

PA12-130

HB5283

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**CONNECTICUT
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system works. So if you could give us -- give him our usually warm welcome, all the way from Cork, Ireland, Patrick Crowley.

DEPUTY SPEAKER RYAN:

Sir, we are certainly glad to have you here. Hope you enjoy your stay while you're here and learn quite a bit.

The Clerk will please call Calendar Number 119.

THE CLERK:

On page 14, Calendar 119, Substitute for House Bill Number 5283, AN ACT WAIVING ADVANCE PAYMENT RESTRICTIONS FOR CERTAIN NURSING FACILITIES, favorable report by the Committee on Human services.

DEPUTY SPEAKER RYAN:

Representative Morris of the 140th.

REP. MORRIS (140th):

Thank you, Mr. Speaker.

I move for acceptance of the Joint Committee's favorable report and passage of the bill.

DEPUTY SPEAKER RYAN:

The question is acceptance of the Joint Committee's favorable report and passage of the bill.

Representative Morris, you have the floor.

REP. MORRIS (140th):

Thank you, Mr. Speaker.

This bill will allow the Department of Social Services to waive the two-month cap on advanced payments and the 90-day recoupment to nursing homes in receivership if it is deemed to be in the best interests of all parties.

Upon the appointment by the superior court of a receiver to a skilled nursing facility, immediate funds are needed to stabilize the facility including payroll and vendor payments. On average Medicaid payments account for 70 percent of nursing facilities' total revenue. Advances on future Medicaid billings are to be paid to a facility based on receivers' request for funds.

Sometimes the funding requests required can be more than the two months allowed under statute. In order to protect the health, safety and welfare of the residents, there needs to be some flexibility in providing these payments when they are deemed necessary.

In addition, effective upon the date of receivership provider billings are to be preserved by the receiver which requires numerous certification, financial, and provider billing procedural changes.

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These required changes make it difficult to recoup payments made to the facilities within the required 90 days. This change will allow that 90-day time frame to be waived in situations when required.

Thank you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Thank you, Representative.

Representative Gibbons of the 150th.

REP. GIBBONS (150th):

Good afternoon. Through you, please, may I pose a few questions to the proponent of the bill?

DEPUTY SPEAKER RYAN:

Please proceed, ma'am.

REP. GIBBONS (150th):

Through you, Mr. Speaker.

May I ask how often do you know if DSS is making these advanced payments into how many facilities?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Morris.

REP. MORRIS (140th):

DSS did not give us that information; however, according to the OFA reports, according to DSS there were five facilities in receivership in fiscal year

'11 and one in fiscal year '12 to date.

DEPUTY SPEAKER RYAN:

Representative Gibbons.

REP. GIBBONS (150th):

Through you, Mr. Speaker.

I guess that's part of the dilemma that I have now in reading this bill a little more carefully. I thought that DSS was not making these advanced payments to facilities in receivership, but for facilities that were having problems. Either they were operating without a license or their license had been suspended or revoked for other reasons, or they had numerable Medicaid, possible Medicaid patients who hadn't yet received Medicaid approval, and that's why they were falling in arrears in paying their bills.

If DSS is making these advanced payments to facilities who are undergoing receivership, how are they possibly ever going to get paid back, and how long are these payments going to continue?

Through you, please, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Morris.

REP. MORRIS (140th):

Number one, they can get paid back by not going

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out of business. The purpose of the bill is to ensure that they don't go out of business.' These are, under current statute, those businesses that are in bankruptcy, the commissioner would be withholding payments. They would not be allowed to get the advanced two-month payments.

This allows the DSS commissioner the latitude, when it's deemed to be in the best interests of all parties, in order to stabilize that facility to ensure that services are provided, to provide those advanced payments and also take a look at that 90 days that you normally have for recoupment of payments. It allows to waive that so that they can then use -- they can keep services going on, but the expectation would be that they would be using those Medicaid payments going forward.

DEPUTY SPEAKER RYAN:

Thank you, Representative.

Representative Gibbons.

REP. GIBBONS (150th):

Thank you, Mr. Speaker, and I thank the gentleman for his answer.

But I guess all of us probably should have read this bill a little bit more carefully and the statutes

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when it came before us, because as I read it now, it says that DSS is not going to make these payments to companies that are undergoing a possibility of default and are going into receivership. They will make the advanced payments if, for some other reason, the facility is having trouble paying their bills.

And I guess that's my question. How long would these advanced payments continue? Do we have any idea? For five months? For six months? Or for a year?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Morris.

REP. MORRIS (140th):

The measures that the DSS commissioner must take must be prudent measures to assure that the department is not making such payment to a nursing home that is at risk or bankrupt or insolvent and may execute agreements appropriate for seeking the repayments.

So the expectation would be that the DSS commissioner would enter into agreements that are necessary with these companies that are now in receivership, and their agreement would be with that receiver.

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DEPUTY SPEAKER RYAN:

Thank you, Representative.

Representative Gibbons.

REP. GIBBONS (150th):

Thank you, Mr. Speaker.

I guess that's the dilemma that I have. If the DSS commissioner is making these payments to a facility that is in receivership, how are they going to get the payments paid back? And if they're not making the payments to a facility in receivership, then for what reason are they making the payments and for how long?

And part of the bill talks about getting the recoupment costs back, and I guess that's what I'd like a better answer for.

Thank you. Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Morris.

