

CONNECTICUT ASSOCIATION OF HEALTH CARE FACILITIES, INC.

June 28, 2015

Christopher A. LaVigne
Office of Reimbursement & Certificate of Need
Department of Social Services
55 Farmington Avenue
Hartford, CT 06105

Re: SPA 15-032, Payments to Nursing Facilities

Dear Mr. LaVigne,

On behalf of the one hundred and fifty eight (158) members of the Connecticut Association of Healthcare Facilities, we submit this letter providing our comments and objections to the Notice of Proposed Medicaid State Plan Amendment Nursing Facility Reimbursement (SPA 15-032).

Under SPA 15-032, the State is proposing to “amend the State Plan to remove the implementation of any rate increases or decreases, and instead include funds for wage enhancements only, within the rates.” The proposed statutory changes included with SPA 15-032 state in relevant part:

Notwithstanding the provisions of this section, effective July 1, 2015, the Commissioner of Social Services shall, within available appropriations, increase rates for the purpose of wage enhancements for direct care, laundry, housekeeping, and dietary facility employees. Such increases shall be based on salaries reported in the 2014 annual cost report. The commissioner may adjust rates of facilities that do not demonstrate that the rate increase was (1) implemented by July 31, 2015, and (2) applied to increase the hourly wages of direct care, laundry, housekeeping, and dietary facility employees.

Section 30(A) of the Medicaid Act requires that state plans contain “methods and procedures . . . to assure that payments are consistent with efficiency, economy, and quality of care.” 42 U.S.C. § 1396a(a)(30)(A). Federal regulations require that the state plan specify comprehensively the methods and standards used by the agency to set payment rates and that it contain all information necessary for CMS to determine whether the plan can be approved to serve as a basis for Federal financial participation in the State program. 42 CFR §430.10; 42 CFR §447.252.

SPA 15-032 fails to meet those requirements. The proposed amendment fails to describe how DSS will calculate increases in rates, stating only that the Commissioner “shall...increase rates for the purpose of wage enhancements” and that such increases shall be based on salaries reported in the 2014 annual cost report. There is no explanation as to how salaries reported in

the 2014 cost report will be used to determine rate increases. Rather, the proposed amendment merely sets forth the source of the data that will be used by the Department to calculate increased rates.

What information is included in the proposed amendment is incomplete and ambiguous. For example, the proposed amendment fails to specify whether the wage enhancements will include increases for benefits and taxes related to higher wages. Additionally, the proposed amendment states that the commissioner may adjust rates of facilities that do not “demonstrate that the rate increase was implemented by July 31, 2015”, but fails to define or provide any clarification as to what is meant by “demonstrate” or “implemented.” In order to have been implemented must the increase be merely promised to applicable employees, must it be set forth in an executed contract or must the provider show evidence that the applicable employees have begun receiving the increase by July 31? How are providers expected to demonstrate that wage increases were implemented? Finally, there is no specificity as to how exactly DSS may “adjust rates” for noncompliance.

Also of concern are the timeframes set forth in the proposed amendment which, as discussed above, will require providers to implement wage increases by July 31, 2015 in order to be eligible for wage enhancements. This is grossly inadequate. As of the date of this letter, the draft budget has yet to even be signed. It is unreasonable to expect that providers would be able to implement wage increases in that timeframe or even that DSS would receive CMS approval of the SPA prior to such date. It is also unreasonable to expect providers to commit to a wage increase without the benefit of knowing the extent, timing and stipulations associated with the funding earmarked for such a commitment.

We also object to certain limitations set forth in the proposed amendment. The proposed statutory language which accompanies SPA 15-032 provides increases only for wages for direct care, laundry, housekeeping and dietary employees and excludes several other categories of employees normally included in wage enhancements such as recreation, maintenance, social service and others. We object to the exclusion of these other categories of employees. The proposed amendment also appears to recognize only increases in hourly wage rates. We also object to the exclusion of other forms of compensation such as bonus payments, retirement plan contributions and other non-hourly compensation increases and ask that those be specifically included as part of the wage enhancements.

