  
333 the increase is necessary to avoid the filing of a petition for relief under  
334 Title 11 of the United States Code; imposition of receivership pursuant  
335 to sections 19a-542 and 19a-543; or substantial deterioration of the  
336 facility's financial condition that may be expected to adversely affect  
337 resident care and the continued operation of the facility, and the  
338 commissioner determines that the continued operation of the facility is  
339 in the best interest of the state. The commissioner shall consider any  
340 requests for interim rate increases on file with the department from  
341 March 30, 2004, and those submitted subsequently for rate periods no  
342 earlier than April 1, 2004. When reviewing an interim rate increase  
343 request the commissioner shall, at a minimum, consider: (A) Existing  
344 chronic and convalescent nursing home or rest home with nursing  
345 supervision utilization in the area and projected bed need; (B) physical  
346 plant long-term viability and the ability of the owner or purchaser to  
347 implement any necessary property improvements; (C) licensure and  
348 certification compliance history; (D) reasonableness of actual and  
349 projected expenses; and (E) the ability of the facility to meet wage and  
350 benefit costs. No interim rate shall be increased pursuant to this  
351 subsection in excess of one hundred fifteen per cent of the median rate  
352 for the facility's peer grouping, established pursuant to subdivision (2)

353 of subsection (f) of this section, unless recommended by the  
354 commissioner and approved by the Secretary of the Office of Policy and  
355 Management after consultation with the commissioner. Such median  
356 rates shall be published by the Department of Social Services not later  
357 than April first of each year. In the event that a facility granted an  
358 interim rate increase pursuant to this section is sold or otherwise  
359 conveyed for value to an unrelated entity less than five years after the  
360 effective date of such rate increase, the rate increase shall be deemed  
361 rescinded and the department shall recover an amount equal to the  
362 difference between payments made for all affected rate periods and  
363 payments that would have been made if the interim rate increase was  
364 not granted. The commissioner may seek recovery of such payments  
365 from any facility with common ownership. With the approval of the  
366 Secretary of the Office of Policy and Management, the commissioner  
367 may waive recovery and rescission of the interim rate for good cause  
368 shown that is not inconsistent with this section, including, but not  
369 limited to, transfers to family members that were made for no value. The  
370 commissioner shall provide written quarterly reports to the joint  
371 standing committees of the General Assembly having cognizance of  
372 matters relating to aging, human services and appropriations and the  
373 budgets of state agencies, that identify each facility requesting an  
374 interim rate increase, the amount of the requested rate increase for each  
375 facility, the action taken by the commissioner and the secretary pursuant  
376 to this subsection, and estimates of the additional cost to the state for  
377 each approved interim rate increase. Nothing in this subsection shall  
378 prohibit the commissioner from increasing the rate of a licensed chronic  
379 and convalescent nursing home or a rest home with nursing supervision  
380 for allowable costs associated with facility capital improvements or  
381 increasing the rate in case of a sale of a licensed chronic and convalescent  
382 nursing home or a rest home with nursing supervision [, pursuant to  
383 subdivision (15) of subsection (f) of this section,] if receivership has been  
384 imposed on such home.

385 (b) [The Commissioner of Social Services shall adopt regulations in  
386 accordance with the provisions of chapter 54 to specify other allowable  
387 services. For purposes of this section, other allowable services means

388 those services required by any medical assistance beneficiary residing  
389 in such home or hospital which are not already covered in the rate set  
390 by the commissioner in accordance with the provisions of subsection (a)  
391 of this section] The Commissioner of Social Services may implement  
392 policies and procedures as necessary to carry out the provisions of this  
393 section while in the process of adopting the policies and procedures as  
394 regulations, provided notice of intent to adopt the regulations is  
395 published in accordance with the provisions of section 17b-10 not later  
396 than twenty days after the date of implementation.

397 (c) No facility subject to the requirements of this section shall accept  
398 payment in excess of the rate set by the commissioner pursuant to  
399 subsection (a) of this section for any medical assistance patient from this  
400 or any other state. No facility shall accept payment in excess of the  
401 reasonable and necessary costs of other allowable services as specified  
402 by the commissioner pursuant to the regulations adopted under  
403 subsection (b) of this section for any public assistance patient from this  
404 or any other state. Notwithstanding the provisions of this subsection,  
405 the commissioner may authorize a facility to accept payment in excess  
406 of the rate paid for a medical assistance patient in this state for a patient  
407 who receives medical assistance from another state.

408 (d) In any instance where the Commissioner of Social Services finds  
409 that a facility subject to the requirements of this section is accepting  
410 payment for a medical assistance beneficiary in violation of subsection  
411 (c) of this section, the commissioner shall proceed to recover through the  
412 rate set for the facility any sum in excess of the stipulated per diem and  
413 other allowable costs, as provided for in regulations adopted pursuant  
414 to subsections (a) and (b) of this section. The commissioner shall make  
415 the recovery prospectively at the time of the next annual rate  
416 redetermination.

417 (e) Except as provided in this subsection, the provisions of  
418 subsections (c) and (d) of this section shall not apply to any facility  
419 subject to the requirements of this section, which on October 1, 1981, (1)  
420 was accepting payments from the commissioner in accordance with the

421 provisions of subsection (a) of this section, (2) was accepting medical  
422 assistance payments from another state for at least twenty per cent of its  
423 patients, and (3) had not notified the commissioner of any intent to  
424 terminate its provider agreement, in accordance with section 17b-271,  
425 provided no patient residing in any such facility on May 22, 1984, shall  
426 be removed from such facility for purposes of meeting the requirements  
427 of this subsection. If the commissioner finds that the number of beds  
428 available to medical assistance patients from this state in any such  
429 facility is less than fifteen per cent the provisions of subsections (c) and  
430 (d) of this section shall apply to that number of beds which is less than  
431 said percentage.

432 (f) For the fiscal years ending on or before June 30, 2021, and for the  
433 period beginning on July 1, 2021, and ending on September 30, 2021,  
434 rates for nursing home facilities shall be set in accordance with this  
435 subsection. On and after October 1, 2021, such rates shall be set in  
436 accordance with section 17b-340d, as amended by this act. For the fiscal  
437 year ending June 30, 1992, the rates paid by or for persons aided or cared  
438 for by the state or any town in this state to facilities for room, board and  
439 services specified in licensing regulations issued by the licensing  
440 agency, except intermediate care facilities for individuals with  
441 intellectual disabilities and residential care homes, shall be based on the  
442 cost year ending September 30, 1989. For the fiscal years ending June 30,  
443 1993, and June 30, 1994, such rates shall be based on the cost year ending  
444 September 30, 1990. Such rates shall be determined by the  
445 Commissioner of Social Services in accordance with this section and the  
446 regulations of Connecticut state agencies promulgated by the  
447 commissioner and in effect on April 1, 1991, except that:

448 (1) Allowable costs shall be divided into the following five cost  
449 components: (A) Direct costs, which shall include salaries for nursing  
450 personnel, related fringe benefits and nursing pool costs; (B) indirect  
451 costs, which shall include professional fees, dietary expenses,  
452 housekeeping expenses, laundry expenses, supplies related to patient  
453 care, salaries for indirect care personnel and related fringe benefits; (C)  
454 fair rent, which shall be defined in accordance with subsection (f) of

455 section 17-311-52 of the regulations of Connecticut state agencies; (D)  
456 capital-related costs, which shall include property taxes, insurance  
457 expenses, equipment leases and equipment depreciation; and (E)  
458 administrative and general costs, which shall include (i) maintenance  
459 and operation of plant expenses, (ii) salaries for administrative and  
460 maintenance personnel, and (iii) related fringe benefits. The  
461 commissioner may provide a rate adjustment for nonemergency  
462 transportation services required by nursing facility residents. Such  
463 adjustment shall be a fixed amount determined annually by the  
464 commissioner based upon a review of costs and other associated  
465 information. Allowable costs shall not include costs for ancillary  
466 services payable under Part B of the Medicare program.

467 (2) Two geographic peer groupings of facilities shall be established  
468 for each level of care, as defined by the Department of Social Services  
469 for the determination of rates, for the purpose of determining allowable  
470 direct costs. One peer grouping shall be comprised of those facilities  
471 located in Fairfield County. The other peer grouping shall be comprised  
472 of facilities located in all other counties.

