General Assembly

Raised Bill No. 6470

January Session, 2021

LCO No. **3482**

Referred to Committee on HUMAN SERVICES

Introduced by:
(HS)

AN ACT CONCERNING HOME HEALTH, TELEHEALTH AND UTILIZATION REVIEW.

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

Section 1. Section 17b-242 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) The Department of Social Services shall determine the rates to be paid to home health care agencies and home health aide agencies by the state or any town in the state for persons aided or cared for by the state or any such town. **[**For the period from February 1, 1991, to January 31, 1992, inclusive, payment for each service to the state shall be based upon the rate for such service as determined by the Office of Health Care Access, except that for those providers whose Medicaid rates for the year ending January 31, 1991, exceed the median rate, no increase shall be allowed. For those providers whose rates for the year ending January 31, 1991, are below the median rate, increases shall not exceed the lower of the prior rate increased by the most recent annual increase in the consumer price index for urban consumers or the median rate. In no case shall any such rate exceed the eightieth percentile of rates in effect

January 31, 1991, nor shall any rate exceed the charge to the general public for similar services. Rates effective February 1, 1992, shall be based upon rates as determined by the Office of Health Care Access, except that increases shall not exceed the prior year's rate increased by the most recent annual increase in the consumer price index for urban consumers and rates effective February 1, 1992, shall remain in effect through June 30, 1993. Rates effective July 1, 1993, shall be based upon rates as determined by the Office of Health Care Access except if the Medicaid rates for any service for the period ending June 30, 1993, exceed the median rate for such service, the increase effective July 1, 1993, shall not exceed one per cent. If the Medicaid rate for any service for the period ending June 30, 1993, is below the median rate, the increase effective July 1, 1993, shall not exceed the lower of the prior rate increased by one and one-half times the most recent annual increase in the consumer price index for urban consumers or the median rate plus one per cent.**]** The Commissioner of Social Services shall establish a fee schedule for home health services to be effective on and after July 1, 1994. The commissioner may annually modify such fee schedule if such modification is needed to ensure that the conversion to an administrative services organization is cost neutral to home health care agencies and home health aide agencies in the aggregate and ensures patient access. Utilization may be a factor in determining cost neutrality. The commissioner shall increase the fee schedule for home health services provided under the Connecticut home-care program for the elderly established under section 17b-342, effective July 1, 2000, by two per cent over the fee schedule for home health services for the previous year. The commissioner may increase any fee payable to a home health care agency or home health aide agency upon the application of such an agency evidencing extraordinary costs related to (1) serving persons with AIDS; (2) high-risk maternal and child health care; (3) escort services; or (4) extended hour services. In no case shall any rate or fee exceed the charge to the general public for similar services. A home health care agency or home health aide agency which, due to any material change in circumstances, is aggrieved by a rate determined pursuant to this subsection may, within ten days of receipt of written

notice of such rate from the Commissioner of Social Services, request in writing a hearing on all items of aggrievement. The commissioner shall, upon the receipt of all documentation necessary to evaluate the request, determine whether there has been such a change in circumstances and shall conduct a hearing if appropriate. The Commissioner of Social Services shall adopt regulations, in accordance with chapter 54, to implement the provisions of this subsection. The commissioner may implement policies and procedures to carry out the provisions of this subsection while in the process of adopting regulations, provided notice of intent to adopt the regulations is published in the Connecticut Law Journal not later than twenty days after the date of implementing the policies and procedures. Such policies and procedures shall be valid for not longer than nine months.

(b) The Department of Social Services shall monitor the rates charged by home health care agencies and home health aide agencies. Such agencies shall file annual cost reports and service charge information with the department.

