OLR Bill Analysis

sSB 1109

AN ACT CONCERNING MEDICAID REIMBURSEMENT TO COMMUNITY LIVING ARRANGEMENTS, INTERMEDIATE CARE FACILITIES FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES, RESIDENTIAL CARE HOMES AND NURSING FACILITIES.

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SUMMARY

This bill makes changes in laws related to rates and payments under Department of Social Services (DSS)-administered programs, as summarized in the section-by-section analysis below.

EFFECTIVE DATE: Various, see below.

§ 1 — DSS PAYMENTS TO NON-ICF-ID BOARDING HOMES

Allows DSS to annually provide pro rata rent increases for fair rent additions not otherwise included in rates beginning in FY 24

By law, DSS generally sets rates for room and board at private residential facilities and similar facilities operated by regional educational services centers that are licensed to provide residential care for people with certain disabilities, but not licensed as intermediate care facilities for people with intellectual disabilities (ICF-ID). Beginning in FY 24, the bill allows the DSS commissioner, in her discretion and within available appropriations, to provide pro rata fair rent increases in each fiscal year to facilities with documented fair rent additions placed in service in the cost report years (presumably, the most recently filed cost report) that are not otherwise included in issued rates.

The bill makes conforming changes and eliminates obsolete provisions.

EFFECTIVE DATE: July 1, 2023

Background — Related Bill

sHB 6665, § 7, favorably reported by the Appropriations and Human Services committees, generally caps FY 24 and 25 rates at FY 23 levels for room and board at non-ICF-ID facilities.

§ 2 — DSS PAYMENTS TO ICF-IDS

Prohibits inflationary adjustments for FYs 22 and 23, generally conforming to current law, and requires future inflationary adjustments to be based on a GDP deflator and adjusted by the DSS commissioner as she determines; requires DSS to determine whether a facility's change in ownership requires DSS to rebase its costs to calculate payment rates; allows DSS to provide annual pro rata rent increases beginning in FY 24

For intermediate care facilities for individuals with intellectual disabilities, the bill prohibits DSS from increasing rates based on inflation or any inflationary factors for FYs 22 and 23, conforming to current law that generally caps rates for those years with certain exceptions. For subsequent fiscal years, the bill requires the DSS commissioner to adjust any authorized inflationary increase as she determines, regardless of any other state law or regulation. The bill requires the inflation rate to be computed based on any percentage increase in the most recent calendar year average in the gross domestic product (GDP) deflator over the average for the previous calendar year. The bill requires DSS to apply any inflationary increase before applying any other budget adjustment factors.

The bill also requires DSS to determine whether and to what extent a change in facility ownership requires DSS to rebase the facility's costs. It prohibits any inflation adjustment during a year when a facility's rates are rebased. The bill allows DSS to give pro rata rent increases to facilities with documented fair rent additions placed in service in the cost report years (presumably, the most recently filed cost report) for each fiscal year beginning with FY 24.

EFFECTIVE DATE: July 1, 2023

Background — Related Bill

sHB 6665, § 8, favorably reported by the Appropriations and Human Services committees, generally caps FY 24 rates at FY 23 levels and FY 25 rates at FY 24 levels, with certain exceptions.

§ 3 — RESIDENTIAL CARE HOME RATES

Requires inflationary adjustments to be based on a GDP deflator and adjusted by the DSS commissioner as she determines; requires DSS to determine whether a facility's change in ownership requires DSS to rebase its costs to calculate payment rates

The bill requires the DSS commissioner to adjust any authorized inflationary increase as she determines, regardless of any other state law or regulation. The inflation rate must be computed based on any percentage increase in the most recent calendar year average in the GDP deflator over the average for the previous calendar year. The bill requires DSS to apply any inflationary increase before applying any other budget adjustment factors.

The bill also requires DSS to determine whether and to what extent a change in facility ownership requires DSS to rebase the facility's costs. It prohibits any inflation adjustment during a year when a facility's rates are rebased.

EFFECTIVE DATE: July 1, 2023

Background — Related Bill

sHB 6665, § 11, favorably reported by the Appropriations and Human Services committees, requires DSS to determine FY 24 rates for residential care homes based on 2022 cost report filings and allows other increases within available appropriations.

