



General Assembly

February Session, 2020

Raised Bill No. 5236

LCO No. 1455



Referred to Committee on HUMAN SERVICES

Introduced by:
(HS)

AN ACT CONCERNING THE TRANSITION TO A MEDICAID NURSING HOME FACILITY CASE MIX PAYMENT SYSTEM.

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

1 Section 1. Section 17b-340d of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2020*):

3 (a) For purposes of this section, "Minimum Data Set", or "MDS"
4 means a federally mandated process for clinical assessments of the
5 functional capabilities and health needs of residents in a nursing home
6 facility certified by Medicare or Medicaid. The Commissioner of Social
7 Services may implement an acuity-based methodology for Medicaid
8 reimbursement of nursing home services, which shall be known as the
9 Medicaid nursing home facility case mix payment system. In the course
10 of developing such a system, the commissioner shall review the skilled
11 nursing facility prospective payment system developed by the Centers
12 for Medicare and Medicaid Services, as well as other methodologies
13 used nationally, and shall consider recommendations from the nursing
14 home finance advisory committee established pursuant to section 17b-
15 339, as amended by this act, and the nursing home industry. For the

16 purpose of formulating such recommendations, the commissioner shall
17 provide to the nursing home finance advisory committee and
18 representatives of the nursing home industry any (1) MDS provider
19 data, (2) nursing home facility cost report and rate computation data, (3)
20 case mix payment models, and (4) other data included in the design,
21 development, modeling, implementation and operation of the case mix
22 payment system.

23 (b) The Commissioner of Social Services may implement policies as
24 necessary to carry out the provisions of this section while in the process
25 of adopting the policies as regulations, provided that prior to
26 implementation the policies are posted on the eRegulations System
27 established pursuant to section 4-173b and the Department of Social
28 Services' Internet web site. In no event may the commissioner
29 implement the provisions of this section prior to federal approval of a
30 Medicaid state plan amendment and the adoption of state regulations
31 to implement the transition to a Medicaid nursing home facility case mix
32 payment system from a cost-based payment system.

33 (c) The Commissioner of Social Services shall submit a proposed
34 amendment to the Medicaid state plan to implement the transition to a
35 Medicaid nursing home facility case mix payment system from a cost-
36 based payment system in accordance with the provisions of section 17b-
37 8, as amended by this act, prior to submission of the Medicaid state plan
38 amendment to the federal government.

39 (d) The Medicaid state plan amendment implementing the transition
40 to a Medicaid nursing home facility case mix payment system shall
41 include, but not be limited to, the following components:

42 (1) A fiscal impact evaluation providing the assurance of (A)
43 adequate funding to achieve quality and access to care; (B) an evaluation
44 of any funding shortfall for Medicaid-certified nursing home facilities,
45 including, but not limited to, the accumulated impact of previous
46 adopted restraints on cost-based nursing home facility rate increases as
47 well as any anticipated funding shortfall in the case mix payment

48 system; and (C) provisions for an annual inflationary adjustment and
49 periodic rebasing of the rates;

50 (2) A facility-by-facility specific impact analysis, including a
51 comparison of current cost-based provider rates to rates under a case
52 mix payment system;

53 (3) A facility-by-facility comparison of the calculated model case mix
54 rates prior to adjustment based on available state resources versus such
55 rates adjusted for available state resources;

56 (4) A provision to provide adequate reimbursement in the case mix
57 payment methodology for costs, including, but not limited to, those
58 related to dementia and Alzheimer's disease care, ventilator usage,
59 bariatric conditions, HIV/AIDS treatment, behavioral health and
60 substance use disorders;

61 (5) A provision to address distinct needs of facilities with an
62 occupancy rate of ninety-five per cent or higher with residents
63 predominantly supported by Medicaid;

64 (6) A provision for the establishment of value-based performance
65 incentives to reward quality performance measured by quality metrics,
66 provided the incentives are paid for from supplemental funding and not
67 obtained through withholding rate increases for facilities;

68 (7) An analysis of data concerning access to care to ensure a sufficient
69 supply of nursing home facility beds and services, including specialty
70 care services;

71 (8) A phased-in implementation schedule, including a stop loss
72 provision to limit the amount a rate can be reduced within an
73 established time period;

74 (9) A rate differential based on geographic location of the nursing
75 home facilities located in Fairfield county;

76 (10) For the purpose of achieving voluntary licensed bed reductions,

77 a provision to require the recalculation of the base rates within the 2018
78 cost report year for nursing homes that reduce their licensed bed
79 capacity effective June 30, 2020, or before; and

80 (11) Initial and annual training for nursing home facility staff in the
81 new Medicaid nursing facility case mix payment system.

82 (e) Not later than January 1, 2021, the Commissioner of Social Services
83 shall submit a report, in accordance with section 11-4a, to the joint
84 standing committees of the General Assembly having cognizance of
85 matters relating to human services, public health and appropriations
86 and the budgets of state agencies, on the implementation of the
87 transition to a Medicaid nursing home facility case mix payment system
88 from a cost-based payment system. Such report shall include, but not be
89 limited to, an evaluation of each component of the transition to a
90 Medicaid nursing home facility case mix payment system.