(c) The home health services fee schedule shall include a fee for the administration of medication, which shall apply when the purpose of a nurse's visit is limited to the administration of medication. Administration of medication may include, but is not limited to, blood pressure checks, glucometer readings, pulse rate checks and similar indicators of health status. The fee for medication administration shall include administration of medications while the nurse is present, the pre-pouring of additional doses that the client will self-administer at a later time and the teaching of self-administration. The department shall not pay for medication administration in addition to any other nursing service at the same visit. The department may establish prior authorization requirements for this service. Before implementing such change, the Commissioner of Social Services shall consult with the chairpersons of the joint standing committees of the General Assembly having cognizance of matters relating to public health and human services. The commissioner shall monitor Medicaid home health care savings achieved through the implementation of nurse delegation of

medication administration pursuant to section 19a-492e. If, by January 1, 2016, the commissioner determines that the rate of savings is not adequate to meet the annualized savings assumed in the budget for the biennium ending June 30, 2017, the department may reduce rates for medication administration as necessary to achieve the savings assumed in the budget. Prior to any rate reduction, the department shall report to the joint standing committees of the General Assembly having cognizance of matters relating to appropriations and the budgets of state agencies and human services provider specific cost and utilization trend data for those patients receiving medication administration. Should the department determine it necessary to reduce medication administration rates under this section, it shall examine the possibility of establishing a separate Medicaid supplemental rate or a pay-for-performance program for those providers, as determined by the commissioner, who have established successful nurse delegation programs.

(d) The home health services fee schedule established pursuant to subsection (c) of this section shall include rates for psychiatric nurse visits.

(e) The Department of Social Services, when processing or auditing claims for reimbursement submitted by home health care agencies and home health aide agencies shall, in accordance with the provisions of chapter 15, accept electronic records and records bearing the electronic signature of a licensed physician or licensed practitioner of a healthcare profession that has been submitted to the home health care agency or home health aide agency.

(f) If the electronic record or signature that has been transmitted to a home health care agency or home health aide agency is illegible or the department is unable to determine the validity of such electronic record or signature, the department shall review additional evidence of the accuracy or validity of the record or signature, including, but not limited to, (1) the original of the record or signature, or (2) a written statement, made under penalty of false statement, from (A) the licensed physician or licensed practitioner of a health care profession who signed such

record, or (B) if such licensed physician or licensed practitioner of a health care profession is unavailable, the medical director of the agency verifying the accuracy or validity of such record or signature, and the department shall make a determination whether the electronic record or signature is valid.

(g) The Department of Social Services, when auditing claims submitted by home health care agencies and home health aide agencies, shall consider any signature from a licensed physician or licensed practitioner of a health care profession that may be required on a plan of care for home health services, to have been provided in timely fashion if (1) the document bearing such signature was signed prior to the time when such agency seeks reimbursement from the department for services provided, and (2) verbal or telephone orders from the licensed physician or licensed practitioner of a health care profession were received prior to the commencement of services covered by the plan of care and such orders were subsequently documented. Nothing in this subsection shall be construed as limiting the powers of the Commissioner of Public Health to enforce the provisions of sections 19-13-D73 and 19-13-D74 of the regulations of Connecticut state agencies and 42 CFR 484.18(c).

(h) Any order for home health care services covered by the Department of Social Services may be issued by any licensed practitioner authorized to issue such an order pursuant to section 19a-496a, as amended by this act. Any Department of Social Services regulation, policy or procedure that applies to a physician who orders home health care services, including related provisions such as review and approval of care plans for home health care services, shall apply to any licensed practitioner authorized to order home health care services pursuant to section 19a-496a, as amended by this act.

[(h)**]** (i) For purposes of this section, "licensed practitioner of a healthcare profession" has the same meaning as "licensed practitioner" in section 21a-244a.

Sec. 2. Section 19a-496a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) A licensed physician, advanced practice registered nurse or physician assistant is authorized to order home health care services for an individual. Any Department of Public Health agency regulation, policy or procedure that applies to a physician who orders home health care services, including related provisions such as review and approval of care plans for home health care services, shall also apply to an advanced practice registered nurse or physician assistant who orders home health care services.