REP. MORIN (28th):

Mr. Speaker, I had difficulty hearing the gentlelady's question. Could you please restate it?

DEPUTY SPEAKER RYAN:

We'd ask the Chamber to be considerate of the people who are speaking on the floor. They are having

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trouble hearing each other. So if we could keep the noise down. If you take your conversations outside, it would be greatly appreciated.

Representative Gibbons, could you repeat your question?

REP. GIBBONS (150th):

Thank you, Mr. Speaker. I can just run over there and talk to him that way.

I guess the question I have is, if DSS is not making these payments to a company that is in receivership, which I believe it is, but we seem to keep talking about the fact that the advanced payments are being made for facilities in receivership.

If they're being made to facilities that has had its license revoked for one reason or another or is suspended for one reason or another, the question is -- is how long are these advanced payments going to be made back, and who is really making the determining effort that there is a recoupment process in place and that the monies will be returned to DSS?

Thank you. Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Morris, were you able to hear it that time?

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REP. MORRIS (140th):

Thank you, Mr. Speaker.

If I understand your questions correctly, number one, it is always the DSS commissioner that is making all decisions. He has the authority based upon the request.

Number two, so I can clarify, the companies that we're talking about are not companies who've lost their license. This is my understanding. I think that answers your questions.

And the last question, in terms of how long those payments would be, again that would be the DSS's commissioner decision.

DEPUTY SPEAKER RYAN:

Thank you, Representative.

Representative Gibbons.

REP. GIBBONS (150th):

Thank you, Mr. Speaker.

I guess I'm a little bit puzzled by what OFA has said and what the bill itself says. If I may quote from the bill, it says, "The commissioner shall take prudent measures to assure that such advanced payments are not provided to any nursing facility that is at risk for bankruptcy or insolvency."

So that goes back to the question of why are they making the advanced payments in the first place?

According to the OFA fiscal note, it's -- it says, and this is the OLR bill analysis, that the law requires the superior court to grant applications to have receivers appointed for a nursing home if the home is operating without a license under a suspended or a revoked license.

So I guess the initial question is, is how long will these advanced payments continue, and at what point does DSS say, this isn't going to continue, and are we assured that the monies are going to be repaid back?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Morris.

REP. MORRIS (140th):

Through you, Mr. Speaker.

I think the only best answer I can give to the gentlelady is, in addition to the DSS commissioner, since we're talking about nursing facilities that are in receivership, we are also talking about facilities that are under court oversight.

So in determining their ability to pay, certainly

the commissioner in him helping to determine whether this is a payment that he should advance to them, with the court oversight and, I would imagine, disclosure of financial information, he would have the prudent measures he needs to make that type of decision.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Thank you, Representative.

Representative Gibbons.

REP. GIBBONS (150th):

Thank you. Through you, Mr. Speaker.

I like the court oversight part of what you just said. I think that assures me that somebody is looking into this.

I will certainly support this bill today and encourage my colleagues to do so, but I think that in reading all the different analyses of the parts of the bill, it's a little bit confusing as to what we were really -- had intent when we passed this bill out of committee.

I think that the court oversight gives us the satisfaction that the DSS and the nursing homes are both being looked at and will progress from there.

Thank you, Mr. Speaker.

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DEPUTY SPEAKER RYAN:

Thank you, Representative.

Representative Betts of the 78th.

REP. BETTS (78th):

Thank you, Mr. Speaker.

A few questions, if I may, through you to the
proponent of the bill?

DEPUTY SPEAKER RYAN:

Please proceed, sir.

REP. BETTS (78th):

Yes. I just want to follow up along the lines
that Representative Gibbons was raising. And that is
here, when I'm looking at the OLR report, it says that
the nursing home has sustained or is likely to sustain
a serious financial loss or failure that jeopardizes
the residents' health.

It strikes me as if that means that they have a
cash flow problem, and if they have a cash flow
problem, I'm wondering what the protection is to the
State by forwarding advanced payments. What is the
protection to the State in terms of getting their
money back?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Morris.

REP. MORRIS (140th):

Through you, Mr. Speaker.

If anything, this assures us the ability to be able to keep them and to keep them in business so that the State doesn't end up taking over the home. Currently even if it wasn't a facility that is under receivership, our existing facilities, at times, need to request from DSS advanced payments. Cash flow is a problem whether in receivership or not. There are some facilities, in fact, that would assert that it is because they've been so slow in receiving their payments that they've been caused to go into bankruptcy.

So certainly I think the purpose for this is to make certain that we're providing the services to the customers, that we're fulfilling the mission. We're not placing the State of Connecticut in a worse situation whereas we may be the ones that end up taking over the facility. It gives time to be able to find another person who is suitable and can take over that facility.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

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Representative Betts.

REP. BETTS (78th):

Thank you very much for that answer. And I certainly am in agreement with you about the overall goal.

Through you, Mr. Speaker, how many nursing homes fit this category, or how many experiences have we come across that fit this objective of the bill?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Morris.

REP. MORRIS (140th):

Through you, Mr. Speaker.

Five last year and one this year.

DEPUTY SPEAKER RYAN:

Representative Betts.

REP. BETTS (78th):

And in those cases, has the commissioner or DSS forwarded money to them to help with their problems?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Morris.

REP. MORRIS (140th):

Through you, Mr. Speaker.

Yes, but not beyond the two months that's within the current bill, the current statute.

