



General Assembly

Substitute Bill No. 6446

January Session, 2021



**AN ACT CONCERNING THE GOVERNOR'S BUDGET
RECOMMENDATIONS FOR HUMAN SERVICES.**

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

1 Section 1. Section 17b-265 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2021*):

3 (a) In accordance with 42 USC 1396k, the Department of Social
4 Services shall be subrogated to any right of recovery or indemnification
5 that an applicant or recipient of medical assistance or any legally liable
6 relative of such applicant or recipient has against an insurer or other
7 legally liable third party including, but not limited to, a self-insured
8 plan, group health plan, as defined in Section 607(1) of the Employee
9 Retirement Income Security Act of 1974, service benefit plan, managed
10 care organization, health care center, pharmacy benefit manager, dental
11 benefit manager, third-party administrator or other party that is, by
12 statute, contract or agreement, legally responsible for payment of a
13 claim for a health care item or service, for the cost of all health care items
14 or services furnished to the applicant or recipient, including, but not
15 limited to, hospitalization, pharmaceutical services, physician services,
16 nursing services, behavioral health services, long-term care services and
17 other medical services, not to exceed the amount expended by the
18 department for such care and treatment of the applicant or recipient. In

19 the case of such a recipient who is an enrollee in a care management
20 organization under a Medicaid care management contract with the state
21 or a legally liable relative of such an enrollee, the department shall be
22 subrogated to any right of recovery or indemnification which the
23 enrollee or legally liable relative has against such a private insurer or
24 other third party for the medical costs incurred by the care management
25 organization on behalf of an enrollee.

26 (b) An applicant or recipient or legally liable relative, by the act of the
27 applicant's or recipient's receiving medical assistance, shall be deemed
28 to have made a subrogation assignment and an assignment of claim for
29 benefits to the department. The department shall inform an applicant of
30 such assignments at the time of application. Any entitlements from a
31 contractual agreement with an applicant or recipient, legally liable
32 relative or a state or federal program for such medical services, not to
33 exceed the amount expended by the department, shall be so assigned.
34 Such entitlements shall be directly reimbursable to the department by
35 third party payors. The Department of Social Services may assign its
36 right to subrogation or its entitlement to benefits to a designee or a
37 health care provider participating in the Medicaid program and
38 providing services to an applicant or recipient, in order to assist the
39 provider in obtaining payment for such services. In accordance with
40 subsection (b) of section 38a-472, a provider that has received an
41 assignment from the department shall notify the recipient's health
42 insurer or other legally liable third party including, but not limited to, a
43 self-insured plan, group health plan, as defined in Section 607(1) of the
44 Employee Retirement Income Security Act of 1974, service benefit plan,
45 managed care organization, health care center, pharmacy benefit
46 manager, dental benefit manager, third-party administrator or other
47 party that is, by statute, contract or agreement, legally responsible for
48 payment of a claim for a health care item or service, of the assignment
49 upon rendition of services to the applicant or recipient. Failure to so
50 notify the health insurer or other legally liable third party shall render
51 the provider ineligible for payment from the department. The provider
52 shall notify the department of any request by the applicant or recipient

53 or legally liable relative or representative of such applicant or recipient
54 for billing information. This subsection shall not be construed to affect
55 the right of an applicant or recipient to maintain an independent cause
56 of action against such third party tortfeasor.

57 (c) Claims for recovery or indemnification submitted by the
58 department, or the department's designee, shall not be denied solely on
59 the basis of the date of the submission of the claim, the type or format of
60 the claim, the lack of prior authorization or the failure to present proper
61 documentation at the point-of-service that is the basis of the claim, if (1)
62 the claim is submitted by the state within the three-year period
63 beginning on the date on which the item or service was furnished; and
64 (2) any action by the state to enforce its rights with respect to such claim
65 is commenced within six years of the state's submission of the claim.

66 (d) When a recipient of medical assistance has personal health
67 insurance in force covering care or other benefits provided under such
68 program, payment or part-payment of the premium for such insurance
69 may be made when deemed appropriate by the Commissioner of Social
70 Services. [Effective January 1, 1992, the] The commissioner shall limit
71 reimbursement to medical assistance providers for coinsurance and
72 deductible payments under Title XVIII of the Social Security Act to
73 assure that the combined Medicare and Medicaid payment to the
74 provider shall not exceed the maximum allowable under the Medicaid
75 program fee schedules.

76 (e) No self-insured plan, group health plan, as defined in Section
77 607(1) of the Employee Retirement Income Security Act of 1974, service
78 benefit plan, managed care plan, or any plan offered or administered by
79 a health care center, pharmacy benefit manager, dental benefit manager,
80 third-party administrator or other party that is, by statute, contract or
81 agreement, legally responsible for payment of a claim for a health care
82 item or service, shall contain any provision that has the effect of denying
83 or limiting enrollment benefits or excluding coverage because services
84 are rendered to an insured or beneficiary who is eligible for or who
85 received medical assistance under this chapter. No insurer, as defined

86 in section 38a-497a, shall impose requirements on the state Medicaid
87 agency, which has been assigned the rights of an individual eligible for
88 Medicaid and covered for health benefits from an insurer, that differ
89 from requirements applicable to an agent or assignee of another
90 individual so covered.

91 (f) The Commissioner of Social Services shall not pay for any services
92 provided under this chapter if the individual eligible for medical
93 assistance has coverage for the services under an accident or health
94 insurance policy.

95 (g) An insurer or other legally liable third party, upon receipt of a
96 claim submitted by the department or the department's designee, in
97 accordance with the requirements of subsection (c) of this section, for
98 payment of a health care item or service covered under a state medical
99 assistance program administered by the department, shall, not later
100 than ninety days after receipt of the claim or not later than ninety days
101 after the effective date of this section, whichever is later, (1) make
102 payment on the claim, (2) request information necessary to determine
103 its legal obligation to pay the claim, or (3) issue a written reason for
104 denial of the claim. Failure to pay, request information necessary to
105 determine legal obligation to pay or issue a written reason for denial of
106 a claim not later than one hundred twenty days after receipt of the claim,
107 or not later than one hundred twenty days after the effective date of this
108 section, whichever is later, creates an uncontestable obligation to pay
109 the claim. The provisions of this subsection shall apply to all claims,
110 including claims submitted by the department or the department's
111 designee prior to July 1, 2021.

112 (h) On and after July 1, 2021, an insurer or other legally liable third
113 party who has reimbursed the department for a health care item or
114 service paid for and covered under a state medical assistance program
115 administered by the department shall, upon determining it is not liable
116 and at risk for cost of the health care item or service, request any refund
117 from the department not later than twelve months from the date of its
118 reimbursement to the department.

119 Sec. 2. Section 17b-340d of the general statutes is repealed and the
120 following is substituted in lieu thereof (*Effective October 1, 2021*):

121 (a) The Commissioner of Social Services [may] shall implement an
122 acuity-based methodology for Medicaid reimbursement of nursing
123 home services. [In the course of developing such a system, the
124 commissioner shall review the skilled nursing facility prospective
125 payment system developed by the Centers for Medicare and Medicaid
126 Services, as well as other methodologies used nationally, and shall
127 consider recommendations from the nursing home industry.]
128 Notwithstanding the provisions of section 17b-340, as amended by this
129 act, beginning on October 1, 2021, and ending on June 30, 2022, and each
130 fiscal year ending on June thirtieth thereafter, the Commissioner of
131 Social Services shall establish Medicaid rates paid to nursing home
132 facilities based on cost years ending on September thirtieth in
133 accordance with the following:

134 (1) Case-mix adjustments to the direct care component shall be made
135 or phased in effective October 1, 2021, and updated every quarter
136 thereafter. The transition to acuity-based reimbursement shall be cost
137 neutral and based on cost reports for the fiscal year ending June 30, 2018.

138 (2) Geographic peer groupings of facilities shall be established by the
139 Department of Social Services pursuant to regulations adopted in
140 accordance with subsection (b) of this section.

141 (3) Allowable costs shall be divided into the following five cost
142 components: (A) Direct costs, which shall include salaries for nursing
143 personnel, related fringe benefits and nursing pool costs; (B) indirect
144 costs, which shall include professional fees, dietary expenses,
145 housekeeping expenses, laundry expenses, supplies related to patient
146 care, salaries for indirect care personnel and related fringe benefits; (C)
147 fair rent, which shall be defined in regulations adopted in accordance
148 with subsection (b) of this section; (D) capital-related costs, which shall
149 include property taxes, insurance expenses, equipment leases and
150 equipment depreciation; and (E) administrative and general costs,

151 which shall include maintenance and operation of plant expenses,
152 salaries for administrative and maintenance personnel and related
153 fringe benefits. For (i) direct costs, the maximum cost shall be equal to
154 one hundred thirty-five per cent of the median allowable cost of that
155 peer grouping; (ii) indirect costs, the maximum cost shall be equal to one
156 hundred fifteen per cent of the state-wide median allowable cost; (iii)
157 fair rent, the amount shall be calculated utilizing the amount approved
158 pursuant to section 17b-353; (iv) capital-related costs, there shall be no
159 maximum; and (v) administrative and general costs, the maximum shall
160 be equal to the state-wide median allowable cost.

161 (4) For the period beginning on October 1, 2021, and ending on June
162 30, 2022, the commissioner may, in the commissioner's discretion and
163 within available appropriations, provide pro rata fair rent increases to
164 facilities which have documented fair rent additions placed in service in
165 the cost report year ending on September 30, 2019, that are not otherwise
166 included in the rates issued.

167 (5) There shall be no increase to rates based on inflation or any
168 inflationary factor for the period beginning on October 1, 2021, and
169 ending on June 30, 2023.

170 (6) For purposes of computing minimum allowable patient days,
171 utilization of a facility's certified beds shall be determined at a minimum
172 of ninety per cent of capacity, except for new facilities and facilities
173 which are certified for additional beds which may be permitted a lower
174 occupancy rate for the first three months of operation after the effective
175 date of licensure.

176 (7) Rates determined under this section shall comply with federal
177 laws and regulations.

178 (b) The Commissioner of Social Services may implement policies as
179 necessary to carry out the provisions of this section while in the process
180 of adopting the policies as regulations, provided that prior to
181 implementation the policies are posted (1) on the eRegulations System

182 established pursuant to section 4-173b and (2) the Department of Social
183 Services' Internet web site.

