

April 17, 2020

Rob Baril
President
District 1199 New England, SEIU
77 Huyshope Avenue
Hartford, CT 06106

Dear Mr. Baril,

On behalf of Governor Lamont, the administration offers profound gratitude to District 1199 New England SEIU and, more importantly, the nursing home workers that selflessly serve -- in over 200 skilled nursing facilities across the state -- more than 22,000 residents each day. We are truly in unprecedented times with the COVID-19 pandemic that is affecting our state and nation, and our partnership with you is critical in providing needed care to our state's vulnerable residents in nursing home settings.

We have appreciated receiving information from you regarding the needs of nursing home workers during this extraordinary public health emergency and would like to summarize measures that have been taken thus far to provide financial and other relief to our nursing home partners and to announce new financial adjustments to the state's Medicaid program that we will now implement.

With regard to federal actions, please be aware that recent Medicare changes on the federal level will increase Medicare funding for nursing homes. Specifically, Medicare has waived the requirement for a three-day prior hospitalization for coverage of skilled nursing facility services. Based on industry feedback, the Department of Social Services (DSS) anticipates that 75% of symptomatic COVID-positive nursing home residents will now be able to shift over to Medicare coverage at the Medicare per diem (estimated at \$536/day).

In addition, the federal government is providing general relief for all Medicare providers under the Coronavirus Aid, Relief, and Economic Security (CARES) Act that is expected to provide substantial resources to skilled nursing facilities. As part of the distribution of the \$100 billion Provider Relief Fund provided for under the CARES Act, the Department of Health and Human Services has released the initial \$30 billion in relief funding to providers in support of the national response to COVID-19. This initial pool of funding was issued to health care providers across the nation that are enrolled in Medicare based on their share of 2019 Medicare fee-for-service reimbursements. While the full impact of this action is not yet known, preliminary

estimates indicate that this initial round of funding could result in as much as \$27 million in additional funding for the industry.

We understand that further CARES Act relief is under federal review and is likely to have a focus on supporting Medicaid providers. We are hopeful for more positive news for the industry from this pending federal action.

Most critically, the state has and is taking the following actions to directly address concerns that you have raised to support the state's nursing home workers:

Wages and Incentives

Regarding state financial relief, nursing homes were notified on April 3 that the state had implemented a 10% Medicaid rate increase effective for the period April 1 through June 30. DSS provided guidance that the additional reimbursement is to be applied towards: (a) employee wages, including staff retention bonuses, overtime, and shift incentive payments; (b) new costs related to screening of visitors, personal protective equipment (PPE) and cleaning and housekeeping supplies; and (c) other COVID-related costs. On April 7, the state advanced \$11.6 million, representing one month of the estimated rate increase to nursing homes to assist with cash flow. In addition, nursing home providers that are designated by the Department of Public Health (DPH) to be COVID Recovery Facilities or Alternate COVID Recovery Facilities will receive a COVID-specific, cost-adjusted Medicaid reimbursement rate of \$600 per bed per day for the care of COVID-19 positive residents. This rate is more than double the current average nursing home rate.

In recognition of continuing needs of nursing homes, the administration is now announcing implementation of the following additional measures in the state's Medicaid program:

1. The state will provide an across-the-board rate increase of 10% for non-COVID beds retroactive to March 1. This additional reimbursement is to be applied towards: (a) employee wages, including staff retention bonuses, overtime, and shift incentive; (b) new costs related to screening of visitors, PPE, and cleaning and housekeeping supplies; and (c) other COVID-related costs.
2. The state will provide an additional across-the-board rate increase of 5% for non-COVID beds for the period of April 1 through June 30 -- for a total increase during this period of 15%. Again, this additional reimbursement is to be applied towards: (a) employee wages, including staff retention bonuses, overtime, and shift incentive; (b) new costs related to screening of visitors, PPE, and cleaning and housekeeping supplies; and (c) other COVID-related costs.

3. The state will reimburse at \$400 per day for COVID-positive residents in skilled nursing facilities that have not been designated as COVID Recovery Facilities. This rate is in effect for a maximum of 30 days per bed.

Please note that nursing homes will be expected to track both expenditures and enhanced income from all sources as there will be an enhanced level of reporting – potentially through COVID-specific cost reports – to confirm COVID-related costs.

The Department of Social Services will issue additional guidance regarding these new financial relief measures next week.

Nursing Home Provider Tax

As we have indicated to you previously, the administration will not delay nor forbear the provider tax to all nursing homes as a general relief measure. A blanket extension for all health care providers is not the best course of action as there are statutory provisions for providers to receive an extension if a financial hardship can be demonstrated. The Department of Revenue Services is prepared to evaluate each request to determine if a financial hardship does in fact exist. Before any determination is made, the request will be reviewed with the Office of Policy and Management and the Department of Social Services (DSS) regarding the fiscal impact to the state as well as the level of financial hardship that has been documented by each provider. For example, nursing homes can provide a current cash on hand report as compared to the prior year period, along with most recent average payrolls to demonstrate cashflow challenges. Requests for forbearance will be reviewed expeditiously. In addition, the 10% rate increase advance of \$11.6 million, which was received by skilled nursing facilities on Tuesday, April 7 is expected to assist nursing homes with cashflow, as will any advance of Medicare funding.