DEPUTY SPEAKER RYAN:

Representative Betts.

REP. BETTS (78th):

Okay. Thank you for the answer.

And has DSS been reimbursed or received the money back after those two months payments? Or what's happened to the money that was forwarded to keep these nursing homes open?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Morris.

REP. MORRIS (140th):

We don't know on those particular ones. We don't have that information at this time.

DEPUTY SPEAKER RYAN:

Representative Betts.

REP. BETTS (78th):

Thank you very much.

I think that's really what -- the concern I have. The other one is, are you familiar or do we have any information of any other states that had this policy or statute? And if so, do we know what their

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experience has been?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Morris.

REP. MORRIS (140th):

No, we don't.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Betts.

REP. BETTS (78th):

Then if we were to not pass this, and let's say a nursing home went into receivership, am I to understand from your previous statement that the State would be required to take over the nursing home?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Morris.

REP. MORRIS (140th):

My understanding is that is the possibility.

DEPUTY SPEAKER RYAN:

Representative Betts.

REP. BETTS (78th):

And if the State does not have the wherewithal to be able to do that, do we just move the patients to

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other nursing homes? Or what is the alternative for these patients that are in that nursing home?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Morris.

REP. MORRIS (140th):

Could the good gentleman restate the question, Mr. Speaker?

DEPUTY SPEAKER RYAN:

Could you repeat your question, Representative Betts?

REP. BETTS (78th):

Certainly.

If the State decides that it does not want to or is not in the position to be able to take over those nursing homes, what is the plan of action for those residents? Do they get transferred to other nursing homes? Or what exactly is the option for those patients?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Morris.

REP. MORRIS (140th):

That's the purpose of the receiver, Mr. Speaker.

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DEPUTY SPEAKER RYAN:

Representative Betts.

REP. BETTS (78th):

I thank you very much, sir, for the answer.

I completely understand and agree with the overall goal, but I'm really uncomfortable with not knowing how the State is going to be getting their money back or if they're going to be protected.

I'm particularly concerned because of the fact we are strapped for money. We certainly want to keep the nursing homes open. I get that and I understand we want to look for another buyer, but I don't sense any kind of assurance or procedure in which we know that the State is going to be reimbursed. The only thing I think the State is going to be doing is keeping the nursing home open, but there is absolutely no assurance whatsoever we're going to be able to get the money back. And that is the reason why I'm going to be opposing this bill.

Thank you very much, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Thank you, Representative.

Representative Srinivasan of the 31st.

REP. SRINIVASAN (31st):

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Thank you, Mr. Speaker.

Through you, if I may, to the proponent of the bill, Mr. Speaker?

DEPUTY SPEAKER RYAN:

Please proceed, sir.

REP. SRINIVASAN (31st):

Thank you, Mr. Speaker.

We have extended the time frame from two months in terms of advanced payment. Are we clear as to -- is that an indefinite period that this extension is going to? Or will there be a limitation where DSS can say that the extension of this advanced payment will be for a certain period of time, which is obviously the concern being the fiscal component of the bill?

DEPUTY SPEAKER RYAN:

Representative Morris.

REP. MORRIS (140th):

The DSS commissioner, again with oversight of the courts make that determination. The DSS commissioner, for example, could determine that it's for a one-week period; could determine that it's for a month. I think something that's (inaudible) to keep in consideration with this when the receiver is taking over there may be many vendors, debts that are

outstanding.

And typically these are estimated payments -- are made monthly. And the amount of money that's needed may be more than what would be within that month, that monthly prescribed formula. Therefore you'd need to have the advanced payments so that you could keep those vendors paid and keep the services ongoing. And again, that would be the DSS commissioner's -- at his discretion with the oversight of the courts.

REP. SRINIVASAN (31st):

Thank you, Mr. Speaker.

Through you, Mr. Speaker, If I may proceed?

DEPUTY SPEAKER RYAN:

Please do, sir.

REP. SRINIVASAN (31st):

Yeah. Thank you, Mr. Speaker.

Through you, Mr. Speaker, I do understand the need to extend the two-month period because bills have to be paid and the nursing homes have to be kept open, no question at all about that. And that they do not become a liability for the State, I definitely applaud that, that component, what the bill is trying to accomplish.

But my concern is, on the other hand, yes, it is

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at the discretion of the commissioner, but it is not time bound within -- for the next six months or for a year. That is my concern. It seems to be too open ended for me. Yes, we need to extend the two months, but there the extension, on the other hand, is a concern for me.

Has that been considered and, you know, in terms of the time frame for which the commissioner would allow this advanced payment? Or is that indefinite as I understand that? Yes, it is at his discretion, but the discretion seems to be too open ended for me.

Thank you, Mr. Speaker. Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Okay. That was a question. Okay.

Representative Morris.

REP. MORRIS (140th):

Was there a question, Mr. Speaker?

REP. SRINIVASAN (31st):

Through you, Mr. Speaker, the question is the extension or the time period for which the commissioner may give the advanced payment. It may be for a week as you said, but it could be for any length of time, is what I understand. I just want to confirm

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that there's no time limit, and it could be six months, it could be a year, it could be even longer than that if needed.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Morris.

REP. MORRIS (140th):

The answer is yes, Mr. Speaker. And the expectation is that the DSS commissioner will use all prudence in making those decisions.

DEPUTY SPEAKER RYAN:

Representative Srinivasan.

