

SB238_L.020

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on Health & Human Services.

SB19-238 be amended as follows:

- 1 Amend printed bill, page 3, line 5, strike "SERVICE".
- 2 Page 3, strike lines 9 and 10 and substitute:
 - 3 "(1) "COMPENSATION" HAS THE MEANING SET FORTH IN SECTION
 - 4 25.5-6-406 (2)(b)(I).
 - 5 (2) "HEALTH MAINTENANCE ACTIVITIES" HAS THE MEANING SET
 - 6 FORTH IN SECTION 25.5-6-1202 (4)."
- 7 Renumber succeeding subsections accordingly.
- 8 Page 3, strike lines 12 through 15 and substitute "SECTION 25-27.5-102
- 9 (3); EXCEPT THAT THE TERM DOES NOT INCLUDE AN AGENCY THAT IS
- 10 PRIMARILY ENGAGED IN THE PROVISION OF HOSPICE CARE, AS DEFINED IN
- 11 SECTION 25.5-4-103 (8)."
- 12 Page 4, strike lines 1 through 4.
- 13 Renumbers succeeding subsections accordingly.
- 14 Page 4, after line 6 insert:
 - 15 "(5) "IN-HOME SUPPORT SERVICE AGENCY" HAS THE MEANING SET
 - 16 FORTH IN SECTION 25.5-6-1202 (5).
 - 17 (6) "IN-HOME SUPPORT SERVICES" HAS THE MEANING SET FORTH
 - 18 IN SECTION 25.5-6-1202 (6); EXCEPT THAT THE TERM DOES NOT INCLUDE
 - 19 HEALTH MAINTENANCE ACTIVITIES."
- 20 Renumber succeeding subsections accordingly.
- 21 Page 4, strike lines 9 through 14.
- 22 Page 4, line 16, strike "**services - repeal.**" and substitute "**services.**".
- 23 Page 4, line 22, strike "HOMEMAKER BASIC;" and substitute
- 24 "HOMEMAKER;".
- 25 Page 4, line 25, strike "SERVICE".
- 26 Page 5, line 2, strike "RESPITE CARE" and substitute "IN-HOME SUPPORT".
- 27 Page 5, line 3, strike "SERVICE".

- 1 Page 5, strike lines 7 and 8 and substitute "IN-HOME SUPPORT SERVICES
2 PROVIDED BY THE EMPLOYEE AS COMPENSATION IN ADDITION TO THE RATE
3 OF COMPENSATION THAT THE EMPLOYEE WAS RECEIVING AS OF JUNE 30,
4 2019. FOR AN EMPLOYEE WHO WAS HIRED AFTER JUNE 30, 2019, THE
5 HOME CARE AGENCY SHALL USE THE LOWEST COMPENSATION PAID TO AN
6 EMPLOYEE OF SIMILAR FUNCTIONS AND DUTIES AS OF JUNE 30, 2019, AS
7 THE BASE COMPENSATION TO WHICH THE INCREASE IS APPLIED.
- 8 (3) WITHIN SIXTY DAYS AFTER THE REQUEST DESCRIBED IN
9 SUBSECTION (1) OF THIS SECTION IS APPROVED, EACH HOME CARE".
- 10 Page 5, line 11, strike "RESPIRE CARE" and substitute "IN-HOME SUPPORT".
- 11 Page 5, strike line 14.
- 12 Page 5, line 15, strike "**Wage**" and substitute "**Minimum wage - wage**".
- 13 Page 5, strike line 16 and substitute "**care agencies - applicability -**
14 **reports - recovery.** (1) THIS".
- 15 Page 5, line 17, strike "SERVICE".
- 16 Page 5, line 20, strike "RESPIRE CARE" and substitute "IN-HOME SUPPORT".
- 17 Page 5, strike lines 21 through 27 and substitute:
18 "(2) ON AND AFTER JULY 1, 2020, THE HOURLY MINIMUM WAGE
19 FOR PERSONS WHO PROVIDE PERSONAL CARE SERVICES, HOMEMAKER
20 SERVICES, OR IN-HOME SUPPORT SERVICES FOR WHICH A HOME CARE
21 AGENCY MAY RECEIVE REIMBURSEMENT PURSUANT TO THE "COLORADO
22 MEDICAL ASSISTANCE ACT" IS TWELVE DOLLARS AND FORTY-ONE CENTS
23 PER HOUR.
- 24 (3) FOR ANY INCREASE TO THE REIMBURSEMENT RATES FOR
25 PERSONAL CARE SERVICES, HOMEMAKER SERVICES, OR IN-HOME SUPPORT
26 SERVICES THAT TAKES EFFECT DURING THE 2020-21 FISCAL YEAR, HOME
27 CARE AGENCIES SHALL USE EIGHTY-FIVE PERCENT OF THE FUNDING
28 RESULTING FROM THE INCREASE TO INCREASE COMPENSATION FOR
29 NONADMINISTRATIVE EMPLOYEES ABOVE THE RATE OF COMPENSATION
30 THAT NONADMINISTRATIVE EMPLOYEES ARE RECEIVING AS OF JUNE 30,
31 2019. HOME CARE AGENCIES SHALL NOT USE FUNDING RESULTING FROM
32 THE REIMBURSEMENT RATE INCREASE FOR GENERAL AND ADMINISTRATIVE
33 EXPENSES, SUCH AS CHIEF EXECUTIVE OFFICER SALARIES, HUMAN
34 RESOURCES, INFORMATION TECHNOLOGY, OVERSIGHT, BUSINESS
35 MANAGEMENT, GENERAL RECORD KEEPING, BUDGETING AND FINANCE,
36 AND OTHER ACTIVITIES NOT IDENTIFIABLE TO A SINGLE PROGRAM.

