



PA 23-186—sSB 989

Human Services Committee

Judiciary Committee

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

SUMMARY: This act makes several changes in laws concerning human services providers. Specifically, it does the following:

1. requires the Department of Social Services (DSS) to (1) conduct a two-part study of Medicaid reimbursement rates and (2) implement a program to provide Medicaid reimbursement to certified community health workers (CHW) (§§ 1 & 4);
2. requires DSS and certain other state agencies to allow nonprofit private provider organizations that provide health and human services to retain any savings from a purchase of service contract at the end of each fiscal year, so long as the organization otherwise meets contractual requirements (§§ 2 & 3);
3. allows nursing homes to provide nonemergency transportation for their residents to travel to their family members' homes under certain circumstances and requires DSS to evaluate whether federal funding may be available for this transportation (§ 5); and
4. requires the State Long-Term Care Ombudsman and the Department of Public Health (DPH) and DSS commissioners to convene a working group on nursing home waiting list requirements and report any recommended changes to the Human Services and Public Health committees by January 1, 2024 (§ 6).

EFFECTIVE DATE: Upon passage, except provisions on nonprofit providers' contract savings and nursing home transportation are effective on July 1, 2023.

§ 1 — MEDICAID REIMBURSEMENT RATE STUDY

The act requires the DSS commissioner, within available appropriations, to conduct a two-part study of Medicaid reimbursement that must compare state Medicaid rates to (1) Medicaid rates in neighboring states and (2) Medicare rates and cost-of-living increases.

For the first part, DSS must examine Medicaid rates for physician specialists, dentists, and behavioral health providers; and for the second part, it must review the reimbursement system for all other aspects of the Medicaid program (e.g., ambulance services, federally qualified health centers, specialty hospitals, complex

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nursing care, and methadone maintenance). The department must file interim reports with the Appropriations and Human Services committees on the first part by February 1, 2024, and on the second part by January 1, 2025.

The act specifies that it does not impact Medicaid reimbursement rates for FYs 24 or 25.

§§ 2 & 3 — NONPROFIT PROVIDER CONTRACT SAVINGS

The act requires certain state agencies to allow nonprofit private provider organizations to retain any savings from a purchase of service contract at the end of the fiscal year. A “purchase of service contract” is a contract between a state agency and private provider organization for direct health and human services for agency clients. It generally excludes administrative or clerical services; material goods, training, or consulting services; or contracts with individuals (CGS § 4-70b(1)). The act specifically applies to contracts with the Department of Developmental Services (DDS), the Department of Mental Health and Addiction Services (DMHAS), DSS, or the Department of Children and Families (DCF) for health and human services. These services directly support health, safety, and welfare for state residents, including those with behavioral health disorders, disabilities, or autism spectrum disorder.

The act allows a provider to only use retained funds to strengthen quality, invest in deferred maintenance, and make asset improvements, but it explicitly allows them to expend retained funds on programs funded by the same state agency. To retain savings, a provider must otherwise meet its contractual arrangements, including obligations for services provided and clients served. It must also apply to the state agency, describing how it plans to reinvest savings, and report to the state agency on how it will reinvest savings for the allowed purposes described above. The act requires DCF, DDS, DMHAS, and DSS commissioners to (1) prescribe application forms and report frequency; (2) review and respond to any submitted application within 90 days after receiving it; and (3) approve, disapprove, or modify any application in accordance with the allowed purposes described above.

The act prohibits DCF, DDS, DMHAS, and DSS from attempting to recover or otherwise offset funds retained by a provider from their contracted cost for services (i.e., it prohibits agency efforts to recoup savings at the end of each fiscal year). The act also prohibits these agencies from allowing a provider to retain savings if (1) the contract is federally funded and (2) it is prohibited by federal law or regulations or would jeopardize federal funding.

The act authorizes the DSS commissioner to study nonprofit private provider organization contracting and billing practices to ensure compliance with Medicaid waivers and state plan amendments. If she undertakes this study, she must (1) consult with the Office of Policy and Management (OPM) secretary and the DCF, DMHAS, and DDS commissioners and (2) complete it by December 31, 2024.

