

Veto No. 2006-4

SB 997

May 16, 2006

To the Honorable, the Senate
of the Commonwealth of Pennsylvania:

I am returning herewith, without my approval, Senate Bill 997.

This bill, if enacted, would have severe fiscal consequences for the FY 2006-07 Budget. By signing this legislation independent of a FY 2006-07 budget agreement, state spending could be increased well above anticipated levels.

Senate Bill 997 effectively reverses an agreement that was one of the foundations of the FY 2005-06 Budget. This change could potentially cost the commonwealth an additional \$103 million above what has been contemplated in my proposed FY 2006-07 Budget. It could increase reimbursement rates for one class of providers – nursing homes – well above the 4% increase proposed for all other Medicaid providers, such as physicians and hospitals.

Clearly, nursing homes are an important component of our long term living system. Pennsylvania has treated its skilled nursing facilities very well, particularly when compared to other states. Between 2000 and 2005, nursing facility per diem payment rates in the commonwealth increased an average of 4.9% per year for a total increase over that time of nearly 30%. National comparative surveys have consistently ranked Pennsylvania nursing home payments among the highest in the nation. For example, in a 2004 AARP Policy Institute Study, Pennsylvania per diem payment rates for nursing homes were the eighth highest in the country. While my administration has proposed a 4% increase in rates here in Pennsylvania in this year's budget, the federal government has actually frozen payment rates and only one state of 23 that responded to a recent survey was proposing a higher percentage increase than what I proposed. In fact, 11 states are proposing a nursing home rate freeze or rate reduction for FY 2006-07.

The Executive Branch has honored the agreement negotiated last year to develop changes to the payment formula, consistent with the timeline set in the budget legislation, and in time to achieve needed savings in the upcoming FY 2006-07 Budget. If the revised Department of Public Welfare (DPW) regulations are not adopted by July 1, 2006, or if some other legislative solution is not forthcoming, it may be necessary to add more than \$103 million in state funds to the long-term care appropriation in the FY 2006-07 Budget. As AARP of Pennsylvania noted recently in a letter requesting that I veto this legislation, "We are particularly concerned that nursing home funding increases that would occur as a result of Senate Bill 997 may come at the expense of home- and community-based care programs. . . ." Senate Bill 997 also would prevent implementation of changes designed to

rebalance the long term care system, consistent with the clear preference of consumers to receive needed services in their homes and communities.

In addition, this bill places at risk up to \$290 million in supplemental Medicaid contributions from the County Intergovernmental Transfer (IGT), which is used to provide an array of services for seniors. The language in Senate Bill 997 would limit state payments to nursing homes to those covered by the extant regulations of the department and the state Medicaid Plan. The supplemental IGT payments are distributed pursuant to a contract between the counties and the commonwealth and are not covered by either the regulations or the state plan. Senate Bill 997, if enacted, could impair the commonwealth from entering into an Intergovernmental Transfer agreement with the counties.

Moreover, in a May 11, 2006, letter, the County Commissioners Association of Pennsylvania expressed its reluctance to commit to the Intergovernmental Transfer if certain changes proposed in the regulations developed by DPW are not adopted. "Once again, if the passage of Senate Bill 997 ultimately prevents a county carve-out, it will certainly make the IGT process more difficult." Obviously, enacting Senate Bill 997 into law would prevent DPW from implementing this proposed regulatory change before the next IGT agreement would be negotiated.

On November 30, 2004, when I vetoed House Bill 176, I wrote: "I intend to enforce a 'pay as you go' budget process for Pennsylvania. I will not sign legislation that either significantly increases spending or reduces revenue without a specific plan to pay for it." And I have repeated this admonition several times since that veto, namely that I cannot agree to legislation that increases spending without identifying the source to pay for that increased spending. For all of these reasons, I cannot sign Senate Bill 997.

EDWARD G. RENDELL