1 (4) (a) EACH HOME CARE AGENCY SHALL TRACK AND REPORT HOW
2 IT USED ANY FUNDING RESULTING FROM THE INCREASE IN THE
3 REIMBURSEMENT RATE PURSUANT TO SECTION 25.5-6-1602 USING A
4 REPORTING TOOL DEVELOPED BY THE STATE DEPARTMENT. ON OR BEFORE
5 DECEMBER 31, 2020, EACH HOME CARE AGENCY SHALL SUBMIT THE
6 REPORT TO THE STATE DEPARTMENT DEMONSTRATING HOW THE FUNDING
7 WAS USED TO INCREASE EACH EMPLOYEE'S COMPENSATION FOR THE
8 2019-20 FISCAL YEAR. ON OR BEFORE DECEMBER 31, 2021, EACH HOME
9 CARE AGENCY SHALL REPORT TO THE STATE DEPARTMENT HOW THE
10 FUNDING WAS USED TO INCREASE OR, IN THE EVENT THAT THERE IS NO
11 REIMBURSEMENT RATE INCREASE, MAINTAIN EACH EMPLOYEE'S
12 COMPENSATION FOR THE 2020-21 FISCAL YEAR. THE STATE DEPARTMENT
13 HAS ONGOING DISCRETION TO REQUEST INFORMATION FROM A HOME CARE
14 AGENCY DEMONSTRATING HOW IT MAINTAINED INCREASES IN
15 COMPENSATION FOR NONADMINISTRATIVE EMPLOYEES BEYOND THE
16 REPORTING PERIOD.

17 (b) EACH HOME CARE AGENCY SHALL MAINTAIN ALL BOOKS,
18 DOCUMENTS, PAPERS, ACCOUNTING RECORDS, AND OTHER EVIDENCE
19 REQUIRED TO SUPPORT THE REPORTING OF PAYROLL INFORMATION FOR
20 INCREASED COMPENSATION TO NONADMINISTRATIVE EMPLOYEES
21 PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION FOR AT LEAST THREE
22 YEARS FROM THE REPORTING DEADLINES DESCRIBED IN SUBSECTION (4)(a)
23 OF THIS SECTION FOR EACH RESPECTIVE FISCAL YEAR. EACH HOME CARE
24 AGENCY SHALL MAKE THE INFORMATION AND MATERIALS AVAILABLE FOR
25 INSPECTION BY THE STATE DEPARTMENT OR ITS DESIGNEES AT ALL
26 REASONABLE TIMES.

27 (5) (a) THE STATE DEPARTMENT MAY RECOUP PART OR ALL OF THE
28 FUNDING RESULTING FROM THE INCREASE IN THE REIMBURSEMENT RATE
29 DESCRIBED IN SECTION 25.5-6-1602 IF THE STATE DEPARTMENT
30 DETERMINES THAT A HOME CARE AGENCY:

31 (I) DID NOT USE ONE HUNDRED PERCENT OF ANY FUNDING
32 RESULTING FROM THE RATE INCREASE TO INCREASE COMPENSATION FOR
33 NONADMINISTRATIVE EMPLOYEES, AS REQUIRED BY SECTION 25.5-6-1602
34 (2);

35 (II) DID NOT USE EIGHTY-FIVE PERCENT OF THE FUNDING
36 RESULTING FROM THE RATE INCREASE TO INCREASE COMPENSATION FOR
37 NONADMINISTRATIVE EMPLOYEES, AS REQUIRED BY SUBSECTION (3) OF
38 THIS SECTION; OR

39 (III) FAILED TO TRACK AND REPORT HOW IT USED ANY FUNDS
40 RESULTING FROM THE INCREASE IN THE REIMBURSEMENT RATE AS
41 REQUIRED BY SUBSECTION (4) OF THIS SECTION.

