

SENATE COMMITTEE OF REFERENCE REPORT

Chair of Committee

Date

April 18, 2019

Committee on Health & Human Services.

After consideration on the merits, the Committee recommends the following:

SB19-238 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

- 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

- 1 HEALTH MAINTENANCE ACTIVITIES."
- 2 Renumber succeeding subsections accordingly.
- 3 Page 4, strike lines 9 through 14.
- 4 Page 4, line 16, strike "**services - repeal.**" and substitute "**services.**".
- 5 Page 4, line 22, strike "HOMEMAKER BASIC;" and substitute
- 6 "HOMEMAKER;"
- 7 Page 4, line 25, strike "SERVICE".
- 8 Page 5, line 2, strike "RESPITE CARE" and substitute "IN-HOME SUPPORT".
- 9 Page 5, line 3, strike "SERVICE".
- 10 Page 5, strike lines 7 and 8 and substitute "IN-HOME SUPPORT SERVICES
- 11 PROVIDED BY THE EMPLOYEE AS COMPENSATION IN ADDITION TO THE RATE
- 12 OF COMPENSATION THAT THE EMPLOYEE WAS RECEIVING AS OF JUNE 30,
- 13 2019. FOR AN EMPLOYEE WHO WAS HIRED AFTER JUNE 30, 2019, THE
- 14 HOME CARE AGENCY SHALL USE THE LOWEST COMPENSATION PAID TO AN
- 15 EMPLOYEE OF SIMILAR FUNCTIONS AND DUTIES AS OF JUNE 30, 2019, AS
- 16 THE BASE COMPENSATION TO WHICH THE INCREASE IS APPLIED.
- 17 (3) WITHIN SIXTY DAYS AFTER THE REQUEST DESCRIBED IN
- 18 SUBSECTION (1) OF THIS SECTION IS APPROVED, EACH HOME CARE".
- 19 Page 5, line 11, strike "RESPITE CARE" and substitute "IN-HOME SUPPORT".
- 20 Page 5, strike line 14.
- 21 Page 5, line 15, strike "**Wage**" and substitute "**Minimum wage - wage**".
- 22 Page 5, strike line 16 and substitute "**care agencies - applicability -**
- 23 **reports - recovery.** (1) THIS".
- 24 Page 5, line 17, strike "SERVICE".
- 25 Page 5, line 20, strike "RESPITE CARE" and substitute "IN-HOME SUPPORT".
- 26 Page 5, strike lines 21 through 27 and substitute:

1 "(2) ON AND AFTER JULY 1, 2020, THE HOURLY MINIMUM WAGE
2 FOR PERSONS WHO PROVIDE PERSONAL CARE SERVICES, HOMEMAKER
3 SERVICES, OR IN-HOME SUPPORT SERVICES FOR WHICH A HOME CARE
4 AGENCY MAY RECEIVE REIMBURSEMENT PURSUANT TO THE "COLORADO
5 MEDICAL ASSISTANCE ACT" IS TWELVE DOLLARS AND FORTY-ONE CENTS
6 PER HOUR.

7 (3) FOR ANY INCREASE TO THE REIMBURSEMENT RATES FOR
8 PERSONAL CARE SERVICES, HOMEMAKER SERVICES, OR IN-HOME SUPPORT
9 SERVICES THAT TAKES EFFECT DURING THE 2020-21 FISCAL YEAR, HOME
10 CARE AGENCIES SHALL USE EIGHTY-FIVE PERCENT OF THE FUNDING
11 RESULTING FROM THE INCREASE TO INCREASE COMPENSATION FOR
12 NONADMINISTRATIVE EMPLOYEES ABOVE THE RATE OF COMPENSATION
13 THAT NONADMINISTRATIVE EMPLOYEES ARE RECEIVING AS OF JUNE 30,
14 2019. HOME CARE AGENCIES MAY USE ANY REMAINING FUNDING
15 RESULTING FROM THE REIMBURSEMENT RATE INCREASE FOR GENERAL AND
16 ADMINISTRATIVE EXPENSES, SUCH AS CHIEF EXECUTIVE OFFICER SALARIES,
17 HUMAN RESOURCES, INFORMATION TECHNOLOGY, OVERSIGHT, BUSINESS
18 MANAGEMENT, GENERAL RECORD KEEPING, BUDGETING AND FINANCE,
19 AND OTHER ACTIVITIES NOT IDENTIFIABLE TO A SINGLE PROGRAM.

