



General Assembly

January Session, 2021

**Amendment**

LCO No. 9535



Offered by:

REP. ABERCROMBIE, 83<sup>rd</sup> Dist.

To: Subst. House Bill No. 6470

File No. 265

Cal. No. 219

**"AN ACT CONCERNING HOME HEALTH, TELEHEALTH AND UTILIZATION REVIEW."**

1 Strike everything after the enacting clause and substitute the  
2 following in lieu thereof:

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 Section 17b-242 of the general statutes is repealed and the  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

5 (a) The Department of Social Services shall determine the rates to be  
6 paid to home health care agencies and home health aide agencies by the  
7 state or any town in the state for persons aided or cared for by the state  
8 or any such town. [For the period from February 1, 1991, to January 31,  
9 1992, inclusive, payment for each service to the state shall be based upon  
10 the rate for such service as determined by the Office of Health Care  
11 Access, except that for those providers whose Medicaid rates for the  
12 year ending January 31, 1991, exceed the median rate, no increase shall  
13 be allowed. For those providers whose rates for the year ending January  
14 31, 1991, are below the median rate, increases shall not exceed the lower

15 of the prior rate increased by the most recent annual increase in the  
16 consumer price index for urban consumers or the median rate. In no  
17 case shall any such rate exceed the eightieth percentile of rates in effect  
18 January 31, 1991, nor shall any rate exceed the charge to the general  
19 public for similar services. Rates effective February 1, 1992, shall be  
20 based upon rates as determined by the Office of Health Care Access,  
21 except that increases shall not exceed the prior year's rate increased by  
22 the most recent annual increase in the consumer price index for urban  
23 consumers and rates effective February 1, 1992, shall remain in effect  
24 through June 30, 1993. Rates effective July 1, 1993, shall be based upon  
25 rates as determined by the Office of Health Care Access except if the  
26 Medicaid rates for any service for the period ending June 30, 1993,  
27 exceed the median rate for such service, the increase effective July 1,  
28 1993, shall not exceed one per cent. If the Medicaid rate for any service  
29 for the period ending June 30, 1993, is below the median rate, the  
30 increase effective July 1, 1993, shall not exceed the lower of the prior rate  
31 increased by one and one-half times the most recent annual increase in  
32 the consumer price index for urban consumers or the median rate plus  
33 one per cent.] The Commissioner of Social Services shall establish a fee  
34 schedule for home health services to be effective on and after July 1,  
35 1994. The commissioner may annually modify such fee schedule if such  
36 modification is needed to ensure that the conversion to an  
37 administrative services organization is cost neutral to home health care  
38 agencies and home health aide agencies in the aggregate and ensures  
39 patient access. Utilization may be a factor in determining cost neutrality.  
40 The commissioner shall increase the fee schedule for home health  
41 services provided under the Connecticut home-care program for the  
42 elderly established under section 17b-342, effective July 1, 2000, by two  
43 per cent over the fee schedule for home health services for the previous  
44 year. The commissioner may increase any fee payable to a home health  
45 care agency or home health aide agency upon the application of such an  
46 agency evidencing extraordinary costs related to (1) serving persons  
47 with AIDS; (2) high-risk maternal and child health care; (3) escort  
48 services; or (4) extended hour services. In no case shall any rate or fee  
49 exceed the charge to the general public for similar services. A home

50 health care agency or home health aide agency which, due to any  
51 material change in circumstances, is aggrieved by a rate determined  
52 pursuant to this subsection may, within ten days of receipt of written  
53 notice of such rate from the Commissioner of Social Services, request in  
54 writing a hearing on all items of aggrievement. The commissioner shall,  
55 upon the receipt of all documentation necessary to evaluate the request,  
56 determine whether there has been such a change in circumstances and  
57 shall conduct a hearing if appropriate. The Commissioner of Social  
58 Services shall adopt regulations, in accordance with chapter 54, to  
59 implement the provisions of this subsection. The commissioner may  
60 implement policies and procedures to carry out the provisions of this  
61 subsection while in the process of adopting regulations, provided notice  
62 of intent to adopt the regulations is published in the Connecticut Law  
63 Journal not later than twenty days after the date of implementing the  
64 policies and procedures. Such policies and procedures shall be valid for  
65 not longer than nine months.