184 Sec. 3. Section 17b-340 of the general statutes is repealed and the
185 following is substituted in lieu thereof (*Effective July 1, 2021*):

186 (a) For purposes of this subsection, (1) a "related party" includes, but
187 is not limited to, any company related to a chronic and convalescent
188 nursing home through family association, common ownership, control
189 or business association with any of the owners, operators or officials of
190 such nursing home; (2) "company" means any person, partnership,
191 association, holding company, limited liability company or corporation;
192 (3) "family association" means a relationship by birth, marriage or
193 domestic partnership; and (4) "profit and loss statement" means the
194 most recent annual statement on profits and losses finalized by a related
195 party before the annual report mandated under this subsection. The
196 rates to be paid by or for persons aided or cared for by the state or any
197 town in this state to licensed chronic and convalescent nursing homes,
198 to chronic disease hospitals associated with chronic and convalescent
199 nursing homes, to rest homes with nursing supervision, to licensed
200 residential care homes, as defined by section 19a-490, and to residential
201 facilities for persons with intellectual disability that are licensed
202 pursuant to section 17a-227 and certified to participate in the Title XIX
203 Medicaid program as intermediate care facilities for individuals with
204 intellectual disabilities, for room, board and services specified in
205 licensing regulations issued by the licensing agency shall be determined
206 annually, except as otherwise provided in this subsection [, after a
207 public hearing,] by the Commissioner of Social Services, to be effective
208 July first of each year except as otherwise provided in this subsection.
209 Such rates shall be determined on a basis of a reasonable payment for
210 such necessary services, which basis shall take into account as a factor
211 the costs of such services. Cost of such services shall include reasonable
212 costs mandated by collective bargaining agreements with certified
213 collective bargaining agents or other agreements between the employer
214 and employees, provided "employees" shall not include persons

215 employed as managers or chief administrators or required to be licensed
216 as nursing home administrators, and compensation for services
217 rendered by proprietors at prevailing wage rates, as determined by
218 application of principles of accounting as prescribed by said
219 commissioner. Cost of such services shall not include amounts paid by
220 the facilities to employees as salary, or to attorneys or consultants as
221 fees, where the responsibility of the employees, attorneys, or consultants
222 is to persuade or seek to persuade the other employees of the facility to
223 support or oppose unionization. Nothing in this subsection shall
224 prohibit inclusion of amounts paid for legal counsel related to the
225 negotiation of collective bargaining agreements, the settlement of
226 grievances or normal administration of labor relations. The
227 commissioner may, in the commissioner's discretion, allow the inclusion
228 of extraordinary and unanticipated costs of providing services that were
229 incurred to avoid an immediate negative impact on the health and safety
230 of patients. The commissioner may, in the commissioner's discretion,
231 based upon review of a facility's costs, direct care staff to patient ratio
232 and any other related information, revise a facility's rate for any
233 increases or decreases to total licensed capacity of more than ten beds or
234 changes to its number of licensed rest home with nursing supervision
235 beds and chronic and convalescent nursing home beds. The
236 commissioner may, in the commissioner's discretion, revise the rate of a
237 facility that is closing. An interim rate issued for the period during
238 which a facility is closing shall be based on a review of facility costs, the
239 expected duration of the close-down period, the anticipated impact on
240 Medicaid costs, available appropriations and the relationship of the rate
241 requested by the facility to the average Medicaid rate for a close-down
242 period. The commissioner may so revise a facility's rate established for
243 the fiscal year ending June 30, 1993, and thereafter for any bed increases,
244 decreases or changes in licensure effective after October 1, 1989.
245 Effective July 1, 1991, in facilities that have both a chronic and
246 convalescent nursing home and a rest home with nursing supervision,
247 the rate for the rest home with nursing supervision shall not exceed such
248 facility's rate for its chronic and convalescent nursing home. All such
249 facilities for which rates are determined under this subsection shall

250 report on a fiscal year basis ending on September thirtieth. Such report
251 shall be submitted to the commissioner by February fifteenth. Each for-
252 profit chronic and convalescent nursing home that receives state
253 funding pursuant to this section shall include in such annual report a
254 profit and loss statement from each related party that receives from such
255 chronic and convalescent nursing home fifty thousand dollars or more
256 per year for goods, fees and services. No cause of action or liability shall
257 arise against the state, the Department of Social Services, any state
258 official or agent for failure to take action based on the information
259 required to be reported under this subsection. The commissioner may
260 reduce the rate in effect for a facility that fails to submit a complete and
261 accurate report on or before February fifteenth by an amount not to
262 exceed ten per cent of such rate. If a licensed residential care home fails
263 to submit a complete and accurate report, the department shall notify
264 such home of the failure and the home shall have thirty days from the
265 date the notice was issued to submit a complete and accurate report. If
266 a licensed residential care home fails to submit a complete and accurate
267 report not later than thirty days after the date of notice, such home may
268 not receive a retroactive rate increase, in the commissioner's discretion.
269 The commissioner shall, annually, on or before April first, report the
270 data contained in the reports of such facilities [to the joint standing
271 committee of the General Assembly having cognizance of matters
272 relating to appropriations and the budgets of state agencies] on the
273 department's Internet web site. For the cost reporting year commencing
274 October 1, 1985, and for subsequent cost reporting years, facilities shall
275 report the cost of using the services of any nursing pool employee by
276 separating said cost into two categories, the portion of the cost equal to
277 the salary of the employee for whom the nursing pool employee is
278 substituting shall be considered a nursing cost and any cost in excess of
279 such salary shall be further divided so that seventy-five per cent of the
280 excess cost shall be considered an administrative or general cost and
281 twenty-five per cent of the excess cost shall be considered a nursing cost,
282 provided if the total nursing pool costs of a facility for any cost year are
283 equal to or exceed fifteen per cent of the total nursing expenditures of
284 the facility for such cost year, no portion of nursing pool costs in excess

285 of fifteen per cent shall be classified as administrative or general costs.
286 The commissioner, in determining such rates, shall also take into
287 account the classification of patients or boarders according to special
288 care requirements or classification of the facility according to such
289 factors as facilities and services and such other factors as the
290 commissioner deems reasonable, including anticipated fluctuations in
291 the cost of providing such services. The commissioner may establish a
292 separate rate for a facility or a portion of a facility for traumatic brain
293 injury patients who require extensive care but not acute general hospital
294 care. Such separate rate shall reflect the special care requirements of
295 such patients. If changes in federal or state laws, regulations or
296 standards adopted subsequent to June 30, 1985, result in increased costs
297 or expenditures in an amount exceeding one-half of one per cent of
298 allowable costs for the most recent cost reporting year, the
299 commissioner shall adjust rates and provide payment for any such
300 increased reasonable costs or expenditures within a reasonable period
301 of time retroactive to the date of enforcement. Nothing in this section
302 shall be construed to require the Department of Social Services to adjust
303 rates and provide payment for any increases in costs resulting from an
304 inspection of a facility by the Department of Public Health. Such
305 assistance as the commissioner requires from other state agencies or
306 departments in determining rates shall be made available to the
307 commissioner at the commissioner's request. Payment of the rates
308 established pursuant to this section shall be conditioned on the
309 establishment by such facilities of admissions procedures that conform
310 with this section, section 19a-533 and all other applicable provisions of
311 the law and the provision of equality of treatment to all persons in such
312 facilities. The established rates shall be the maximum amount
313 chargeable by such facilities for care of such beneficiaries, and the
314 acceptance by or on behalf of any such facility of any additional
315 compensation for care of any such beneficiary from any other person or
316 source shall constitute the offense of aiding a beneficiary to obtain aid
317 to which the beneficiary is not entitled and shall be punishable in the
318 same manner as is provided in subsection (b) of section 17b-97. [For the
319 fiscal year ending June 30, 1992, rates for licensed residential care homes

320 and intermediate care facilities for individuals with intellectual
321 disabilities may receive an increase not to exceed the most recent annual
322 increase in the Regional Data Resources Incorporated McGraw-Hill
323 Health Care Costs: Consumer Price Index (all urban)-All Items. Rates
324 for newly certified intermediate care facilities for individuals with
325 intellectual disabilities shall not exceed one hundred fifty per cent of the
326 median rate of rates in effect on January 31, 1991, for intermediate care
327 facilities for individuals with intellectual disabilities certified prior to
328 February 1, 1991.] Notwithstanding any provision of this section, the
329 Commissioner of Social Services may, within available appropriations,
330 provide an interim rate increase for a licensed chronic and convalescent
331 nursing home or a rest home with nursing supervision for rate periods
332 no earlier than April 1, 2004, only if the commissioner determines that
333 the increase is necessary to avoid the filing of a petition for relief under
334 Title 11 of the United States Code; imposition of receivership pursuant
335 to sections 19a-542 and 19a-543; or substantial deterioration of the
336 facility's financial condition that may be expected to adversely affect
337 resident care and the continued operation of the facility, and the
338 commissioner determines that the continued operation of the facility is
339 in the best interest of the state. The commissioner shall consider any
340 requests for interim rate increases on file with the department from
341 March 30, 2004, and those submitted subsequently for rate periods no
342 earlier than April 1, 2004. When reviewing an interim rate increase
343 request the commissioner shall, at a minimum, consider: (A) Existing
344 chronic and convalescent nursing home or rest home with nursing
345 supervision utilization in the area and projected bed need; (B) physical
346 plant long-term viability and the ability of the owner or purchaser to
347 implement any necessary property improvements; (C) licensure and
348 certification compliance history; (D) reasonableness of actual and
349 projected expenses; and (E) the ability of the facility to meet wage and
350 benefit costs. No interim rate shall be increased pursuant to this
351 subsection in excess of one hundred fifteen per cent of the median rate
352 for the facility's peer grouping, established pursuant to subdivision (2)
353 of subsection (f) of this section, unless recommended by the
354 commissioner and approved by the Secretary of the Office of Policy and

355 Management after consultation with the commissioner. Such median
356 rates shall be published by the Department of Social Services not later
357 than April first of each year. In the event that a facility granted an
358 interim rate increase pursuant to this section is sold or otherwise
359 conveyed for value to an unrelated entity less than five years after the
360 effective date of such rate increase, the rate increase shall be deemed
361 rescinded and the department shall recover an amount equal to the
362 difference between payments made for all affected rate periods and
363 payments that would have been made if the interim rate increase was
364 not granted. The commissioner may seek recovery of such payments
365 from any facility with common ownership. With the approval of the
366 Secretary of the Office of Policy and Management, the commissioner
367 may waive recovery and rescission of the interim rate for good cause
368 shown that is not inconsistent with this section, including, but not
369 limited to, transfers to family members that were made for no value. The
370 commissioner shall provide written quarterly reports to the joint
371 standing committees of the General Assembly having cognizance of
372 matters relating to aging, human services and appropriations and the
373 budgets of state agencies, that identify each facility requesting an
374 interim rate increase, the amount of the requested rate increase for each
375 facility, the action taken by the commissioner and the secretary pursuant
376 to this subsection, and estimates of the additional cost to the state for
377 each approved interim rate increase. Nothing in this subsection shall
378 prohibit the commissioner from increasing the rate of a licensed chronic
379 and convalescent nursing home or a rest home with nursing supervision
380 for allowable costs associated with facility capital improvements or
381 increasing the rate in case of a sale of a licensed chronic and convalescent
382 nursing home or a rest home with nursing supervision [, pursuant to
383 subdivision (15) of subsection (f) of this section,] if receivership has been
384 imposed on such home.

385 (b) [The Commissioner of Social Services shall adopt regulations in
386 accordance with the provisions of chapter 54 to specify other allowable
387 services. For purposes of this section, other allowable services means
388 those services required by any medical assistance beneficiary residing

389 in such home or hospital which are not already covered in the rate set
390 by the commissioner in accordance with the provisions of subsection (a)
391 of this section] The Commissioner of Social Services may implement
392 policies and procedures as necessary to carry out the provisions of this
393 section while in the process of adopting the policies and procedures as
394 regulations, provided notice of intent to adopt the regulations is
395 published in accordance with the provisions of section 17b-10 not later
396 than twenty days after the date of implementation.