473 (3) For the fiscal year ending June 30, 1992, per diem maximum  
474 allowable costs for each cost component shall be as follows: For direct  
475 costs, the maximum shall be equal to one hundred forty per cent of the  
476 median allowable cost of that peer grouping; for indirect costs, the  
477 maximum shall be equal to one hundred thirty per cent of the state-wide  
478 median allowable cost; for fair rent, the amount shall be calculated  
479 utilizing the amount approved by the Office of Health Care Access  
480 pursuant to section 19a-638; for capital-related costs, there shall be no  
481 maximum; and for administrative and general costs, the maximum shall  
482 be equal to one hundred twenty-five per cent of the state-wide median  
483 allowable cost. For the fiscal year ending June 30, 1993, per diem  
484 maximum allowable costs for each cost component shall be as follows:  
485 For direct costs, the maximum shall be equal to one hundred forty per  
486 cent of the median allowable cost of that peer grouping; for indirect  
487 costs, the maximum shall be equal to one hundred twenty-five per cent  
488 of the state-wide median allowable cost; for fair rent, the amount shall

489 be calculated utilizing the amount approved by the Office of Health  
490 Care Access pursuant to section 19a-638; for capital-related costs, there  
491 shall be no maximum; and for administrative and general costs the  
492 maximum shall be equal to one hundred fifteen per cent of the state-  
493 wide median allowable cost. For the fiscal year ending June 30, 1994, per  
494 diem maximum allowable costs for each cost component shall be as  
495 follows: For direct costs, the maximum shall be equal to one hundred  
496 thirty-five per cent of the median allowable cost of that peer grouping;  
497 for indirect costs, the maximum shall be equal to one hundred twenty  
498 per cent of the state-wide median allowable cost; for fair rent, the  
499 amount shall be calculated utilizing the amount approved by the Office  
500 of Health Care Access pursuant to section 19a-638; for capital-related  
501 costs, there shall be no maximum; and for administrative and general  
502 costs the maximum shall be equal to one hundred ten per cent of the  
503 state-wide median allowable cost. For the fiscal year ending June 30,  
504 1995, per diem maximum allowable costs for each cost component shall  
505 be as follows: For direct costs, the maximum shall be equal to one  
506 hundred thirty-five per cent of the median allowable cost of that peer  
507 grouping; for indirect costs, the maximum shall be equal to one hundred  
508 twenty per cent of the state-wide median allowable cost; for fair rent,  
509 the amount shall be calculated utilizing the amount approved by the  
510 Office of Health Care Access pursuant to section 19a-638; for capital-  
511 related costs, there shall be no maximum; and for administrative and  
512 general costs the maximum shall be equal to one hundred five per cent  
513 of the state-wide median allowable cost. For the fiscal year ending June  
514 30, 1996, and any succeeding fiscal year, except for the fiscal years  
515 ending June 30, 2000, and June 30, 2001, for facilities with an interim rate  
516 in one or both periods, per diem maximum allowable costs for each cost  
517 component shall be as follows: For direct costs, the maximum shall be  
518 equal to one hundred thirty-five per cent of the median allowable cost  
519 of that peer grouping; for indirect costs, the maximum shall be equal to  
520 one hundred fifteen per cent of the state-wide median allowable cost;  
521 for fair rent, the amount shall be calculated utilizing the amount  
522 approved pursuant to section 19a-638; for capital-related costs, there  
523 shall be no maximum; and for administrative and general costs the

524 maximum shall be equal to the state-wide median allowable cost. For  
525 the fiscal years ending June 30, 2000, and June 30, 2001, for facilities with  
526 an interim rate in one or both periods, per diem maximum allowable  
527 costs for each cost component shall be as follows: For direct costs, the  
528 maximum shall be equal to one hundred forty-five per cent of the  
529 median allowable cost of that peer grouping; for indirect costs, the  
530 maximum shall be equal to one hundred twenty-five per cent of the  
531 state-wide median allowable cost; for fair rent, the amount shall be  
532 calculated utilizing the amount approved pursuant to section 19a-638;  
533 for capital-related costs, there shall be no maximum; and for  
534 administrative and general costs, the maximum shall be equal to the  
535 state-wide median allowable cost and such medians shall be based upon  
536 the same cost year used to set rates for facilities with prospective rates.  
537 Costs in excess of the maximum amounts established under this  
538 subsection shall not be recognized as allowable costs, except that the  
539 Commissioner of Social Services (A) may allow costs in excess of  
540 maximum amounts for any facility with patient days covered by  
541 Medicare, including days requiring coinsurance, in excess of twelve per  
542 cent of annual patient days which also has patient days covered by  
543 Medicaid in excess of fifty per cent of annual patient days; (B) may  
544 establish a pilot program whereby costs in excess of maximum amounts  
545 shall be allowed for beds in a nursing home which has a managed care  
546 program and is affiliated with a hospital licensed under chapter 368v;  
547 and (C) may establish rates whereby allowable costs may exceed such  
548 maximum amounts for beds approved on or after July 1, 1991, which are  
549 restricted to use by patients with acquired immune deficiency syndrome  
550 or traumatic brain injury.

551 (4) For the fiscal year ending June 30, 1992, (A) no facility shall receive  
552 a rate that is less than the rate it received for the rate year ending June  
553 30, 1991; (B) no facility whose rate, if determined pursuant to this  
554 subsection, would exceed one hundred twenty per cent of the state-wide  
555 median rate, as determined pursuant to this subsection, shall receive a  
556 rate which is five and one-half per cent more than the rate it received for  
557 the rate year ending June 30, 1991; and (C) no facility whose rate, if  
558 determined pursuant to this subsection, would be less than one hundred

559 twenty per cent of the state-wide median rate, as determined pursuant  
560 to this subsection, shall receive a rate which is six and one-half per cent  
561 more than the rate it received for the rate year ending June 30, 1991. For  
562 the fiscal year ending June 30, 1993, no facility shall receive a rate that is  
563 less than the rate it received for the rate year ending June 30, 1992, or six  
564 per cent more than the rate it received for the rate year ending June 30,  
565 1992. For the fiscal year ending June 30, 1994, no facility shall receive a  
566 rate that is less than the rate it received for the rate year ending June 30,  
567 1993, or six per cent more than the rate it received for the rate year  
568 ending June 30, 1993. For the fiscal year ending June 30, 1995, no facility  
569 shall receive a rate that is more than five per cent less than the rate it  
570 received for the rate year ending June 30, 1994, or six per cent more than  
571 the rate it received for the rate year ending June 30, 1994. For the fiscal  
572 years ending June 30, 1996, and June 30, 1997, no facility shall receive a  
573 rate that is more than three per cent more than the rate it received for  
574 the prior rate year. For the fiscal year ending June 30, 1998, a facility shall  
575 receive a rate increase that is not more than two per cent more than the  
576 rate that the facility received in the prior year. For the fiscal year ending  
577 June 30, 1999, a facility shall receive a rate increase that is not more than  
578 three per cent more than the rate that the facility received in the prior  
579 year and that is not less than one per cent more than the rate that the  
580 facility received in the prior year, exclusive of rate increases associated  
581 with a wage, benefit and staffing enhancement rate adjustment added  
582 for the period from April 1, 1999, to June 30, 1999, inclusive. For the fiscal  
583 year ending June 30, 2000, each facility, except a facility with an interim  
584 rate or replaced interim rate for the fiscal year ending June 30, 1999, and  
585 a facility having a certificate of need or other agreement specifying rate  
586 adjustments for the fiscal year ending June 30, 2000, shall receive a rate  
587 increase equal to one per cent applied to the rate the facility received for  
588 the fiscal year ending June 30, 1999, exclusive of the facility's wage,  
589 benefit and staffing enhancement rate adjustment. For the fiscal year  
590 ending June 30, 2000, no facility with an interim rate, replaced interim  
591 rate or scheduled rate adjustment specified in a certificate of need or  
592 other agreement for the fiscal year ending June 30, 2000, shall receive a  
593 rate increase that is more than one per cent more than the rate the facility

594 received in the fiscal year ending June 30, 1999. For the fiscal year ending  
595 June 30, 2001, each facility, except a facility with an interim rate or  
596 replaced interim rate for the fiscal year ending June 30, 2000, and a  
597 facility having a certificate of need or other agreement specifying rate  
598 adjustments for the fiscal year ending June 30, 2001, shall receive a rate  
599 increase equal to two per cent applied to the rate the facility received for  
600 the fiscal year ending June 30, 2000, subject to verification of wage  
601 enhancement adjustments pursuant to subdivision (14) of this  
602 subsection. For the fiscal year ending June 30, 2001, no facility with an  
603 interim rate, replaced interim rate or scheduled rate adjustment  
604 specified in a certificate of need or other agreement for the fiscal year  
605 ending June 30, 2001, shall receive a rate increase that is more than two  
606 per cent more than the rate the facility received for the fiscal year ending  
607 June 30, 2000. For the fiscal year ending June 30, 2002, each facility shall  
608 receive a rate that is two and one-half per cent more than the rate the  
609 facility received in the prior fiscal year. For the fiscal year ending June  
610 30, 2003, each facility shall receive a rate that is two per cent more than  
611 the rate the facility received in the prior fiscal year, except that such  
612 increase shall be effective January 1, 2003, and such facility rate in effect  
613 for the fiscal year ending June 30, 2002, shall be paid for services  
614 provided until December 31, 2002, except any facility that would have  
615 been issued a lower rate effective July 1, 2002, than for the fiscal year  
616 ending June 30, 2002, due to interim rate status or agreement with the  
617 department shall be issued such lower rate effective July 1, 2002, and  
618 have such rate increased two per cent effective June 1, 2003. For the fiscal  
619 year ending June 30, 2004, rates in effect for the period ending June 30,  
620 2003, shall remain in effect, except any facility that would have been  
621 issued a lower rate effective July 1, 2003, than for the fiscal year ending  
622 June 30, 2003, due to interim rate status or agreement with the  
623 department shall be issued such lower rate effective July 1, 2003. For the  
624 fiscal year ending June 30, 2005, rates in effect for the period ending June  
625 30, 2004, shall remain in effect until December 31, 2004, except any  
626 facility that would have been issued a lower rate effective July 1, 2004,  
627 than for the fiscal year ending June 30, 2004, due to interim rate status  
628 or agreement with the department shall be issued such lower rate