Furthermore, please find enclosed a correspondence dated May 13, 2015 addressed to the Chairpersons of the Connecticut General Assembly’s Committee on Appropriations and copied to the Department’s Commissioner, Roderick Bremby, recommending “A Nursing Home Wage, Benefit, and Staffing Enhancement Program for 2016 and 2017 modelled after the program authorized under PA 99-297. CAHCF continues to believe that this approach represents the most fair and equitable distribution of wage enhancement appropriations. Moreover, CAHCF believes that any wage enhancement proposal that favors union workers to the detriment of non-union workers amounts to an impermissible “interference” in the collective bargaining process in violation of federal law. A large body of federal case law, including a Connecticut case (New England Health Care Employees Union v. Rowland, 221 F.Supp.2d 297(D. Conn. 2002)), prohibits the state government from acting in a manner that alters the economic balance between

the union and the nursing homes. CAHCF believes that federal law prohibiting these unfair interventions would “preempt” a state law violating these requirements. CAHCF will urge the Center for Medicaid and Medicare Services (CMS) to reject any SPA that violates these fundamental requirements.

Finally, CAHCF believes that any wage enhancement provision that unfairly and inequitably favors union nursing home workers over non-union workers is counter to Section 2400 of Publication 15. Publication 15, which provides in relevant part:

A provider of services means a hospital, skilled nursing facility, home health agency, comprehensive outpatient rehabilitation facility, rural primary care hospital, community mental health center (CMHC) for the limited purpose of furnishing partial hospitalization services, and, for the limited purpose of furnishing outpatient physical therapy or speech pathology services, a clinic, rehabilitation agency or public health agency.

The rule lists a series of different types of providers and of note, does not draw a distinction between a union and a nonunion provider. The rule distinguishes based only upon the type of care, level of care and the setting where the care is delivered. In that regard, skilled nursing facilities, whether union or nonunion, deliver a type of care and level of care that is generally consistent from provider to provider. CAHCF objects to any wage enhancement proposal that would violate these Section 2400 requirements by imposing distinctions between union and non-union nursing homes and their employees as a matter of policy.

In summary, CAHCF believes SPA 15-032 is inadequate in its description of the methods and standards that will be used to ensure that payments are consistent with efficiency, economy and quality of care and fails to provide adequate notice to providers in accordance with federal regulations. For these reasons, and the other reasons expressed above, CAHCF urges the Department to rescind SPA 15-032.

Thank you for for this opportunity to comment on SPA 15-032. We would be happy to meet with representatives from the Department to discuss any of these issues further.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew V. Barrett", with a stylized flourish at the end.

Matthew V. Barrett
Executive Vice President

Attachment

CONNECTICUT ASSOCIATION OF HEALTH CARE FACILITIES, INC.

TO: The Honorable Beth Bye, Senate Chair
The Honorable Toni Walker, House Chair
Appropriations Committee

FROM: Matthew V. Barrett, Executive Vice President *Matthew V. Barrett*

DATE: May 13, 2015

RE: FY 2016 AND FY 2017 WAGE, BENEFIT AND STAFFING ENHANCEMENT AND
RATE RECOMMENDATION / NARRATIVE OVERVIEW AND RECOMMENDED
BUDGET IMPLEMENTATION LANGUAGE

CC: The Honorable Marilyn Moore, Senate Chair
The Honorable Catherine Abercrombie, House Chair
Human Services Committee

Undersecretary Anne Foley, Office of Policy and Management
Commissioner Roderick Bremby, Department of Social Services

The Connecticut Association of Health Care Facilities (CAHCF) supports the proposed increased appropriations (net state share \$9 million for each year in the biennial period) for wage enhancement for nursing home workers adopted in the Appropriations Committee Budget and we remain hopeful that these funds will be included in the final budget agreement.

In this regard, CAHCF recommends implementation of the proposed wage and benefit policy with detailed statutory budget implementation language. CAHCF respectfully recommends a "Nursing Home Wage, Benefit and Staffing Enhancement Program for 2016 and 2017" modelled after the FY 2000 and FY 2001 wage, benefit and staffing program established under Public Act 99-279. I enclose two documents for your consideration: (1) Draft statutory budget implementation language concerning nursing homes rates and wage and benefit enhancement and (2) Policy narrative titled "Nursing Home Wage, Benefit and Staffing Enhancement Program for 2016 and 2017."