REP. SRINIVASAN (31st):

Through you, Mr. Speaker, if I may ask one more question.

The commissioner, in line 20, talks about may waive the reasons -- the reasons why he can waive the 2-month extension and the 90-day period. Are we clear as to what the guidelines are the commissioner will have prior to his making that extension?

DEPUTY SPEAKER RYAN:

Representative Morris, did you have trouble hearing the question?

REP. MORRIS (140th):

Yes, I did, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Could you repeat it one more time, sir.

REP. SRINIVASAN (31st):

Yes. Through you, Mr. Speaker, definitely I can.

The criteria by which the commissioner can waive the 2-month extension and the 90-day period of recoup, do we have -- are we clear in what those criteria are? Or is it left to the discretion of the commissioner to decide, he or she, that this nursing home needs help and will continue to help the nursing home?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Morris.

REP. MORRIS (140th):

The only criteria is they must be in receivership.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Srinivasan, excuse me.

REP. SRINIVASAN (31st):

Thank you, Mr. Speaker.

And I want to thank the proponent of the bill for his answers to the questions.

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Thank you.

DEPUTY SPEAKER RYAN:

Thank you, sir.

Representative Schofield of the 16th.

REP. SCHOFIELD (16th):

Thank you, Mr. Speaker.

I also have some concerns about this. You know, I used to be Medicaid director here in the state, and I'm afraid I have to admit my memory is a little fuzzy of exactly how this receivership stuff works. It's been a while since I dealt with it.

But my recollection is that all of the nursing homes that went into receivership were going out of business. They never were sold or turned over to anyone else. It's a runoff situation. And so I share the concern that in that situation when you're advancing a significant amount of money, it's not as though another buyer is going to come and necessarily bail out that nursing facility. The ones that were in receivership when I was there were all broke.

And I share your concern about wanting to make sure that the patient care is satisfactory, but I'm a little concerned that by allowing them to extend the runoff period they won't move people out to a better

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nursing facility as quickly as they might otherwise, and they might be incurring more cost and debt for the State of Connecticut.

So I guess a couple of questions. Do you have information on what percentage of the nursing homes that go into receivership actually turn around and come out of it, as opposed to going out of business?

DEPUTY SPEAKER RYAN:

Representative Morris.

REP. MORRIS (140th):

No. Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Schofield.

REP. SCHOFIELD (16th):

Thank you, Mr. Speaker.

Through you, is there -- again, my understanding is with advancing money like this you're not able to claim federal match on that money until you can actually show that the patient was, in fact, in the nursing home for that month.

So let's say it's April now and you're advancing them money for the month of May. Well the patient actually hasn't been there in the month of May yet, so you can't claim FFP until you can prove that the

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patient was alive and in the nursing home in the month of May.

So am I correct in understanding that we would potentially, if patients move out, be left, not only with the cost of the State's share, but with the federal share as well?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Morris.

REP. MORRIS (140th):

I believe that's correct.

DEPUTY SPEAKER RYAN:

Representative Schofield.

REP. SCHOFIELD (16th):

Which expands my concern, sorry.

One last question. Is there a way to assure that the State -- and maybe this already exists -- is sort of first in line as creditor, so that when the facility closes and its assets are sold off or disposed of, that that might satisfy people's concerns about how the State can recoup is if we are first in line as creditor?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

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Representative Morris.

REP. MORRIS (140th):

I can't say with any certainty. I believe that may already be the case, but I'm not saying with any certainty.

REP. SCHOFIELD (16th):

Okay. Thank you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Thank you, ma'am.

Representative Sayers of the 60th, you have the floor, ma'am.

REP. SAYERS (60th):

Thank you, Mr. Speaker.

I rise in support this bill. Many times when -- we have actually at one point in time had 31 homes, nursing homes that were in bankruptcy. And lots of times when the State goes in and appoints a receiver it's because of poor management practices within that home, and then by putting in a receiver they are able to improve those management practices.

Not all homes that go in that have a receiver placed in them actually close. In fact, I could tell you many homes that have been at periods of time in -- had a receiver placed in those homes; are currently

open today and actually doing very, very well. So sometimes it just means a main -- a change in management practices.

Because in lot of these homes that are in bankruptcy, as many as 90 percent of the patients that are in those homes are probably Medicaid patients. It is money that the State owns -- owes for the payment of those, of care for those patients.

And the money that -- the only chance the State has of recouping any of that money or any of that money being returned to the State is, for instance, if that patient has spent all their assets, but the one asset that they have remaining is perhaps a home that has a spouse living in that home. When that spouse sells the home, at that point the patient's portion of that home could be -- go back to the State -- is replacement for those Medicaid payments that were made out over the years for the care of that person in the nursing home.

This just means that the receiver is able to make sure that the bills are paid, that there is food, adequate food in the nursing for those patients to eat and adequate services for them to receive their daily care. And many times, because of the diligent work of

the receiver in making sure that the many -- the money is more competently spent and managed, it is able to turn those homes around and bring them back.

On the occasion that they do have to close the home, or the decision is made by the receiver that the home is not able to fiscally maintain itself and needs to be closed, it is the home that would make arrangements for discharges of those residents in the home. The State does not do discharge planning nor make arrangements for patients to be discharged, because then that would make them responsible for those patients. And it would be a liability for the State if there were any problems with the discharge.

