



General Assembly

February Session, 2006

**Raised Bill No. 5641**

LCO No. 2565

\*02565\_\_\_\_\_HS\_\*

Referred to Committee on Human Services

Introduced by:  
(HS)

**AN ACT CONCERNING REVISIONS TO THE MEDICAID PROGRAM.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 17b-605a of the general statutes is repealed and  
2 the following is substituted in lieu thereof (*Effective July 1, 2006*):

3 (a) The Commissioner of Social Services shall seek a waiver from  
4 federal law to establish a personal care assistance program for persons  
5 [ages eighteen through sixty-four] eighteen years of age and older with  
6 disabilities funded under the Medicaid program. Such a program shall  
7 be limited to a specified number of slots available for eligible program  
8 recipients and shall be operated by the Department of Social Services  
9 within available appropriations. Such a waiver shall be submitted to  
10 the joint standing committees of the General Assembly having  
11 cognizance of matters relating to appropriations and the budgets of  
12 state agencies and human services in accordance with section 17b-8 no  
13 later than January 1, 1996.

14 (b) The Commissioner of Social Services shall amend the waiver  
15 specified in subsection (a) of this section to enable persons eligible for  
16 or receiving medical assistance under section 17b-597 to receive

17 personal care assistance. Such amendment shall not be subject to the  
18 provisions of section 17b-8 provided such amendment shall consist  
19 only of modifications necessary to extend personal care assistance to  
20 such persons.

21 Sec. 2. Subsection (b) of section 17b-265 of the general statutes is  
22 repealed and the following is substituted in lieu thereof (*Effective July*  
23 *1, 2006*):

24 (b) When a recipient of medical assistance has personal health  
25 insurance in force covering care or other benefits provided under such  
26 program, payment or part-payment of the premium for such insurance  
27 may be made when deemed appropriate by the Commissioner of  
28 Social Services. [Effective January 1, 1992, the commissioner shall limit  
29 reimbursement to medical assistance providers, except those providers  
30 whose rates are established by the Commissioner of Public Health  
31 pursuant to chapter 368d, for coinsurance and deductible payments  
32 under Title XVIII of the Social Security Act to assure that the combined  
33 Medicare and Medicaid payment to the provider shall not exceed the  
34 maximum allowable under the Medicaid program fee schedules.]  
35 Medical assistance providers, who contract with the Department of  
36 Social Services to provide medical assistance to individuals eligible for  
37 both Medicaid and Medicare under 42 USC 1396d(p), shall receive the  
38 full deductible and coinsurance payments from the department for  
39 medical assistance covered under Title XVIII of the Social Security Act.

40 Sec. 3. Section 17b-261 of the 2006 supplement to the general statutes  
41 is repealed and the following is substituted in lieu thereof (*Effective July*  
42 *1, 2006*):

43 (a) Medical assistance shall be provided for any otherwise eligible  
44 person whose income, including any available support from legally  
45 liable relatives and the income of the person's spouse or dependent  
46 child, is not more than one hundred forty-three per cent, pending  
47 approval of a federal waiver applied for pursuant to subsection (d) of  
48 this section, of the benefit amount paid to a person with no income

49 under the temporary family assistance program in the appropriate  
50 region of residence and if such person is an institutionalized  
51 individual as defined in Section 1917(c) of the Social Security Act, 42  
52 USC 1396p(c), and has not made an assignment or transfer or other  
53 disposition of property for less than fair market value for the purpose  
54 of establishing eligibility for benefits or assistance under this section.  
55 Any such disposition shall be treated in accordance with Section  
56 1917(c) of the Social Security Act, 42 USC 1396p(c). Any disposition of  
57 property made on behalf of an applicant or recipient or the spouse of  
58 an applicant or recipient by a guardian, conservator, person  
59 authorized to make such disposition pursuant to a power of attorney  
60 or other person so authorized by law shall be attributed to such  
61 applicant, recipient or spouse. A disposition of property ordered by a  
62 court shall be evaluated in accordance with the standards applied to  
63 any other such disposition for the purpose of determining eligibility.  
64 The commissioner shall establish the standards for eligibility for  
65 medical assistance at one hundred forty-three per cent of the benefit  
66 amount paid to a family unit of equal size with no income under the  
67 temporary family assistance program in the appropriate region of  
68 residence, pending federal approval, except that the medical assistance  
69 program shall provide coverage to persons under the age of nineteen  
70 up to one hundred eighty-five per cent of the federal poverty level  
71 without an asset limit. Said medical assistance program shall also  
72 provide coverage to persons under the age of nineteen and their  
73 parents and needy caretaker relatives who qualify for coverage under  
74 Section 1931 of the Social Security Act with family income up to one  
75 hundred fifty per cent of the federal poverty level without an asset  
76 limit, upon the request of such a person or upon a redetermination of  
77 eligibility. Such levels shall be based on the regional differences in  
78 such benefit amount, if applicable, unless such levels based on regional  
79 differences are not in conformance with federal law. Any income in  
80 excess of the applicable amounts shall be applied as may be required  
81 by said federal law, and assistance shall be granted for the balance of  
82 the cost of authorized medical assistance. All contracts entered into on