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

70 (c) The home health services fee schedule shall include a fee for the  
71 administration of medication, which shall apply when the purpose of a  
72 nurse's visit is limited to the administration of medication.  
73 Administration of medication may include, but is not limited to, blood  
74 pressure checks, glucometer readings, pulse rate checks and similar  
75 indicators of health status. The fee for medication administration shall  
76 include administration of medications while the nurse is present, the  
77 pre-pouring of additional doses that the client will self-administer at a  
78 later time and the teaching of self-administration. The department shall  
79 not pay for medication administration in addition to any other nursing  
80 service at the same visit. The department may establish prior  
81 authorization requirements for this service. Before implementing such  
82 change, the Commissioner of Social Services shall consult with the  
83 chairpersons of the joint standing committees of the General Assembly

84 having cognizance of matters relating to public health and human  
85 services. The commissioner shall monitor Medicaid home health care  
86 savings achieved through the implementation of nurse delegation of  
87 medication administration pursuant to section 19a-492e. If, by January  
88 1, 2016, the commissioner determines that the rate of savings is not  
89 adequate to meet the annualized savings assumed in the budget for the  
90 biennium ending June 30, 2017, the department may reduce rates for  
91 medication administration as necessary to achieve the savings assumed  
92 in the budget. Prior to any rate reduction, the department shall report to  
93 the joint standing committees of the General Assembly having  
94 cognizance of matters relating to appropriations and the budgets of state  
95 agencies and human services provider specific cost and utilization trend  
96 data for those patients receiving medication administration. Should the  
97 department determine it necessary to reduce medication administration  
98 rates under this section, it shall examine the possibility of establishing a  
99 separate Medicaid supplemental rate or a pay-for-performance program  
100 for those providers, as determined by the commissioner, who have  
101 established successful nurse delegation programs.

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

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

112 (f) If the electronic record or signature that has been transmitted to a  
113 home health care agency or home health aide agency is illegible or the  
114 department is unable to determine the validity of such electronic record  
115 or signature, the department shall review additional evidence of the  
116 accuracy or validity of the record or signature, including, but not limited

117 to, (1) the original of the record or signature, or (2) a written statement,  
118 made under penalty of false statement, from (A) the licensed physician  
119 or licensed practitioner of a health care profession who signed such  
120 record, or (B) if such licensed physician or licensed practitioner of a  
121 health care profession is unavailable, the medical director of the agency  
122 verifying the accuracy or validity of such record or signature, and the  
123 department shall make a determination whether the electronic record or  
124 signature is valid.

125 (g) The Department of Social Services, when auditing claims  
126 submitted by home health care agencies and home health aide agencies,  
127 shall consider any signature from a licensed physician or licensed  
128 practitioner of a health care profession that may be required on a plan  
129 of care for home health services, to have been provided in timely fashion  
130 if (1) the document bearing such signature was signed prior to the time  
131 when such agency seeks reimbursement from the department for  
132 services provided, and (2) verbal or telephone orders from the licensed  
133 physician or licensed practitioner of a health care profession were  
134 received prior to the commencement of services covered by the plan of  
135 care and such orders were subsequently documented. Nothing in this  
136 subsection shall be construed as limiting the powers of the  
137 Commissioner of Public Health to enforce the provisions of sections 19-  
138 13-D73 and 19-13-D74 of the regulations of Connecticut state agencies  
139 and 42 CFR 484.18(c).

140 (h) Any order for home health care services covered by the  
141 Department of Social Services may be issued by any licensed  
142 practitioner authorized to issue such an order pursuant to section 19a-  
143 496a, as amended by this act. Any Department of Social Services  
144 regulation, policy or procedure that applies to a physician who orders  
145 such home health care services, including related provisions such as  
146 review and approval of care plans for home health care services, shall  
147 apply to any licensed practitioner authorized to order such home health  
148 care services pursuant to section 19a-496a, as amended by this act.