629 effective July 1, 2004. Effective January 1, 2005, each facility shall receive  
630 a rate that is one per cent greater than the rate in effect December 31,  
631 2004. Effective upon receipt of all the necessary federal approvals to  
632 secure federal financial participation matching funds associated with  
633 the rate increase provided in this subdivision, but in no event earlier  
634 than July 1, 2005, and provided the user fee imposed under section 17b-  
635 320 is required to be collected, for the fiscal year ending June 30, 2006,  
636 the department shall compute the rate for each facility based upon its  
637 2003 cost report filing or a subsequent cost year filing for facilities  
638 having an interim rate for the period ending June 30, 2005, as provided  
639 under section 17-311-55 of the regulations of Connecticut state agencies.  
640 For each facility not having an interim rate for the period ending June  
641 30, 2005, the rate for the period ending June 30, 2006, shall be determined  
642 beginning with the higher of the computed rate based upon its 2003 cost  
643 report filing or the rate in effect for the period ending June 30, 2005. Such  
644 rate shall then be increased by eleven dollars and eighty cents per day  
645 except that in no event shall the rate for the period ending June 30, 2006,  
646 be thirty-two dollars more than the rate in effect for the period ending  
647 June 30, 2005, and for any facility with a rate below one hundred ninety-  
648 five dollars per day for the period ending June 30, 2005, such rate for the  
649 period ending June 30, 2006, shall not be greater than two hundred  
650 seventeen dollars and forty-three cents per day and for any facility with  
651 a rate equal to or greater than one hundred ninety-five dollars per day  
652 for the period ending June 30, 2005, such rate for the period ending June  
653 30, 2006, shall not exceed the rate in effect for the period ending June 30,  
654 2005, increased by eleven and one-half per cent. For each facility with  
655 an interim rate for the period ending June 30, 2005, the interim  
656 replacement rate for the period ending June 30, 2006, shall not exceed  
657 the rate in effect for the period ending June 30, 2005, increased by eleven  
658 dollars and eighty cents per day plus the per day cost of the user fee  
659 payments made pursuant to section 17b-320 divided by annual resident  
660 service days, except for any facility with an interim rate below one  
661 hundred ninety-five dollars per day for the period ending June 30, 2005,  
662 the interim replacement rate for the period ending June 30, 2006, shall  
663 not be greater than two hundred seventeen dollars and forty-three cents

664 per day and for any facility with an interim rate equal to or greater than  
665 one hundred ninety-five dollars per day for the period ending June 30,  
666 2005, the interim replacement rate for the period ending June 30, 2006,  
667 shall not exceed the rate in effect for the period ending June 30, 2005,  
668 increased by eleven and one-half per cent. Such July 1, 2005, rate  
669 adjustments shall remain in effect unless (i) the federal financial  
670 participation matching funds associated with the rate increase are no  
671 longer available; or (ii) the user fee created pursuant to section 17b-320  
672 is not in effect. For the fiscal year ending June 30, 2007, each facility shall  
673 receive a rate that is three per cent greater than the rate in effect for the  
674 period ending June 30, 2006, except any facility that would have been  
675 issued a lower rate effective July 1, 2006, than for the rate period ending  
676 June 30, 2006, due to interim rate status or agreement with the  
677 department, shall be issued such lower rate effective July 1, 2006. For the  
678 fiscal year ending June 30, 2008, each facility shall receive a rate that is  
679 two and nine-tenths per cent greater than the rate in effect for the period  
680 ending June 30, 2007, except any facility that would have been issued a  
681 lower rate effective July 1, 2007, than for the rate period ending June 30,  
682 2007, due to interim rate status or agreement with the department, shall  
683 be issued such lower rate effective July 1, 2007. For the fiscal year ending  
684 June 30, 2009, rates in effect for the period ending June 30, 2008, shall  
685 remain in effect until June 30, 2009, except any facility that would have  
686 been issued a lower rate for the fiscal year ending June 30, 2009, due to  
687 interim rate status or agreement with the department shall be issued  
688 such lower rate. For the fiscal years ending June 30, 2010, and June 30,  
689 2011, rates in effect for the period ending June 30, 2009, shall remain in  
690 effect until June 30, 2011, except any facility that would have been issued  
691 a lower rate for the fiscal year ending June 30, 2010, or the fiscal year  
692 ending June 30, 2011, due to interim rate status or agreement with the  
693 department, shall be issued such lower rate. For the fiscal years ending  
694 June 30, 2012, and June 30, 2013, rates in effect for the period ending June  
695 30, 2011, shall remain in effect until June 30, 2013, except any facility that  
696 would have been issued a lower rate for the fiscal year ending June 30,  
697 2012, or the fiscal year ending June 30, 2013, due to interim rate status  
698 or agreement with the department, shall be issued such lower rate. For

699 the fiscal year ending June 30, 2014, the department shall determine  
700 facility rates based upon 2011 cost report filings subject to the provisions  
701 of this section and applicable regulations except: (I) A ninety per cent  
702 minimum occupancy standard shall be applied; (II) no facility shall  
703 receive a rate that is higher than the rate in effect on June 30, 2013; and  
704 (III) no facility shall receive a rate that is more than four per cent lower  
705 than the rate in effect on June 30, 2013, except that any facility that would  
706 have been issued a lower rate effective July 1, 2013, than for the rate  
707 period ending June 30, 2013, due to interim rate status or agreement  
708 with the department, shall be issued such lower rate effective July 1,  
709 2013. For the fiscal year ending June 30, 2015, rates in effect for the  
710 period ending June 30, 2014, shall remain in effect until June 30, 2015,  
711 except any facility that would have been issued a lower rate effective  
712 July 1, 2014, than for the rate period ending June 30, 2014, due to interim  
713 rate status or agreement with the department, shall be issued such lower  
714 rate effective July 1, 2014. For the fiscal years ending June 30, 2016, and  
715 June 30, 2017, rates shall not exceed those in effect for the period ending  
716 June 30, 2015, except the rate paid to a facility may be higher than the  
717 rate paid to the facility for the period ending June 30, 2015, if the  
718 commissioner provides, within available appropriations, pro rata fair  
719 rent increases, which may, at the discretion of the commissioner, include  
720 increases for facilities which have undergone a material change in  
721 circumstances related to fair rent additions or moveable equipment  
722 placed in service in cost report years ending September 30, 2014, and  
723 September 30, 2015, and not otherwise included in rates issued. For the  
724 fiscal years ending June 30, 2016, and June 30, 2017, and each succeeding  
725 fiscal year, any facility that would have been issued a lower rate, due to  
726 interim rate status or agreement with the department, shall be issued  
727 such lower rate. For the fiscal year ending June 30, 2018, facilities that  
728 received a rate decrease due to the expiration of a 2015 fair rent asset  
729 shall receive a rate increase of an equivalent amount effective July 1,  
730 2017. For the fiscal year ending June 30, 2018, the department shall  
731 determine facility rates based upon 2016 cost report filings subject to the  
732 provisions of this section and applicable regulations, provided no  
733 facility shall receive a rate that is higher than the rate in effect on

734 December 31, 2016, and no facility shall receive a rate that is more than  
735 two per cent lower than the rate in effect on December 31, 2016. For the  
736 fiscal year ending June 30, 2019, no facility shall receive a rate that is  
737 higher than the rate in effect on June 30, 2018, except the rate paid to a  
738 facility may be higher than the rate paid to the facility for the period  
739 ending June 30, 2018, if the commissioner provides, within available  
740 appropriations, pro rata fair rent increases, which may, at the discretion  
741 of the commissioner, include increases for facilities which have  
742 undergone a material change in circumstances related to fair rent  
743 additions or moveable equipment placed in service in the cost report  
744 year ending September 30, 2017, and not otherwise included in rates  
745 issued. For the fiscal year ending June 30, 2020, the department shall  
746 determine facility rates based upon 2018 cost report filings subject to the  
747 provisions of this section, adjusted to reflect any rate increases provided  
748 after the cost report year ending September 30, 2018, and applicable  
749 regulations, provided no facility shall receive a rate that is higher than  
750 the rate in effect on June 30, 2019, except the rate paid to a facility may  
751 be higher than the rate paid to the facility for the fiscal year ending June  
752 30, 2019, if the commissioner provides, within available appropriations,  
753 pro rata fair rent increases, which may, at the discretion of the  
754 commissioner, include increases for facilities which have undergone a  
755 material change in circumstances related to fair rent additions in the cost  
756 report year ending September 30, 2018, and are not otherwise included  
757 in rates issued. For the fiscal year ending June 30, 2020, no facility shall  
758 receive a rate that is more than two per cent lower than the rate in effect  
759 on June 30, 2019, unless the facility has an occupancy level of less than  
760 seventy per cent, as reported in the 2018 cost report, or an overall rating  
761 on Medicare's Nursing Home Compare of one star for the three most  
762 recent reporting periods as of July 1, 2019, unless the facility is under an  
763 interim rate due to new ownership. For the fiscal year ending June 30,  
764 2021, no facility shall receive a rate that is higher than the rate in effect  
765 on June 30, 2020, except the rate paid to a facility may be higher than the  
766 rate paid to the facility for the fiscal year ending June 30, 2020, if the  
767 commissioner provides, within available appropriations, pro rata fair  
768 rent increases, which may, at the discretion of the commissioner, include

