ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 4482

with committee amendments

STATE OF NEW JERSEY

DATED: AUGUST 24, 2020

The Assembly Appropriations Committee reports favorably and with committee amendments Assembly Bill No. 4482 (1R).

As amended by the committee, this bill provides that the minimum wage for direct care staff in long-term care facilities is to be $3 higher than the prevailing State minimum wage and annually adjusted based on cost-of-living increases. This increase will take effect the first day of the second month next following the effective date of the bill.

The Commissioner of Human Services will be required to submit recommendations to the Legislature for legislative approval of any reimbursement rate increases as may be needed to comply with minimum wage requirements for long-term care facility direct care staff. The commissioner may recommend that increases for nursing homes be tied to improvements in specific quality and safety metrics.

No later than 90 days after the effective date of the bill, the Commissioner of Human Services will be required to conduct a review of the Department of Human Services' Medicaid value-based payment strategy, including the Quality Incentive Payment Program, to ensure incentives provided under the strategy focus on priority metrics for quality improvement. The commissioner will additionally review and determine whether incentives are an effective means of driving improvements in quality of care and resident and staff safety in nursing homes.

The Commissioner of Human Services will be required to establish a direct care ratio reporting and rebate requirement that will take effect no later than July 1, 2021. Under the direct care ratio reporting and rebate requirement, nursing homes will be required to report total revenues collected, along with the portion of revenues that are expended on direct care staff wages, other staff wages, taxes, administrative costs, investments in improvements to the facility's equipment and physical plant, profits, and any other factors as the commissioner requires. The direct care ratio will require 90 percent, or a higher percentage established by commissioner

by regulation, of a facility's aggregate revenue in a fiscal year to be expended on the direct care of residents. The commissioner will determine which components of the reporting requirements are to be attributed to direct patient care, administrative costs, and profits. The commissioner may adjust the components of the ratio as appropriate based on current financial information reported by nursing homes and overall performance by the nursing home related to patient safety and quality of care.

The commissioner or a designated entity will be authorized to conduct an audit of the financial information reported by nursing homes to ensure the accuracy of the information reported and compliance with the requirements of the bill, as well as to identify and recover any payments that exceed the allowed ratio for administrative costs and profits.

In each case where the direct care loss ratio fails to substantially comply with the ratio requirement, the nursing home will be required to issue a pro rata dividend or credit to the State and to all individuals and entities making payments to the nursing home for resident services in an amount sufficient to assure that the aggregate amount paid for direct care staff wages, other staff wages, taxes, administrative costs, investments in improvements to the nursing home's equipment and physical plant, profits, and other factors as may be required by the commissioner, plus the amount of the dividends and credits, equals the mandatory ratio for the previous calendar year. The pro rata dividend or credit will be equal to the percentage of payments made by the payor to the nursing home in the previous calendar year out of all payments made to the nursing home for services provided in the previous calendar year from all payment sources. All dividends and credits are to be distributed by June 30 of the year following the calendar year in which the ratio requirements were not satisfied.

No later than 60 days after the effective date of the bill, the Commissioner of Human Services or an entity designated by the commissioner will be required to initiate a study of the costs and payments associated with nursing home care, which study will focus on, and include recommendations concerning, adjusting reimbursement rates to account for differences in resident acuity levels, as well as other factors as may be relevant to nursing home costs and payments. The commissioner will prepare and submit an interim report concerning the status of the study no later than one year after the effective date of the bill, and will prepare and submit a final report of the findings and recommendations of the study to the Governor and to the Legislature by January 1, 2022.

The commissioner will be required to apply for State plan amendments and waivers to implement the provisions of the bill and to secure federal financial participation for State Medicaid expenditures under the federal Medicaid program.

COMMITTEE AMENDMENTS:

The committee amendments require the Commissioner of Health or another entity designated by the commissioner to complete an analysis of the costs and payments associated with nursing home care that is to focus on and make recommendations concerning adjusting reimbursement rates to account for differences in resident acuity levels, as well as other relevant factors.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that this bill, as amended, will increase costs for nursing homes operated by the Department of Military and Veteran Affairs (DMAVA) and certain county governments due to the implementation of a minimum wage for direct care staff in long-term care facilities that is $3 higher than the prevailing State minimum wage, as outlined under the bill. From 2025 on, per the statutory structure of the exiting prevailing minimum wage, the provisions of the bill will be limited to cost-of-living increases, which will cap annual wage increases for nursing homes.

This estimate does not include any cost increases resulting from Legislative action to increase the Medicaid reimbursement rate due to the minimum wage provisions of this bill. Under the bill, the Commissioner of Human Services is directed to make recommendations regarding a rate increase; however, such an increase would need to be implemented via separate legislation. The OLS notes, however, that the bill's impact on the nursing home industry will put upward pressure on the Medicaid per diem rate set by the State.

The OLS also estimates that: 1) nursing homes operated by the DMAVA and certain county governments may incur expenses due to the direct care ratio reporting requirements established under the bill; and 2) the DHS may incur expenses to implement and administer certain provisions of the bill, such as completing an analysis of the costs and payments associated with nursing home care.