20 (4) (a) EACH HOME CARE AGENCY SHALL TRACK AND REPORT HOW
21 IT USED ANY FUNDING RESULTING FROM THE INCREASE IN THE
22 REIMBURSEMENT RATE PURSUANT TO SECTION 25.5-6-1602 USING A
23 REPORTING TOOL DEVELOPED BY THE STATE DEPARTMENT. ON OR BEFORE
24 DECEMBER 31, 2020, EACH HOME CARE AGENCY SHALL SUBMIT THE
25 REPORT TO THE STATE DEPARTMENT DEMONSTRATING HOW THE FUNDING
26 WAS USED TO INCREASE COMPENSATION FOR THE 2019-20 FISCAL YEAR.
27 ON OR BEFORE DECEMBER 31, 2021, EACH HOME CARE AGENCY SHALL
28 REPORT TO THE STATE DEPARTMENT HOW THE FUNDING WAS USED TO
29 INCREASE OR, IN THE EVENT THAT THERE IS NO REIMBURSEMENT RATE
30 INCREASE, MAINTAIN EACH EMPLOYEE'S COMPENSATION FOR THE 2020-21
31 FISCAL YEAR. THE STATE DEPARTMENT HAS ONGOING DISCRETION TO
32 REQUEST INFORMATION FROM A HOME CARE AGENCY DEMONSTRATING
33 HOW IT MAINTAINED INCREASES IN COMPENSATION FOR
34 NONADMINISTRATIVE EMPLOYEES BEYOND THE REPORTING PERIOD.

35 (b) EACH HOME CARE AGENCY SHALL MAINTAIN ALL BOOKS,
36 DOCUMENTS, PAPERS, ACCOUNTING RECORDS, AND OTHER EVIDENCE
37 REQUIRED TO SUPPORT THE REPORTING OF PAYROLL INFORMATION FOR
38 INCREASED COMPENSATION TO NONADMINISTRATIVE EMPLOYEES
39 PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION FOR AT LEAST THREE
40 YEARS FROM THE REPORTING DEADLINES DESCRIBED IN SUBSECTION (4)(a)
41 OF THIS SECTION FOR EACH RESPECTIVE FISCAL YEAR. EACH HOME CARE

1 AGENCY SHALL MAKE THE INFORMATION AND MATERIALS AVAILABLE FOR
2 INSPECTION BY THE STATE DEPARTMENT OR ITS DESIGNEES AT ALL
3 REASONABLE TIMES.

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

8 (I) DID NOT USE ONE HUNDRED PERCENT OF ANY FUNDING
9 RESULTING FROM THE RATE INCREASE TO INCREASE COMPENSATION FOR
10 NONADMINISTRATIVE EMPLOYEES, AS REQUIRED BY SECTION 25.5-6-1602
11 (2);

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

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

19 (b) IF THE STATE DEPARTMENT MAKES A DETERMINATION
20 DESCRIBED IN SUBSECTION (5)(a) OF THIS SECTION, THE STATE
21 DEPARTMENT SHALL NOTIFY THE HOME CARE AGENCY IN WRITING OF THE
22 STATE DEPARTMENT'S INTENTION TO RECOUP FUNDS PURSUANT TO
23 SUBSECTION (5)(a) OF THIS SECTION. A HOME CARE AGENCY HAS
24 FORTY-FIVE DAYS AFTER RECEIVING SUCH NOTICE TO:

25 (I) CHALLENGE THE DETERMINATION OF THE STATE DEPARTMENT;

26 (II) PROVIDE ADDITIONAL INFORMATION TO THE STATE
27 DEPARTMENT DEMONSTRATING COMPLIANCE; OR

28 (III) SUBMIT A PLAN OF CORRECTION TO THE STATE DEPARTMENT.