769 increases for facilities which have undergone a material change in  
770 circumstances related to fair rent additions in the cost report year  
771 ending September 30, 2019, and are not otherwise included in rates  
772 issued. The Commissioner of Social Services shall add fair rent increases  
773 to any other rate increases established pursuant to this subdivision for a  
774 facility which has undergone a material change in circumstances related  
775 to fair rent, except for the fiscal years ending June 30, 2010, June 30, 2011,  
776 and June 30, 2012, such fair rent increases shall only be provided to  
777 facilities with an approved certificate of need pursuant to section 17b-  
778 352, 17b-353, 17b-354 or 17b-355. For the fiscal year ending June 30, 2013,  
779 the commissioner may, within available appropriations, provide pro  
780 rata fair rent increases for facilities which have undergone a material  
781 change in circumstances related to fair rent additions placed in service  
782 in cost report years ending September 30, 2008, to September 30, 2011,  
783 inclusive, and not otherwise included in rates issued. For the fiscal years  
784 ending June 30, 2014, and June 30, 2015, the commissioner may, within  
785 available appropriations, provide pro rata fair rent increases, which may  
786 include moveable equipment at the discretion of the commissioner, for  
787 facilities which have undergone a material change in circumstances  
788 related to fair rent additions or moveable equipment placed in service  
789 in cost report years ending September 30, 2012, and September 30, 2013,  
790 and not otherwise included in rates issued. The commissioner shall add  
791 fair rent increases associated with an approved certificate of need  
792 pursuant to section 17b-352, 17b-353, 17b-354 or 17b-355. Interim rates  
793 may take into account reasonable costs incurred by a facility, including  
794 wages and benefits. Notwithstanding the provisions of this section, the  
795 Commissioner of Social Services may, subject to available  
796 appropriations, increase or decrease rates issued to licensed chronic and  
797 convalescent nursing homes and licensed rest homes with nursing  
798 supervision. Notwithstanding any provision of this section, the  
799 Commissioner of Social Services shall, effective July 1, 2015, within  
800 available appropriations, adjust facility rates in accordance with the  
801 application of standard accounting principles as prescribed by the  
802 commissioner, for each facility subject to subsection (a) of this section.  
803 Such adjustment shall provide a pro-rata increase based on direct and

804 indirect care employee salaries reported in the 2014 annual cost report,  
805 and adjusted to reflect subsequent salary increases, to reflect reasonable  
806 costs mandated by collective bargaining agreements with certified  
807 collective bargaining agents, or otherwise provided by a facility to its  
808 employees. For purposes of this subsection, "employee" shall not  
809 include a person employed as a facility's manager, chief administrator,  
810 a person required to be licensed as a nursing home administrator or any  
811 individual who receives compensation for services pursuant to a  
812 contractual arrangement and who is not directly employed by the  
813 facility. The commissioner may establish an upper limit for reasonable  
814 costs associated with salary adjustments beyond which the adjustment  
815 shall not apply. Nothing in this section shall require the commissioner  
816 to distribute such adjustments in a way that jeopardizes anticipated  
817 federal reimbursement. Facilities that receive such adjustment but do  
818 not provide increases in employee salaries as described in this  
819 subsection on or before July 31, 2015, may be subject to a rate decrease  
820 in the same amount as the adjustment by the commissioner. Of the  
821 amount appropriated for this purpose, no more than nine million  
822 dollars shall go to increases based on reasonable costs mandated by  
823 collective bargaining agreements. Notwithstanding the provisions of  
824 this subsection, effective July 1, 2019, October 1, 2020, and January 1,  
825 2021, the commissioner shall, within available appropriations, increase  
826 rates for the purpose of wage and benefit enhancements for facility  
827 employees. The commissioner shall adjust the rate paid to the facility in  
828 the form of a rate adjustment to reflect any rate increases paid after the  
829 cost report year ending September 30, 2018. Facilities that receive a rate  
830 adjustment for the purpose of wage and benefit enhancements but do  
831 not provide increases in employee salaries as described in this  
832 subsection on or before September 30, 2019, October 31, 2020, and  
833 January 31, 2021, respectively, may be subject to a rate decrease in the  
834 same amount as the adjustment by the commissioner.

835 (5) For the purpose of determining allowable fair rent, a facility with  
836 allowable fair rent less than the twenty-fifth percentile of the state-wide  
837 allowable fair rent shall be reimbursed as having allowable fair rent  
838 equal to the twenty-fifth percentile of the state-wide allowable fair rent,

839 provided for the fiscal years ending June 30, 1996, and June 30, 1997, the  
840 reimbursement may not exceed the twenty-fifth percentile of the state-  
841 wide allowable fair rent for the fiscal year ending June 30, 1995. On and  
842 after July 1, 1998, the Commissioner of Social Services may allow  
843 minimum fair rent as the basis upon which reimbursement associated  
844 with improvements to real property is added. Beginning with the fiscal  
845 year ending June 30, 1996, any facility with a rate of return on real  
846 property other than land in excess of eleven per cent shall have such  
847 allowance revised to eleven per cent. Any facility or its related realty  
848 affiliate which finances or refinances debt through bonds issued by the  
849 State of Connecticut Health and Education Facilities Authority shall  
850 report the terms and conditions of such financing or refinancing to the  
851 Commissioner of Social Services within thirty days of completing such  
852 financing or refinancing. The Commissioner of Social Services may  
853 revise the facility's fair rent component of its rate to reflect any financial  
854 benefit the facility or its related realty affiliate received as a result of such  
855 financing or refinancing, including but not limited to, reductions in the  
856 amount of debt service payments or period of debt repayment. The  
857 commissioner shall allow actual debt service costs for bonds issued by  
858 the State of Connecticut Health and Educational Facilities Authority if  
859 such costs do not exceed property costs allowed pursuant to subsection  
860 (f) of section 17-311-52 of the regulations of Connecticut state agencies,  
861 provided the commissioner may allow higher debt service costs for such  
862 bonds for good cause. For facilities which first open on or after October  
863 1, 1992, the commissioner shall determine allowable fair rent for real  
864 property other than land based on the rate of return for the cost year in  
865 which such bonds were issued. The financial benefit resulting from a  
866 facility financing or refinancing debt through such bonds shall be shared  
867 between the state and the facility to an extent determined by the  
868 commissioner on a case-by-case basis and shall be reflected in an  
869 adjustment to the facility's allowable fair rent.

870 (6) A facility shall receive cost efficiency adjustments for indirect costs  
871 and for administrative and general costs if such costs are below the  
872 state-wide median costs. The cost efficiency adjustments shall equal  
873 twenty-five per cent of the difference between allowable reported costs

874 and the applicable median allowable cost established pursuant to this  
875 subdivision.

876 (7) For the fiscal year ending June 30, 1992, allowable operating costs,  
877 excluding fair rent, shall be inflated using the Regional Data Resources  
878 Incorporated McGraw-Hill Health Care Costs: Consumer Price Index  
879 (all urban)-All Items minus one and one-half per cent. For the fiscal year  
880 ending June 30, 1993, allowable operating costs, excluding fair rent, shall  
881 be inflated using the Regional Data Resources Incorporated McGraw-  
882 Hill Health Care Costs: Consumer Price Index (all urban)-All Items  
883 minus one and three-quarters per cent. For the fiscal years ending June  
884 30, 1994, and June 30, 1995, allowable operating costs, excluding fair  
885 rent, shall be inflated using the Regional Data Resources Incorporated  
886 McGraw-Hill Health Care Costs: Consumer Price Index (all urban)-All  
887 Items minus two per cent. For the fiscal year ending June 30, 1996,  
888 allowable operating costs, excluding fair rent, shall be inflated using the  
889 Regional Data Resources Incorporated McGraw-Hill Health Care Costs:  
890 Consumer Price Index (all urban)-All Items minus two and one-half per  
891 cent. For the fiscal year ending June 30, 1997, allowable operating costs,  
892 excluding fair rent, shall be inflated using the Regional Data Resources  
893 Incorporated McGraw-Hill Health Care Costs: Consumer Price Index  
894 (all urban)-All Items minus three and one-half per cent. For the fiscal  
895 year ending June 30, 1992, and any succeeding fiscal year, allowable fair  
896 rent shall be those reported in the annual report of long-term care  
897 facilities for the cost year ending the immediately preceding September  
898 thirtieth. The inflation index to be used pursuant to this subsection shall  
899 be computed to reflect inflation between the midpoint of the cost year  
900 through the midpoint of the rate year. The Department of Social Services  
901 shall study methods of reimbursement for fair rent and shall report its  
902 findings and recommendations to the joint standing committee of the  
903 General Assembly having cognizance of matters relating to human  
904 services on or before January 15, 1993.

905 (8) On and after July 1, 1994, costs shall be rebased no more frequently  
906 than every two years and no less frequently than every four years, as  
907 determined by the commissioner. The commissioner shall determine

908 whether and to what extent a change in ownership of a facility shall  
909 occasion the rebasing of the facility's costs.

910 (9) The method of establishing rates for new facilities shall be  
911 determined by the commissioner in accordance with the provisions of  
912 this subsection until September 30, 2021.

913 (10) Rates determined under this section shall comply with federal  
914 laws and regulations.

915 (11) Notwithstanding the provisions of this subsection, interim rates  
916 issued for facilities on and after July 1, 1991, shall be subject to applicable  
917 fiscal year cost component limitations established pursuant to  
918 subdivision (3) of this subsection.