So I rise in support this bill. It allows the receiver to better be able to do their job and to make sure that the quality of care for those residents residing in those nursing homes is maintained.

Thank you.

DEPUTY SPEAKER RYAN:

Thank you, Representative.

Will you remark further on the bill? Will you remark further on the bill? If not, will staff and guests please come to the well of the House. Will members please take your seats. The machine will be

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opened.

THE CLERK:

The House of Representatives is voting by roll call. Members to the Chamber. The House is taking a roll call vote. Members to the Chamber, please.

DEPUTY SPEAKER RYAN:

Have all members voted? Have all members voted? Will the members please check the board to determine if your vote is properly cast. If all members have voted, the machine will be locked and the Clerk will take the tally. The Clerk will announce the tally.

THE CLERK:

House Bill 5283.

Total number voting	126
Necessary for adoption	64
Those voting Yea	126
Those voting Nay	19
Those absent and not voting	6

DEPUTY SPEAKER RYAN:

The bill passes.

Will the Clerk please call Calendar Number 67?

THE CLERK:

On page 8, Calendar 67, House Bill Number 5214,

AN ACT CONCERNING THE LEGISLATIVE COMMISSIONERS'

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STANDING
COMMITTEE
HEARINGS**

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codifies that goal and provides some standardization.

It also supports Connecticut's rebalancing plan by providing consistent information about the broad range of community, long term care options available. And this system enhances the state's nursing home diversion efforts. Community care in lieu of nursing home care is preferable and less costly.

And finally, a single point of entry integrated system is consistent with federal priorities and provides Connecticut with the opportunity to apply for the balancing incentive payment program, which requires a statewide single point of entry system, a universal assessment or level of care screening tool, which is in the Governor's budget, and conflict free case management, which also exists here in the State of Connecticut through access agencies.

I want to thank you for this opportunity to provide testimony and urge your support on this bill. Thank you.

SENATOR MUSTO: Thank you. Are there any mem -- questions from members of the committee?

SHERRY OSTROUT: Thank you so much.

SENATOR MUSTO: Well, thank you very much.

Commissioner Bremby, welcome.

COMMISSIONER ROD BREMBY: Good afternoon, Senator Musto and Representative Tercyak, distinguished members of the committee. I am Rod Bremby, Commissioner of DSS. I'm here to offer testimony on a number of bills this afternoon.

I, too, am a person. And I have brought a significant number of my leadership team so it

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understand that it passed unanimously in the House and Senate, so we appreciate very much moving this bill forward.

House Bill 5283, AN ACT WAIVING ADVANCED PAYMENT RESTRICTIONS FOR CERTAIN NURSING FACILITIES. We believe that this bill, while it will allow the department to waive the two month cap on advanced -- advanced payments, it's necessary to take into consideration how the safety and welfare of residents -- there needs to be some flexibility in providing these payments when they are necessary. We hope that you will see your way to request that the effective date be changed to being effective on passage. We understand there is concerns about the use of these advanced resources, but our Department's interest is in ensuring that patient safety is maintained.

House Bill 5284, AN ACT CONCERNING THE RECRUITMENT OF STAFF OR STATE ASSISTANCE PAYMENTS. We currently have a third party administrator to assist in recapturing some of these expenses. HMS, which is the third party administrator, is here today and can provide much more detailed information about this bill and the importance of this bill.

And then moving forward to the bills that impact the department, these are not bills that we've raised or bills that we've sponsored, but they are bills that will impact the agency.

Senate Bill 208 is one that concerns reducing inmate health care costs. We believe the intent is to assure that all available resources -- Medicaid resources are obtained in order to pay for this cost. But federal law, federal Medicaid law precludes the state from claiming for federal participation the costs of medical care for patients who are incarcerated.

We're proposing a -- more transportation than was available under state administered general assistance, but somewhat more restricted than it was -- than it is today.

And the other two areas are home health services, which were also not available except in very narrow circumstances under the state administered general assistance program. We would -- we would revert to a 60-day benefit for home health with the idea that those who need home health on a long term basis would be able to apply for coverage under Medicaid ABD.

And the last area is independent therapies, physical therapy, occupational therapy, where we're looking at 20 days per episode of those. Which I think is an entirely reasonable area limit to place. It ensures we don't have excessive or wasteful service, but enough to -- to provide the therapies that are needed for the great majority of -- of -- injuries and illnesses.

REP. TERCYAK: Thank you very much.

Also, House Bill 5283, AN ACT WAIVING ADVANCED PAYMENT RESTRICTIONS FOR NURSING -- FOR CERTAIN NURSING FACILITIES. Would this pay nursing homes more promptly for locking out their employees than they're able to be paid under normal operations?

COMMISSIONER ROD BREMBY: The advanced payment made by the state would only be done in a receivership in a way to protect or provide for the health and safety of the patients. That would, though, be illegal for nursing homes to do. But we don't believe that that occur -- we don't believe that that is the -- that would be -- that would be the impact of this bill.

REP. TERCYAK: Thank you. And you wanted that effective from passage, I would guess?

COMMISSIONER ROD BREMBY: Yes.

REP. TERCYAK: Okay. Let's see.

I'm -- you were fortunate to be here for our lengthy discussion with Secretary Barnes about medication administration. One thing we didn't talk to him about was your proposal to reduce the rates for medication administration by nurses.