Connecticut nursing homes, through payment of the nursing home provider tax, generate some \$150 million in general fund revenue for the Connecticut State Budget. We applaud the wisdom of identifying a portion of these funds for nursing home workers. It is an additional federal revenue maximization benefit that new wage, benefit and staffing expenditures will be additionally eligible for fifty (50) percent federal matching funds.

CAHCF would welcome the opportunity to explain our recommendation in further detail at a meeting with you at your earliest convenience. Finally, CAHCF is simultaneously appraising the Department of Social Services and the Office of Policy and Management of our recommendation by copy of this memorandum.

Thank you.

DRAFT - Nursing Home Wage, Benefit, and Staffing Enhancement Program for FY 2016 and FY 2017

The Nursing Home Wage, Benefit and Salary Enhancement Program for 2016 and 2017 will enable nursing facilities to increase current employees' wages and benefits through additional appropriations specifically designated for this purpose in the anticipated FY 2016 and FY 2017 Connecticut State Budget (pending approval). Program expenditures would be eligible for fifty percent (50%) federal matching funds under Medicaid program rules. The program and recommended statutory implementation language is modelled after the FY 2000 and FY 2001 wage and benefit program established under Public Act 99-279¹.

Allocation Formula

The proposed Nursing Home Wage, Benefit, and Staffing Enhancement Program for FY 2016 and FY 2017 recommended here includes draft implementation legislation modelled after PA 99-279. The draft legislation, among other things, details the allocation formula, allowable increases and audit process. Specifically, the draft legislation specifies that the Department of Social Services (DSS) will adjust nursing home Medicaid rates for the period July 1, 2015, through June 30, 2017, by a per diem amount representing each home's allocation of funds appropriated under the enhancement program. A facility's share of the enhancement initiatives funds will be based upon its percentage of total direct (e.g., nurses and nurse aides) and indirect (e.g., dietary, housekeeping, and social work) costs, during the 2014 cost reporting year, in relation to those costs for all facilities, adjusted for Medicaid days. Nursing pool costs are included in direct care costs used for the allocation. The per diem increase will then be built into a facility's July 1, 2015 Medicaid rate issued by DSS.

Allowable Increases

Allowable costs would include increases to direct and indirect employee wages and benefits, as well as, wage and benefit increases for employees categorized in the administrative and general category such as office support and maintenance workers. Increases in costs related to nursing pool services would also be allowable, if the DSS commissioner deemed them reasonable and necessary. As specified in the prior Enhancement Program, this initiative prohibits the use of funds for wage and salary increases for nursing facility administrators, assistant administrators, owners, or related-party employees. There will be four areas of allowable expenditures:

- **salary and wage** - all payroll expense increases, such as hourly wage adjustments, overtime, and bonuses (but payments to employees made in the form of a gift or service award are not recognized under the program);

¹ For additional information on the FY 2000 and FY 2001 Nursing Home Wage and Benefit Enhancement Program, see the comprehensive Legislative Program Review and Investigations Committee overview and evaluation of the program found at <http://www.cga.ct.gov/pri/archives/2000sireportchap4.htm>

- **fringe benefits** - workers' compensation, social security (FICA), insurance (e.g., health, disability, unemployment, life), pension, uniform allowance, child daycare, and employee physicals (but costs associated with employee recruitment, staff parties, training, seminars, and conferences are not recognized under the program);
- **additional direct and indirect staff/hours** - increases in Medicaid allowable direct and indirect employee costs related to added staffing and/or hours:
 - direct care component staff includes nurses and nurse aides; and
 - indirect component staff includes dietary, housekeeping, laundry, social work, recreation workers, physicians, pharmacists, and therapists (Medicaid-allowable therapy costs are determined based upon a payer-type utilization formula. and professional fees are subject to per-hour limits under Medicaid reimbursement regulation); and
- **necessary and reasonable increases in nursing pool/temporary staffing costs** - although the intent of the wage enhancement program is to provide permanent nursing facility employees with higher wages and benefits and to increase direct and indirect care staffing, the proposed legislation permits the DSS commissioner to allow reasonable and necessary increases in outside temporary staffing services. Previously, DSS required that facilities notify the department if increases in outside service costs were projected to be in excess of 30 percent higher than the prior year. The department would then conduct a review for reasonableness and necessity. Enhancement payments could not be applied to cost increases associated with contracts for services such as therapy, dietary, housekeeping, and laundry.