397 (c) No facility subject to the requirements of this section shall accept
398 payment in excess of the rate set by the commissioner pursuant to
399 subsection (a) of this section for any medical assistance patient from this
400 or any other state. No facility shall accept payment in excess of the
401 reasonable and necessary costs of other allowable services as specified
402 by the commissioner pursuant to the regulations adopted under
403 subsection (b) of this section for any public assistance patient from this
404 or any other state. Notwithstanding the provisions of this subsection,
405 the commissioner may authorize a facility to accept payment in excess
406 of the rate paid for a medical assistance patient in this state for a patient
407 who receives medical assistance from another state.

408 (d) In any instance where the Commissioner of Social Services finds
409 that a facility subject to the requirements of this section is accepting
410 payment for a medical assistance beneficiary in violation of subsection
411 (c) of this section, the commissioner shall proceed to recover through the
412 rate set for the facility any sum in excess of the stipulated per diem and
413 other allowable costs, as provided for in regulations adopted pursuant
414 to subsections (a) and (b) of this section. The commissioner shall make
415 the recovery prospectively at the time of the next annual rate
416 redetermination.

417 (e) Except as provided in this subsection, the provisions of
418 subsections (c) and (d) of this section shall not apply to any facility
419 subject to the requirements of this section, which on October 1, 1981, (1)
420 was accepting payments from the commissioner in accordance with the
421 provisions of subsection (a) of this section, (2) was accepting medical

422 assistance payments from another state for at least twenty per cent of its
423 patients, and (3) had not notified the commissioner of any intent to
424 terminate its provider agreement, in accordance with section 17b-271,
425 provided no patient residing in any such facility on May 22, 1984, shall
426 be removed from such facility for purposes of meeting the requirements
427 of this subsection. If the commissioner finds that the number of beds
428 available to medical assistance patients from this state in any such
429 facility is less than fifteen per cent the provisions of subsections (c) and
430 (d) of this section shall apply to that number of beds which is less than
431 said percentage.

432 (f) For the fiscal years ending on or before June 30, 2021, and for the
433 period beginning on July 1, 2021, and ending on September 30, 2021,
434 rates for nursing home facilities shall be set in accordance with this
435 subsection. On and after October 1, 2021, such rates shall be set in
436 accordance with section 17b-340d, as amended by this act. For the fiscal
437 year ending June 30, 1992, the rates paid by or for persons aided or cared
438 for by the state or any town in this state to facilities for room, board and
439 services specified in licensing regulations issued by the licensing
440 agency, except intermediate care facilities for individuals with
441 intellectual disabilities and residential care homes, shall be based on the
442 cost year ending September 30, 1989. For the fiscal years ending June 30,
443 1993, and June 30, 1994, such rates shall be based on the cost year ending
444 September 30, 1990. Such rates shall be determined by the
445 Commissioner of Social Services in accordance with this section and the
446 regulations of Connecticut state agencies promulgated by the
447 commissioner and in effect on April 1, 1991, except that:

448 (1) Allowable costs shall be divided into the following five cost
449 components: (A) Direct costs, which shall include salaries for nursing
450 personnel, related fringe benefits and nursing pool costs; (B) indirect
451 costs, which shall include professional fees, dietary expenses,
452 housekeeping expenses, laundry expenses, supplies related to patient
453 care, salaries for indirect care personnel and related fringe benefits; (C)
454 fair rent, which shall be defined in accordance with subsection (f) of

455 section 17-311-52 of the regulations of Connecticut state agencies; (D)
456 capital-related costs, which shall include property taxes, insurance
457 expenses, equipment leases and equipment depreciation; and (E)
458 administrative and general costs, which shall include (i) maintenance
459 and operation of plant expenses, (ii) salaries for administrative and
460 maintenance personnel, and (iii) related fringe benefits. The
461 commissioner may provide a rate adjustment for nonemergency
462 transportation services required by nursing facility residents. Such
463 adjustment shall be a fixed amount determined annually by the
464 commissioner based upon a review of costs and other associated
465 information. Allowable costs shall not include costs for ancillary
466 services payable under Part B of the Medicare program.

467 (2) Two geographic peer groupings of facilities shall be established
468 for each level of care, as defined by the Department of Social Services
469 for the determination of rates, for the purpose of determining allowable
470 direct costs. One peer grouping shall be comprised of those facilities
471 located in Fairfield County. The other peer grouping shall be comprised
472 of facilities located in all other counties.

473 (3) For the fiscal year ending June 30, 1992, per diem maximum
474 allowable costs for each cost component shall be as follows: For direct
475 costs, the maximum shall be equal to one hundred forty per cent of the
476 median allowable cost of that peer grouping; for indirect costs, the
477 maximum shall be equal to one hundred thirty per cent of the state-wide
478 median allowable cost; for fair rent, the amount shall be calculated
479 utilizing the amount approved by the Office of Health Care Access
480 pursuant to section 19a-638; for capital-related costs, there shall be no
481 maximum; and for administrative and general costs, the maximum shall
482 be equal to one hundred twenty-five per cent of the state-wide median
483 allowable cost. For the fiscal year ending June 30, 1993, per diem
484 maximum allowable costs for each cost component shall be as follows:
485 For direct costs, the maximum shall be equal to one hundred forty per
486 cent of the median allowable cost of that peer grouping; for indirect
487 costs, the maximum shall be equal to one hundred twenty-five per cent

488 of the state-wide median allowable cost; for fair rent, the amount shall
489 be calculated utilizing the amount approved by the Office of Health
490 Care Access pursuant to section 19a-638; for capital-related costs, there
491 shall be no maximum; and for administrative and general costs the
492 maximum shall be equal to one hundred fifteen per cent of the state-
493 wide median allowable cost. For the fiscal year ending June 30, 1994, per
494 diem maximum allowable costs for each cost component shall be as
495 follows: For direct costs, the maximum shall be equal to one hundred
496 thirty-five per cent of the median allowable cost of that peer grouping;
497 for indirect costs, the maximum shall be equal to one hundred twenty
498 per cent of the state-wide median allowable cost; for fair rent, the
499 amount shall be calculated utilizing the amount approved by the Office
500 of Health Care Access pursuant to section 19a-638; for capital-related
501 costs, there shall be no maximum; and for administrative and general
502 costs the maximum shall be equal to one hundred ten per cent of the
503 state-wide median allowable cost. For the fiscal year ending June 30,
504 1995, per diem maximum allowable costs for each cost component shall
505 be as follows: For direct costs, the maximum shall be equal to one
506 hundred thirty-five per cent of the median allowable cost of that peer
507 grouping; for indirect costs, the maximum shall be equal to one hundred
508 twenty per cent of the state-wide median allowable cost; for fair rent,
509 the amount shall be calculated utilizing the amount approved by the
510 Office of Health Care Access pursuant to section 19a-638; for capital-
511 related costs, there shall be no maximum; and for administrative and
512 general costs the maximum shall be equal to one hundred five per cent
513 of the state-wide median allowable cost. For the fiscal year ending June
514 30, 1996, and any succeeding fiscal year, except for the fiscal years
515 ending June 30, 2000, and June 30, 2001, for facilities with an interim rate
516 in one or both periods, per diem maximum allowable costs for each cost
517 component shall be as follows: For direct costs, the maximum shall be
518 equal to one hundred thirty-five per cent of the median allowable cost
519 of that peer grouping; for indirect costs, the maximum shall be equal to
520 one hundred fifteen per cent of the state-wide median allowable cost;
521 for fair rent, the amount shall be calculated utilizing the amount
522 approved pursuant to section 19a-638; for capital-related costs, there

523 shall be no maximum; and for administrative and general costs the
524 maximum shall be equal to the state-wide median allowable cost. For
525 the fiscal years ending June 30, 2000, and June 30, 2001, for facilities with
526 an interim rate in one or both periods, per diem maximum allowable
527 costs for each cost component shall be as follows: For direct costs, the
528 maximum shall be equal to one hundred forty-five per cent of the
529 median allowable cost of that peer grouping; for indirect costs, the
530 maximum shall be equal to one hundred twenty-five per cent of the
531 state-wide median allowable cost; for fair rent, the amount shall be
532 calculated utilizing the amount approved pursuant to section 19a-638;
533 for capital-related costs, there shall be no maximum; and for
534 administrative and general costs, the maximum shall be equal to the
535 state-wide median allowable cost and such medians shall be based upon
536 the same cost year used to set rates for facilities with prospective rates.
537 Costs in excess of the maximum amounts established under this
538 subsection shall not be recognized as allowable costs, except that the
539 Commissioner of Social Services (A) may allow costs in excess of
540 maximum amounts for any facility with patient days covered by
541 Medicare, including days requiring coinsurance, in excess of twelve per
542 cent of annual patient days which also has patient days covered by
543 Medicaid in excess of fifty per cent of annual patient days; (B) may
544 establish a pilot program whereby costs in excess of maximum amounts
545 shall be allowed for beds in a nursing home which has a managed care
546 program and is affiliated with a hospital licensed under chapter 368v;
547 and (C) may establish rates whereby allowable costs may exceed such
548 maximum amounts for beds approved on or after July 1, 1991, which are
549 restricted to use by patients with acquired immune deficiency syndrome
550 or traumatic brain injury.

551 (4) For the fiscal year ending June 30, 1992, (A) no facility shall receive
552 a rate that is less than the rate it received for the rate year ending June
553 30, 1991; (B) no facility whose rate, if determined pursuant to this
554 subsection, would exceed one hundred twenty per cent of the state-wide
555 median rate, as determined pursuant to this subsection, shall receive a
556 rate which is five and one-half per cent more than the rate it received for

557 the rate year ending June 30, 1991; and (C) no facility whose rate, if
558 determined pursuant to this subsection, would be less than one hundred
559 twenty per cent of the state-wide median rate, as determined pursuant
560 to this subsection, shall receive a rate which is six and one-half per cent
561 more than the rate it received for the rate year ending June 30, 1991. For
562 the fiscal year ending June 30, 1993, no facility shall receive a rate that is
563 less than the rate it received for the rate year ending June 30, 1992, or six
564 per cent more than the rate it received for the rate year ending June 30,
565 1992. For the fiscal year ending June 30, 1994, no facility shall receive a
566 rate that is less than the rate it received for the rate year ending June 30,
567 1993, or six per cent more than the rate it received for the rate year
568 ending June 30, 1993. For the fiscal year ending June 30, 1995, no facility
569 shall receive a rate that is more than five per cent less than the rate it
570 received for the rate year ending June 30, 1994, or six per cent more than
571 the rate it received for the rate year ending June 30, 1994. For the fiscal
572 years ending June 30, 1996, and June 30, 1997, no facility shall receive a
573 rate that is more than three per cent more than the rate it received for
574 the prior rate year. For the fiscal year ending June 30, 1998, a facility shall
575 receive a rate increase that is not more than two per cent more than the
576 rate that the facility received in the prior year. For the fiscal year ending
577 June 30, 1999, a facility shall receive a rate increase that is not more than
578 three per cent more than the rate that the facility received in the prior
579 year and that is not less than one per cent more than the rate that the
580 facility received in the prior year, exclusive of rate increases associated
581 with a wage, benefit and staffing enhancement rate adjustment added
582 for the period from April 1, 1999, to June 30, 1999, inclusive. For the fiscal
583 year ending June 30, 2000, each facility, except a facility with an interim
584 rate or replaced interim rate for the fiscal year ending June 30, 1999, and
585 a facility having a certificate of need or other agreement specifying rate
586 adjustments for the fiscal year ending June 30, 2000, shall receive a rate
587 increase equal to one per cent applied to the rate the facility received for
588 the fiscal year ending June 30, 1999, exclusive of the facility's wage,
589 benefit and staffing enhancement rate adjustment. For the fiscal year
590 ending June 30, 2000, no facility with an interim rate, replaced interim
591 rate or scheduled rate adjustment specified in a certificate of need or