42 (b) IF THE STATE DEPARTMENT MAKES A DETERMINATION
43 DESCRIBED IN SUBSECTION (5)(a) OF THIS SECTION, THE STATE
44 DEPARTMENT SHALL NOTIFY THE HOME CARE AGENCY IN WRITING OF THE

1 STATE DEPARTMENT'S INTENTION TO RECOUP FUNDS PURSUANT TO
2 SUBSECTION (5)(a) OF THIS SECTION. A HOME CARE AGENCY HAS
3 FORTY-FIVE DAYS AFTER RECEIVING SUCH NOTICE TO:
4 (I) CHALLENGE THE DETERMINATION OF THE STATE DEPARTMENT;
5 (II) PROVIDE ADDITIONAL INFORMATION TO THE STATE
6 DEPARTMENT DEMONSTRATING COMPLIANCE; OR
7 (III) SUBMIT A PLAN OF CORRECTION TO THE STATE DEPARTMENT.
8 (c) THE STATE DEPARTMENT SHALL NOTIFY A HOME CARE AGENCY
9 IN WRITING OF ITS FINAL DETERMINATION AFTER AFFORDING THE HOME
10 CARE AGENCY THE OPPORTUNITY TO TAKE ONE OF THE ACTIONS SPECIFIED
11 IN SUBSECTION (5)(b) OF THIS SECTION.
12 (d) THE STATE DEPARTMENT SHALL RECOUP FROM A HOME CARE
13 AGENCY ONE HUNDRED PERCENT OF THE FUNDING RESULTING FROM THE
14 INCREASE IN THE REIMBURSEMENT RATE PURSUANT TO SECTION
15 25.5-6-1602 THAT THE HOME CARE AGENCY RECEIVED BUT DID NOT USE
16 FOR COMPENSATION FOR NONADMINISTRATIVE EMPLOYEES IF:
17 (I) THE HOME CARE AGENCY FAILS TO RESPOND TO A NOTICE OF
18 DETERMINATION OF THE STATE DEPARTMENT WITHIN THE TIME PROVIDED
19 IN SUBSECTION (5)(b) OF THIS SECTION;
20 (II) THE HOME CARE AGENCY IS UNABLE TO PROVIDE
21 DOCUMENTATION OF COMPLIANCE; OR
22 (III) THE STATE DEPARTMENT DOES NOT ACCEPT THE PLAN OF
23 CORRECTION SUBMITTED BY THE HOME CARE AGENCY PURSUANT TO
24 SUBSECTION (5)(b)(III) OF THIS SECTION."

25 Strike pages 6 and 7.

26 Page 8, strike lines 1 through 6.

27 Page 8, line 7, strike "service".

28 Page 8, line 9, strike "JULY 1, 2020," and substitute "JANUARY 1, 2020,".

29 Page 8, line 10, strike "ENVIRONMENT" and substitute "ENVIRONMENT, IN
30 CONSULTATION WITH STAKEHOLDERS,".

31 Page 8, line 11, after "FOR" insert "REVIEWING AND".

32 Page 8, strike line 13 and substitute "SERVICES, AND IN-HOME SUPPORT
33 SERVICES FOR WHICH A HOME CARE AGENCY MAY".

34 Page 8, strike lines 17 through 27 and substitute "STAKEHOLDERS MUST
35 INCLUDE, BUT ARE NOT LIMITED TO:

- 1 (a) ONE OR MORE CONSUMER ADVOCACY ORGANIZATIONS;
2 (b) ONE OR MORE PERSONAL CARE WORKERS;
3 (c) ONE OR MORE WORKER ORGANIZATIONS;
4 (d) ONE OR MORE HOME CARE AGENCIES;
5 (e) ONE OR MORE DISABILITY ADVOCACY ORGANIZATIONS;
6 (f) ONE OR MORE SENIOR ADVOCACY ORGANIZATIONS; AND
7 (g) ONE OR MORE CHILDREN'S ADVOCACY ORGANIZATIONS.
8 (2) THE STAKEHOLDERS WITH WHOM THE DEPARTMENTS CONSULT
9 PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL DISCUSS AND
10 ADVISE THE DEPARTMENTS CONCERNING THE MANNER IN WHICH
11 NONADMINISTRATIVE EMPLOYEES WILL BE NOTIFIED OF THE
12 COMPENSATION INCREASES AND MINIMUM WAGE DESCRIBED IN SECTIONS
13 25.5-6-1602 AND 25.5-6-1603."
- 14 Strike page 9.
- 15 Page 10, strike line 1.
- 16 Page 10, strike line 7 and substitute:
17 "(b) THE PEDIATRIC CARE BENEFIT."
- 18 Page 1, line 101, strike "SERVICE".
- 19 Page 1, line 105, strike "CARE," and substitute "CARE AND".
- 20 Page 1, strike lines 107 through 109 and substitute "ENFORCE TRAINING
21 REQUIREMENTS AND REQUEST AN INCREASE TO THE REIMBURSEMENT
22 RATE FOR CERTAIN SERVICES".

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