Division of Rate Setting Testimony before the House Committee on Human Services
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Context for our discussion:

- Salary and fringe rich environment -- 60% of costs at nursing homes are for salary and fringe benefits.
- The number of nursing homes has declined from 40 in 2005 to 36 in 2015.
- Average number of Medicaid residents in nursing homes has declined by 450 residents since 2005.
- Many nursing homes are experiencing low total occupancy rates. Average occupancy is 85.9 %. There are currently 15 nursing homes with less than 85% occupancy. Some are significantly below this.
- Minimum wage increases will affect nursing homes. To what degree exactly is unknown.

1) How are nursing home rates set?

    - Nursing home rates are set according to *Methods, Standards and Principles for Establishing Medicaid Payment Rates for Long-Term Care Facilities*, cite as V.D.R.S.R. (Vermont Division of Rate Setting Rules).

2) What are the statutory increases described in these rules?

    Concepts:

    - Rates are based on costs but with limits on spending and for low occupancy.

    - Base year is the year of the cost used to set rates. The current base year for some parts of the rate is 2009, and for other parts of the rate, it is 2011.

    - Costs are rebased to a new base year every four years for some cost categories and every two years for other cost categories.

    - Inflation is given per V.D.R.S.R. Section 5.8 to bring costs from the base year to the State Fiscal Year of the rate.

    - Rebasing of costs occurs on a regular schedule per V.D.R.S.R. Section 5.6. A full rebase to base year 2013 costs is mandated as of 7/1/15 (start of SFY 2016).

    - A rebase is done to incorporate more recent actual cost into a provider's rate. When this occurs, costs are generally higher. The upcoming rebase will use base year 2013 costs, instead of 2009 and 2011 costs.

- Providers don't get full costs if their spending is over certain limits.

3) Is there federal law or other limitations on what dollar decisions the Vermont legislature can and cannot make?

   - Yes, if the legislature changes the rate setting process to deviate from the existing rules, the Centers for Medicare and Medicaid (CMS) will ask a lot of questions as the State must ensure that rates are sufficient to enlist enough providers to provide quality care and that there is sufficient access to care to get CMS approval for the proposed change.

   - Even if the legislature passes session law changing the rate setting process, it could still be rejected by CMS. The implementation would not be certain until CMS approves it.

   - The Division of Rate Setting (DRS) has to file a State Plan Amendment (SPA) with CMS every time there is a change to the rate setting process. The purpose of the SPA is to amend the agreement with CMS about how rates are paid. Even if there is legislation, CMS has to approve the change before it is official.

4) Have we ever done anything different?

   - Yes, there has been session law that cut inflation. Also, around the year 2000, session law postponed rebasing and directed special payments to be used only for salary increases at all nursing homes.

5) Can we target the increases to certain nursing homes given specific criteria?

   - No, all nursing homes must be treated the same way. Rates must be set uniformly for all providers using the same methodology.

6) Can we target where the increases go..ie staff or something?

   - Yes, we potentially could as long as all nursing homes were treated the same. Again, all changes would be subject to CMS approval.