919 (12) A chronic and convalescent nursing home having an ownership  
920 affiliation with and operated at the same location as a chronic disease  
921 hospital may request that the commissioner approve an exception to  
922 applicable rate-setting provisions for chronic and convalescent nursing  
923 homes and establish a rate for the fiscal years ending June 30, 1992, and  
924 June 30, 1993, in accordance with regulations in effect June 30, 1991. Any  
925 such rate shall not exceed one hundred sixty-five per cent of the median  
926 rate established for chronic and convalescent nursing homes established  
927 under this section for the applicable fiscal year.

928 (13) For the fiscal year ending June 30, 2014, and any succeeding fiscal  
929 year, for purposes of computing minimum allowable patient days,  
930 utilization of a facility's certified beds shall be determined at a minimum  
931 of ninety per cent of capacity, except for new facilities and facilities  
932 which are certified for additional beds which may be permitted a lower  
933 occupancy rate for the first three months of operation after the effective  
934 date of licensure.

935 (14) The Commissioner of Social Services shall adjust facility rates  
936 from April 1, 1999, to June 30, 1999, inclusive, by a per diem amount  
937 representing each facility's allocation of funds appropriated for the  
938 purpose of wage, benefit and staffing enhancement. A facility's per diem

939 allocation of such funding shall be computed as follows: (A) The  
940 facility's direct and indirect component salary, wage, nursing pool and  
941 allocated fringe benefit costs as filed for the 1998 cost report period  
942 deemed allowable in accordance with this section and applicable  
943 regulations without application of cost component maximums specified  
944 in subdivision (3) of this subsection shall be totalled; (B) such total shall  
945 be multiplied by the facility's Medicaid utilization based on the 1998 cost  
946 report; (C) the resulting amount for the facility shall be divided by the  
947 sum of the calculations specified in subparagraphs (A) and (B) of this  
948 subdivision for all facilities to determine the facility's percentage share  
949 of appropriated wage, benefit and staffing enhancement funding; (D)  
950 the facility's percentage share shall be multiplied by the amount of  
951 appropriated wage, benefit and staffing enhancement funding to  
952 determine the facility's allocated amount; and (E) such allocated amount  
953 shall be divided by the number of days of care paid for by Medicaid on  
954 an annual basis including days for reserved beds specified in the 1998  
955 cost report to determine the per diem wage and benefit rate adjustment  
956 amount. The commissioner may adjust a facility's reported 1998 cost and  
957 utilization data for the purposes of determining a facility's share of  
958 wage, benefit and staffing enhancement funding when reported 1998  
959 information is not substantially representative of estimated cost and  
960 utilization data for the fiscal year ending June 30, 2000, due to special  
961 circumstances during the 1998 cost report period including change of  
962 ownership with a part year cost filing or reductions in facility capacity  
963 due to facility renovation projects. Upon completion of the calculation  
964 of the allocation of wage, benefit and staffing enhancement funding, the  
965 commissioner shall not adjust the allocations due to revisions submitted  
966 to previously filed 1998 annual cost reports. In the event that a facility's  
967 rate for the fiscal year ending June 30, 1999, is an interim rate or the rate  
968 includes an increase adjustment due to a rate request to the  
969 commissioner or other reasons, the commissioner may reduce or  
970 withhold the per diem wage, benefit and staffing enhancement  
971 allocation computed for the facility. Any enhancement allocations not  
972 applied to facility rates shall not be reallocated to other facilities and  
973 such unallocated amounts shall be available for the costs associated with

974 interim rates and other Medicaid expenditures. The wage, benefit and  
975 staffing enhancement per diem adjustment for the period from April 1,  
976 1999, to June 30, 1999, inclusive, shall also be applied to rates for the  
977 fiscal years ending June 30, 2000, and June 30, 2001, except that the  
978 commissioner may increase or decrease the adjustment to account for  
979 changes in facility capacity or operations. Any facility accepting a rate  
980 adjustment for wage, benefit and staffing enhancements shall apply  
981 payments made as a result of such rate adjustment for increased  
982 allowable employee wage rates and benefits and additional direct and  
983 indirect component staffing. Adjustment funding shall not be applied to  
984 wage and salary increases provided to the administrator, assistant  
985 administrator, owners or related party employees. Enhancement  
986 payments may be applied to increases in costs associated with staffing  
987 purchased from staffing agencies provided such costs are deemed  
988 necessary and reasonable by the commissioner. The commissioner shall  
989 compare expenditures for wages, benefits and staffing for the 1998 cost  
990 report period to such expenditures in the 1999, 2000 and 2001 cost report  
991 periods to verify whether a facility has applied additional payments to  
992 specified enhancements. In the event that the commissioner determines  
993 that a facility did not apply additional payments to specified  
994 enhancements, the commissioner shall recover such amounts from the  
995 facility through rate adjustments or other means. The commissioner  
996 may require facilities to file cost reporting forms, in addition to the  
997 annual cost report, as may be necessary, to verify the appropriate  
998 application of wage, benefit and staffing enhancement rate adjustment  
999 payments. For the purposes of this subdivision, "Medicaid utilization"  
1000 means the number of days of care paid for by Medicaid on an annual  
1001 basis including days for reserved beds as a percentage of total resident  
1002 days.

1003 [(15) The interim rate established to become effective upon sale of any  
1004 licensed chronic and convalescent home or rest home with nursing  
1005 supervision for which a receivership has been imposed pursuant to  
1006 sections 19a-541 to 19a-549, inclusive, shall not exceed the rate in effect  
1007 for the facility at the time of the imposition of the receivership, subject  
1008 to any annual increases permitted by this section; provided the

1009 Commissioner of Social Services may, in the commissioner's discretion,  
1010 and after consultation with the receiver, establish an increased rate for  
1011 the facility if the commissioner with approval of the Secretary of the  
1012 Office of Policy and Management determines that such higher rate is  
1013 needed to keep the facility open and to ensure the health, safety and  
1014 welfare of the residents at such facility.]

1015 (g) The established interim rate to become effective upon sale of any  
1016 licensed chronic and convalescent home or rest home with nursing  
1017 supervision for which a receivership has been imposed pursuant to  
1018 sections 19a-541 to 19a-549, inclusive, shall not exceed the rate in effect  
1019 for the facility at the time of the imposition of the receivership, subject  
1020 to any annual increases permitted by this section, provided the  
1021 Commissioner of Social Services may, in the commissioner's discretion  
1022 and after consultation with the receiver, establish an increased rate for  
1023 the facility if the commissioner, with the approval of the Secretary of the  
1024 Office of Policy and Management, determines that such higher rate is  
1025 needed to keep the facility open and to ensure the health, safety and  
1026 welfare of the residents at such facility.

1027 [(g)] (h) For the fiscal year ending June 30, 1993, any intermediate care  
1028 facility for individuals with intellectual disabilities with an operating  
1029 cost component of its rate in excess of one hundred forty per cent of the  
1030 median of operating cost components of rates in effect January 1, 1992,  
1031 shall not receive an operating cost component increase. For the fiscal  
1032 year ending June 30, 1993, any intermediate care facility for individuals  
1033 with intellectual disabilities with an operating cost component of its rate  
1034 that is less than one hundred forty per cent of the median of operating  
1035 cost components of rates in effect January 1, 1992, shall have an  
1036 allowance for real wage growth equal to thirty per cent of the increase  
1037 determined in accordance with subsection (q) of section 17-311-52 of the  
1038 regulations of Connecticut state agencies, provided such operating cost  
1039 component shall not exceed one hundred forty per cent of the median  
1040 of operating cost components in effect January 1, 1992. Any facility with  
1041 real property other than land placed in service prior to October 1, 1991,  
1042 shall, for the fiscal year ending June 30, 1995, receive a rate of return on

1043 real property equal to the average of the rates of return applied to real  
1044 property other than land placed in service for the five years preceding  
1045 October 1, 1993. For the fiscal year ending June 30, 1996, and any  
1046 succeeding fiscal year, the rate of return on real property for property  
1047 items shall be revised every five years. The commissioner shall, upon  
1048 submission of a request, allow actual debt service, comprised of  
1049 principal and interest, in excess of property costs allowed pursuant to  
1050 section 17-311-52 of the regulations of Connecticut state agencies,  
1051 provided such debt service terms and amounts are reasonable in  
1052 relation to the useful life and the base value of the property. For the fiscal  
1053 year ending June 30, 1995, and any succeeding fiscal year, the inflation  
1054 adjustment made in accordance with subsection (p) of section 17-311-52  
1055 of the regulations of Connecticut state agencies shall not be applied to  
1056 real property costs. For the fiscal year ending June 30, 1996, and any  
1057 succeeding fiscal year, the allowance for real wage growth, as  
1058 determined in accordance with subsection (q) of section 17-311-52 of the  
1059 regulations of Connecticut state agencies, shall not be applied. For the  
1060 fiscal year ending June 30, 1996, and any succeeding fiscal year, no rate  
1061 shall exceed three hundred seventy-five dollars per day unless the  
1062 commissioner, in consultation with the Commissioner of  
1063 Developmental Services, determines after a review of program and  
1064 management costs, that a rate in excess of this amount is necessary for  
1065 care and treatment of facility residents. For the fiscal year ending June  
1066 30, 2002, rate period, the Commissioner of Social Services shall increase  
1067 the inflation adjustment for rates made in accordance with subsection  
1068 (p) of section 17-311-52 of the regulations of Connecticut state agencies  
1069 to update allowable fiscal year 2000 costs to include a three and one-half  
1070 per cent inflation factor. For the fiscal year ending June 30, 2003, rate  
1071 period, the commissioner shall increase the inflation adjustment for  
1072 rates made in accordance with subsection (p) of section 17-311-52 of the  
1073 regulations of Connecticut state agencies to update allowable fiscal year  
1074 2001 costs to include a one and one-half per cent inflation factor, except  
1075 that such increase shall be effective November 1, 2002, and such facility  
1076 rate in effect for the fiscal year ending June 30, 2002, shall be paid for  
1077 services provided until October 31, 2002, except any facility that would

