



Senate

General Assembly

File No. 151

February Session, 2022

Senate Bill No. 281

Senate, March 28, 2022

The Committee on Human Services reported through SEN. MOORE of the 22nd Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT CONCERNING PENALTIES FOR UNAUTHORIZED USE OF RATE INCREASES EARMARKED FOR STAFF WAGE ENHANCEMENTS AT NURSING HOME FACILITIES.

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

1 Section 1. (NEW) (*Effective from passage*) (a) In addition to any
2 applicable recoupment or rate decrease pursuant to any other provision
3 of the general statutes, a nursing home facility that receives a rate
4 increase for wage enhancements for facility employees may also be
5 assessed a civil penalty if the facility fails to use the rate increase for that
6 purpose. The Department of Social Services may assess a civil penalty
7 upon completion of a department audit conducted in accordance with
8 the nursing home facility's Medicaid provider enrollment agreements.
9 The civil penalty assessed pursuant to this section shall not exceed an
10 amount greater than fifty per cent of the total dollar amount of the rate
11 increase received by the nursing home facility but not used for wage
12 enhancements for facility employees.

13 (b) The department, in its sole discretion, may enter into a

14 recoupment schedule with a nursing home facility so as not to
15 negatively impact patient care. Any nursing home facility subject to a
16 civil penalty assessed in accordance with this section may request a
17 rehearing pursuant to subsection (b) of section 17b-238 of the general
18 statutes. The provisions of this section shall apply to all rate increases
19 for wage enhancements received by nursing home facilities pursuant to
20 the provisions of section 323 of public act 21-2 of the June special session
21 prior to the effective date of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section

HS *Joint Favorable*

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 23 \$	FY 24 \$
Resources of the General Fund	GF - Potential Revenue Gain	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill could result in a revenue gain to the state by allowing the Department of Social Services (DSS) to assess civil penalties on nursing homes for the improper use of increased funding meant for wage enhancements for facility employees. While effective from passage, the provisions of the bill apply to funding for nursing home wage increases included in the FY 22-23 biennial budget (\$47.3 million in FY 22 and \$102.2 million in FY 23). Audits of this funding are not anticipated until late FY 23 and/or FY 24 after cost reports are filed, and therefore any associated revenue from potential fines cannot be determined at this time. Civil penalties are limited to 50% of the total amount received for the rate increase but not used for wage enhancements for facility employees.

The Out Years

The annualized ongoing fiscal impact is dependent on the potential for civil penalties as described above.

OLR Bill Analysis**SB 281*****AN ACT CONCERNING PENALTIES FOR UNAUTHORIZED USE OF RATE INCREASES EARMARKED FOR STAFF WAGE ENHANCEMENTS AT NURSING HOME FACILITIES.*****SUMMARY**

This bill allows the Department of Social Services (DSS) to assess a civil penalty on a nursing home that receives a rate increase to enhance its employees' wages but fails to use it for that purpose. The civil penalty is in addition to any applicable recoupment or rate decrease the law otherwise allows.

Before assessing a civil penalty, the bill requires DSS to complete a department audit in accordance with the nursing home's Medicaid provider enrollment agreements. The bill limits the civil penalty to half the total dollar amount of the rate increase the nursing home received but did not use to enhance employee wages. It authorizes DSS, in the department's sole discretion, to enter a recoupment schedule with a nursing home so as not to negatively impact patient care. Nursing homes subject to a civil penalty may request a rehearing under provisions in existing law (see BACKGROUND).

DSS's authorization to assess civil penalties under the bill applies to rate increases nursing homes receive before the bill's effective date under last year's budget (PA 21-2, June Special Session, § 323). That act required DSS to increase nursing home rates by 4.5% in both FY 22 and FY 23 to enhance wages for employees. Under the act, facilities that received a rate adjustment for wage enhancements but failed to provide them may be subject to a rate decrease in the same amount.

EFFECTIVE DATE: Upon passage

BACKGROUND

Rehearing a Rate Decision

State law allows nursing homes aggrieved by a DSS decision to apply for a rehearing within 10 days after the written notice of DSS’s decision. Nursing homes must file a detailed written description of all items of aggrievement with DSS within 90 days after the written notice. DSS must issue a final decision within 60 days after the close of evidence or the date on which final briefs are filed, whichever is later. Items not resolved at the rehearing are submitted to binding arbitration (CGS § 17b-238(b)).

COMMITTEE ACTION

Human Services Committee

Joint Favorable

Yea 20 Nay 0 (03/17/2022)