592 other agreement for the fiscal year ending June 30, 2000, shall receive a
593 rate increase that is more than one per cent more than the rate the facility
594 received in the fiscal year ending June 30, 1999. For the fiscal year ending
595 June 30, 2001, each facility, except a facility with an interim rate or
596 replaced interim rate for the fiscal year ending June 30, 2000, and a
597 facility having a certificate of need or other agreement specifying rate
598 adjustments for the fiscal year ending June 30, 2001, shall receive a rate
599 increase equal to two per cent applied to the rate the facility received for
600 the fiscal year ending June 30, 2000, subject to verification of wage
601 enhancement adjustments pursuant to subdivision (14) of this
602 subsection. For the fiscal year ending June 30, 2001, no facility with an
603 interim rate, replaced interim rate or scheduled rate adjustment
604 specified in a certificate of need or other agreement for the fiscal year
605 ending June 30, 2001, shall receive a rate increase that is more than two
606 per cent more than the rate the facility received for the fiscal year ending
607 June 30, 2000. For the fiscal year ending June 30, 2002, each facility shall
608 receive a rate that is two and one-half per cent more than the rate the
609 facility received in the prior fiscal year. For the fiscal year ending June
610 30, 2003, each facility shall receive a rate that is two per cent more than
611 the rate the facility received in the prior fiscal year, except that such
612 increase shall be effective January 1, 2003, and such facility rate in effect
613 for the fiscal year ending June 30, 2002, shall be paid for services
614 provided until December 31, 2002, except any facility that would have
615 been issued a lower rate effective July 1, 2002, than for the fiscal year
616 ending June 30, 2002, due to interim rate status or agreement with the
617 department shall be issued such lower rate effective July 1, 2002, and
618 have such rate increased two per cent effective June 1, 2003. For the fiscal
619 year ending June 30, 2004, rates in effect for the period ending June 30,
620 2003, shall remain in effect, except any facility that would have been
621 issued a lower rate effective July 1, 2003, than for the fiscal year ending
622 June 30, 2003, due to interim rate status or agreement with the
623 department shall be issued such lower rate effective July 1, 2003. For the
624 fiscal year ending June 30, 2005, rates in effect for the period ending June
625 30, 2004, shall remain in effect until December 31, 2004, except any
626 facility that would have been issued a lower rate effective July 1, 2004,

627 than for the fiscal year ending June 30, 2004, due to interim rate status
628 or agreement with the department shall be issued such lower rate
629 effective July 1, 2004. Effective January 1, 2005, each facility shall receive
630 a rate that is one per cent greater than the rate in effect December 31,
631 2004. Effective upon receipt of all the necessary federal approvals to
632 secure federal financial participation matching funds associated with
633 the rate increase provided in this subdivision, but in no event earlier
634 than July 1, 2005, and provided the user fee imposed under section 17b-
635 320 is required to be collected, for the fiscal year ending June 30, 2006,
636 the department shall compute the rate for each facility based upon its
637 2003 cost report filing or a subsequent cost year filing for facilities
638 having an interim rate for the period ending June 30, 2005, as provided
639 under section 17-311-55 of the regulations of Connecticut state agencies.
640 For each facility not having an interim rate for the period ending June
641 30, 2005, the rate for the period ending June 30, 2006, shall be determined
642 beginning with the higher of the computed rate based upon its 2003 cost
643 report filing or the rate in effect for the period ending June 30, 2005. Such
644 rate shall then be increased by eleven dollars and eighty cents per day
645 except that in no event shall the rate for the period ending June 30, 2006,
646 be thirty-two dollars more than the rate in effect for the period ending
647 June 30, 2005, and for any facility with a rate below one hundred ninety-
648 five dollars per day for the period ending June 30, 2005, such rate for the
649 period ending June 30, 2006, shall not be greater than two hundred
650 seventeen dollars and forty-three cents per day and for any facility with
651 a rate equal to or greater than one hundred ninety-five dollars per day
652 for the period ending June 30, 2005, such rate for the period ending June
653 30, 2006, shall not exceed the rate in effect for the period ending June 30,
654 2005, increased by eleven and one-half per cent. For each facility with
655 an interim rate for the period ending June 30, 2005, the interim
656 replacement rate for the period ending June 30, 2006, shall not exceed
657 the rate in effect for the period ending June 30, 2005, increased by eleven
658 dollars and eighty cents per day plus the per day cost of the user fee
659 payments made pursuant to section 17b-320 divided by annual resident
660 service days, except for any facility with an interim rate below one
661 hundred ninety-five dollars per day for the period ending June 30, 2005,

662 the interim replacement rate for the period ending June 30, 2006, shall
663 not be greater than two hundred seventeen dollars and forty-three cents
664 per day and for any facility with an interim rate equal to or greater than
665 one hundred ninety-five dollars per day for the period ending June 30,
666 2005, the interim replacement rate for the period ending June 30, 2006,
667 shall not exceed the rate in effect for the period ending June 30, 2005,
668 increased by eleven and one-half per cent. Such July 1, 2005, rate
669 adjustments shall remain in effect unless (i) the federal financial
670 participation matching funds associated with the rate increase are no
671 longer available; or (ii) the user fee created pursuant to section 17b-320
672 is not in effect. For the fiscal year ending June 30, 2007, each facility shall
673 receive a rate that is three per cent greater than the rate in effect for the
674 period ending June 30, 2006, except any facility that would have been
675 issued a lower rate effective July 1, 2006, than for the rate period ending
676 June 30, 2006, due to interim rate status or agreement with the
677 department, shall be issued such lower rate effective July 1, 2006. For the
678 fiscal year ending June 30, 2008, each facility shall receive a rate that is
679 two and nine-tenths per cent greater than the rate in effect for the period
680 ending June 30, 2007, except any facility that would have been issued a
681 lower rate effective July 1, 2007, than for the rate period ending June 30,
682 2007, due to interim rate status or agreement with the department, shall
683 be issued such lower rate effective July 1, 2007. For the fiscal year ending
684 June 30, 2009, rates in effect for the period ending June 30, 2008, shall
685 remain in effect until June 30, 2009, except any facility that would have
686 been issued a lower rate for the fiscal year ending June 30, 2009, due to
687 interim rate status or agreement with the department shall be issued
688 such lower rate. For the fiscal years ending June 30, 2010, and June 30,
689 2011, rates in effect for the period ending June 30, 2009, shall remain in
690 effect until June 30, 2011, except any facility that would have been issued
691 a lower rate for the fiscal year ending June 30, 2010, or the fiscal year
692 ending June 30, 2011, due to interim rate status or agreement with the
693 department, shall be issued such lower rate. For the fiscal years ending
694 June 30, 2012, and June 30, 2013, rates in effect for the period ending June
695 30, 2011, shall remain in effect until June 30, 2013, except any facility that
696 would have been issued a lower rate for the fiscal year ending June 30,

697 2012, or the fiscal year ending June 30, 2013, due to interim rate status
698 or agreement with the department, shall be issued such lower rate. For
699 the fiscal year ending June 30, 2014, the department shall determine
700 facility rates based upon 2011 cost report filings subject to the provisions
701 of this section and applicable regulations except: (I) A ninety per cent
702 minimum occupancy standard shall be applied; (II) no facility shall
703 receive a rate that is higher than the rate in effect on June 30, 2013; and
704 (III) no facility shall receive a rate that is more than four per cent lower
705 than the rate in effect on June 30, 2013, except that any facility that would
706 have been issued a lower rate effective July 1, 2013, than for the rate
707 period ending June 30, 2013, due to interim rate status or agreement
708 with the department, shall be issued such lower rate effective July 1,
709 2013. For the fiscal year ending June 30, 2015, rates in effect for the
710 period ending June 30, 2014, shall remain in effect until June 30, 2015,
711 except any facility that would have been issued a lower rate effective
712 July 1, 2014, than for the rate period ending June 30, 2014, due to interim
713 rate status or agreement with the department, shall be issued such lower
714 rate effective July 1, 2014. For the fiscal years ending June 30, 2016, and
715 June 30, 2017, rates shall not exceed those in effect for the period ending
716 June 30, 2015, except the rate paid to a facility may be higher than the
717 rate paid to the facility for the period ending June 30, 2015, if the
718 commissioner provides, within available appropriations, pro rata fair
719 rent increases, which may, at the discretion of the commissioner, include
720 increases for facilities which have undergone a material change in
721 circumstances related to fair rent additions or moveable equipment
722 placed in service in cost report years ending September 30, 2014, and
723 September 30, 2015, and not otherwise included in rates issued. For the
724 fiscal years ending June 30, 2016, and June 30, 2017, and each succeeding
725 fiscal year, any facility that would have been issued a lower rate, due to
726 interim rate status or agreement with the department, shall be issued
727 such lower rate. For the fiscal year ending June 30, 2018, facilities that
728 received a rate decrease due to the expiration of a 2015 fair rent asset
729 shall receive a rate increase of an equivalent amount effective July 1,
730 2017. For the fiscal year ending June 30, 2018, the department shall
731 determine facility rates based upon 2016 cost report filings subject to the

732 provisions of this section and applicable regulations, provided no
733 facility shall receive a rate that is higher than the rate in effect on
734 December 31, 2016, and no facility shall receive a rate that is more than
735 two per cent lower than the rate in effect on December 31, 2016. For the
736 fiscal year ending June 30, 2019, no facility shall receive a rate that is
737 higher than the rate in effect on June 30, 2018, except the rate paid to a
738 facility may be higher than the rate paid to the facility for the period
739 ending June 30, 2018, if the commissioner provides, within available
740 appropriations, pro rata fair rent increases, which may, at the discretion
741 of the commissioner, include increases for facilities which have
742 undergone a material change in circumstances related to fair rent
743 additions or moveable equipment placed in service in the cost report
744 year ending September 30, 2017, and not otherwise included in rates
745 issued. For the fiscal year ending June 30, 2020, the department shall
746 determine facility rates based upon 2018 cost report filings subject to the
747 provisions of this section, adjusted to reflect any rate increases provided
748 after the cost report year ending September 30, 2018, and applicable
749 regulations, provided no facility shall receive a rate that is higher than
750 the rate in effect on June 30, 2019, except the rate paid to a facility may
751 be higher than the rate paid to the facility for the fiscal year ending June
752 30, 2019, if the commissioner provides, within available appropriations,
753 pro rata fair rent increases, which may, at the discretion of the
754 commissioner, include increases for facilities which have undergone a
755 material change in circumstances related to fair rent additions in the cost
756 report year ending September 30, 2018, and are not otherwise included
757 in rates issued. For the fiscal year ending June 30, 2020, no facility shall
758 receive a rate that is more than two per cent lower than the rate in effect
759 on June 30, 2019, unless the facility has an occupancy level of less than
760 seventy per cent, as reported in the 2018 cost report, or an overall rating
761 on Medicare's Nursing Home Compare of one star for the three most
762 recent reporting periods as of July 1, 2019, unless the facility is under an
763 interim rate due to new ownership. For the fiscal year ending June 30,
764 2021, no facility shall receive a rate that is higher than the rate in effect
765 on June 30, 2020, except the rate paid to a facility may be higher than the
766 rate paid to the facility for the fiscal year ending June 30, 2020, if the