1078 have been issued a lower rate effective July 1, 2002, than for the fiscal  
1079 year ending June 30, 2002, due to interim rate status or agreement with  
1080 the department shall be issued such lower rate effective July 1, 2002, and  
1081 have such rate updated effective November 1, 2002, in accordance with  
1082 applicable statutes and regulations. For the fiscal year ending June 30,  
1083 2004, rates in effect for the period ending June 30, 2003, shall remain in  
1084 effect, except any facility that would have been issued a lower rate  
1085 effective July 1, 2003, than for the fiscal year ending June 30, 2003, due  
1086 to interim rate status or agreement with the department shall be issued  
1087 such lower rate effective July 1, 2003. For the fiscal year ending June 30,  
1088 2005, rates in effect for the period ending June 30, 2004, shall remain in  
1089 effect until September 30, 2004. Effective October 1, 2004, each facility  
1090 shall receive a rate that is five per cent greater than the rate in effect  
1091 September 30, 2004. Effective upon receipt of all the necessary federal  
1092 approvals to secure federal financial participation matching funds  
1093 associated with the rate increase provided in subdivision (4) of  
1094 subsection (f) of this section, but in no event earlier than October 1, 2005,  
1095 and provided the user fee imposed under section 17b-320 is required to  
1096 be collected, each facility shall receive a rate that is four per cent more  
1097 than the rate the facility received in the prior fiscal year, except any  
1098 facility that would have been issued a lower rate effective October 1,  
1099 2005, than for the fiscal year ending June 30, 2005, due to interim rate  
1100 status or agreement with the department, shall be issued such lower rate  
1101 effective October 1, 2005. Such rate increase shall remain in effect unless:  
1102 (1) The federal financial participation matching funds associated with  
1103 the rate increase are no longer available; or (2) the user fee created  
1104 pursuant to section 17b-320 is not in effect. For the fiscal year ending  
1105 June 30, 2007, rates in effect for the period ending June 30, 2006, shall  
1106 remain in effect until September 30, 2006, except any facility that would  
1107 have been issued a lower rate effective July 1, 2006, than for the fiscal  
1108 year ending June 30, 2006, due to interim rate status or agreement with  
1109 the department, shall be issued such lower rate effective July 1, 2006.  
1110 Effective October 1, 2006, no facility shall receive a rate that is more than  
1111 three per cent greater than the rate in effect for the facility on September  
1112 30, 2006, except any facility that would have been issued a lower rate

1113 effective October 1, 2006, due to interim rate status or agreement with  
1114 the department, shall be issued such lower rate effective October 1, 2006.  
1115 For the fiscal year ending June 30, 2008, each facility shall receive a rate  
1116 that is two and nine-tenths per cent greater than the rate in effect for the  
1117 period ending June 30, 2007, except any facility that would have been  
1118 issued a lower rate effective July 1, 2007, than for the rate period ending  
1119 June 30, 2007, due to interim rate status, or agreement with the  
1120 department, shall be issued such lower rate effective July 1, 2007. For the  
1121 fiscal year ending June 30, 2009, rates in effect for the period ending June  
1122 30, 2008, shall remain in effect until June 30, 2009, except any facility that  
1123 would have been issued a lower rate for the fiscal year ending June 30,  
1124 2009, due to interim rate status or agreement with the department, shall  
1125 be issued such lower rate. For the fiscal years ending June 30, 2010, and  
1126 June 30, 2011, rates in effect for the period ending June 30, 2009, shall  
1127 remain in effect until June 30, 2011, except any facility that would have  
1128 been issued a lower rate for the fiscal year ending June 30, 2010, or the  
1129 fiscal year ending June 30, 2011, due to interim rate status or agreement  
1130 with the department, shall be issued such lower rate. For the fiscal year  
1131 ending June 30, 2012, rates in effect for the period ending June 30, 2011,  
1132 shall remain in effect until June 30, 2012, except any facility that would  
1133 have been issued a lower rate for the fiscal year ending June 30, 2012,  
1134 due to interim rate status or agreement with the department, shall be  
1135 issued such lower rate. For the fiscal years ending June 30, 2014, and  
1136 June 30, 2015, rates shall not exceed those in effect for the period ending  
1137 June 30, 2013, except the rate paid to a facility may be higher than the  
1138 rate paid to the facility for the period ending June 30, 2013, if a capital  
1139 improvement approved by the Department of Developmental Services,  
1140 in consultation with the Department of Social Services, for the health or  
1141 safety of the residents was made to the facility during the fiscal year  
1142 ending June 30, 2014, or June 30, 2015, to the extent such rate increases  
1143 are within available appropriations. Any facility that would have been  
1144 issued a lower rate for the fiscal year ending June 30, 2014, or the fiscal  
1145 year ending June 30, 2015, due to interim rate status or agreement with  
1146 the department, shall be issued such lower rate. For the fiscal years  
1147 ending June 30, 2016, and June 30, 2017, rates shall not exceed those in

1148 effect for the period ending June 30, 2015, except the rate paid to a  
1149 facility may be higher than the rate paid to the facility for the period  
1150 ending June 30, 2015, if a capital improvement approved by the  
1151 Department of Developmental Services, in consultation with the  
1152 Department of Social Services, for the health or safety of the residents  
1153 was made to the facility during the fiscal year ending June 30, 2016, or  
1154 June 30, 2017, to the extent such rate increases are within available  
1155 appropriations. For the fiscal years ending June 30, 2016, and June 30,  
1156 2017, and each succeeding fiscal year, any facility that would have been  
1157 issued a lower rate, due to interim rate status, a change in allowable fair  
1158 rent or agreement with the department, shall be issued such lower rate.  
1159 For the fiscal years ending June 30, 2018, and June 30, 2019, rates shall  
1160 not exceed those in effect for the period ending June 30, 2017, except the  
1161 rate paid to a facility may be higher than the rate paid to the facility for  
1162 the period ending June 30, 2017, if a capital improvement approved by  
1163 the Department of Developmental Services, in consultation with the  
1164 Department of Social Services, for the health or safety of the residents  
1165 was made to the facility during the fiscal year ending June 30, 2018, or  
1166 June 30, 2019, only to the extent such rate increases are within available  
1167 appropriations. For the fiscal years ending June 30, 2020, and June 30,  
1168 2021, rates shall not exceed those in effect for the fiscal year ending June  
1169 30, 2019, except the rate paid to a facility may be higher than the rate  
1170 paid to the facility for the fiscal year ending June 30, 2019, if a capital  
1171 improvement approved by the Department of Developmental Services,  
1172 in consultation with the Department of Social Services, for the health or  
1173 safety of the residents was made to the facility during the fiscal year  
1174 ending June 30, 2020, or June 30, 2021, only to the extent such rate  
1175 increases are within available appropriations. Any facility that has a  
1176 significant decrease in land and building costs shall receive a reduced  
1177 rate to reflect such decrease in land and building costs. For the fiscal  
1178 years ending June 30, 2012, June 30, 2013, June 30, 2014, June 30, 2015,  
1179 June 30, 2016, June 30, 2017, June 30, 2018, June 30, 2019, June 30, 2020,  
1180 [and] June 30, 2021, June 30, 2022, and June 30, 2023, the Commissioner  
1181 of Social Services may provide fair rent increases to any facility that has  
1182 undergone a material change in circumstances related to fair rent and

1183 has an approved certificate of need pursuant to section 17b-352, 17b-353,  
1184 17b-354 or 17b-355. Notwithstanding the provisions of this section, the  
1185 Commissioner of Social Services may, within available appropriations,  
1186 increase or decrease rates issued to intermediate care facilities for  
1187 individuals with intellectual disabilities to reflect a reduction in  
1188 available appropriations as provided in subsection (a) of this section.  
1189 For the fiscal years ending June 30, 2014, and June 30, 2015, the  
1190 commissioner shall not consider rebasing in determining rates.

