Testimony
House Bill 1303 – Department of Human Services
Senate Human Services Committee
Senator Judy Lee, Chairman
February 25, 2009

Chairman Lee, members of the Senate Human Services Committee, I am Barbara Fischer, Assistant Director, Budget and Operations of the Medical Services Division for the Department of Human Services. I am here today to provide information regarding the fiscal note for House Bill 1303 and to oppose the amendment adopted by the House.

House Bill 1303 will have a fiscal impact; however, the fiscal impact of increasing allowable bad debt expense from 120 days to 180 days cannot be determined. Allowable bad debt is an inconsistent expense for which the Department does not have data readily accessible. Bad debt expense is reported in its entirety on a cost report and is unallowable except for the portion a facility identifies as meeting the criteria for allowable bad debt. Only the portion of bad debt expense being claimed as allowed is reviewed on an individual client basis when establishing the facility's rates and then only if the facility is under the limit for the Indirect Care cost category.

The Department does not know how many individuals would incur an additional 60 days; however, the lowest nursing facility rate in the state, as of January 1, 2009, is $113.61 and the highest rate is $421.02. An individual incurring bad debt for an additional 60 days could increase facility costs from $6,817 to $25,261, respectively. The “bad debt” costs would be applied to the rates for all residents, regardless of the nature of the debt.

Under current rules, bad debts expense can be included in a nursing facility's rates if the following criteria are met:

- The bad debt is a result of nonpayment of the payment rate.
- Reasonable documented collection efforts have been made, the debt is uncollectible, and there is no likelihood of future recovery.
- The bad debt is not from failure to comply with federal or state laws, rules, or regulations.
- It is not for nonpayment of private rooms, special services not included in the rate, or non-covered bed-hold days.
- The facility has an aggressive policy of avoiding bad debts and documents they have taken action to limit bad debts for those individuals refusing payment.
- The bad debt expense may not exceed 120 days of resident care.

The currently approved Medicaid state plan allows for up to 120 days of bad debt expense to be included in a facility's rates. Because of rate equalization, debt incurred by an individual who does not pay for his/her own care is included in the rate paid by Medicaid and by private pay individuals.

Allowable bad debt expense is an administrative expense which is included in the Indirect Cost category. The engrossed bill added section four at lines 17 and 18 which requires that bad debts be allocated back to the appropriate cost category from which the expense was incurred. An allocation would imply that more than one cost category is involved in bad debt. Bad debt results from all or a portion of nonpayment of the daily per diem rate. An allocation of bad debt to the direct cost category would result in individuals in the higher case mix classifications paying a disproportionate share of costs that do not directly relate to their care needs. For example, if bad debt effected the direct cost category by $1.00 per day an individual in the highest classification would have a $2.62 increase in his/her rate and an individual in the lowest classification would have only a $.62 increase in his/her rate. In addition, bad debt expense may be claimed many years after the debt was incurred making allocation to a cost category difficult if not impossible to determine.

If the intent of section four is to ensure that bad debt expense not be subject to the limit for Indirect Care then rather than allocating it back to cost categories, the bad debt expense should be included in the property cost category which is a pass through and has no limitations or inflation applied to it.

Any change to the provisions for bad debt expense will need to be submitted to and approved by the Centers for Medicare and Medicaid Services.

I would be happy to address any questions that you may have.