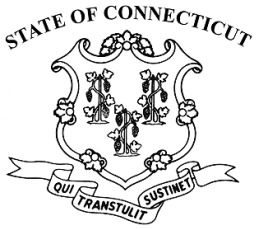

Substitute Senate Bill No. 989

Public Act No. 23-186

AN ACT CONCERNING NONPROFIT PROVIDER RETENTION OF CONTRACT SAVINGS, COMMUNITY HEALTH WORKER MEDICAID REIMBURSEMENT AND STUDIES OF MEDICAID RATES OF REIMBURSEMENT, NURSING HOME TRANSPORTATION AND NURSING HOME WAITING LISTS.

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

Section 1. (*Effective from passage*) (a) Within available appropriations, the Commissioner of Social Services shall conduct a two-part study of Medicaid rates of reimbursement beginning with (1) an examination of such rates for physician specialists, dentists and behavioral health providers followed by (2) a review of the reimbursement system for all other aspects of the Medicaid program, including, but not limited to, ambulance services, the encounter-based reimbursement model for federally qualified health centers and reimbursement rates for specialty hospitals, complex nursing care and methadone maintenance.

(b) The rate reimbursement study shall include, but need not be limited to: (1) A comparison of the state's Medicaid rates with Medicaid rates provided by neighboring states; and (2) a comparison of the state's Medicaid rates with Medicare rates and cost-of-living increases provided under Medicare compared to the state Medicaid program.

(c) The commissioner shall file interim reports, in accordance with the

provisions of section 11-4a of the general statutes, (1) not later than February 1, 2024, on the aspects of the study conducted pursuant to subdivision (1) of subsection (a) of this section; and (2) not later than January 1, 2025, on the aspects of the study conducted pursuant to subdivision (2) of subsection (a) of this section with the joint standing committees of the General Assembly having cognizance of matters relating to appropriations and the budgets of state agencies and human services. Nothing in this section shall be construed to impact Medicaid rates of reimbursement for the fiscal years ending June 30, 2024, and June 30, 2025.

Sec. 2. (NEW) (*Effective July 1, 2023*) (a) As used in this section, (1) "private provider organization" and "purchase of service contract" each have the same meanings as provided in section 4-70b of the general statutes; (2) "health and human services" means services provided under contract with a state agency that directly support the health, safety and welfare of residents, including, but not limited to, those residents who may have conditions that include, but are not limited to, behavioral health disorders, intellectual disabilities, developmental disabilities, physical disabilities and autism spectrum disorder; (3) "attempt to recover or otherwise offset" means efforts to recoup savings at the end of each fiscal year; and (4) "state agency" means the Departments of Developmental Services, Mental Health and Addiction Services, Social Services and Children and Families.

(b) Subject to the provisions of subsection (c) of this section, each state agency that contracts with a nonprofit private provider organization for health and human services shall allow such nonprofit organization that otherwise meets contractual requirements, including, but not limited to, its contractual obligations regarding services provided and clients served, to retain any savings from a purchase of service contract at the end of each fiscal year. No state agency shall attempt to recover or otherwise offset funds retained by such nonprofit organization from the

contracted cost for services.

(c) Any nonprofit private provider organization allowed to retain savings under this section shall submit an application to the contracting state agency on how savings are planned to be reinvested and report to the contracting state agency on how savings will be reinvested to strengthen quality, invest in deferred maintenance and make asset improvements. The commissioner of each state agency shall prescribe the form and manner of such application form and the frequency of such reports. The commissioner of each state agency shall review an application submitted pursuant to this subsection and respond to a nonprofit private provider organization not later than ninety days after receiving such application from such provider organization. Retained funds may only be used for the purposes of strengthening quality, investing in deferred maintenance and making asset improvements. The commissioner of each state agency shall approve, disapprove or modify any application for funds in accordance with the allowable uses in this subsection. Nonprofit private provider organizations providing health and human services shall be permitted to expend retained funds on programs that are funded by the same state agency.

(d) Notwithstanding any provisions to the contrary in this section, a state agency shall not allow a nonprofit private provider organization to retain surplus funds from the contracted cost of services under a contract funded in whole, or in part, with federal funds when allowing such organization to retain such funds would jeopardize federal funding or reimbursement for such contract or when such allowance is prohibited by federal law or regulations.

(e) The Commissioner of Social Services, in consultation with the Secretary of the Office of Policy and Management and the Commissioners of Children and Families, Mental Health and Addiction Services and Developmental Services, may undertake a study of the contracting and billing practices of such nonprofit private provider

organizations to ensure compliance with all Medicaid waivers and Medicaid state plan amendments. Any study started under this subsection shall be completed not later than December 31, 2024.

(f) Notwithstanding the provisions of subsections (a) to (e), inclusive, of this section, the Commissioner of Developmental Services, in consultation with the Secretary of the Office of Policy and Management, may extend the provisions of this section to other private provider organizations with which the Department of Developmental Services contracts, provided they meet all of the requirements set forth in this section, including, but not limited to, meeting all terms and conditions of their contracts for services with the Department of Developmental Services.