Verification of the Proper Use of Payments

Auditing of cost reports. Through its annual review of Medicaid cost report filings, the social services department compares each home's entire 2014 expenditures for wages, benefits, and staffing to such expenditures in the 2015, 2016, and 2017 cost reports to determine whether a home has applied payments to the allowable enhancements. Facilities must demonstrate spending for wages, benefits, and direct/indirect staffing increased over 2014 costs by an amount equal to or exceeding payments received under the enhancement program.

**DRAFT - SKILLED NURSING FACILITY RATE AND WAGE, BENEFIT AND
SALARY ENHANCEMENT STATUTORY IMPLEMENTATION LANGUAGE
FOR SFY 2016 AND SFY 2017**

Section 1. Subsection (f) (4) of Section 17b-340 of the general statutes is repealed and the following is substituted in lieu thereof:

(4) For the fiscal year ending June 30, 1992, (A) no facility shall receive a rate that is less than the rate it received for the rate year ending June 30, 1991; (B) no facility whose rate, if determined pursuant to this subsection, would exceed one hundred twenty per cent of the state-wide median rate, as determined pursuant to this subsection, shall receive a rate which is five and one-half per cent more than the rate it received for the rate year ending June 30, 1991; and (C) no facility whose rate, if determined pursuant to this subsection, would be less than one hundred twenty per cent of the state-wide median rate, as determined pursuant to this subsection, shall receive a rate which is six and one-half per cent more than the rate it received for the rate year ending June 30, 1991. For the fiscal year ending June 30, 1993, no facility shall receive a rate that is less than the rate it received for the rate year ending June 30, 1992, or six per cent more than the rate it received for the rate year ending June 30, 1992. For the fiscal year ending June 30, 1994, no facility shall receive a rate that is less than the rate it received for the rate year ending June 30, 1993, or six per cent more than the rate it received for the rate year ending June 30, 1993. For the fiscal year ending June 30, 1995, no facility shall receive a rate that is more than five per cent less than the rate it received for the rate year ending June 30, 1994, or six per cent more than the rate it received for the rate year ending June 30, 1994. For the fiscal years ending June 30, 1996, and June 30, 1997, no facility shall receive a rate that is more than three per cent more than the rate it received for the prior rate year. For the fiscal year ending June 30, 1998, a facility shall receive a rate increase that is not more than two per cent more than the rate that the facility received in the prior year. For the fiscal year ending June 30, 1999, a facility shall receive a rate increase that is not more than three per cent more than the rate that the facility received in the prior year and that is not less than one per cent more than the rate that the facility received in the prior year, exclusive of rate increases associated with a wage, benefit and staffing enhancement rate adjustment added for the period from April 1, 1999, to June 30, 1999, inclusive. For the fiscal year ending June 30, 2000, each facility, except a facility with an interim rate or replaced interim rate for the fiscal year ending June 30, 1999, and a facility having a certificate of need or other agreement specifying rate adjustments for the fiscal year ending June 30, 2000, shall receive a rate increase equal to one per cent applied to the rate the facility received for the fiscal year ending June 30, 1999, exclusive of the facility's wage, benefit and staffing enhancement rate adjustment. For the fiscal year ending June 30, 2000, no facility with an interim rate,