SB30

So just to be clear what we're talking about here now is nurses will only be allowed to administer medications to the most fragile and the -- and the sickest people left -- who are left as patients, who it's been decided that we can't do -- that we can't delegate that responsibility for. So given that the case load now for medication administration will only be the sickest part, the most fragile, the neediest part of the present case load, your proposal is to lower the wages for the nurses who do that work?

Is there any other state that is lowering nurses wages for taking care of the sickest people among them? You mentioned 23 states that do nursing delegation. You've got a back up for how many states are lowering nurses pay -- nurses wages?

COMMISSIONER ROD BREMBY: We'd be happy to get that information. I believe the number of the 23 states that are moving in this direction was provided by Secretary Barnes, but we'll be more than happy to try to address that as well. We know that -

REP. TERCYAK: Well, I'm clear that there's -

**JOINT
STANDING
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HEARINGS**

**HUMAN
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Testimony before the Human Services Committee

Commissioner Roderick L. Bremby

March 1, 2012

Good morning, Senator Musto, Representative Tercyak and distinguished members of the Human Services Committee. My name is Roderick Bremby and I am Commissioner of the Department of Social Services (DSS). I am here today to testify on a number of bills that impact the department, including seven bills the department submitted for the committee's consideration and the Governor's budget implementation bill for human services programs. I would like to thank the Committee for raising the bills on our behalf and urge your support. I will begin my comments with the Governor's budget implementation bill, Senate Bill 30.

S.B. No. 30 AN ACT IMPLEMENTING PROVISIONS OF THE BUDGET CONCERNING HUMAN SERVICES.

The Department of Social Services provides a wide array of services and supports to over 750,000 Connecticut residents annually through over 90 programs. While the vast majority of DSS services support the medical needs of our residents through programs such as Medicaid, Children's Health Insurance Program and the Connecticut Home Care Program for Elders, our programs help to meet a broad range of needs by residents of all ages. These programs include income support services, such as Temporary Family Assistance, child support and child care; food and nutrition such as the Supplemental Nutrition Assistance Program (food stamps) and elderly nutrition; and support and safety services such as winter heating assistance, social work services, and teen pregnancy prevention.

The Governor's recommended mid-term budget for SFY 2013 represents a net reduction of \$119.2 million, or 2%, from the original SFY 2013 biennial appropriation. This represents an increase of \$20.5 million, or 0.4%, above current SFY 2012 estimated expenditures. Health Services comprise 90% of the total \$5.8 billion recommended budget, and Medicaid alone represents 91% of the health services area. Medicaid enrollment is currently over 580,000 and has been steadily increasing.

Some of the more significant changes in the Governor's recommended budget are in DSS medical programs, including changes to the Medicaid for Low-Income Adults (MLIA) program, Money Follows the Person, and medication administration to clients living in

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Connecticut. Some agents are volunteers, and others perform multiple roles, such as senior center director, social services coordinator or recreation director. Connecticut municipalities are experiencing increased financial and administrative pressures that make it difficult to meet this statutory mandate.

This bill would relieve municipalities of an unfunded mandate and allow them to utilize existing available resources. It also eliminates administrative and programmatic responsibilities when support is already available through community partners. The amended provisions, in large part, parallel the subsequently enacted municipal agent for children statute (CGS Sec. 7-127c), which recognizes the fiscal realities of our times while keeping a flow of information and services available to local municipalities.

H.B. No. 5282 (RAISED) AN ACT ADJUSTING INCOME ELIGIBILITY FOR MEDICARE SAVINGS PROGRAMS.

This proposal was raised at the request of the department. However, we are happy to report that House and Senate leadership, as well as our Committee chairs, recognizing the urgency of the matter, acted on an emergency certification bill which passed unanimously in the House and Senate on Wednesday. We thank the Committee for raising this bill, but it is no longer necessary.

H.B. No. 5283 (RAISED) AN ACT WAIVING ADVANCE PAYMENT RESTRICTIONS FOR CERTAIN NURSING FACILITIES.

This bill will allow the department to waive the two-month cap on advance payments and the 90-day recoupment to nursing homes in receivership if it is determined to be the in best interest of all parties.

Upon the appointment by the Superior Court of a receiver to a skilled nursing facility, immediate funds are needed to stabilize the facility, including payroll and vendor payments. On average, Medicaid payments account for 70% of nursing facilities' total revenue. Advances on future Medicaid billings are paid to a facility, based on the receiver's request for funds. Sometimes, the funding requests required can be more than the two months allowed under statute. In order to protect the health, safety, and welfare of the residents, there needs to be some flexibility in providing these payments when they are deemed necessary.

In addition, effective upon the date of receivership, provider billings are to be preserved by the receiver, which requires numerous certification, financial, and provider billing procedural changes. These required changes make it difficult to recoup payments made to the facilities within the required 90 days. This change will allow that 90-day timeframe to be waived in situations when required.

It was the department's intention that this bill be effective on passage, however the version before you today reflects an effect date of July 1. We would, therefore, respectfully request the effective date be changed to effective on passage.

H.B. No. 5284 (RAISED) AN ACT CONCERNING RECOUPMENT OF STATE ASSISTANCE PAYMENTS.