Sec. 3. Section 4-216 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2023*):

(a) No state agency may execute a personal service agreement having a cost of more than fifty thousand dollars or a term of more than one year, without the approval of the secretary. A state agency may apply for an approval by submitting the following information to the secretary: (1) A description of the services to be purchased and the need for such services; (2) an estimate of the cost of the services and the term of the agreement; (3) whether the services are to be on-going; (4) whether the state agency has contracted out for such services during the preceding two years and, if so, the name of the contractor, term of the agreement with such contractor and the amount paid to the contractor; (5) whether any other state agency has the resources to provide the services; (6) whether the agency intends to purchase the services by competitive negotiation and, if not, why; and (7) whether it is possible to purchase the services on a cooperative basis with other state agencies. The secretary shall approve or disapprove an application within fifteen business days after receiving it and any necessary supporting information, provided if the secretary does not act within such

fifteen-day period the application shall be deemed to have been approved. The secretary shall immediately notify the Auditors of Public Accounts of any application which the secretary receives for approval of a personal services agreement for audit services and give said auditors an opportunity to review the application during such fifteen-day period and advise the secretary as to whether such audit services are necessary and, if so, could be provided by said auditors.

(b) Each personal service agreement having a cost of more than fifty thousand dollars or a term of more than one year shall be based on competitive negotiation or competitive quotations, unless the state agency purchasing the personal services applies to the secretary for a waiver from such requirement and the secretary grants the waiver in accordance with the guidelines adopted under section 4-215.

[(c) The secretary shall establish an incentive program for nonprofit providers of human services that shall (1) allow providers who otherwise meet contractual requirements to retain any savings realized by the providers from the contracted cost for services, and (2) provide that future contracted amounts from the state for the same types of services are not reduced solely to reflect savings achieved in previous contracts by such providers. For purposes of this subsection, "nonprofit providers of human services" includes, but is not limited to, nonprofit providers of services to persons with intellectual, physical or mental disabilities or autism spectrum disorder. Any nonprofit provider of human services allowed to retain savings under the incentive program shall submit a report to the secretary on how excess funds were reinvested to strengthen quality, invest in deferred maintenance and make asset improvements.**]**

Sec. 4. (NEW) (*Effective from passage*) (a) For purposes of this section, "certified community health worker" has the same meaning as provided in section 20-195ttt of the general statutes. The Commissioner of Social Services shall design and implement a program to provide Medicaid

reimbursement to certified community health workers for services provided to HUSKY Health program members, including, but not limited to: (1) Coordination of medical, oral and behavioral health care services and social supports; (2) connection to and navigation of health systems and services; (3) prenatal, birth, lactation and postpartum supports; and (4) health promotion, coaching and self-management education.

(b) The Commissioner of Social Services and the commissioner's designees shall consult with certified community health workers, Medicaid beneficiaries and advocates, including, but not limited to, advocates for persons with physical, mental and developmental disabilities, and others throughout the design and implementation of the certified community health worker reimbursement program in a manner that (1) is inclusive of community-based and clinic-based certified community health workers; (2) is representative of medical assistance program member demographics; and (3) helps shape the reimbursement program's design and implementation. The commissioner, in consultation with community health workers, Medicaid beneficiaries and such advocates, shall explore options for the reimbursement program's design that ensures access to such community health workers, encourages workforce growth to support such access and averts the risk of creating financial incentives for other providers to limit access to such community health workers.

(c) Not later than January 1, 2024, and annually thereafter until the reimbursement program is fully implemented, the Commissioner of Social Services shall submit a report, in accordance with the provisions of section 11-4a of the general statutes, to the joint standing committee of the General Assembly having cognizance of matters relating to human services and the Council on Medical Assistance Program Oversight. The initial report shall be submitted not less than six months prior to the implementation of the reimbursement program. The reports

shall contain an update on the certified community health worker reimbursement program design, including, but not limited to (1) an analysis regarding the program elements designed to ensure access to such services, promote workforce growth and avert the risk of creating financial incentives for other providers to limit access to such community health workers, and (2) an evaluation of any impact of the program on health outcomes and health equity.

Sec. 5. (*Effective July 1, 2023*) (a) Any nursing home facility, as defined in section 19a-490 of the general statutes, with available vehicles equipped to transport nonambulatory residents, may provide nonemergency transportation of such residents to the homes of such residents' family members, provided: (1) Such family members live within fifteen miles of the nursing home facility, and (2) such transportation is approved not less than five business days in advance by a physician or physician's assistant, licensed pursuant to chapter 370 of the general statutes, or an advanced practice registered nurse licensed pursuant to chapter 378 of the general statutes. Nothing in this section shall be construed to authorize or require any payment or reimbursement to a nursing home facility for such nonemergency transportation services.

(b) The Commissioner of Social Services shall evaluate whether the need for such transportation would qualify as a health-related social need and file a report not later than October 1, 2023, with the Council on Medical Assistance Program Oversight on such evaluation and potential federal funding that may be available for such transportation. For purposes of this subsection, "health-related social need" means a health need deriving from an adverse social condition that contributes to poor health and health disparities, including, but not limited to, the need for reliable transportation.

Sec. 6. (*Effective from passage*) (a) The State Ombudsman, appointed pursuant to section 17a-870 of the general statutes, and the

Commissioners of Public Health and Social Services shall convene a working group concerning any revisions necessary to nursing home waiting list requirements as described in section 19a-533 of the general statutes. The working group shall include, but need not be limited to, the State Ombudsman, or the State Ombudsman's designee; the Commissioners of Public Health and Social Services, or their designees; and not fewer than two representatives of the nursing home industry, appointed by the Commissioner of Social Services.

(b) The State Ombudsman, or the State Ombudsman's designee, and the Commissioner of Social Services, or the commissioner's designee, shall serve as chairpersons of the working group, which shall meet not less than once monthly. Not later than January 1, 2024, the State Ombudsman and the Commissioners of Public Health and Social Services shall file a report, in accordance with section 11-4a of the general statutes, with the joint standing committees of the General Assembly having cognizance of matters relating to human services and public health with recommendations concerning any changes to the waiting list requirements, including, but not limited to, authorizing nursing homes to maintain waiting lists in electronic form.

Approved June 28, 2023