40 replaced interim rate or scheduled rate adjustment specified in a certificate of need or
41 other agreement for the fiscal year ending June 30, 2000, shall receive a rate increase
42 that is more than one per cent more than the rate the facility received in the fiscal year
43 ending June 30, 1999. For the fiscal year ending June 30, 2001, each facility, except a
44 facility with an interim rate or replaced interim rate for the fiscal year ending June 30,
45 2000, and a facility having a certificate of need or other agreement specifying rate
46 adjustments for the fiscal year ending June 30, 2001, shall receive a rate increase
47 equal to two per cent applied to the rate the facility received for the fiscal year ending
48 June 30, 2000, subject to verification of wage enhancement adjustments pursuant to
49 subdivision (14) of this subsection. For the fiscal year ending June 30, 2001, no
50 facility with an interim rate, replaced interim rate or scheduled rate adjustment
51 specified in a certificate of need or other agreement for the fiscal year ending June 30,
52 2001, shall receive a rate increase that is more than two per cent more than the rate the
53 facility received for the fiscal year ending June 30, 2000. For the fiscal year ending
54 June 30, 2002, each facility shall receive a rate that is two and one-half per cent more
55 than the rate the facility received in the prior fiscal year. For the fiscal year ending
56 June 30, 2003, each facility shall receive a rate that is two per cent more than the rate
57 the facility received in the prior fiscal year, except that such increase shall be effective
58 January 1, 2003, and such facility rate in effect for the fiscal year ending June 30,
59 2002, shall be paid for services provided until December 31, 2002, except any facility
60 that would have been issued a lower rate effective July 1, 2002, than for the fiscal year
61 ending June 30, 2002, due to interim rate status or agreement with the department
62 shall be issued such lower rate effective July 1, 2002, and have such rate increased
63 two per cent effective June 1, 2003. For the fiscal year ending June 30, 2004, rates in
64 effect for the period ending June 30, 2003, shall remain in effect, except any facility
65 that would have been issued a lower rate effective July 1, 2003, than for the fiscal year
66 ending June 30, 2003, due to interim rate status or agreement with the department
67 shall be issued such lower rate effective July 1, 2003. For the fiscal year ending June
68 30, 2005, rates in effect for the period ending June 30, 2004, shall remain in effect
69 until December 31, 2004, except any facility that would have been issued a lower rate
70 effective July 1, 2004, than for the fiscal year ending June 30, 2004, due to interim
71 rate status or agreement with the department shall be issued such lower rate effective
72 July 1, 2004. Effective January 1, 2005, each facility shall receive a rate that is one
73 per cent greater than the rate in effect December 31, 2004. Effective upon receipt of
74 all the necessary federal approvals to secure federal financial participation matching
75 funds associated with the rate increase provided in this subdivision, but in no event
76 earlier than July 1, 2005, and provided the user fee imposed under section 17b-320 is
77 required to be collected, for the fiscal year ending June 30, 2006, the department shall
78 compute the rate for each facility based upon its 2003 cost report filing or a
79 subsequent cost year filing for facilities having an interim rate for the period ending
80 June 30, 2005, as provided under section 17-311-55 of the regulations of Connecticut

81 state agencies. For each facility not having an interim rate for the period ending June
82 30, 2005, the rate for the period ending June 30, 2006, shall be determined beginning
83 with the higher of the computed rate based upon its 2003 cost report filing or the rate
84 in effect for the period ending June 30, 2005. Such rate shall then be increased by
85 eleven dollars and eighty cents per day except that in no event shall the rate for the
86 period ending June 30, 2006, be thirty-two dollars more than the rate in effect for the
87 period ending June 30, 2005, and for any facility with a rate below one hundred
88 ninety-five dollars per day for the period ending June 30, 2005, such rate for the
89 period ending June 30, 2006, shall not be greater than two hundred seventeen dollars
90 and forty-three cents per day and for any facility with a rate equal to or greater than
91 one hundred ninety-five dollars per day for the period ending June 30, 2005, such rate
92 for the period ending June 30, 2006, shall not exceed the rate in effect for the period
93 ending June 30, 2005, increased by eleven and one-half per cent. For each facility
94 with an interim rate for the period ending June 30, 2005, the interim replacement rate
95 for the period ending June 30, 2006, shall not exceed the rate in effect for the period
96 ending June 30, 2005, increased by eleven dollars and eighty cents per day plus the
97 per day cost of the user fee payments made pursuant to section 17b-320 divided by
98 annual resident service days, except for any facility with an interim rate below one
99 hundred ninety-five dollars per day for the period ending June 30, 2005, the interim
100 replacement rate for the period ending June 30, 2006, shall not be greater than two
101 hundred seventeen dollars and forty-three cents per day and for any facility with an
102 interim rate equal to or greater than one hundred ninety-five dollars per day for the
103 period ending June 30, 2005, the interim replacement rate for the period ending June
104 30, 2006, shall not exceed the rate in effect for the period ending June 30, 2005,
105 increased by eleven and one-half per cent. Such July 1, 2005, rate adjustments shall
106 remain in effect unless (i) the federal financial participation matching funds associated
107 with the rate increase are no longer available; or (ii) the user fee created pursuant to
108 section 17b-320 is not in effect. For the fiscal year ending June 30, 2007, each facility
109 shall receive a rate that is three per cent greater than the rate in effect for the period
110 ending June 30, 2006, except any facility that would have been issued a lower rate
111 effective July 1, 2006, than for the rate period ending June 30, 2006, due to interim
112 rate status or agreement with the department, shall be issued such lower rate effective
113 July 1, 2006. For the fiscal year ending June 30, 2008, each facility shall receive a rate
114 that is two and nine-tenths per cent greater than the rate in effect for the period ending
115 June 30, 2007, except any facility that would have been issued a lower rate effective
116 July 1, 2007, than for the rate period ending June 30, 2007, due to interim rate status
117 or agreement with the department, shall be issued such lower rate effective July 1,
118 2007. For the fiscal year ending June 30, 2009, rates in effect for the period ending
119 June 30, 2008, shall remain in effect until June 30, 2009, except any facility that
120 would have been issued a lower rate for the fiscal year ending June 30, 2009, due to
121 interim rate status or agreement with the department shall be issued such lower rate.