1191 [(h) (1)] (i) For the fiscal year ending June 30, 1993, any residential  
1192 care home with an operating cost component of its rate in excess of one  
1193 hundred thirty per cent of the median of operating cost components of  
1194 rates in effect January 1, 1992, shall not receive an operating cost  
1195 component increase. For the fiscal year ending June 30, 1993, any  
1196 residential care home with an operating cost component of its rate that  
1197 is less than one hundred thirty per cent of the median of operating cost  
1198 components of rates in effect January 1, 1992, shall have an allowance  
1199 for real wage growth equal to sixty-five per cent of the increase  
1200 determined in accordance with subsection (q) of section 17-311-52 of the  
1201 regulations of Connecticut state agencies, provided such operating cost  
1202 component shall not exceed one hundred thirty per cent of the median  
1203 of operating cost components in effect January 1, 1992. Beginning with  
1204 the fiscal year ending June 30, 1993, for the purpose of determining  
1205 allowable fair rent, a residential care home with allowable fair rent less  
1206 than the twenty-fifth percentile of the state-wide allowable fair rent shall  
1207 be reimbursed as having allowable fair rent equal to the twenty-fifth  
1208 percentile of the state-wide allowable fair rent. Beginning with the fiscal  
1209 year ending June 30, 1997, a residential care home with allowable fair  
1210 rent less than three dollars and ten cents per day shall be reimbursed as  
1211 having allowable fair rent equal to three dollars and ten cents per day.  
1212 Property additions placed in service during the cost year ending  
1213 September 30, 1996, or any succeeding cost year shall receive a fair rent  
1214 allowance for such additions as an addition to three dollars and ten  
1215 cents per day if the fair rent for the facility for property placed in service  
1216 prior to September 30, 1995, is less than or equal to three dollars and ten  
1217 cents per day. Beginning with the fiscal year ending June 30, 2016, a

1218 residential care home shall be reimbursed the greater of the allowable  
1219 accumulated fair rent reimbursement associated with real property  
1220 additions and land as calculated on a per day basis or three dollars and  
1221 ten cents per day if the allowable reimbursement associated with real  
1222 property additions and land is less than three dollars and ten cents per  
1223 day. For the fiscal year ending June 30, 1996, and any succeeding fiscal  
1224 year, the allowance for real wage growth, as determined in accordance  
1225 with subsection (q) of section 17-311-52 of the regulations of Connecticut  
1226 state agencies, shall not be applied. For the fiscal year ending June 30,  
1227 1996, and any succeeding fiscal year, the inflation adjustment made in  
1228 accordance with subsection (p) of section 17-311-52 of the regulations of  
1229 Connecticut state agencies shall not be applied to real property costs.  
1230 Beginning with the fiscal year ending June 30, 1997, minimum allowable  
1231 patient days for rate computation purposes for a residential care home  
1232 with twenty-five beds or less shall be eighty-five per cent of licensed  
1233 capacity. Beginning with the fiscal year ending June 30, 2002, for the  
1234 purposes of determining the allowable salary of an administrator of a  
1235 residential care home with sixty beds or less the department shall revise  
1236 the allowable base salary to thirty-seven thousand dollars to be annually  
1237 inflated thereafter in accordance with section 17-311-52 of the  
1238 regulations of Connecticut state agencies. The rates for the fiscal year  
1239 ending June 30, 2002, shall be based upon the increased allowable salary  
1240 of an administrator, regardless of whether such amount was expended  
1241 in the 2000 cost report period upon which the rates are based. Beginning  
1242 with the fiscal year ending June 30, 2000, and until the fiscal year ending  
1243 June 30, 2009, inclusive, the inflation adjustment for rates made in  
1244 accordance with subsection (p) of section 17-311-52 of the regulations of  
1245 Connecticut state agencies shall be increased by two per cent, and  
1246 beginning with the fiscal year ending June 30, 2002, the inflation  
1247 adjustment for rates made in accordance with subsection (c) of said  
1248 section shall be increased by one per cent. Beginning with the fiscal year  
1249 ending June 30, 1999, for the purpose of determining the allowable  
1250 salary of a related party, the department shall revise the maximum  
1251 salary to twenty-seven thousand eight hundred fifty-six dollars to be  
1252 annually inflated thereafter in accordance with section 17-311-52 of the

1253 regulations of Connecticut state agencies and beginning with the fiscal  
1254 year ending June 30, 2001, such allowable salary shall be computed on  
1255 an hourly basis and the maximum number of hours allowed for a related  
1256 party other than the proprietor shall be increased from forty hours to  
1257 forty-eight hours per work week. For the fiscal year ending June 30,  
1258 2005, each facility shall receive a rate that is two and one-quarter per  
1259 cent more than the rate the facility received in the prior fiscal year,  
1260 except any facility that would have been issued a lower rate effective  
1261 July 1, 2004, than for the fiscal year ending June 30, 2004, due to interim  
1262 rate status or agreement with the department shall be issued such lower  
1263 rate effective July 1, 2004. Effective upon receipt of all the necessary  
1264 federal approvals to secure federal financial participation matching  
1265 funds associated with the rate increase provided in subdivision (4) of  
1266 subsection (f) of this section, but in no event earlier than October 1, 2005,  
1267 and provided the user fee imposed under section 17b-320 is required to  
1268 be collected, each facility shall receive a rate that is determined in  
1269 accordance with applicable law and subject to appropriations, except  
1270 any facility that would have been issued a lower rate effective October  
1271 1, 2005, than for the fiscal year ending June 30, 2005, due to interim rate  
1272 status or agreement with the department, shall be issued such lower rate  
1273 effective October 1, 2005. Such rate increase shall remain in effect unless:  
1274 [(A)] (1) The federal financial participation matching funds associated  
1275 with the rate increase are no longer available; or [(B)] (2) the user fee  
1276 created pursuant to section 17b-320 is not in effect. For the fiscal year  
1277 ending June 30, 2007, rates in effect for the period ending June 30, 2006,  
1278 shall remain in effect until September 30, 2006, except any facility that  
1279 would have been issued a lower rate effective July 1, 2006, than for the  
1280 fiscal year ending June 30, 2006, due to interim rate status or agreement  
1281 with the department, shall be issued such lower rate effective July 1,  
1282 2006. Effective October 1, 2006, no facility shall receive a rate that is more  
1283 than four per cent greater than the rate in effect for the facility on  
1284 September 30, 2006, except for any facility that would have been issued  
1285 a lower rate effective October 1, 2006, due to interim rate status or  
1286 agreement with the department, shall be issued such lower rate effective  
1287 October 1, 2006. For the fiscal years ending June 30, 2010, and June 30,

1288 2011, rates in effect for the period ending June 30, 2009, shall remain in  
1289 effect until June 30, 2011, except any facility that would have been issued  
1290 a lower rate for the fiscal year ending June 30, 2010, or the fiscal year  
1291 ending June 30, 2011, due to interim rate status or agreement with the  
1292 department, shall be issued such lower rate, except [(i)] (A) any facility  
1293 that would have been issued a lower rate for the fiscal year ending June  
1294 30, 2010, or the fiscal year ending June 30, 2011, due to interim rate status  
1295 or agreement with the Commissioner of Social Services shall be issued  
1296 such lower rate; and [(ii)] (B) the commissioner may increase a facility's  
1297 rate for reasonable costs associated with such facility's compliance with  
1298 the provisions of section 19a-495a concerning the administration of  
1299 medication by unlicensed personnel. For the fiscal year ending June 30,  
1300 2012, rates in effect for the period ending June 30, 2011, shall remain in  
1301 effect until June 30, 2012, except that [(I)] (i) any facility that would have  
1302 been issued a lower rate for the fiscal year ending June 30, 2012, due to  
1303 interim rate status or agreement with the Commissioner of Social  
1304 Services shall be issued such lower rate; and [(II)] (ii) the commissioner  
1305 may increase a facility's rate for reasonable costs associated with such  
1306 facility's compliance with the provisions of section 19a-495a concerning  
1307 the administration of medication by unlicensed personnel. For the fiscal  
1308 year ending June 30, 2013, the Commissioner of Social Services may,  
1309 within available appropriations, provide a rate increase to a residential  
1310 care home. Any facility that would have been issued a lower rate for the  
1311 fiscal year ending June 30, 2013, due to interim rate status or agreement  
1312 with the Commissioner of Social Services shall be issued such lower  
1313 rate. For the fiscal years ending June 30, 2012, and June 30, 2013, the  
1314 Commissioner of Social Services may provide fair rent increases to any  
1315 facility that has undergone a material change in circumstances related  
1316 to fair rent and has an approved certificate of need pursuant to section  
1317 17b-352, 17b-353, 17b-354 or 17b-355. For the fiscal years ending June 30,  
1318 2014, and June 30, 2015, for those facilities that have a calculated rate  
1319 greater than the rate in effect for the fiscal year ending June 30, 2013, the  
1320 commissioner may increase facility rates based upon available  
1321 appropriations up to a stop gain as determined by the commissioner.  
1322 No facility shall be issued a rate that is lower than the rate in effect on

1323 June 30, 2013, except that any facility that would have been issued a  
1324 lower rate for the fiscal year ending June 30, 2014, or the fiscal year  
1325 ending June 30, 2015, due to interim rate status or agreement with the  
1326 commissioner, shall be issued such lower rate. For the fiscal year ending  
1327 June 30, 2014, and each fiscal year thereafter, a residential care home  
1328 shall receive a rate increase for any capital improvement made during  
1329 the fiscal year for the health and safety of residents and approved by the  
1330 Department of Social Services, provided such rate increase is within  
1331 available appropriations. For the fiscal year ending June 30, 2015, and  
1332 each succeeding fiscal year thereafter, costs of less than ten thousand  
1333 dollars that are incurred by a facility and are associated with any land,  
1334 building or nonmovable equipment repair or improvement that are  
1335 reported in the cost year used to establish the facility's rate shall not be  
1336 capitalized for a period of more than five years for rate-setting purposes.  
1337 For the fiscal year ending June 30, 2015, subject to available  
1338 appropriations, the commissioner may, at the commissioner's  
1339 discretion: Increase the inflation cost limitation under subsection (c) of  
1340 section 17-311-52 of the regulations of Connecticut state agencies,  
1341 provided such inflation allowance factor does not exceed a maximum of  
1342 five per cent; establish a minimum rate of return applied to real property  
1343 of five per cent inclusive of assets placed in service during cost year  
1344 2013; waive the standard rate of return under subsection (f) of section  
1345 17-311-52 of the regulations of Connecticut state agencies for ownership  
1346 changes or health and safety improvements that exceed one hundred  
1347 thousand dollars and that are required under a consent order from the  
1348 Department of Public Health; and waive the rate of return adjustment  
1349 under subsection (f) of section 17-311-52 of the regulations of  
1350 Connecticut state agencies to avoid financial hardship. For the fiscal  
1351 years ending June 30, 2016, and June 30, 2017, rates shall not exceed  
1352 those in effect for the period ending June 30, 2015, except the  
1353 commissioner may, in the commissioner's discretion and within  
1354 available appropriations, provide pro rata fair rent increases to facilities  
1355 which have documented fair rent additions placed in service in cost  
1356 report years ending September 30, 2014, and September 30, 2015, that  
1357 are not otherwise included in rates issued. For the fiscal years ending

