



House of Representatives

General Assembly

File No. 307

January Session, 2021

Substitute House Bill No. 6560

House of Representatives, April 7, 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 TIMELY PAYMENTS AND TRAINING FOR PERSONAL CARE ATTENDANTS.

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

1 Section 1. (NEW) (*Effective from passage*) (a) As used in this section, (1)
2 "consumer" and "personal care attendant" have the same meanings as
3 provided in section 17b-706 of the general statutes, and (2) "timely
4 payment" means payment on a regular payment date or not later than
5 forty-eight hours after any issue delaying payment is resolved. A fiscal
6 intermediary for any of the state-funded programs set forth in section
7 17b-706 of the general statutes shall provide timely payments to a
8 personal care attendant employed by a consumer in such state-funded
9 program.

10 (b) Such fiscal intermediary shall provide clear and timely
11 communication to such personal care attendant about payment
12 discrepancies, payment confirmation or a change in consumer status
13 that may affect timely payment to the personal care attendant. Such
14 communication shall include, but need not be limited to, (1) sufficient
15 notice to allow a personal care attendant to address any issue with

16 submitted time records to receive correct payment on the personal care
 17 attendant's regular payment date, (2) a specific and accessible means for
 18 a personal care attendant to address an issue that may affect payment in
 19 sufficient time for the personal care attendant to receive the correct
 20 payment on his or her regular payment date, and (3) a method for a
 21 personal care attendant to receive the correct payment not later than
 22 forty-eight hours after a payment discrepancy has been resolved.

23 (c) A fiscal intermediary for a state-funded program that fails to make
 24 timely payments to a personal care attendant in violation of the
 25 provisions of this section shall be subject to a fine of twenty-five dollars
 26 imposed by the state agency administering the state-funded program
 27 for each day timely wage payment has been delayed.

28 Sec. 2. Section 17b-706e of the general statutes is repealed and the
 29 following is substituted in lieu thereof (*Effective July 1, 2021*):

30 Notwithstanding the provisions of sections 17b-706 to 17b-706c,
 31 inclusive, where authorized by a collective bargaining agreement
 32 negotiated pursuant to section 17b-706b, the [parties may contract]
 33 Personal Care Attendant Workforce Council may solicit proposals for
 34 the provision of training and related services to personal care
 35 attendants, as defined in section 17b-706. [, at cost directly with a
 36 nonprofit labor management trust authorized by 29 USC 186(c)(6).]

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>July 1, 2021</i>	17b-706e

Statement of Legislative Commissioners:

In Section 1(c), "by a" was changed to "imposed by the state agency administering the" for clarity.

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.; Developmental Services, Dept.	GF - Potential	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill could result in a state revenue gain associated with requiring certain fiscal intermediaries¹ to pay a fine of \$125 per day for violations of the payroll-related requirements established under the bill. The potential revenue gain may be offset to the extent state contracts are adjusted to reflect increased costs incurred by the fiscal intermediary to meet the requirements of the bill.

The Out Years

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

¹ The Departments of Social Services and Developmental Services contract with fiscal intermediaries to provide payroll services for personal care attendants (PCAs) who support individuals in various programs.

OLR Bill Analysis**sHB 6560*****AN ACT CONCERNING TIMELY PAYMENTS AND TRAINING FOR PERSONAL CARE ATTENDANTS.*****SUMMARY**

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

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

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

1. sufficient notice to allow a PCA to address any issue with submitted time records to receive correct payment on his or her regular payment date;

2. a specific and accessible means to address an issue that may affect payment in time to receive the correct payment on the PCA's regular payment date; and
3. a method for a PCA to receive the correct payment within 48 hours after a payment discrepancy has been resolved.

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

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

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

BACKGROUND

Contracts Clause of the U.S. Constitution

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

Group, Inc. v. Kansas Power & Light Co., 459 U.S. 400, 411-413 (1983)).

Related Bills

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

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

COMMITTEE ACTION

Human Services Committee

Joint Favorable Substitute

Yea 19 Nay 0 (03/18/2021)