For the fiscal years ending June 30, 2010, and June 30, 2011, rates in effect for the period ending June 30, 2009, shall remain in effect until June 30, 2011, except any facility that would have been issued a lower rate for the fiscal year ending June 30, 2010, or the fiscal year ending June 30, 2011, due to interim rate status or agreement with the department, shall be issued such lower rate. For the fiscal years ending June 30, 2012, and June 30, 2013, rates in effect for the period ending June 30, 2011, shall remain in effect until June 30, 2013, except any facility that would have been issued a lower rate for the fiscal year ending June 30, 2012, or the fiscal year ending June 30, 2013, due to interim rate status or agreement with the department, shall be issued such lower rate. For the fiscal year ending June 30, 2014, the department shall determine facility rates based upon 2011 cost report filings subject to the provisions of this section and applicable regulations except: (I) A ninety per cent minimum occupancy standard shall be applied; (II) no facility shall receive a rate that is higher than the rate in effect on June 30, 2013; and (III) no facility shall receive a rate that is more than four per cent lower than the rate in effect on June 30, 2013, except that any facility that would have been issued a lower rate effective July 1, 2013, than for the rate period ending June 30, 2013, due to interim rate status or agreement with the department, shall be issued such lower rate effective July 1, 2013. For the fiscal year ending June 30, 2015, rates in effect for the period ending June 30, 2014, shall remain in effect until June 30, 2015, except any facility that would have been issued a lower rate effective July 1, 2014, than for the rate period ending June 30, 2014, due to interim rate status or agreement with the department, shall be issued such lower rate effective July 1, 2014. The Commissioner of Social Services shall add fair rent increases to any other rate increases established pursuant to this subdivision for a facility which has undergone a material change in circumstances related to fair rent, except for the fiscal years ending June 30, 2010, June 30, 2011, and June 30, 2012, such fair rent increases shall only be provided to facilities with an approved certificate of need pursuant to section 17b-352, 17b-353, 17b-354 or 17b-355. For the fiscal year ending June 30, 2013, the commissioner may, within available appropriations, provide pro rata fair rent increases for facilities which have undergone a material change in circumstances related to fair rent additions placed in service in cost report years ending September 30, 2008, to September 30, 2011, inclusive, and not otherwise included in rates issued. For the fiscal years ending June 30, 2014, and June 30, 2015, the commissioner may, within available appropriations, provide pro rata fair rent increases, which may include moveable equipment at the discretion of the commissioner, for facilities which have undergone a material change in circumstances related to fair rent additions or moveable equipment placed in service in cost report years ending September 30, 2012, and September 30, 2013, and not otherwise included in rates issued. The commissioner shall add fair rent increases associated with an approved certificate of need pursuant to section 17b-352, 17b-353, 17b-354 or 17b-355. Interim rates may take into account reasonable costs incurred by a facility,