83 and after July 1, 1997, pursuant to this section shall include provisions  
84 for collaboration of managed care organizations with the Healthy  
85 Families Connecticut Program established pursuant to section 17a-56,  
86 as amended. The Commissioner of Social Services shall provide  
87 applicants for assistance under this section, at the time of application,  
88 with a written statement advising them of the effect of an assignment  
89 or transfer or other disposition of property on eligibility for benefits or  
90 assistance.

91 (b) For the purposes of the Medicaid program, the Commissioner of  
92 Social Services shall consider parental income and resources as  
93 available to a child under eighteen years of age who is living with his  
94 or her parents and is blind or disabled for purposes of the Medicaid  
95 program, or to any other child under twenty-one years of age who is  
96 living with his or her parents.

97 (c) For the purposes of determining eligibility for the Medicaid  
98 program, an available asset is one that is actually available to the  
99 applicant or one that the applicant has the legal right, authority or  
100 power to obtain or to have applied for the applicant's general or  
101 medical support. If the terms of a trust provide for the support of an  
102 applicant, the refusal of a trustee to make a distribution from the trust  
103 does not render the trust an unavailable asset. Notwithstanding the  
104 provisions of this subsection, the availability of funds in a trust or  
105 similar instrument funded in whole or in part by the applicant or the  
106 applicant's spouse shall be determined pursuant to the Omnibus  
107 Budget Reconciliation Act of 1993, 42 USC 1396p. The provisions of  
108 this subsection shall not apply to special needs trust, as defined in 42  
109 USC 1396p(d)(4)(A).

110 (d) The transfer of an asset in exchange for other valuable  
111 consideration shall be allowable to the extent the value of the other  
112 valuable consideration is equal to or greater than the value of the asset  
113 transferred.

114 (e) The Commissioner of Social Services shall seek a waiver from

115 federal law to permit federal financial participation for Medicaid  
116 expenditures for families with incomes of one hundred forty-three per  
117 cent of the temporary family assistance program payment standard.

118 (f) To the extent permitted by federal law, Medicaid eligibility shall  
119 be extended for [one year} two years to a family that becomes  
120 ineligible for medical assistance under Section 1931 of the Social  
121 Security Act due to income from employment by one of its members  
122 who is a caretaker relative is employed or due to receipt of child  
123 support income. [A family receiving extended benefits on July 1, 2005,  
124 shall receive the balance of such extended benefits, provided no such  
125 family shall receive more than twelve additional months of such  
126 benefits.]

127 (g) An institutionalized spouse applying for Medicaid and having a  
128 spouse living in the community shall be required, to the maximum  
129 extent permitted by law, to divert income to such community spouse  
130 in order to raise the community spouse's income to the level of the  
131 minimum monthly needs allowance, as described in Section 1924 of  
132 the Social Security Act. Such diversion of income shall occur before the  
133 community spouse is allowed to retain assets in excess of the  
134 community spouse protected amount described in Section 1924 of the  
135 Social Security Act. The Commissioner of Social Services, pursuant to  
136 section 17b-10, may implement the provisions of this subsection while  
137 in the process of adopting regulations, provided the commissioner  
138 prints notice of intent to adopt the regulations in the Connecticut Law  
139 Journal within twenty days of adopting such policy. Such policy shall  
140 be valid until the time final regulations are effective.

141 (h) The Commissioner of Social Services shall, to the extent  
142 permitted by federal law, or, pursuant to an approved waiver of  
143 federal law submitted by the commissioner, in accordance with the  
144 provisions of section 17b-8, impose the following cost-sharing  
145 requirements under the HUSKY Plan, on all parent and needy  
146 caretaker relatives with incomes exceeding one hundred per cent of the

147 federal poverty level: (1) A twenty-five-dollar premium per month per  
148 parent or needy caretaker relative; and (2) a copayment of one dollar  
149 per visit for outpatient medical services delivered by an enrolled  
150 Medicaid or HUSKY Plan provider. The commissioner may implement  
151 policies and procedures necessary to administer the provisions of this  
152 subsection while in the process of adopting such policies and  
153 procedures as regulations, provided the commissioner publishes notice  
154 of the intent to adopt regulations in the Connecticut Law Journal not  
155 later than twenty days after implementation. Policies and procedures  
156 implemented pursuant to this subsection shall be valid until the time  
157 final regulations are adopted.