§§ 4 & 5 — NURSING HOME RATES

Allows the DSS commissioner to give pro rata fair rent increases, in her discretion and within available appropriations, to facilities with documented fair rent additions; sets a schedule for DSS to rebase facility costs; requires future inflationary adjustments to be based on a GDP deflator and adjusted by the DSS commissioner as she determines; and makes conforming changes

Existing law requires DSS to implement an acuity-based reimbursement rate for nursing homes effective July 1, 2022. Acuity-based rates generally reimburse nursing homes based on the level of care needed for patients. In practice, DSS is transitioning from a cost-based system to the acuity-based system over a period of years. Beginning with FY 23 rates, the law requires DSS to set acuity-based rates under provisions on case-mix adjustments and geographic peer groups, among other things.

The bill clarifies that several provisions applicable under the cost-based methodology are also applicable under the acuity-based methodology, generally conforming to current practice. These include provisions:

1. allowing certain costs to exceed maximum amounts for beds restricted to patients with AIDS, traumatic brain injury, or other specialized services;

2. requiring DSS to reimburse a facility as though its allowable fair rent equaled the 25th percentile of the statewide allowable fair rent if the facility's actual allowable fair rent is below that level;

3. requiring DSS to revise to 11% the allowance for a facility's rate of return on property other than land if the facility's rate of return exceeds 11%;

4. requiring facilities to receive cost efficiency adjustments for

indirect costs and administrative and general costs if the facility's costs are below the state-wide median costs;

5. requiring facilities or their related realty affiliates that finance or refinance debt through bonds issued by the Connecticut Health and Education Facilities Authority (CHEFA) to report to DSS;

6. allowing the DSS commissioner to revise the facility's fair rent to reflect any financial benefit the facility or its related realty affiliate received as a result; and

7. requiring the state and the facility to share the financial benefit resulting from CHEFA bonds to an extent determined by the DSS commissioner on a case-by-case basis, reflected as an adjustment to the facility's allowable fair rent.

Existing law and the bill require the DSS commissioner to determine allowable fair rent for real property other than land based on the rate of return for the cost year in which CHEFA bonds were issued. Existing law for cost-based methodology limits this requirement to facilities that opened on or after October 1, 1992.

Existing law applicable to the cost-based reimbursement methodology additionally (1) requires the DSS commissioner to allow actual debt service costs for CHEFA bonds if the costs do not exceed property costs allowable under DSS regulations and (2) allows her to allow higher debt service costs for good cause.

For FY 22, current law allows the DSS commissioner to give pro rata fair rent increases, in her discretion and within available appropriations, to facilities with documented fair rent additions in the 2020 cost year that are not otherwise included in the issued rates. The bill extends this provision to future fiscal years beginning with FY 22.

Beginning July 1, 2025, the bill requires DSS to rebase facility costs at least every four years, but no more frequently than every two years. The bill prohibits inflationary adjustments in a year when DSS rebases a facility's rates. It requires DSS to determine whether and to what extent a facility's change in ownership requires DSS to rebase its rates.

The bill requires the DSS commissioner to adjust any authorized inflationary increase as she determines, regardless of any other state law or regulation. The inflation rate must be computed based on any percentage increase in the most recent calendar year average in the GDP deflator over the average for the previous calendar year. The bill requires DSS to apply any inflationary increase before applying any other budget adjustment factors.

The bill specifically requires the DSS commissioner to determine rates for new facilities under provisions in existing law and the bill on rates for existing nursing homes.

The bill also makes technical and conforming changes.

EFFECTIVE DATE: Upon passage

Background — Related Bill

sHB 6665, § 9, favorably reported by the Appropriations and Human Services committees, limits inflationary increases to nursing home rates for FYs 24 and 25.

COMMITTEE ACTION

Human Services Committee

Joint Favorable Substitute Change of Reference - APP
Yea 21 Nay 0 (03/28/2023)

Appropriations Committee

Joint Favorable Substitute
Yea 42 Nay 7 (04/21/2023)