I have two very grave concerns over this approach. First, in contrast to the present practice, where the maximum rate can be established so as to be consistent with available appropriations made by the General Assembly, House Bill 57 would require the State to set individual rates which, collectively, may well exceed such appropriations. The bill requires the agencies, beginning July 1, 1976, to negotiate the rate to be effective during "the fiscal year", presumably meaning the fiscal year commencing July 1. By that time – in fact long before then – the total magnitude of the program has already been established through the enactment of the State Budget. As pointed out by the Attorney General in his Opinion to me with respect to this bill,

> "From a practical standpoint, we foresee that grave managerial problems could arise in the process of executing the budget for this program in order to prevent the expenditures from exceeding the amount appropriated."

Obviously, the State cannot pay out money that has not been appropriated. Consequently, if the aggregate payments called for by the individually negotiated rates exceeds the appropriation for the program, the State will be in the position of having a statutory obligation to make a payment neither authorized nor permitted by the Constitution. The alternative, of course, is to review and renegotiate each individual rate based upon the actual appropriation, which not only would vitiate the clear intent of the bill, but also cause considerable difficulties for the homes and institutions.

My second concern relates to the inability of the two agencies to review the institutional budgets from the point of view of disallowing, for reimbursement purposes, expenditures that may, in their judgment, be unreasonable or unnecessary. I make no assertion that any of their expenditures are presently in that category, but the continuing ability to monitor the budgets is, I believe, critical.

For these reasons, I have vetoed House Bill 57.

Sincerely,
Marvin Mandel
Governor