767 commissioner provides, within available appropriations, pro rata fair
768 rent increases, which may, at the discretion of the commissioner, include
769 increases for facilities which have undergone a material change in
770 circumstances related to fair rent additions in the cost report year
771 ending September 30, 2019, and are not otherwise included in rates
772 issued. The Commissioner of Social Services shall add fair rent increases
773 to any other rate increases established pursuant to this subdivision for a
774 facility which has undergone a material change in circumstances related
775 to fair rent, except for the fiscal years ending June 30, 2010, June 30, 2011,
776 and June 30, 2012, such fair rent increases shall only be provided to
777 facilities with an approved certificate of need pursuant to section 17b-
778 352, 17b-353, 17b-354 or 17b-355. For the fiscal year ending June 30, 2013,
779 the commissioner may, within available appropriations, provide pro
780 rata fair rent increases for facilities which have undergone a material
781 change in circumstances related to fair rent additions placed in service
782 in cost report years ending September 30, 2008, to September 30, 2011,
783 inclusive, and not otherwise included in rates issued. For the fiscal years
784 ending June 30, 2014, and June 30, 2015, the commissioner may, within
785 available appropriations, provide pro rata fair rent increases, which may
786 include moveable equipment at the discretion of the commissioner, for
787 facilities which have undergone a material change in circumstances
788 related to fair rent additions or moveable equipment placed in service
789 in cost report years ending September 30, 2012, and September 30, 2013,
790 and not otherwise included in rates issued. The commissioner shall add
791 fair rent increases associated with an approved certificate of need
792 pursuant to section 17b-352, 17b-353, 17b-354 or 17b-355. Interim rates
793 may take into account reasonable costs incurred by a facility, including
794 wages and benefits. Notwithstanding the provisions of this section, the
795 Commissioner of Social Services may, subject to available
796 appropriations, increase or decrease rates issued to licensed chronic and
797 convalescent nursing homes and licensed rest homes with nursing
798 supervision. Notwithstanding any provision of this section, the
799 Commissioner of Social Services shall, effective July 1, 2015, within
800 available appropriations, adjust facility rates in accordance with the
801 application of standard accounting principles as prescribed by the

802 commissioner, for each facility subject to subsection (a) of this section.
803 Such adjustment shall provide a pro-rata increase based on direct and
804 indirect care employee salaries reported in the 2014 annual cost report,
805 and adjusted to reflect subsequent salary increases, to reflect reasonable
806 costs mandated by collective bargaining agreements with certified
807 collective bargaining agents, or otherwise provided by a facility to its
808 employees. For purposes of this subsection, "employee" shall not
809 include a person employed as a facility's manager, chief administrator,
810 a person required to be licensed as a nursing home administrator or any
811 individual who receives compensation for services pursuant to a
812 contractual arrangement and who is not directly employed by the
813 facility. The commissioner may establish an upper limit for reasonable
814 costs associated with salary adjustments beyond which the adjustment
815 shall not apply. Nothing in this section shall require the commissioner
816 to distribute such adjustments in a way that jeopardizes anticipated
817 federal reimbursement. Facilities that receive such adjustment but do
818 not provide increases in employee salaries as described in this
819 subsection on or before July 31, 2015, may be subject to a rate decrease
820 in the same amount as the adjustment by the commissioner. Of the
821 amount appropriated for this purpose, no more than nine million
822 dollars shall go to increases based on reasonable costs mandated by
823 collective bargaining agreements. Notwithstanding the provisions of
824 this subsection, effective July 1, 2019, October 1, 2020, and January 1,
825 2021, the commissioner shall, within available appropriations, increase
826 rates for the purpose of wage and benefit enhancements for facility
827 employees. The commissioner shall adjust the rate paid to the facility in
828 the form of a rate adjustment to reflect any rate increases paid after the
829 cost report year ending September 30, 2018. Facilities that receive a rate
830 adjustment for the purpose of wage and benefit enhancements but do
831 not provide increases in employee salaries as described in this
832 subsection on or before September 30, 2019, October 31, 2020, and
833 January 31, 2021, respectively, may be subject to a rate decrease in the
834 same amount as the adjustment by the commissioner.

835 (5) For the purpose of determining allowable fair rent, a facility with

836 allowable fair rent less than the twenty-fifth percentile of the state-wide
837 allowable fair rent shall be reimbursed as having allowable fair rent
838 equal to the twenty-fifth percentile of the state-wide allowable fair rent,
839 provided for the fiscal years ending June 30, 1996, and June 30, 1997, the
840 reimbursement may not exceed the twenty-fifth percentile of the state-
841 wide allowable fair rent for the fiscal year ending June 30, 1995. On and
842 after July 1, 1998, the Commissioner of Social Services may allow
843 minimum fair rent as the basis upon which reimbursement associated
844 with improvements to real property is added. Beginning with the fiscal
845 year ending June 30, 1996, any facility with a rate of return on real
846 property other than land in excess of eleven per cent shall have such
847 allowance revised to eleven per cent. Any facility or its related realty
848 affiliate which finances or refinances debt through bonds issued by the
849 State of Connecticut Health and Education Facilities Authority shall
850 report the terms and conditions of such financing or refinancing to the
851 Commissioner of Social Services within thirty days of completing such
852 financing or refinancing. The Commissioner of Social Services may
853 revise the facility's fair rent component of its rate to reflect any financial
854 benefit the facility or its related realty affiliate received as a result of such
855 financing or refinancing, including but not limited to, reductions in the
856 amount of debt service payments or period of debt repayment. The
857 commissioner shall allow actual debt service costs for bonds issued by
858 the State of Connecticut Health and Educational Facilities Authority if
859 such costs do not exceed property costs allowed pursuant to subsection
860 (f) of section 17-311-52 of the regulations of Connecticut state agencies,
861 provided the commissioner may allow higher debt service costs for such
862 bonds for good cause. For facilities which first open on or after October
863 1, 1992, the commissioner shall determine allowable fair rent for real
864 property other than land based on the rate of return for the cost year in
865 which such bonds were issued. The financial benefit resulting from a
866 facility financing or refinancing debt through such bonds shall be shared
867 between the state and the facility to an extent determined by the
868 commissioner on a case-by-case basis and shall be reflected in an
869 adjustment to the facility's allowable fair rent.

870 (6) A facility shall receive cost efficiency adjustments for indirect costs
871 and for administrative and general costs if such costs are below the
872 state-wide median costs. The cost efficiency adjustments shall equal
873 twenty-five per cent of the difference between allowable reported costs
874 and the applicable median allowable cost established pursuant to this
875 subdivision.

876 (7) For the fiscal year ending June 30, 1992, allowable operating costs,
877 excluding fair rent, shall be inflated using the Regional Data Resources
878 Incorporated McGraw-Hill Health Care Costs: Consumer Price Index
879 (all urban)-All Items minus one and one-half per cent. For the fiscal year
880 ending June 30, 1993, allowable operating costs, excluding fair rent, shall
881 be inflated using the Regional Data Resources Incorporated McGraw-
882 Hill Health Care Costs: Consumer Price Index (all urban)-All Items
883 minus one and three-quarters per cent. For the fiscal years ending June
884 30, 1994, and June 30, 1995, allowable operating costs, excluding fair
885 rent, shall be inflated using the Regional Data Resources Incorporated
886 McGraw-Hill Health Care Costs: Consumer Price Index (all urban)-All
887 Items minus two per cent. For the fiscal year ending June 30, 1996,
888 allowable operating costs, excluding fair rent, shall be inflated using the
889 Regional Data Resources Incorporated McGraw-Hill Health Care Costs:
890 Consumer Price Index (all urban)-All Items minus two and one-half per
891 cent. For the fiscal year ending June 30, 1997, allowable operating costs,
892 excluding fair rent, shall be inflated using the Regional Data Resources
893 Incorporated McGraw-Hill Health Care Costs: Consumer Price Index
894 (all urban)-All Items minus three and one-half per cent. For the fiscal
895 year ending June 30, 1992, and any succeeding fiscal year, allowable fair
896 rent shall be those reported in the annual report of long-term care
897 facilities for the cost year ending the immediately preceding September
898 thirtieth. The inflation index to be used pursuant to this subsection shall
899 be computed to reflect inflation between the midpoint of the cost year
900 through the midpoint of the rate year. The Department of Social Services
901 shall study methods of reimbursement for fair rent and shall report its
902 findings and recommendations to the joint standing committee of the
903 General Assembly having cognizance of matters relating to human

904 services on or before January 15, 1993.

905 (8) On and after July 1, 1994, costs shall be rebased no more frequently
906 than every two years and no less frequently than every four years, as
907 determined by the commissioner. The commissioner shall determine
908 whether and to what extent a change in ownership of a facility shall
909 occasion the rebasing of the facility's costs.

910 (9) The method of establishing rates for new facilities shall be
911 determined by the commissioner in accordance with the provisions of
912 this subsection until September 30, 2021.

913 (10) Rates determined under this section shall comply with federal
914 laws and regulations.

915 (11) Notwithstanding the provisions of this subsection, interim rates
916 issued for facilities on and after July 1, 1991, shall be subject to applicable
917 fiscal year cost component limitations established pursuant to
918 subdivision (3) of this subsection.

919 (12) A chronic and convalescent nursing home having an ownership
920 affiliation with and operated at the same location as a chronic disease
921 hospital may request that the commissioner approve an exception to
922 applicable rate-setting provisions for chronic and convalescent nursing
923 homes and establish a rate for the fiscal years ending June 30, 1992, and
924 June 30, 1993, in accordance with regulations in effect June 30, 1991. Any
925 such rate shall not exceed one hundred sixty-five per cent of the median
926 rate established for chronic and convalescent nursing homes established
927 under this section for the applicable fiscal year.

928 (13) For the fiscal year ending June 30, 2014, and any succeeding fiscal
929 year, for purposes of computing minimum allowable patient days,
930 utilization of a facility's certified beds shall be determined at a minimum
931 of ninety per cent of capacity, except for new facilities and facilities
932 which are certified for additional beds which may be permitted a lower
933 occupancy rate for the first three months of operation after the effective
934 date of licensure.

