

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 2813

STATE OF NEW JERSEY

DATED: AUGUST 24, 2020

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2813 (1R).

This bill establishes a temporary rate adjustment for certain nursing facilities to support certain wage increases and to cover costs related to coronavirus disease 2019 (COVID-19) preparedness.

Specifically, the bill, subject to any federal approvals as may be required, makes the reimbursement rate for Class I, Class II, and Class III nursing facilities equal to the rate received on September 30, 2020, plus a 10 percent adjustment, for the period running from October 1, 2020 through June 30, 2021. Facilities receiving the rate adjustment will be required to use at least 60 percent of the rate adjustment for the sole purpose of increasing wages or supplemental pay for certified nurse aides providing direct care. The remainder of the rate adjustment will be used for other costs related to COVID-19 preparedness and response, including enhancing infection control measures, cleaning, reconfiguration of the facility to support cohorting, procurement of personal protective equipment, testing, or other staff wages and needs.

Any facility receiving the rate adjustment under the bill will be required to provide wage and cost data to the Department of Human Services, and attestations from the facility owner to the Department of Health of adherence to certain infection control protocols, including:

(1) the facility has an outbreak response plan in place as required pursuant to section 1 of P.L.2019, c.243 (C.26:2H-12.87), which plan is available to the public through the facility's Internet website and is to include effective communication methods for conveying information concerning outbreaks of infectious diseases at the facility;

(2) the facility has used the personal protective equipment burn rate calculator made available by the federal Centers for Disease Control and Prevention and is maintaining certain minimum supplies of personal protective equipment;

(3) the facility has registered with the Department of Health, authorized the department to access data, and is providing information in accordance with the requirements of Executive Directive No. 20-026, which sets forth requirements for long-term care facilities to reopen; and

(4) the facility has implemented a respiratory protection program that complies with the respiratory protection standard for employees established by the federal Occupational Safety and Health Administration.

A facility receiving a rate adjustment under the bill may be subject to recoupment of the rate adjustment by the State if the facility is cited by the Department of Health for two repeat infection control violations during the period from October 1, 2020 through June 30, 2021, or if the facility fails to meet any of the requirements set forth in the bill, including failing to file a required attestation on time.

The Commissioner of Human Services is to apply for State plan amendments or waivers as may be necessary to implement the provisions of the bill and to secure federal financial participation for State Medicaid expenditures under the federal Medicaid program. The bill will not take effect until the commissioner receives approval for the State plan amendments or waivers.

The bill appropriates from the General Fund to the Department of Human Services a one-time appropriation of \$62.3 million for the purpose of effectuating the provisions of the bill.

The provisions of the bill will be held severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the decision of the court will not affect the validity of the remaining provisions of the bill.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that the State will incur approximately \$124.6 million in expenditures to implement the temporary Medicaid rate adjustment for certain nursing facilities. As State Medicaid expenditures are matched by federal Medicaid funds, State revenues will increase by approximately \$62.3 million under the bill. To the extent that Medicaid is an entitlement program, this estimate will change according to the number of beneficiaries in the Medicaid program who receive nursing home services. The OLS notes that the Department of Human Services (DHS) indicated in a press release on August 10, 2020 that this initiative will cost the State a total of \$130 million, of which \$68 million will be reimbursed from federal Medicaid matching funds. The OLS assumes that any administrative costs experienced by the DHS to implement the temporary rate increase or by the Department of Health to monitor nursing home compliance with certain infection protocols will be absorbed by each departments' existing budget, as such responsibilities are within the scope of their existing work. Nursing homes operated by the Department of Military and Veterans Affairs and certain county governments will experience an indeterminate increase in revenue due to the temporary rate change under the bill. The OLS also estimates that such facilities may also incur expenses due to certain reporting requirements, as well as adherence to certain

infection protocols, described under the bill, to the extent that such facilities do not currently comply with these provisions and that the increased Medicaid rate funding does not cover such costs.