29 (c) THE STATE DEPARTMENT SHALL NOTIFY A HOME CARE AGENCY
30 IN WRITING OF ITS FINAL DETERMINATION AFTER AFFORDING THE HOME
31 CARE AGENCY THE OPPORTUNITY TO TAKE ONE OF THE ACTIONS SPECIFIED
32 IN SUBSECTION (5)(b) OF THIS SECTION.

33 (d) THE STATE DEPARTMENT SHALL RECOUP FROM A HOME CARE
34 AGENCY ONE HUNDRED PERCENT OF THE FUNDING RESULTING FROM THE
35 INCREASE IN THE REIMBURSEMENT RATE PURSUANT TO SECTION
36 25.5-6-1602 THAT THE HOME CARE AGENCY RECEIVED BUT DID NOT USE
37 FOR COMPENSATION FOR NONADMINISTRATIVE EMPLOYEES IF:

38 (I) THE HOME CARE AGENCY FAILS TO RESPOND TO A NOTICE OF
39 DETERMINATION OF THE STATE DEPARTMENT WITHIN THE TIME PROVIDED
40 IN SUBSECTION (5)(b) OF THIS SECTION;

41 (II) THE HOME CARE AGENCY IS UNABLE TO PROVIDE

- 1 DOCUMENTATION OF COMPLIANCE; OR
2 (III) THE STATE DEPARTMENT DOES NOT ACCEPT THE PLAN OF
3 CORRECTION SUBMITTED BY THE HOME CARE AGENCY PURSUANT TO
4 SUBSECTION (5)(b)(III) OF THIS SECTION."
- 5 Strike pages 6 and 7.
- 6 Page 8, strike lines 1 through 6.
- 7 Page 8, line 7, strike "service".
- 8 Page 8, line 9, strike "JULY 1, 2020," and substitute "JANUARY 1, 2020,".
- 9 Page 8, line 10, strike "ENVIRONMENT" and substitute "ENVIRONMENT, IN
10 CONSULTATION WITH STAKEHOLDERS,".
- 11 Page 8, line 11, after "FOR" insert "REVIEWING AND".
- 12 Page 8, strike line 13 and substitute "SERVICES, AND IN-HOME SUPPORT
13 SERVICES FOR WHICH A HOME CARE AGENCY MAY".
- 14 Page 8, strike lines 17 through 27 and substitute "STAKEHOLDERS MUST
15 INCLUDE, BUT ARE NOT LIMITED TO:
16 (a) ONE OR MORE CONSUMER ADVOCACY ORGANIZATIONS;
17 (b) ONE OR MORE PERSONAL CARE WORKERS;
18 (c) ONE OR MORE WORKER ORGANIZATIONS;
19 (d) ONE OR MORE HOME CARE AGENCIES;
20 (e) ONE OR MORE DISABILITY ADVOCACY ORGANIZATIONS;
21 (f) ONE OR MORE SENIOR ADVOCACY ORGANIZATIONS; AND
22 (g) ONE OR MORE CHILDREN'S ADVOCACY ORGANIZATIONS.
23 (2) THE STAKEHOLDERS WITH WHOM THE DEPARTMENTS CONSULT
24 PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL DISCUSS AND
25 ADVISE THE DEPARTMENTS CONCERNING THE MANNER IN WHICH
26 NONADMINISTRATIVE EMPLOYEES WILL BE NOTIFIED OF THE
27 COMPENSATION INCREASES AND MINIMUM WAGE DESCRIBED IN SECTIONS
28 25.5-6-1602 AND 25.5-6-1603."
- 29 Strike page 9.
- 30 Page 10, strike line 1.

- 1 Page 10, strike line 7 and substitute:
- 2 "(b) THE PEDIATRIC CARE BENEFIT."

- 3 Page 1, line 101, strike "SERVICE".

- 4 Page 1, line 105, strike "CARE," and substitute "CARE AND".

- 5 Page 1, strike lines 107 through 109 and substitute "ENFORCE TRAINING
- 6 REQUIREMENTS AND REQUEST AN INCREASE TO THE REIMBURSEMENT
- 7 RATE FOR CERTAIN SERVICES".

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