This proposal will enhance the state's ability to collect Medicaid overpayments made on behalf of state assistance recipients who have third-party liability. The additional data requirements will help to accurately match Medicaid clients with third-party coverage that may be liable to cover medical expenses. This will allow for more efficient recoupment of Medicaid payments for which third-party insurers should be responsible. The addition of "third-party administrator" makes the intent to include the administrator in these statutes explicitly clear. It avoids any questions about the authority of a third-party administrator, thereby preventing questions that could impede its ability to recoup state funds on the department's behalf.

Bills with Department Impact

S.B. No. 208 (RAISED) AN ACT CONCERNING REDUCING INMATE HEALTH CARE COSTS.

This bill proposes that all inmates in correctional institutions be screened for Medicaid eligibility, be enrolled in the program during incarceration, and that eligibility not be discontinued during that time. It further would require that eligible inmates be enrolled in Medicaid if they are admitted to a hospital or receive other treatment outside of the prison.

Federal Medicaid law precludes states from claiming for federal financial participation for costs of medical care for patients who are incarcerated, except for services provided while the patient is admitted to an inpatient hospital, nursing facility, juvenile psychiatric facility or intermediate care facility. Accordingly, there would be no federal revenue for services other than those described above.

Furthermore, DSS and the Department of Correction have already implemented procedures to establish Medicaid eligibility for inmates admitted for inpatient treatment at any of the state's acute-care general hospitals. These inmates are screened for eligibility upon admission. Hospitals fax completed Medicaid applications to a centralized unit in DSS, where our staff determine eligibility. Medicaid payments for eligible individuals are limited to the hospital admission, and the hospitals are currently billing Medicaid for the services they provide to these patients.

In addition to providing Medicaid to inmates who have been admitted to hospitals, DSS staff determine Medicaid eligibility for inmates that will be leaving DOC custody. DOC notifies DSS approximately one month prior to the scheduled release of inmates. DSS then reinstates Medicaid if the inmate had received Medicaid within 24 months of

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Statement of Martin Sbriglio
before the
Human Services Committee
March 1, 2012
Senate Bill 233 and HB 5283

Sen. Musto, Rep. Tercyak and members of the committee:

My name is Martin Sbriglio. I am president and chief executive officer of Ryder's Health Systems, Inc., that owns and operates several long-term care facilities in Connecticut. We are not some out-of-state conglomerate—we are a family-owned company that has tried to do the best we can in serving the needs of our patients for over 62 years. I am also representing the Connecticut Alliance for Subacute Care, a small state association that has affiliated members in this industry.

Ironically, I want to note that I appeared before this very committee exactly one year ago at your public hearing on March 1, 2011. I asked you then to help our industry on the issue of reimbursing for the so-called "pending" cases in Medicaid. These are the cases where we provide care to an indigent resident while their application is being processed for Medicaid. Until an approval occurs, we do not see a dime from the state.

Little happened on this issue last session. Maybe 2012 will be different.

I would like to offer brief comments on Senate Bill 233 and House Bill 5283. Both proposals are a step in the right direction.

SB 233 would permit DSS to pay a portion of the costs of care when an application for Medicaid is pending. We need this—I can tell you case after case where we have incurred hundreds of thousands of dollars in care but have yet to see any reimbursement from the state. This just is not fair.

HB 5283 will go in the same direction for long-term care facilities that are in deep financial trouble—brought on ironically in some instances because of the delays in reimbursing them by the state. The bill allows these facilities more latitude in paying back the "advanced payments" that are made by DSS.

I would urge you to support the approach embodied in these two bills. If you do so, it will get us reimbursements we are entitled to. That, in turn, will better enable us to concentrate on our core mission of providing consistent, high-quality care to our residents
Thank you.

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**CONNECTICUT
GENERAL ASSEMBLY
SENATE**

**PROCEEDINGS
2012**

**VOL. 55
PART 14
4223 - 4505**

rgd/tmj/gdm/gbr
SENATE

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May 9, 2012

Immediate roll call has been ordered in the Senate. Will
senators please return to the Chamber. Immediate roll
call has been ordered in the Senate.

THE CHAIR:

Senator Cassano.

Senator Meyer.

Senator Cassano, please vote.

If all members have voted -- all members have voted. The
machine will be closed.

Mr. Clerk, will you call a tally, please.

THE CLERK:

House Bill 5378.

Total Number Voting	36
Necessary for Adoption	19
Those Voting Yea	35
Those Voting Nay	1
Those Absent and Not Voting	0

THE CHAIR:

Thank you. Senator Looney.

The bill passes too.

SENATOR LOONEY:

Yes, thank you. Thank you, Madam President.

Madam President, would ask the Clerk to call calendar
page 3, Calendar 240, House Bill 5283.

THE CHAIR:

Mr. Clerk.

THE CLERK:

On page 3, Calendar 240, Substitute for House Bill

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Number 5283, AN ACT WAIVING ADVANCED PAYMENT RESTRICTIONS
FOR CERTAIN NURSING FACILITIES, favorable report of the
Committee on Human Services.

THE CHAIR:

I'm sorry. Senator Looney, do you want to --

SENATOR LOONEY:

Thank you, Madam President.

Madam President, if the -- if that item might be passed
temporarily.

And Madam President, if the Clerk would call calendar
page 21 -- oh, excuse me. Senator Musto has now arrived.
If the Clerk would return to that item.

THE CHAIR:

Okay, Mr. Clerk.

Senator Musto.

SENATOR MUSTO:

I apologize, Madam President. I was on the other side of
the Chamber on other business.