935 (14) The Commissioner of Social Services shall adjust facility rates
936 from April 1, 1999, to June 30, 1999, inclusive, by a per diem amount
937 representing each facility's allocation of funds appropriated for the
938 purpose of wage, benefit and staffing enhancement. A facility's per diem
939 allocation of such funding shall be computed as follows: (A) The
940 facility's direct and indirect component salary, wage, nursing pool and
941 allocated fringe benefit costs as filed for the 1998 cost report period
942 deemed allowable in accordance with this section and applicable
943 regulations without application of cost component maximums specified
944 in subdivision (3) of this subsection shall be totalled; (B) such total shall
945 be multiplied by the facility's Medicaid utilization based on the 1998 cost
946 report; (C) the resulting amount for the facility shall be divided by the
947 sum of the calculations specified in subparagraphs (A) and (B) of this
948 subdivision for all facilities to determine the facility's percentage share
949 of appropriated wage, benefit and staffing enhancement funding; (D)
950 the facility's percentage share shall be multiplied by the amount of
951 appropriated wage, benefit and staffing enhancement funding to
952 determine the facility's allocated amount; and (E) such allocated amount
953 shall be divided by the number of days of care paid for by Medicaid on
954 an annual basis including days for reserved beds specified in the 1998
955 cost report to determine the per diem wage and benefit rate adjustment
956 amount. The commissioner may adjust a facility's reported 1998 cost and
957 utilization data for the purposes of determining a facility's share of
958 wage, benefit and staffing enhancement funding when reported 1998
959 information is not substantially representative of estimated cost and
960 utilization data for the fiscal year ending June 30, 2000, due to special
961 circumstances during the 1998 cost report period including change of
962 ownership with a part year cost filing or reductions in facility capacity
963 due to facility renovation projects. Upon completion of the calculation
964 of the allocation of wage, benefit and staffing enhancement funding, the
965 commissioner shall not adjust the allocations due to revisions submitted
966 to previously filed 1998 annual cost reports. In the event that a facility's
967 rate for the fiscal year ending June 30, 1999, is an interim rate or the rate
968 includes an increase adjustment due to a rate request to the
969 commissioner or other reasons, the commissioner may reduce or

970 withhold the per diem wage, benefit and staffing enhancement
971 allocation computed for the facility. Any enhancement allocations not
972 applied to facility rates shall not be reallocated to other facilities and
973 such unallocated amounts shall be available for the costs associated with
974 interim rates and other Medicaid expenditures. The wage, benefit and
975 staffing enhancement per diem adjustment for the period from April 1,
976 1999, to June 30, 1999, inclusive, shall also be applied to rates for the
977 fiscal years ending June 30, 2000, and June 30, 2001, except that the
978 commissioner may increase or decrease the adjustment to account for
979 changes in facility capacity or operations. Any facility accepting a rate
980 adjustment for wage, benefit and staffing enhancements shall apply
981 payments made as a result of such rate adjustment for increased
982 allowable employee wage rates and benefits and additional direct and
983 indirect component staffing. Adjustment funding shall not be applied to
984 wage and salary increases provided to the administrator, assistant
985 administrator, owners or related party employees. Enhancement
986 payments may be applied to increases in costs associated with staffing
987 purchased from staffing agencies provided such costs are deemed
988 necessary and reasonable by the commissioner. The commissioner shall
989 compare expenditures for wages, benefits and staffing for the 1998 cost
990 report period to such expenditures in the 1999, 2000 and 2001 cost report
991 periods to verify whether a facility has applied additional payments to
992 specified enhancements. In the event that the commissioner determines
993 that a facility did not apply additional payments to specified
994 enhancements, the commissioner shall recover such amounts from the
995 facility through rate adjustments or other means. The commissioner
996 may require facilities to file cost reporting forms, in addition to the
997 annual cost report, as may be necessary, to verify the appropriate
998 application of wage, benefit and staffing enhancement rate adjustment
999 payments. For the purposes of this subdivision, "Medicaid utilization"
1000 means the number of days of care paid for by Medicaid on an annual
1001 basis including days for reserved beds as a percentage of total resident
1002 days.

1003 [(15) The interim rate established to become effective upon sale of any

1004 licensed chronic and convalescent home or rest home with nursing
1005 supervision for which a receivership has been imposed pursuant to
1006 sections 19a-541 to 19a-549, inclusive, shall not exceed the rate in effect
1007 for the facility at the time of the imposition of the receivership, subject
1008 to any annual increases permitted by this section; provided the
1009 Commissioner of Social Services may, in the commissioner's discretion,
1010 and after consultation with the receiver, establish an increased rate for
1011 the facility if the commissioner with approval of the Secretary of the
1012 Office of Policy and Management determines that such higher rate is
1013 needed to keep the facility open and to ensure the health, safety and
1014 welfare of the residents at such facility.]

1015 (g) The established interim rate to become effective upon sale of any
1016 licensed chronic and convalescent home or rest home with nursing
1017 supervision for which a receivership has been imposed pursuant to
1018 sections 19a-541 to 19a-549, inclusive, shall not exceed the rate in effect
1019 for the facility at the time of the imposition of the receivership, subject
1020 to any annual increases permitted by this section, provided the
1021 Commissioner of Social Services may, in the commissioner's discretion
1022 and after consultation with the receiver, establish an increased rate for
1023 the facility if the commissioner, with the approval of the Secretary of the
1024 Office of Policy and Management, determines that such higher rate is
1025 needed to keep the facility open and to ensure the health, safety and
1026 welfare of the residents at such facility.

1027 [(g)] (h) For the fiscal year ending June 30, 1993, any intermediate care
1028 facility for individuals with intellectual disabilities with an operating
1029 cost component of its rate in excess of one hundred forty per cent of the
1030 median of operating cost components of rates in effect January 1, 1992,
1031 shall not receive an operating cost component increase. For the fiscal
1032 year ending June 30, 1993, any intermediate care facility for individuals
1033 with intellectual disabilities with an operating cost component of its rate
1034 that is less than one hundred forty per cent of the median of operating
1035 cost components of rates in effect January 1, 1992, shall have an
1036 allowance for real wage growth equal to thirty per cent of the increase

1037 determined in accordance with subsection (q) of section 17-311-52 of the
1038 regulations of Connecticut state agencies, provided such operating cost
1039 component shall not exceed one hundred forty per cent of the median
1040 of operating cost components in effect January 1, 1992. Any facility with
1041 real property other than land placed in service prior to October 1, 1991,
1042 shall, for the fiscal year ending June 30, 1995, receive a rate of return on
1043 real property equal to the average of the rates of return applied to real
1044 property other than land placed in service for the five years preceding
1045 October 1, 1993. For the fiscal year ending June 30, 1996, and any
1046 succeeding fiscal year, the rate of return on real property for property
1047 items shall be revised every five years. The commissioner shall, upon
1048 submission of a request, allow actual debt service, comprised of
1049 principal and interest, in excess of property costs allowed pursuant to
1050 section 17-311-52 of the regulations of Connecticut state agencies,
1051 provided such debt service terms and amounts are reasonable in
1052 relation to the useful life and the base value of the property. For the fiscal
1053 year ending June 30, 1995, and any succeeding fiscal year, the inflation
1054 adjustment made in accordance with subsection (p) of section 17-311-52
1055 of the regulations of Connecticut state agencies shall not be applied to
1056 real property costs. For the fiscal year ending June 30, 1996, and any
1057 succeeding fiscal year, the allowance for real wage growth, as
1058 determined in accordance with subsection (q) of section 17-311-52 of the
1059 regulations of Connecticut state agencies, shall not be applied. For the
1060 fiscal year ending June 30, 1996, and any succeeding fiscal year, no rate
1061 shall exceed three hundred seventy-five dollars per day unless the
1062 commissioner, in consultation with the Commissioner of
1063 Developmental Services, determines after a review of program and
1064 management costs, that a rate in excess of this amount is necessary for
1065 care and treatment of facility residents. For the fiscal year ending June
1066 30, 2002, rate period, the Commissioner of Social Services shall increase
1067 the inflation adjustment for rates made in accordance with subsection
1068 (p) of section 17-311-52 of the regulations of Connecticut state agencies
1069 to update allowable fiscal year 2000 costs to include a three and one-half
1070 per cent inflation factor. For the fiscal year ending June 30, 2003, rate
1071 period, the commissioner shall increase the inflation adjustment for

1072 rates made in accordance with subsection (p) of section 17-311-52 of the
1073 regulations of Connecticut state agencies to update allowable fiscal year
1074 2001 costs to include a one and one-half per cent inflation factor, except
1075 that such increase shall be effective November 1, 2002, and such facility
1076 rate in effect for the fiscal year ending June 30, 2002, shall be paid for
1077 services provided until October 31, 2002, except any facility that would
1078 have been issued a lower rate effective July 1, 2002, than for the fiscal
1079 year ending June 30, 2002, due to interim rate status or agreement with
1080 the department shall be issued such lower rate effective July 1, 2002, and
1081 have such rate updated effective November 1, 2002, in accordance with
1082 applicable statutes and regulations. For the fiscal year ending June 30,
1083 2004, rates in effect for the period ending June 30, 2003, shall remain in
1084 effect, except any facility that would have been issued a lower rate
1085 effective July 1, 2003, than for the fiscal year ending June 30, 2003, due
1086 to interim rate status or agreement with the department shall be issued
1087 such lower rate effective July 1, 2003. For the fiscal year ending June 30,
1088 2005, rates in effect for the period ending June 30, 2004, shall remain in
1089 effect until September 30, 2004. Effective October 1, 2004, each facility
1090 shall receive a rate that is five per cent greater than the rate in effect
1091 September 30, 2004. Effective upon receipt of all the necessary federal
1092 approvals to secure federal financial participation matching funds
1093 associated with the rate increase provided in subdivision (4) of
1094 subsection (f) of this section, but in no event earlier than October 1, 2005,
1095 and provided the user fee imposed under section 17b-320 is required to
1096 be collected, each facility shall receive a rate that is four per cent more
1097 than the rate the facility received in the prior fiscal year, except any
1098 facility that would have been issued a lower rate effective October 1,
1099 2005, than for the fiscal year ending June 30, 2005, due to interim rate
1100 status or agreement with the department, shall be issued such lower rate
1101 effective October 1, 2005. Such rate increase shall remain in effect unless:
1102 (1) The federal financial participation matching funds associated with
1103 the rate increase are no longer available; or (2) the user fee created
1104 pursuant to section 17b-320 is not in effect. For the fiscal year ending
1105 June 30, 2007, rates in effect for the period ending June 30, 2006, shall
1106 remain in effect until September 30, 2006, except any facility that would