The act also authorizes the DDS commissioner, in consultation with the OPM secretary, to extend the act’s provisions on retained savings to other private provider organizations that contract with DDS, so long as they meet the act’s requirements (e.g., meeting contract terms and conditions for DDS services).

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Prior law required the OPM secretary to establish a more general incentive program for nonprofit human services providers to allow them to retain savings and prohibit state agencies from reducing future contracted amounts to reflect those savings. The act eliminates this requirement.

§ 4 — MEDICAID REIMBURSEMENT FOR CERTIFIED COMMUNITY HEALTH WORKERS (CHW)

A CHW is a public health outreach professional with an in-depth understanding of a community's experience, language, culture, and socioeconomic needs who provides services that include outreach, engagement, education, coaching, informal counseling, social support, advocacy, care coordination, research related to social determinants of health, and basic screenings and assessments of associated risks (CGS § 20-195ttt(1)).

The act requires the DSS commissioner to design and implement a program to provide Medicaid reimbursement to certified CHWs for services provided to HUSKY Health program members, including the following services:

1. coordinating medical, oral, and behavioral health care services and social supports;
2. navigating and connecting to health systems and services;
3. prenatal, birth, lactation, and postpartum supports; and
4. health promotion, coaching, and self-management education.

The commissioner must design and implement the program in consultation with certified CHWs, Medicaid beneficiaries, and advocates, including advocates for people with disabilities, and others. These consultations must (1) include community-based and clinic-based certified CHWs, (2) represent medical assistance program member demographics, and (3) help shape the program's design and implementation. The commissioner, and those with whom she consults, must explore options for the program's design that ensure access to CHWs, encourage workforce growth to support this access, and avert the risk of creating financial incentives for other providers to limit access to CHWs.

Starting by January 1, 2024, and continuing until the program is fully implemented, the act requires the DSS commissioner to report annually to the Human Services Committee and the Council on Medical Assistance Program Oversight (MAPOC). The act requires her to submit the initial report at least six months before implementing the reimbursement program. The report must include an update on the program's design and analyze program elements designed to (1) ensure access to CHW services, (2) promote workforce growth, and (3) avert risk of creating financial incentives for other providers to limit access to CHWs. It must also evaluate the program's impact on health outcome and health equity.

§ 5 — NURSING HOMES AND NONEMERGENCY TRANSPORTATION

The act allows a nursing home to provide nonemergency transportation for nonambulatory residents to their family members' homes if (1) it has available vehicles equipped to transport these residents; (2) the family members live within

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15 miles of the nursing home; and (3) a physician, physician's assistant, or advanced practice registered nurse approves the transportation at least five days in advance. The act specifies that it must not be construed to authorize or require any payment or reimbursement to a nursing home for this transportation service.

The act requires the DSS commissioner to (1) evaluate whether the need for this transportation qualifies as a health-related social need and (2) by October 1, 2023, report on this evaluation and any potential federal funding for this transportation to MAPOC. Under the act, a "health-related social need" is a health need deriving from an adverse social condition that contributes to poor health and health disparities (e.g., the need for reliable transportation).

§ 6 — NURSING HOME WAITING LIST WORKING GROUP

Existing law sets requirements for nursing home waiting lists, generally requiring nursing homes to admit applicants in the order in which they apply, provide a receipt for each person who requests to be placed on a waiting list, and maintain a dated list of applications, among other things (CGS § 19a-533).

The act requires the State Long-Term Care Ombudsman and the DPH and DSS commissioners to (1) convene a working group on any necessary revisions to the statutory requirements for nursing home waiting lists and (2) report to the Human Services and Public Health committees by January 1, 2024, on any recommended changes, including allowing nursing homes to keep waiting lists in electronic form.

The working group's members must include (1) the ombudsman and commissioners, or their designees, and (2) two nursing home industry representatives, appointed by the DSS commissioner. The working group must meet monthly, and the ombudsman and the DSS commissioner, or their designees, must serve as chairpersons.