158 (i) Medical assistance shall be provided, in accordance with the  
159 provisions of subsection (e) of section 17a-6, to any child under the  
160 supervision of the Commissioner of Children and Families who is not  
161 receiving Medicaid benefits, has not yet qualified for Medicaid benefits  
162 or is otherwise ineligible for such benefits because of institutional  
163 status. To the extent practicable, the Commissioner of Children and  
164 Families shall apply for, or assist such child in qualifying for, the  
165 Medicaid program.

166 (j) The Commissioner of Social Services, pursuant to 42 USC  
167 1396a(r)(2), shall file an amendment to the Medicaid state plan to allow  
168 the commissioner, when making Medicaid eligibility determinations,  
169 to raise the medically needy income limit for persons who are aged,  
170 blind or disabled to an amount not to exceed one hundred per cent of  
171 the federal poverty level.

172 Sec. 4. (NEW) (*Effective July 1, 2006*) The Commissioner of Social  
173 Services, in consultation with the General Assembly, shall create a  
174 Medicaid Institute, established through a contractual relationship with  
175 a university, for the scholarly study of: Medicaid policy, review,  
176 investigation and actuarial analyses of programs and services available  
177 under the Medicaid program, review and evaluation of the  
178 administrative management of the Medicaid program, and such other

179 areas as deemed appropriate by the Commissioner of Social Services.

180 Sec. 5. Section 17b-261a of the 2006 supplement to the general  
181 statutes is repealed and the following is substituted in lieu thereof  
182 (*Effective July 1, 2006*):

183 (a) Any transfer or assignment of assets resulting in the imposition  
184 of a penalty period shall be presumed to be made with the intent, on  
185 the part of the transferor or the transferee, to enable the transferor to  
186 obtain or maintain eligibility for medical assistance. This presumption  
187 may be rebutted only by clear and convincing evidence that the  
188 transferor's eligibility or potential eligibility for medical assistance was  
189 not a basis for the transfer or assignment.

190 [(b) Any transfer or assignment of assets resulting in the  
191 establishment or imposition of a penalty period shall create a debt, as  
192 defined in section 36a-645, as amended, that shall be due and owing by  
193 the transferor or transferee to the Department of Social Services in an  
194 amount equal to the amount of the medical assistance provided to or  
195 on behalf of the transferor on or after the date of the transfer of assets,  
196 but said amount shall not exceed the fair market value of the assets at  
197 the time of transfer. The Commissioner of Social Services, the  
198 Commissioner of Administrative Services and the Attorney General  
199 shall have the power or authority to seek administrative, legal or  
200 equitable relief as provided by other statutes or by common law.]

201 [(c)] (b) The Commissioner of Social Services may waive the  
202 imposition of a penalty period when the transferor (1) in accordance  
203 with the provisions of section 3025.25 of the department's Uniform  
204 Policy Manual, suffers from dementia at the time of application for  
205 medical assistance and cannot explain transfers that would otherwise  
206 result in the imposition of a penalty period; or (2) suffered from  
207 dementia at the time of the transfer; or (3) was exploited into making  
208 such a transfer due to dementia. [Waiver of the imposition of a penalty  
209 period does not prohibit the establishment of a debt in accordance with  
210 subsection (b) of this section.]

211 [(d)] (c) The Commissioner of Social Services, pursuant to section  
212 17b-10, shall implement the policies and procedures necessary to carry  
213 out the provisions of this section while in the process of adopting such  
214 policies and procedures in regulation form, provided notice of intent to  
215 adopt regulations is published in the Connecticut Law Journal not later  
216 than twenty days after implementation. Such policies and procedures  
217 shall be valid until the time final regulations are effective.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2006</i>	17b-605a
Sec. 2	<i>July 1, 2006</i>	17b-265(b)
Sec. 3	<i>July 1, 2006</i>	17b-261
Sec. 4	<i>July 1, 2006</i>	New section
Sec. 5	<i>July 1, 2006</i>	17b-261a

**Statement of Purpose:**

To: (1) Remove the upper age limit on the personal care assistance program for persons with disabilities, (2) provide full payment to medical providers who assist dually eligible Medicare and Medicaid recipients, (3) require the Commissioner of Social Services to adopt less restrictive income and resource methodologies when determining eligibility for Medicaid, (4) establish a Medicaid Institute, (5) eliminate provisions that provide for the establishment of a debt due and owing to the Department of Social Services in situations where a transfer of assets results in the imposition of a penalty period, and (6) restore the availability of transitional Medicaid for a two-year period.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*