including wages and benefits. For the fiscal years ending June 30, 2016, and June 30, 2017, no facility shall receive a rate that is lower than the rate in effect on June 30, 2015, except any facility that would have been issued a lower rate effective July 1, 2015, than for the rate period ending June 30, 2015, due to interim rate status or agreement with the department, shall be issued such lower rate effective July 1, 2015. For the fiscal years ending June 30, 2016, and June 30, 2017, the commissioner may, within available appropriations, provide pro rata fair rent increases, which may include moveable equipment at the discretion of the commissioner, for facilities which have undergone a material change in circumstances related to fair rent additions or moveable equipment placed in service in cost report years ending September 30, 2014, and September 30, 2015, and not otherwise included in rates issued. Notwithstanding the provisions of this section, the Commissioner of Social Services may, subject to available appropriations, increase [or decrease] rates issued to licensed chronic and convalescent nursing homes and licensed rest homes with nursing supervision.

Section 2. Subsection (f) (14) of Section 17b-340 of the general statutes is repealed and the following is substituted in lieu thereof:

(14) The Commissioner of Social Services shall adjust facility rates from April 1, 1999, to June 30, 1999, inclusive, by a per diem amount representing each facility's allocation of funds appropriated for the purpose of wage, benefit and staffing enhancement. A facility's per diem allocation of such funding shall be computed as follows: (A) The facility's direct and indirect component salary, wage, nursing pool and allocated fringe benefit costs as filed for the 1998 cost report period deemed allowable in accordance with this section and applicable regulations without application of cost component maximums specified in subdivision (3) of this subsection shall be totaled; (B) such total shall be multiplied by the facility's Medicaid utilization based on the 1998 cost report; (C) the resulting amount for the facility shall be divided by the sum of the calculations specified in subparagraphs (A) and (B) of this subdivision for all facilities to determine the facility's percentage share of appropriated wage, benefit and staffing enhancement funding; (D) the facility's percentage share shall be multiplied by the amount of appropriated wage, benefit and staffing enhancement funding to determine the facility's allocated amount; and (E) such allocated amount shall be divided by the number of days of care paid for by Medicaid on an annual basis including days for reserved beds specified in the 1998 cost report to determine the per diem wage and benefit rate adjustment amount. The commissioner may adjust a facility's reported 1998 cost and utilization data for the purposes of determining a facility's share of wage, benefit and staffing enhancement funding when reported 1998 information is not substantially representative of estimated cost and utilization data for the fiscal year ending June 30, 2000, due to special circumstances during the 1998 cost report period including change of

ownership with a part year cost filing or reductions in facility capacity due to facility renovation projects. Upon completion of the calculation of the allocation of wage, benefit and staffing enhancement funding, the commissioner shall not adjust the allocations due to revisions submitted to previously filed 1998 annual cost reports. In the event that a facility's rate for the fiscal year ending June 30, 1999, is an interim rate or the rate includes an increase adjustment due to a rate request to the commissioner or other reasons, the commissioner may reduce or withhold the per diem wage, benefit and staffing enhancement allocation computed for the facility. Any enhancement allocations not applied to facility rates shall not be reallocated to other facilities and such unallocated amounts shall be available for the costs associated with interim rates and other Medicaid expenditures. The wage, benefit and staffing enhancement per diem adjustment for the period from April 1, 1999, to June 30, 1999, inclusive, shall also be applied to rates for the fiscal years ending June 30, 2000, and June 30, 2001, except that the commissioner may increase or decrease the adjustment to account for changes in facility capacity or operations. Any facility accepting a rate adjustment for wage, benefit and staffing enhancements shall apply payments made as a result of such rate adjustment for increased allowable employee wage rates and benefits and additional direct and indirect component staffing. Adjustment funding shall not be applied to wage and salary increases provided to the administrator, assistant administrator, owners or related party employees. Enhancement payments may be applied to increases in costs associated with staffing purchased from staffing agencies provided such costs are deemed necessary and reasonable by the commissioner. The commissioner shall compare expenditures for wages, benefits and staffing for the 1998 cost report period to such expenditures in the 1999, 2000 and 2001 cost report periods to verify whether a facility has applied additional payments to specified enhancements. In the event that the commissioner determines that a facility did not apply additional payments to specified enhancements, the commissioner shall recover such amounts from the facility through rate adjustments or other means. The commissioner may require facilities to file cost reporting forms, in addition to the annual cost report, as may be necessary, to verify the appropriate application of wage, benefit and staffing enhancement rate adjustment payments. For the purposes of this subdivision, "Medicaid utilization" means the number of days of care paid for by Medicaid on an annual basis including days for reserved beds as a percentage of total resident days. The Commissioner of Social Services shall adjust facility rates from July 1, 2015, to June 30, 2016, inclusive, by a per diem amount representing each facility's allocation of funds appropriated for the purpose of wage, benefit and staffing enhancement. A facility's per diem allocation of such funding shall be computed as follows: (A) The facility's direct and indirect component salary, wage, nursing pool and allocated fringe benefit costs as filed for the 2014 cost report period deemed allowable in accordance with this section and applicable regulations without application of cost component maximums specified in