149 [(h)] (i) For purposes of this section, "licensed practitioner of a

150 healthcare profession" has the same meaning as "licensed practitioner"  
151 in section 21a-244a.

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

154 (a) Notwithstanding any provision of the regulations of Connecticut  
155 state agencies, all home health care agency, hospice home health care  
156 agency or home health aide agency services shall be performed upon  
157 the order of a physician or physician assistant licensed pursuant to  
158 chapter 370 or an advanced practice registered nurse licensed pursuant  
159 to chapter 378.

160 (b) All home health care agency, hospice home health care agency  
161 and home health aide agency services [which] that are required by law  
162 to be performed upon the order of a licensed physician, physician  
163 assistant or advanced practice registered nurse may be performed upon  
164 the order of a physician, a physician assistant or an advanced practice  
165 registered nurse licensed in a state [which] that borders Connecticut.  
166 Any Department of Public Health agency regulation, policy or  
167 procedure that applies to a physician who orders home health care  
168 services, including related provisions such as review and approval of  
169 care plans for home health care services, shall also apply to an advanced  
170 practice registered nurse or physician assistant who orders home health  
171 care services.

172 Sec. 3. Subsection (j) of section 1 of public act 21-9 is repealed and the  
173 following is substituted in lieu thereof (*Effective from passage*):

174 (j) Subject to compliance with all applicable federal requirements,  
175 notwithstanding any provision of the general statutes, state licensing  
176 standards or any regulation adopted thereunder, a telehealth provider  
177 may provide telehealth services pursuant to the provisions of this  
178 section from any location.

179 Sec. 4. Section 6 of public act 21-9 is repealed and the following is  
180 substituted in lieu thereof (*Effective from passage*):

181 (a) As used in this section:

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

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

194 (b) Notwithstanding the provisions of section 17b-245c, 17b-245e or  
195 19a-906 of the general statutes, or any other section, regulation, rule,  
196 policy or procedure governing the Connecticut medical assistance  
197 program, the Commissioner of Social Services [may, in the  
198 commissioner's discretion and] shall, to the extent permissible under  
199 federal law, provide coverage under the Connecticut medical assistance  
200 program for audio-only telehealth services [for the period beginning on  
201 the effective date of this section and ending on June 30, 2023] when (1)  
202 clinically appropriate, as determined by the commissioner, (2) it is not  
203 possible to provide comparable covered audiovisual telehealth services,  
204 and (3) provided to individuals who are unable to use or access  
205 comparable, covered audiovisual telehealth services.

206 (c) To the extent permissible under federal law, the commissioner  
207 shall provide Medicaid reimbursement for services provided by means  
208 of telehealth to the same extent as if the service was provided in person.

209 Sec. 5. (NEW) (*Effective from passage*) The Commissioner of Social  
210 Services may waive or suspend, in whole or in part, to the extent the  
211 commissioner deems necessary, any prior authorization or other  
212 utilization review criteria and procedures for the Connecticut medical

213 assistance program. The commissioner shall include notice of any such  
 214 waiver or suspension in a provider bulletin sent to affected providers  
 215 and posted on the Connecticut Medical Assistance Program web site not  
 216 later than fourteen days before implementing such waiver or  
 217 suspension. As used in this section, "Connecticut medical assistance  
 218 program" means the state's Medicaid program and the Children's  
 219 Health Insurance Program under Title XXI of the Social Security Act, as  
 220 amended from time to time."

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>from passage</i>	17b-242
Sec. 2	<i>from passage</i>	19a-496a
Sec. 3	<i>from passage</i>	PA 21-9, Sec. 1(j)
Sec. 4	<i>from passage</i>	PA 21-9, Sec. 6
Sec. 5	<i>from passage</i>	New section