1107 have been issued a lower rate effective July 1, 2006, than for the fiscal
1108 year ending June 30, 2006, due to interim rate status or agreement with
1109 the department, shall be issued such lower rate effective July 1, 2006.
1110 Effective October 1, 2006, no facility shall receive a rate that is more than
1111 three per cent greater than the rate in effect for the facility on September
1112 30, 2006, except any facility that would have been issued a lower rate
1113 effective October 1, 2006, due to interim rate status or agreement with
1114 the department, shall be issued such lower rate effective October 1, 2006.
1115 For the fiscal year ending June 30, 2008, each facility shall receive a rate
1116 that is two and nine-tenths per cent greater than the rate in effect for the
1117 period ending June 30, 2007, except any facility that would have been
1118 issued a lower rate effective July 1, 2007, than for the rate period ending
1119 June 30, 2007, due to interim rate status, or agreement with the
1120 department, shall be issued such lower rate effective July 1, 2007. For the
1121 fiscal year ending June 30, 2009, rates in effect for the period ending June
1122 30, 2008, shall remain in effect until June 30, 2009, except any facility that
1123 would have been issued a lower rate for the fiscal year ending June 30,
1124 2009, due to interim rate status or agreement with the department, shall
1125 be issued such lower rate. For the fiscal years ending June 30, 2010, and
1126 June 30, 2011, rates in effect for the period ending June 30, 2009, shall
1127 remain in effect until June 30, 2011, except any facility that would have
1128 been issued a lower rate for the fiscal year ending June 30, 2010, or the
1129 fiscal year ending June 30, 2011, due to interim rate status or agreement
1130 with the department, shall be issued such lower rate. For the fiscal year
1131 ending June 30, 2012, rates in effect for the period ending June 30, 2011,
1132 shall remain in effect until June 30, 2012, except any facility that would
1133 have been issued a lower rate for the fiscal year ending June 30, 2012,
1134 due to interim rate status or agreement with the department, shall be
1135 issued such lower rate. For the fiscal years ending June 30, 2014, and
1136 June 30, 2015, rates shall not exceed those in effect for the period ending
1137 June 30, 2013, except the rate paid to a facility may be higher than the
1138 rate paid to the facility for the period ending June 30, 2013, if a capital
1139 improvement approved by the Department of Developmental Services,
1140 in consultation with the Department of Social Services, for the health or
1141 safety of the residents was made to the facility during the fiscal year

1142 ending June 30, 2014, or June 30, 2015, to the extent such rate increases
1143 are within available appropriations. Any facility that would have been
1144 issued a lower rate for the fiscal year ending June 30, 2014, or the fiscal
1145 year ending June 30, 2015, due to interim rate status or agreement with
1146 the department, shall be issued such lower rate. For the fiscal years
1147 ending June 30, 2016, and June 30, 2017, rates shall not exceed those in
1148 effect for the period ending June 30, 2015, except the rate paid to a
1149 facility may be higher than the rate paid to the facility for the period
1150 ending June 30, 2015, if a capital improvement approved by the
1151 Department of Developmental Services, in consultation with the
1152 Department of Social Services, for the health or safety of the residents
1153 was made to the facility during the fiscal year ending June 30, 2016, or
1154 June 30, 2017, to the extent such rate increases are within available
1155 appropriations. For the fiscal years ending June 30, 2016, and June 30,
1156 2017, and each succeeding fiscal year, any facility that would have been
1157 issued a lower rate, due to interim rate status, a change in allowable fair
1158 rent or agreement with the department, shall be issued such lower rate.
1159 For the fiscal years ending June 30, 2018, and June 30, 2019, rates shall
1160 not exceed those in effect for the period ending June 30, 2017, except the
1161 rate paid to a facility may be higher than the rate paid to the facility for
1162 the period ending June 30, 2017, if a capital improvement approved by
1163 the Department of Developmental Services, in consultation with the
1164 Department of Social Services, for the health or safety of the residents
1165 was made to the facility during the fiscal year ending June 30, 2018, or
1166 June 30, 2019, only to the extent such rate increases are within available
1167 appropriations. For the fiscal years ending June 30, 2020, and June 30,
1168 2021, rates shall not exceed those in effect for the fiscal year ending June
1169 30, 2019, except the rate paid to a facility may be higher than the rate
1170 paid to the facility for the fiscal year ending June 30, 2019, if a capital
1171 improvement approved by the Department of Developmental Services,
1172 in consultation with the Department of Social Services, for the health or
1173 safety of the residents was made to the facility during the fiscal year
1174 ending June 30, 2020, or June 30, 2021, only to the extent such rate
1175 increases are within available appropriations. Any facility that has a
1176 significant decrease in land and building costs shall receive a reduced

1177 rate to reflect such decrease in land and building costs. For the fiscal
1178 years ending June 30, 2012, June 30, 2013, June 30, 2014, June 30, 2015,
1179 June 30, 2016, June 30, 2017, June 30, 2018, June 30, 2019, June 30, 2020,
1180 [and] June 30, 2021, June 30, 2022, and June 30, 2023, the Commissioner
1181 of Social Services may provide fair rent increases to any facility that has
1182 undergone a material change in circumstances related to fair rent and
1183 has an approved certificate of need pursuant to section 17b-352, 17b-353,
1184 17b-354 or 17b-355. Notwithstanding the provisions of this section, the
1185 Commissioner of Social Services may, within available appropriations,
1186 increase or decrease rates issued to intermediate care facilities for
1187 individuals with intellectual disabilities to reflect a reduction in
1188 available appropriations as provided in subsection (a) of this section.
1189 For the fiscal years ending June 30, 2014, and June 30, 2015, the
1190 commissioner shall not consider rebasing in determining rates.

1191 [(h) (1)] (i) For the fiscal year ending June 30, 1993, any residential
1192 care home with an operating cost component of its rate in excess of one
1193 hundred thirty per cent of the median of operating cost components of
1194 rates in effect January 1, 1992, shall not receive an operating cost
1195 component increase. For the fiscal year ending June 30, 1993, any
1196 residential care home with an operating cost component of its rate that
1197 is less than one hundred thirty per cent of the median of operating cost
1198 components of rates in effect January 1, 1992, shall have an allowance
1199 for real wage growth equal to sixty-five per cent of the increase
1200 determined in accordance with subsection (q) of section 17-311-52 of the
1201 regulations of Connecticut state agencies, provided such operating cost
1202 component shall not exceed one hundred thirty per cent of the median
1203 of operating cost components in effect January 1, 1992. Beginning with
1204 the fiscal year ending June 30, 1993, for the purpose of determining
1205 allowable fair rent, a residential care home with allowable fair rent less
1206 than the twenty-fifth percentile of the state-wide allowable fair rent shall
1207 be reimbursed as having allowable fair rent equal to the twenty-fifth
1208 percentile of the state-wide allowable fair rent. Beginning with the fiscal
1209 year ending June 30, 1997, a residential care home with allowable fair
1210 rent less than three dollars and ten cents per day shall be reimbursed as

1211 having allowable fair rent equal to three dollars and ten cents per day.
1212 Property additions placed in service during the cost year ending
1213 September 30, 1996, or any succeeding cost year shall receive a fair rent
1214 allowance for such additions as an addition to three dollars and ten
1215 cents per day if the fair rent for the facility for property placed in service
1216 prior to September 30, 1995, is less than or equal to three dollars and ten
1217 cents per day. Beginning with the fiscal year ending June 30, 2016, a
1218 residential care home shall be reimbursed the greater of the allowable
1219 accumulated fair rent reimbursement associated with real property
1220 additions and land as calculated on a per day basis or three dollars and
1221 ten cents per day if the allowable reimbursement associated with real
1222 property additions and land is less than three dollars and ten cents per
1223 day. For the fiscal year ending June 30, 1996, and any succeeding fiscal
1224 year, the allowance for real wage growth, as determined in accordance
1225 with subsection (q) of section 17-311-52 of the regulations of Connecticut
1226 state agencies, shall not be applied. For the fiscal year ending June 30,
1227 1996, and any succeeding fiscal year, the inflation adjustment made in
1228 accordance with subsection (p) of section 17-311-52 of the regulations of
1229 Connecticut state agencies shall not be applied to real property costs.
1230 Beginning with the fiscal year ending June 30, 1997, minimum allowable
1231 patient days for rate computation purposes for a residential care home
1232 with twenty-five beds or less shall be eighty-five per cent of licensed
1233 capacity. Beginning with the fiscal year ending June 30, 2002, for the
1234 purposes of determining the allowable salary of an administrator of a
1235 residential care home with sixty beds or less the department shall revise
1236 the allowable base salary to thirty-seven thousand dollars to be annually
1237 inflated thereafter in accordance with section 17-311-52 of the
1238 regulations of Connecticut state agencies. The rates for the fiscal year
1239 ending June 30, 2002, shall be based upon the increased allowable salary
1240 of an administrator, regardless of whether such amount was expended
1241 in the 2000 cost report period upon which the rates are based. Beginning
1242 with the fiscal year ending June 30, 2000, and until the fiscal year ending
1243 June 30, 2009, inclusive, the inflation adjustment for rates made in
1244 accordance with subsection (p) of section 17-311-52 of the regulations of
1245 Connecticut state agencies shall be increased by two per cent, and

1246 beginning with the fiscal year ending June 30, 2002, the inflation
1247 adjustment for rates made in accordance with subsection (c) of said
1248 section shall be increased by one per cent. Beginning with the fiscal year
1249 ending June 30, 1999, for the purpose of determining the allowable
1250 salary of a related party, the department shall revise the maximum
1251 salary to twenty-seven thousand eight hundred fifty-six dollars to be
1252 annually inflated thereafter in accordance with section 17-311-52 of the
1253 regulations of Connecticut state agencies and beginning with the fiscal
1254 year ending June 30, 2001, such allowable salary shall be computed on
1255 an hourly basis and the maximum number of hours allowed for a related
1256 party other than the proprietor shall be increased from forty hours to
1257 forty-eight hours per work week. For the fiscal year ending June 30,
1258 2005, each facility shall receive a rate that is two and one-quarter per
1259 cent more than the rate the facility received in the prior fiscal year,
1260 except any facility that would have been issued a lower rate effective
1261 July 1, 2004, than for the fiscal year ending June 30, 2004, due to interim
1262 rate status or agreement with the department shall be issued such lower
1263 rate effective July 1, 2004. Effective upon receipt of all the necessary
1264 federal approvals to secure federal financial participation matching
1265 funds associated with the rate increase provided in subdivision (4) of
1266 subsection (f) of this section, but in no event earlier than October 1, 2005,
1267 and provided the user fee imposed under section 17b-320 is required to
1268 be collected, each facility shall receive a rate that is determined in
1269 accordance with applicable law and subject to appropriations, except
1270 any facility that would have been issued a lower rate effective October
1271 1, 2005, than for the fiscal year ending June 30, 2005, due to interim rate
1272 status or agreement with the department, shall be issued such lower rate
1273 effective October 1, 2005. Such rate increase shall remain in effect unless:
1274 [(A)] (1) The federal financial participation matching funds associated
1275 with the rate increase are no longer available; or [(B)] (2) the user fee
1276 created pursuant to section 17b-320 is not in effect. For the fiscal year
1277 ending June 30, 2007, rates in effect for the period ending June 30, 2006,
1278 shall remain in effect until September 30, 2006, except any facility that
1279 would have been issued a lower rate effective July 1, 2006, than for the
1280 fiscal year ending June 30, 2006, due to interim rate status or agreement