(b) All home health care agency services which are required by law to be performed upon the order of a licensed physician, advanced practice registered nurse or physician assistant may be performed upon the order of a physician, advanced practice registered nurse or physician assistant licensed in a state which borders Connecticut.

Sec. 3. Subdivisions (11) and (12) of subsection (a) of section 19a-906 of the general statutes are repealed and the following is substituted in lieu thereof (*Effective from passage*):

(11) "Telehealth" means the mode of delivering health care or other health services via information and communication technologies to facilitate the diagnosis, consultation and treatment, education, care management and self-management of a patient's physical and mental health, and includes (A) interaction between the patient at the originating site and the telehealth provider at a distant site, and (B) synchronous interactions, asynchronous store and forward transfers or remote patient monitoring. Telehealth does not include the use of facsimile, **[**audio-only telephone,**]** texting or electronic mail.

(12) "Telehealth provider" means any physician licensed under chapter 370, physical therapist licensed under chapter 376, chiropractor licensed under chapter 372, naturopath licensed under chapter 373, podiatrist licensed under chapter 375, occupational therapist licensed under chapter 376a, optometrist licensed under chapter 380, registered

nurse or advanced practice registered nurse licensed under chapter 378, physician assistant licensed under chapter 370, psychologist licensed under chapter 383, marital and family therapist licensed under chapter 383a, clinical social worker or master social worker licensed under chapter 383b, alcohol and drug counselor licensed under chapter 376b, professional counselor licensed under chapter 383c, dietitian-nutritionist certified under chapter 384b, speech and language pathologist licensed under chapter 399, respiratory care practitioner licensed under chapter 381a, audiologist licensed under chapter 397a, pharmacist licensed under chapter 400j, **[**or**]** paramedic licensed **[**pursuant to**]** under chapter 384d, nurse-midwife licensed under chapter 377 or behavior analyst licensed under chapter 382a, who is providing health care or other health services through the use of telehealth within such person's scope of practice and in accordance with the standard of care applicable to the profession.

Sec. 4. (NEW) (*Effective from passage*) (a) As used in this section:

(1) "Telehealth" means the mode of delivering health care or other health services via information and communication technologies to facilitate the diagnosis, consultation and treatment, education, care management and self-management of a patient's physical, oral and mental health, and includes (A) interaction between the patient at the originating site and the telehealth provider at a distant site, and (B) synchronous interactions, asynchronous store and forward transfers or remote patient monitoring. "Telehealth" does not include the use of facsimile, texting or electronic mail.

(2) "Connecticut medical assistance program" means the state's Medicaid program and the Children's Health Insurance Program under Title XXI of the Social Security Act, as amended from time to time.

(b) Notwithstanding the provisions of section 17b-245c, 17b-245e or 19a-906 of the general statutes, or any other section, regulation, rule, policy or procedure governing the Connecticut medical assistance program, the Commissioner of Social Services may, in the

commissioner's discretion and to the extent permissible under federal law, provide coverage under the Connecticut medical assistance program for audio-only telehealth services specified by the commissioner and which are covered only when (1) it is not possible to provide comparable covered audiovisual telehealth services and (2) provided to individuals who are unable to use or access comparable covered audiovisual telehealth services.

Sec. 5. (NEW) (*Effective from passage*) The Commissioner of Social Services may waive or suspend, in whole or in part, to the extent the commissioner deems necessary, any prior authorization or other utilization review criteria and procedures for the Connecticut medical assistance program. The commissioner shall include notice of any such waiver or suspension in a provider bulletin sent to affected providers and posted on the Connecticut Medical Assistance Program (CMAP) website not later than fourteen days before implementing such waiver or suspension.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*from passage*	17b-242
Sec. 2	*from passage*	19a-496a
Sec. 3	*from passage*	19a-906(a)(11) and (12)
Sec. 4	*from passage*	New section
Sec. 5	*from passage*	New section

Statement of Purpose:

To ease health care access by making permanent certain changes related to home health, telehealth and utilization review in the medical assistance program that were implemented by executive order during the COVID-19 public health emergency.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]