subdivision (3) of this subsection shall be totaled; (B) such total shall be multiplied by the facility's Medicaid utilization based on the 2014 cost report; (C) the resulting amount for the facility shall be divided by the sum of the calculations specified in subparagraphs (A) and (B) of this subdivision for all facilities to determine the facility's percentage share of appropriated wage, benefit and staffing enhancement funding; (D) the facility's percentage share shall be multiplied by the amount of appropriated wage, benefit and staffing enhancement funding to determine the facility's allocated amount; and (E) such allocated amount shall be divided by the number of days of care paid for by Medicaid on an annual basis including days for reserved beds specified in the 2014 cost report to determine the per diem wage and benefit rate adjustment amount. The commissioner may adjust a facility's reported 2014 cost and utilization data for the purposes of determining a facility's share of wage, benefit and staffing enhancement funding when reported 2014 information is not substantially representative of estimated cost and utilization data for the fiscal year ending June 30, 2016, due to special circumstances during the 2014 cost report period including change of ownership with a part year cost filing or reductions in facility capacity due to facility renovation projects. Upon completion of the calculation of the allocation of wage, benefit and staffing enhancement funding, the commissioner shall have sole discretion to adjust the allocation due to any revisions submitted to the filed 2014 annual cost reports used to determine allocations. In the event that a facility's rate for the fiscal year ending June 30, 2016, is an interim rate or the rate includes an increase adjustment due to a rate request to the commissioner or other reasons, the commissioner may reduce or withhold the per diem wage, benefit and staffing enhancement allocation computed for the facility. Any enhancement allocations not applied to facility rates shall not be reallocated to other facilities and such unallocated amounts shall be available for the costs associated with interim rates and other Medicaid expenditures. The wage, benefit and staffing enhancement per diem adjustment for the period from July 1, 2015, to June 30, 2016, inclusive, shall also be applied to rates for the fiscal years ending June 30, 2016, and June 30, 2017, except that the commissioner may increase or decrease the adjustment to account for changes in facility capacity or operations. Any facility accepting a rate adjustment for wage, benefit and staffing enhancements shall apply payments made as a result of such rate adjustment for increased allowable employee wage rates and benefits, and additional direct and indirect component staffing. Adjustment funding shall not be applied to wage and salary increases provided to the administrator, assistant administrator, owners or related party employees. Enhancement payments may be applied to increases in costs associated with staffing purchased from staffing agencies provided such costs are deemed necessary and reasonable by the commissioner. The commissioner shall compare expenditures for wages, benefits and salary for the 2014 cost report period to such expenditures in the 2015, 2016 and 2017 cost report periods to verify whether a facility has applied additional payments to specified

285 enhancements. In the event that the commissioner determines that a facility did not
286 apply additional payments to specified enhancements, the commissioner shall recover
287 such amounts from the facility through rate adjustments or other means. The
288 commissioner may require facilities to file cost reporting forms, in addition to the
289 annual cost report, as may be necessary, to verify the appropriate application of wage,
290 benefit and staffing enhancement rate adjustment payments. For the purposes of this
291 subdivision, "Medicaid utilization" means the number of days of care paid for by
292 Medicaid on an annual basis including days for reserved beds as a percentage of total
293 resident days.