

# Human Services Committee JOINT FAVORABLE REPORT

**Bill No.:** HB-6560

AN ACT CONCERNING TIMELY PAYMENTS TO PERSONAL CARE

**Title:** ATTENDANTS.

**Vote Date:** 3/18/2021

**Vote Action:** Joint Favorable Substitute

**PH Date:** 3/11/2021

**File No.:**

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## **SPONSORS OF BILL:**

Human Services Committee

## **REASONS FOR BILL:**

The bill amends the general statutes to require a fiscal intermediary (FI) that operates under the State's self-directed Medicaid home care program, to perform certain functions regarding payroll to ensure timely payments. It creates a \$25 per day fine to the FI for violations of these provisions, as concerns have been expressed about the frequency of late payments. The substitute language adds a provision to allow the Personal Care Attendant Workforce Council to solicit proposals for training. This allows entities other than the union, SEIU 1199, the opportunity to provide training for Personal Care Assistants (PCAs).

## **RESPONSE FROM ADMINISTRATION/AGENCY:**

Deidre Gifford, Commissioner, Department of Social Services, strongly supports the goal of ensuring that PCAs are paid promptly and accurately by fiscal intermediaries. Commissioner Gifford notes that DSS, in partnership with many stakeholders, is continually implementing numerous processes to promote timely and accurate payment to PCAs. A new Electronic Visit Verification (EVV) system is being implemented to replace paper timesheets, and thus significantly reducing errors. Commissioner Gifford notes that Allied is required to meticulously review and process timesheets following many precautions and guidelines, to stay in compliance with federal law. The Department and its contractor Allied, have the procedures in place to fulfill the goal of this bill, and they oppose "the imposition of blanket penalties that do not recognize the above obligations to ensure proper use of Medicaid funds."

Jordan A. Scheff, Commissioner, Department of Developmental Services, DDS believes that all employees have the right to timely payment of wages. Commissioner Scheff commented that DDS collaborates with other state agencies as well as fiscal intermediaries to address and resolve the issues highlighted in this bill. He notes that a specific state agency or entity has not been outlined in the bill as responsible for imposing and collecting fines. Commissioner Scheff states that the fines impart an unfair burden on FIs which are often not responsible for timesheet inaccuracies. This could be a disincentive for the FI to perform Medicaid-required reviews to certify the accuracy of all timesheets and wage payments. DDS anticipates the new EVV system will greatly reduce the need for paper timesheets and eliminate many payroll-related issues.

Melissa McCaw, Secretary, Office of Policy and Management is concerned about the unintended consequences of this bill, though it is well-intentioned. Secretary McCaw notes that FIs must adhere to specific Medicaid criteria concerning timesheet errors before submitting a timesheet. This bill would hold FIs financially accountable for delays in payroll that may not be within their control. Because of this, she is concerned that the state will encounter difficulties finding companies willing to take on this financial risk. Another concern includes the burden that would potentially arise from the requirement to recoup Medicaid funds from PCAs who were erroneously paid to avoid fines. Secretary McCaw notes that this process would be difficult for the FI and would place a large burden on the PCA.

#### **NATURE AND SOURCES OF SUPPORT:**

6 Consumers/Employers of PCAs support this bill based on their personal experiences. Each testifier explained that their PCAs consistently experience problems receiving accurate and timely payments by Allied. A few testifiers noted that their PCA's pay was withheld for over a month, creating financial hardship. When PCAs do not get paid on time or when it's difficult to hire a new PCA, due to long processing times, it takes a mental, physical, and emotional toll on both Consumers and PCAs. They worry about losing their PCAs to due constant payment errors, which would have devastating impacts on their lives. By ensuring timely payments, Consumers can focus on their health and independence.

8 Personal Care Assistants (PCAs) support this bill to hold Allied accountable for paying PCAs. Each testifier emphasized their constant fear of not getting paid correctly and on time every week, leading to financial hardship and increased stress. They also testified to the difficulty of resolving payroll issues with Allied. A couple of PCAs testified that after weeks without receiving pay, they were barely able to buy food to sustain themselves. They believe it is vitally important to hold Allied accountable to receive timely payments and feel respected. Mr. Ligon urges the committee to pass the bill to provide the "stability we need to care for our consumers without sacrificing our own dignity."

Sheldon Toubman, Attorney, Benefits and Elder Law Unit of New Haven Legal Assistance Association supports this bill because they have received complaints from many elderly and disabled clients who are concerned that their PCAs might stop providing them service due to payment delays. Mr. Toubman believes this bill is critically important to hold Allied accountable.

## **NATURE AND SOURCES OF OPPOSITION:**

Sam and Alex Bode, Consumers/Employers of PCAs

Sheila Mulvey, Employer/ Representative of a Consumer

They oppose the bill because they fear it could hinder the philosophy of self-direction, which is the keystone of the program. They believe this bill might weaken the employer's role because it removes the ability of the employer to approve any changes made in timesheets by the employee in conjunction with the FI. Ms. Mulvey adds that labor-related issues would be better resolved through labor law and contract management. Ms. Mulvey also supports the creation of a working group to study and find solutions for the issues around timely payments.

Carol Bohnet, CEO, and Donald Waddell, Executive Director of Allied Community Resources

Kathleen Flaherty, Executive Director, CT Legal Rights Project

They oppose this bill because of the potential unintended consequence of damaging the concept of self-direction within the PCA program. They also believe the bill places unfair financial burdens on FIs who are bound by contractual requirements to only process timecards that have been correctly submitted. They note that the EVV system will hopefully improve payment issue by allowing employees to review and verify their hours in real-time.

**Reported by: Gianna Vollano**

**Date: April 5, 2021**