1281 with the department, shall be issued such lower rate effective July 1,
1282 2006. Effective October 1, 2006, no facility shall receive a rate that is more
1283 than four per cent greater than the rate in effect for the facility on
1284 September 30, 2006, except for any facility that would have been issued
1285 a lower rate effective October 1, 2006, due to interim rate status or
1286 agreement with the department, shall be issued such lower rate effective
1287 October 1, 2006. For the fiscal years ending June 30, 2010, and June 30,
1288 2011, rates in effect for the period ending June 30, 2009, shall remain in
1289 effect until June 30, 2011, except any facility that would have been issued
1290 a lower rate for the fiscal year ending June 30, 2010, or the fiscal year
1291 ending June 30, 2011, due to interim rate status or agreement with the
1292 department, shall be issued such lower rate, except [(i)] (A) any facility
1293 that would have been issued a lower rate for the fiscal year ending June
1294 30, 2010, or the fiscal year ending June 30, 2011, due to interim rate status
1295 or agreement with the Commissioner of Social Services shall be issued
1296 such lower rate; and [(ii)] (B) the commissioner may increase a facility's
1297 rate for reasonable costs associated with such facility's compliance with
1298 the provisions of section 19a-495a concerning the administration of
1299 medication by unlicensed personnel. For the fiscal year ending June 30,
1300 2012, rates in effect for the period ending June 30, 2011, shall remain in
1301 effect until June 30, 2012, except that [(I)] (i) any facility that would have
1302 been issued a lower rate for the fiscal year ending June 30, 2012, due to
1303 interim rate status or agreement with the Commissioner of Social
1304 Services shall be issued such lower rate; and [(II)] (ii) the commissioner
1305 may increase a facility's rate for reasonable costs associated with such
1306 facility's compliance with the provisions of section 19a-495a concerning
1307 the administration of medication by unlicensed personnel. For the fiscal
1308 year ending June 30, 2013, the Commissioner of Social Services may,
1309 within available appropriations, provide a rate increase to a residential
1310 care home. Any facility that would have been issued a lower rate for the
1311 fiscal year ending June 30, 2013, due to interim rate status or agreement
1312 with the Commissioner of Social Services shall be issued such lower
1313 rate. For the fiscal years ending June 30, 2012, and June 30, 2013, the
1314 Commissioner of Social Services may provide fair rent increases to any
1315 facility that has undergone a material change in circumstances related

1316 to fair rent and has an approved certificate of need pursuant to section
1317 17b-352, 17b-353, 17b-354 or 17b-355. For the fiscal years ending June 30,
1318 2014, and June 30, 2015, for those facilities that have a calculated rate
1319 greater than the rate in effect for the fiscal year ending June 30, 2013, the
1320 commissioner may increase facility rates based upon available
1321 appropriations up to a stop gain as determined by the commissioner.
1322 No facility shall be issued a rate that is lower than the rate in effect on
1323 June 30, 2013, except that any facility that would have been issued a
1324 lower rate for the fiscal year ending June 30, 2014, or the fiscal year
1325 ending June 30, 2015, due to interim rate status or agreement with the
1326 commissioner, shall be issued such lower rate. For the fiscal year ending
1327 June 30, 2014, and each fiscal year thereafter, a residential care home
1328 shall receive a rate increase for any capital improvement made during
1329 the fiscal year for the health and safety of residents and approved by the
1330 Department of Social Services, provided such rate increase is within
1331 available appropriations. For the fiscal year ending June 30, 2015, and
1332 each succeeding fiscal year thereafter, costs of less than ten thousand
1333 dollars that are incurred by a facility and are associated with any land,
1334 building or nonmovable equipment repair or improvement that are
1335 reported in the cost year used to establish the facility's rate shall not be
1336 capitalized for a period of more than five years for rate-setting purposes.
1337 For the fiscal year ending June 30, 2015, subject to available
1338 appropriations, the commissioner may, at the commissioner's
1339 discretion: Increase the inflation cost limitation under subsection (c) of
1340 section 17-311-52 of the regulations of Connecticut state agencies,
1341 provided such inflation allowance factor does not exceed a maximum of
1342 five per cent; establish a minimum rate of return applied to real property
1343 of five per cent inclusive of assets placed in service during cost year
1344 2013; waive the standard rate of return under subsection (f) of section
1345 17-311-52 of the regulations of Connecticut state agencies for ownership
1346 changes or health and safety improvements that exceed one hundred
1347 thousand dollars and that are required under a consent order from the
1348 Department of Public Health; and waive the rate of return adjustment
1349 under subsection (f) of section 17-311-52 of the regulations of
1350 Connecticut state agencies to avoid financial hardship. For the fiscal

1351 years ending June 30, 2016, and June 30, 2017, rates shall not exceed
1352 those in effect for the period ending June 30, 2015, except the
1353 commissioner may, in the commissioner's discretion and within
1354 available appropriations, provide pro rata fair rent increases to facilities
1355 which have documented fair rent additions placed in service in cost
1356 report years ending September 30, 2014, and September 30, 2015, that
1357 are not otherwise included in rates issued. For the fiscal years ending
1358 June 30, 2016, and June 30, 2017, and each succeeding fiscal year, any
1359 facility that would have been issued a lower rate, due to interim rate
1360 status, a change in allowable fair rent or agreement with the department,
1361 shall be issued such lower rate. For the fiscal year ending June 30, 2018,
1362 rates shall not exceed those in effect for the period ending June 30, 2017,
1363 except the commissioner may, in the commissioner's discretion and
1364 within available appropriations, provide pro rata fair rent increases to
1365 facilities which have documented fair rent additions placed in service in
1366 the cost report year ending September 30, 2016, that are not otherwise
1367 included in rates issued. For the fiscal year ending June 30, 2019, rates
1368 shall not exceed those in effect for the period ending June 30, 2018,
1369 except the commissioner may, in the commissioner's discretion and
1370 within available appropriations, provide pro rata fair rent increases to
1371 facilities which have documented fair rent additions placed in service in
1372 the cost report year ending September 30, 2017, that are not otherwise
1373 included in rates issued. For the fiscal year ending June 30, 2020, rates
1374 shall not exceed those in effect for the fiscal year ending June 30, 2019,
1375 except the commissioner may, in the commissioner's discretion and
1376 within available appropriations, provide pro rata fair rent increases to
1377 facilities which have documented fair rent additions placed in service in
1378 the cost report year ending September 30, 2018, that are not otherwise
1379 included in rates issued. For the fiscal year ending June 30, 2021, rates
1380 shall not exceed those in effect for the fiscal year ending June 30, 2020,
1381 except the commissioner may, in the commissioner's discretion and
1382 within available appropriations, provide pro rata fair rent increases to
1383 facilities which have documented fair rent additions placed in service in
1384 the cost report year ending September 30, 2019, that are not otherwise
1385 included in rates issued. For the fiscal year ending June 30, 2022, the

1386 commissioner may, in the commissioner's discretion and within
1387 available appropriations, provide pro rata fair rent increases to facilities
1388 which have documented fair rent additions placed in service in the cost
1389 report year ending September 30, 2020, that are not otherwise included
1390 in rates issued. For the fiscal year ending June 30, 2023, the
1391 commissioner may, in the commissioner's discretion and within
1392 available appropriations, provide pro rata fair rent increases to facilities
1393 which have documented fair rent additions placed in service in the cost
1394 report year ending September 30, 2021, that are not otherwise included
1395 in rates issued.

1396 [(2) The commissioner shall, upon determining that a loan to be
1397 issued to a residential care home by the Connecticut Housing Finance
1398 Authority is reasonable in relation to the useful life and property cost
1399 allowance pursuant to section 17-311-52 of the regulations of
1400 Connecticut state agencies, allow actual debt service, comprised of
1401 principal, interest and a repair and replacement reserve on the loan, in
1402 lieu of allowed property costs whether actual debt service is higher or
1403 lower than such allowed property costs.

1404 (i) Notwithstanding the provisions of this section, the Commissioner
1405 of Social Services shall establish a fee schedule for payments to be made
1406 to chronic disease hospitals associated with chronic and convalescent
1407 nursing homes to be effective on and after July 1, 1995. The fee schedule
1408 may be adjusted annually beginning July 1, 1997, to reflect necessary
1409 increases in the cost of services.]

1410 (j) Notwithstanding the provisions of this section, state rates of
1411 payment for the fiscal years ending June 30, 2018, June 30, 2019, June 30,
1412 2020, and June 30, 2021, for residential care homes and community
1413 living arrangements that receive the flat rate for residential services
1414 under section 17-311-54 of the regulations of Connecticut state agencies
1415 shall be set in accordance with section 298 of public act 19-117.

1416 Sec. 4. Subsection (a) of section 19a-507 of the general statutes is
1417 repealed and the following is substituted in lieu thereof (*Effective July 1,*

1418 2021):

1419 (a) Notwithstanding the provisions of chapter 368z, New Horizons,
1420 Inc., a nonprofit, nonsectarian organization, or a subsidiary
1421 organization controlled by New Horizons, Inc., is authorized to
1422 construct and operate an independent living facility for severely
1423 physically disabled adults, in the town of Farmington, provided such
1424 facility shall be constructed in accordance with applicable building
1425 codes. The Farmington Housing Authority, or any issuer acting on
1426 behalf of said authority, subject to the provisions of this section, may
1427 issue tax-exempt revenue bonds on a competitive or negotiated basis for
1428 the purpose of providing construction and permanent mortgage
1429 financing for the facility in accordance with Section 103 of the Internal
1430 Revenue Code. Prior to the issuance of such bonds, plans for the
1431 construction of the facility shall be submitted to and approved by the
1432 Health Systems Planning Unit of the Office of Health Strategy. The unit
1433 shall approve or disapprove such plans within thirty days of receipt
1434 thereof. If the plans are disapproved they may be resubmitted. Failure
1435 of the unit to act on the plans within such thirty-day period shall be
1436 deemed approval thereof. The payments to residents of the facility who
1437 are eligible for assistance under the state supplement program for room
1438 and board and necessary services, shall be determined annually to be
1439 effective July first of each year. Such payments shall be determined on a
1440 basis of a reasonable payment for necessary services, which basis shall
1441 take into account as a factor the costs of providing those services and
1442 such other factors as the commissioner deems reasonable, including
1443 anticipated fluctuations in the cost of providing services. Such payments
1444 shall be calculated in accordance with the manner in which rates are
1445 calculated pursuant to subsection [(h)] (i) of section 17b-340, as amended
1446 by this act, and the cost-related reimbursement system pursuant to said
1447 section except that efficiency incentives shall not be granted. The
1448 commissioner may adjust such rates to account for the availability of
1449 personal care services for residents under the Medicaid program. The
1450 commissioner shall, upon submission of a request, allow actual debt
1451 service, comprised of principal and interest, in excess of property costs

1452 allowed pursuant to section 17-313b-5 of the regulations of Connecticut
 1453 state agencies, provided such debt service terms and amounts are
 1454 reasonable in relation to the useful life and the base value of the
 1455 property. The cost basis for such payment shall be subject to audit, and
 1456 a recomputation of the rate shall be made based upon such audit. The
 1457 facility shall report on a fiscal year ending on the thirtieth day of
 1458 September on forms provided by the commissioner. The required report
 1459 shall be received by the commissioner no later than December thirty-
 1460 first of each year. The Department of Social Services may use its existing
 1461 utilization review procedures to monitor utilization of the facility. If the
 1462 facility is aggrieved by any decision of the commissioner, the facility
 1463 may, within ten days, after written notice thereof from the
 1464 commissioner, obtain by written request to the commissioner, a hearing
 1465 on all items of aggrievement. If the facility is aggrieved by the decision
 1466 of the commissioner after such hearing, the facility may appeal to the
 1467 Superior Court in accordance with the provisions of section 4-183.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2021</i>	17b-265
Sec. 2	<i>October 1, 2021</i>	17b-340d
Sec. 3	<i>July 1, 2021</i>	17b-340
Sec. 4	<i>July 1, 2021</i>	19a-507(a)

HS *Joint Favorable Subst.*