Personal Protective Equipment (PPE)

Based on Centers for Disease Control and Department of Public Health guidance, we affirm the need for appropriate PPE for nursing home workers, including support staff, and are working to facilitate fulfillment of requests in a timely manner. State fulfillment should supplement continued procurement of PPE by nursing home operators through their standard supply chains, donations, and other sources.

As you are aware, international and domestic procurement challenges continue to affect the subsequent distribution of PPE throughout the state. Beginning on April 13, a new regional distribution process was implemented for many of our state partners. Under the new model, distribution to nursing homes and other long-term care facilities, will occur each day of the week based on region. Each skilled nursing facility requesting state PPE supplies will receive a pod of supply for a week based on a number of factors

including licensed bed count, COVID-19 infection rates, and availability of items. If a nursing home runs out of PPE, specific requests will be addressed off-schedule. To date, nursing homes have received: 120,610 N95 respirators; 151,823 surgical masks; 16,576 surgical gowns; 424,118 nonsterile gloves; 25,600 disposable face shields; and 17,500 expired Kimberly Clarks.

We are also initiating promising work with a company that will be able to decontaminate N95 masks at no cost. Logistical details regarding this effort will be forthcoming in the coming days.

Health Insurance and Testing

Workers will continue to be covered under their existing medical insurance. If workers have been covered by Medicaid, please be aware that Medicaid eligibility discontinuances have been suspended for three months. Also, DSS is examining opportunities to provide uninsured persons – both citizens and non-citizens – with coverage for COVID-19. We will share additional information regarding this initiative as it becomes available.

Connecticut's Insurance Commissioner, Andrew Mais, announced this week that all fully-insured plan health plan members, including those with high-deductible health plans, can now receive COVID-19 testing and treatment with no out-of-pocket costs. The Insurance Commissioner also has urged employers with self-funded health plans to waive testing and treatment costs as well.

Medicaid and the Children's Health Insurance Program, together known as HUSKY Health in Connecticut, are also fully covering COVID-19 testing and treatment without any cost sharing.

Access Health CT, Connecticut's health insurance marketplace, is reminding residents that the special enrollment period for the state's uninsured population ends this Friday, April 17.

Alternate Housing

FEMA has approved funding for non-congregate sheltering for health care workers who are at reasonable risk of having been exposed to COVID-19 and cannot return to their usual residence because of the risk of infecting other household members. Each skilled nursing facility, through its Continuity of Operations planning, should have identified alternate housing locations for staff. In addition, the state is exploring alternate facilities or housing that may be dedicated and made available to nursing home workers.

Safe and Free Childcare

This request is under review and we will respond at a later time.

Paid Sick Leave

Paid sick leave is provided for under the federal Families First Coronavirus Response Act. A nursing home employer can elect to exempt "nursing home employees" (construed broadly as discussed below) from the leave provisions of the federal Families First Coronavirus Response Act. This is supported by the DOL Q&A, specifically Q&A Nos. 55-57 found at: <https://www.dol.gov/agencies/whd/pandemic/ffcra-questions> as well as the Secretary of Labor's more recent temporary regulations: <https://www.federalregister.gov/documents/2020/04/06/2020-07237/paid-leave-under-the-families-first-coronavirus-response-act#h-22> dated April 6 that further interpret the definitions of "healthcare provider" and "emergency responders." However, even employers who elect to exempt employees that meet these broad definitions cannot prevent employees from taking earned or accrued leave (e.g., sick leave or personal leave) in accordance with the employer's established policies. In addition, CDC guidance directs that facilities should implement sick leave policies that are non-punitive, flexible and consistent with public health policies that all ill health care personnel to stay home. The state's financial support plan for nursing homes is geared to support the additional labor costs incurred due to a higher rate of accrued leave usage.

Unemployment Benefits for Workers Who Drop to One Job

Per the State Department of Labor (DOL), in certain circumstances, individuals who drop down to one job may be eligible for unemployment compensation to address the loss of wages if there has been a reduction in hours from full-time to part-time, and the loss of the other job was for non-disqualifying reasons. Ultimately, if an individual is deemed eligible for a portion of unemployment compensation, DOL is required to reduce the weekly reported gross earnings by two-thirds from the weekly Unemployment Insurance rate and pay the difference. The individual may then also be eligible for the enhanced federal unemployment compensation of \$600. Each claim is subject to eligibility determinations that will be reviewed on a case-by-case basis. Because the conditions under which the workers are forced to leave a job are different and require a different answer, as of now DOL would have to adjudicate each case individually to determine benefit eligibility. Employees can be directed to the Department of Labor for further questions at <http://www.ctdol.state.ct.us/>.

Taken in combination, we believe these state and federal actions – including the new Medicaid financial relief announced in this letter -- will provide immediate support to

the state's nursing home workforce. We very much appreciate our continued partnership with the 1199 SEIU union representing the state's nursing home workers in addressing critical issues of concern to the workforce dedicated to caring for our most vulnerable population during this global pandemic.

Thank you for your work and service to our state.

Sincerely,

A handwritten signature in purple ink, appearing to read "Melissa McA".

Secretary
Office of Policy and Management

A handwritten signature in blue ink, appearing to read "Deidre S. Gifford".

Deidre Gifford
Commissioner
Department of Social Services

A handwritten signature in blue ink, appearing to read "Renee Coleman-Mitchell".

Renee Coleman-Mitchell
Commissioner
Department of Public Health