91 Sec. 2. Subsection (a) of section 17b-8 of the general statutes is
92 repealed and the following is substituted in lieu thereof (*Effective July 1,*
93 *2020*):

94 (a) The Commissioner of Social Services shall submit an application
95 for a federal waiver or renewal of such waiver of any assistance program
96 requirements, except such application pertaining to routine operational
97 issues, and any proposed amendment to the Medicaid state plan to (1)
98 make a change in program requirements that would have required a
99 waiver were it not for the passage of the Patient Protection and
100 Affordable Care Act, P.L. 111-148, and the Health Care and Education
101 Reconciliation Act of 2010, P.L. 111-152, or (2) implement the transition
102 to a Medicaid nursing home facility case mix payment system from a
103 cost-based payment system, to the joint standing committees of the
104 General Assembly having cognizance of matters relating to human
105 services and appropriations and the budgets of state agencies prior to
106 the submission of such application or proposed amendment to the
107 federal government. Not later than thirty days after the date of their
108 receipt of such application or proposed amendment, the joint standing

109 committees shall: [(1)] (A) Hold a public hearing on the waiver
110 application, or [(2)] (B) in the case of a proposed amendment to the
111 Medicaid state plan, notify the Commissioner of Social Services whether
112 or not said joint standing committees intend to hold a public hearing.
113 Any notice to the commissioner indicating that the joint standing
114 committees intend to hold a public hearing on a proposed amendment
115 to the Medicaid state plan shall state the date on which the joint standing
116 committees intend to hold such public hearing, which shall not be later
117 than sixty days after the joint standing committees' receipt of the
118 proposed amendment. At the conclusion of a public hearing held in
119 accordance with the provisions of this section, the joint standing
120 committees shall advise the commissioner of their approval, denial or
121 modifications, if any, of the commissioner's waiver application or
122 proposed amendment. If the joint standing committees advise the
123 commissioner of their denial of the commissioner's waiver application
124 or proposed amendment, the commissioner shall not submit the
125 application for a federal waiver or proposed amendment to the federal
126 government. If such committees do not concur, the committee
127 chairpersons shall appoint a committee of conference which shall be
128 composed of three members from each joint standing committee. At
129 least one member appointed from each joint standing committee shall
130 be a member of the minority party. The report of the committee of
131 conference shall be made to each joint standing committee, which shall
132 vote to accept or reject the report. The report of the committee of
133 conference may not be amended. If a joint standing committee rejects
134 the report of the committee of conference, that joint standing committee
135 shall notify the commissioner of the rejection and the commissioner's
136 waiver application or proposed amendment shall be deemed approved.
137 If the joint standing committees accept the report, the committee having
138 cognizance of matters relating to appropriations and the budgets of state
139 agencies shall advise the commissioner of their approval, denial or
140 modifications, if any, of the commissioner's waiver application or
141 proposed amendment. If the joint standing committees do not so advise
142 the commissioner during the thirty-day period, the waiver application
143 or proposed amendment shall be deemed approved. Any application

144 for a federal waiver, waiver renewal or proposed amendment submitted
145 to the federal government by the commissioner, pursuant to this section,
146 shall be in accordance with the approval or modifications, if any, of the
147 joint standing committees of the General Assembly having cognizance
148 of matters relating to human services and appropriations and the
149 budgets of state agencies.

150 Sec. 3. Subsection (b) of section 17b-339 of the general statutes is
151 repealed and the following is substituted in lieu thereof (*Effective July 1,*
152 *2020*):

153 (b) The committee shall (1) evaluate any information and data
154 available, including, but not limited to, (A) quality of care, (B) acuity,
155 (C) census, and (D) staffing levels of nursing homes operating in the
156 state to assess the (i) transition to a Medicaid nursing home facility case
157 mix payment system from a cost-based payment system, and (ii) the
158 overall infrastructure and projected needs of such homes, and (2)
159 recommend appropriate action consistent with the goals, strategies and
160 long-term care needs set forth in the strategic plan developed pursuant
161 to subsection (c) of section 17b-369 to the Commissioner of Social
162 Services and the Commissioner of Public Health. The Commissioner of
163 Social Services shall submit quarterly reports to the committee
164 concerning pending nursing home requests for interim rate increases.
165 Such reports shall, without identifying any requesting facility by name,
166 list the amount of each increase requested, the reason for the request and
167 the rate that will result if the request is granted.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2020</i>	17b-340d
Sec. 2	<i>July 1, 2020</i>	17b-8(a)
Sec. 3	<i>July 1, 2020</i>	17b-339(b)

Statement of Purpose:

To ensure the transition to a new Medicaid payment system for nursing home facilities is equitable, efficient and adequately funded.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]