Madam President, I would move the committee's joint
favorable report and passage of the bill.

THE CHAIR:

Motion is on passage and -- will you remark, sir?

SENATOR MUSTO:

Yes, Madam President.

This is a very good bill and it ought to pass. It helps
senior citizens who are in nursing homes that are in
receivership stay in the home by providing -- allowing DSS
to provide more payments for them and just asking for the
support of the Chamber.

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Thank you.

THE CHAIR:

Thank you.

Will you remark? Will you remark?

Senator Markley.

SENATOR MARKLEY:

I just want to say Senator Musto and Senator Kelly and I have discussed this bill at some length and we feel confident that it's a good thing and we hope it goes forward.

THE CHAIR:

Thank you.

Will you remark? Will you remark?

If not, Senator Musto.

SENATOR MUSTO:

If there's no objection, Madam President, I'd ask it be placed on consent.

THE CHAIR:

Seeing no objection, so ordered, sir.

Senator Looney.

SENATOR LOONEY:

Thank you, Madam President.

Madam President, if the Clerk would call as the next item calendar page 21, Calendar 504, House Bill 5319.

THE CHAIR:

Mr. Clerk.

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(HB 5283)

On page 3, Calendar 240, House Bill 3283; page 3, Calendar 299, House Bill 5437; page 5, Calendar 349, Senate Bill 374; page 6, Calendar 375, House Bill 5440; page 6, 362, House Bill 5011.

On page 7, Calendar 376, House Bill 5279; on page 7, 387, House Bill 5290; on page 8, 394, House Bill 5032; on page 8, 396, House Bill 5230.

Also on page 8, Calendar 398, House Bill 5241; on page 8, Calendar 393, House Bill 5307; on page 9, Calendar 403, House Bill 5087; on page 9, Calendar 406, House Bill 5276; on page 9, 407, House Bill 5484; on page 11, Calendar 424, House Bill 5495; on page 12, Calendar 435, House Bill 5232; on page 13, Calendar 5 -- excuse me Calendar 450, House Bill 5447; on page 14, Calendar 455, House Bill 3 -- I'm sorry -- House Bill 5353.

On page 14, Calendar 453, House Bill 5543; on page 14, Calendar 459, House Bill 5271; on page 15, Calendar 464, House Bill 5344; on page 15, Calendar 465, House Bill 5034; on page 16, Calendar 469, House Bill 5038; on page 17, Calendar 475, House Bill 5550; on page 17, Calendar 474, House Bill 5233; on page 17, Calendar 477, House Bill 5421.

Page 18, 480, House Bill 5258; on page 18, Calendar 479, House Bill 5500; page 18, Calendar 482, House Bill 5106; on page 18, Calendar 483, House Bill 5355; on page 19, Calendar 489, House Bill 5248; on page 19, Calendar 488, House Bill 5321; on page 20, Calendar 496, House Bill 5412.

On page 21, Calendar 504, House Bill 5319; page 21, Calendar 505, House Bill 5328; on page 22, Calendar 508, House Bill 5365; on page 22, Calendar 510, House Bill 5170; on page 23, Calendar 514, House Bill 5540; on page 23, Calendar 517, House Bill 5521.

Page 24, Calendar 521, House Bill 5343; page 24, Calendar 518, House Bill 5298; page 24, Calendar 523, House Bill 5504; page 29, Calendar 355, Senate Bill 418; on page 13, Calendar 444, 5037; and Calendar 507, House Bill 5467.

THE CHAIR:

Senator -- Senator Suzio.

SENATOR SUZIO:



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Bills from Senate Agenda Number 3 from the May 9th Senate Session that were placed on the Consent Calendar

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HB 5342

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SENATE

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May 9, 2012

Good evening, Madam President.

I just want to clarify. I thought I heard the Clerk call House Bill 5034? Is that on the consent calendar?

THE CHAIR:

Do you know what page that is, sir?

SENATOR SUZIO:

No I -- he was reading so fast, Madam, I couldn't get it.

THE CHAIR:

It's -- yes it's 53 -- I don't know.

SENATOR SUZIO:

5034.

THE CHAIR:

5034, yes sir.

SENATOR SUZIO:

I object to that being put on the consent calendar, Madam President.

THE CHAIR:

Okay, that will be removed.

Senator Looney.

SENATOR LOONEY:

Thank you, Madam President.

Yes, just seeing that -- ask to remove that item from the consent calendar.

THE CHAIR:

So ordered.

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SENATE

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May 9, 2012

At this time we'll call a roll call vote on the consent calendar.

Mr. Clerk.

THE CLERK:

Immediate roll call has been ordered in the Senate.
Senators please return to the Chamber. Immediate roll call has been ordered in the Senate.

THE CHAIR:

Senator Coleman, we need your vote, sir.

Senator Kissel, Senator Kissel. Senator Kissel, will you vote on the consent calendar please?

All members have voted?

If all members have voted, the machine will be closed.

Mr. Clerk, will you call the amendment -- I meant the tally.

THE CLERK:

On today's consent calendar.

Total Number Voting	36
Necessary for Adoption	19
Those Voting Yea	36
Those Voting Nay	0
Those Absent and Not Voting	0

THE CHAIR:

The consent calendar has passed.

Senator Looney.

SENATOR LOONEY:

Thank you, Madam President.

Madam President, I believe the Clerk is in possession of Senate Agenda Number 6 for today's session.