1358 June 30, 2016, and June 30, 2017, and each succeeding fiscal year, any  
1359 facility that would have been issued a lower rate, due to interim rate  
1360 status, a change in allowable fair rent or agreement with the department,  
1361 shall be issued such lower rate. For the fiscal year ending June 30, 2018,  
1362 rates shall not exceed those in effect for the period ending June 30, 2017,  
1363 except the commissioner may, in the commissioner's discretion and  
1364 within available appropriations, provide pro rata fair rent increases to  
1365 facilities which have documented fair rent additions placed in service in  
1366 the cost report year ending September 30, 2016, that are not otherwise  
1367 included in rates issued. For the fiscal year ending June 30, 2019, rates  
1368 shall not exceed those in effect for the period ending June 30, 2018,  
1369 except the commissioner may, in the commissioner's discretion and  
1370 within available appropriations, provide pro rata fair rent increases to  
1371 facilities which have documented fair rent additions placed in service in  
1372 the cost report year ending September 30, 2017, that are not otherwise  
1373 included in rates issued. For the fiscal year ending June 30, 2020, rates  
1374 shall not exceed those in effect for the fiscal year ending June 30, 2019,  
1375 except the commissioner may, in the commissioner's discretion and  
1376 within available appropriations, provide pro rata fair rent increases to  
1377 facilities which have documented fair rent additions placed in service in  
1378 the cost report year ending September 30, 2018, that are not otherwise  
1379 included in rates issued. For the fiscal year ending June 30, 2021, rates  
1380 shall not exceed those in effect for the fiscal year ending June 30, 2020,  
1381 except the commissioner may, in the commissioner's discretion and  
1382 within available appropriations, provide pro rata fair rent increases to  
1383 facilities which have documented fair rent additions placed in service in  
1384 the cost report year ending September 30, 2019, that are not otherwise  
1385 included in rates issued. For the fiscal year ending June 30, 2022, the  
1386 commissioner may, in the commissioner's discretion and within  
1387 available appropriations, provide pro rata fair rent increases to facilities  
1388 which have documented fair rent additions placed in service in the cost  
1389 report year ending September 30, 2020, that are not otherwise included  
1390 in rates issued. For the fiscal year ending June 30, 2023, the  
1391 commissioner may, in the commissioner's discretion and within  
1392 available appropriations, provide pro rata fair rent increases to facilities

1393 which have documented fair rent additions placed in service in the cost  
1394 report year ending September 30, 2021, that are not otherwise included  
1395 in rates issued.

1396 [(2) The commissioner shall, upon determining that a loan to be  
1397 issued to a residential care home by the Connecticut Housing Finance  
1398 Authority is reasonable in relation to the useful life and property cost  
1399 allowance pursuant to section 17-311-52 of the regulations of  
1400 Connecticut state agencies, allow actual debt service, comprised of  
1401 principal, interest and a repair and replacement reserve on the loan, in  
1402 lieu of allowed property costs whether actual debt service is higher or  
1403 lower than such allowed property costs.

1404 (i) Notwithstanding the provisions of this section, the Commissioner  
1405 of Social Services shall establish a fee schedule for payments to be made  
1406 to chronic disease hospitals associated with chronic and convalescent  
1407 nursing homes to be effective on and after July 1, 1995. The fee schedule  
1408 may be adjusted annually beginning July 1, 1997, to reflect necessary  
1409 increases in the cost of services.]

1410 (j) Notwithstanding the provisions of this section, state rates of  
1411 payment for the fiscal years ending June 30, 2018, June 30, 2019, June 30,  
1412 2020, and June 30, 2021, for residential care homes and community  
1413 living arrangements that receive the flat rate for residential services  
1414 under section 17-311-54 of the regulations of Connecticut state agencies  
1415 shall be set in accordance with section 298 of public act 19-117.

1416 Sec. 4. Subsection (a) of section 19a-507 of the general statutes is  
1417 repealed and the following is substituted in lieu thereof (*Effective July 1,*  
1418 *2021*):

1419 (a) Notwithstanding the provisions of chapter 368z, New Horizons,  
1420 Inc., a nonprofit, nonsectarian organization, or a subsidiary  
1421 organization controlled by New Horizons, Inc., is authorized to  
1422 construct and operate an independent living facility for severely  
1423 physically disabled adults, in the town of Farmington, provided such  
1424 facility shall be constructed in accordance with applicable building

1425 codes. The Farmington Housing Authority, or any issuer acting on  
1426 behalf of said authority, subject to the provisions of this section, may  
1427 issue tax-exempt revenue bonds on a competitive or negotiated basis for  
1428 the purpose of providing construction and permanent mortgage  
1429 financing for the facility in accordance with Section 103 of the Internal  
1430 Revenue Code. Prior to the issuance of such bonds, plans for the  
1431 construction of the facility shall be submitted to and approved by the  
1432 Health Systems Planning Unit of the Office of Health Strategy. The unit  
1433 shall approve or disapprove such plans within thirty days of receipt  
1434 thereof. If the plans are disapproved they may be resubmitted. Failure  
1435 of the unit to act on the plans within such thirty-day period shall be  
1436 deemed approval thereof. The payments to residents of the facility who  
1437 are eligible for assistance under the state supplement program for room  
1438 and board and necessary services, shall be determined annually to be  
1439 effective July first of each year. Such payments shall be determined on a  
1440 basis of a reasonable payment for necessary services, which basis shall  
1441 take into account as a factor the costs of providing those services and  
1442 such other factors as the commissioner deems reasonable, including  
1443 anticipated fluctuations in the cost of providing services. Such payments  
1444 shall be calculated in accordance with the manner in which rates are  
1445 calculated pursuant to subsection [(h)] (i) of section 17b-340, as amended  
1446 by this act, and the cost-related reimbursement system pursuant to said  
1447 section except that efficiency incentives shall not be granted. The  
1448 commissioner may adjust such rates to account for the availability of  
1449 personal care services for residents under the Medicaid program. The  
1450 commissioner shall, upon submission of a request, allow actual debt  
1451 service, comprised of principal and interest, in excess of property costs  
1452 allowed pursuant to section 17-313b-5 of the regulations of Connecticut  
1453 state agencies, provided such debt service terms and amounts are  
1454 reasonable in relation to the useful life and the base value of the  
1455 property. The cost basis for such payment shall be subject to audit, and  
1456 a recomputation of the rate shall be made based upon such audit. The  
1457 facility shall report on a fiscal year ending on the thirtieth day of  
1458 September on forms provided by the commissioner. The required report  
1459 shall be received by the commissioner no later than December thirty-

1460 first of each year. The Department of Social Services may use its existing  
 1461 utilization review procedures to monitor utilization of the facility. If the  
 1462 facility is aggrieved by any decision of the commissioner, the facility  
 1463 may, within ten days, after written notice thereof from the  
 1464 commissioner, obtain by written request to the commissioner, a hearing  
 1465 on all items of aggrievement. If the facility is aggrieved by the decision  
 1466 of the commissioner after such hearing, the facility may appeal to the  
 1467 Superior Court in accordance with the provisions of section 4-183.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2021</i>	17b-265
Sec. 2	<i>October 1, 2021</i>	17b-340d
Sec. 3	<i>July 1, 2021</i>	17b-340
Sec. 4	<i>July 1, 2021</i>	19a-507(a)

**HS**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 22 \$	FY 23 \$
Social Services, Dept.	GF - Savings	\$2 million	\$12.2 million

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill is anticipated to result in state Medicaid savings of approximately \$2 million in FY 22 and \$12.2 million in FY 23 to the Department of Social Services as follows: (1) approximately \$2 million in FY 22 and \$1 million in FY 23 associated with additional reimbursement for services paid by third party insurers due to the implementation of prompt payment standards, and (2) approximately \$11.2 million in FY 23 due to limiting rate increases for nursing homes.

The bill also requires the implementation of acuity-based rates for nursing homes, which is not anticipated to result in a fiscal impact to the state as the transition to acuity-based reimbursement must be cost neutral.

The bill makes other technical and conforming changes that have no fiscal impact.

**The Out Years**

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

**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-ID's 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**

<b><i>Component</i></b>	<b><i>Included Costs</i></b>	<b><i>Limit</i></b>
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	115% of the statewide median allowable cost

	and related fringe benefits for indirect care personnel	
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)