



# House of Representatives

General Assembly

**File No. 489**

January Session, 2009

Substitute House Bill No. 6417

*House of Representatives, April 6, 2009*

The Committee on Human Services reported through REP. WALKER of the 93rd Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT CONCERNING MEDICAID ADMINISTRATION AND SERVICES.**

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

1 Section 1. (NEW) (*Effective from passage*) (a) There is established a  
2 commission on managing and improving services for Medicaid  
3 recipients. The commission shall be composed of the chairpersons and  
4 ranking members of the joint standing committee of the General  
5 Assembly having cognizance of matters relating to human services, the  
6 Commissioner of Social Services and six members of the public  
7 knowledgeable about health care services, one each appointed by the  
8 president pro tempore of the Senate, the speaker of the House of  
9 Representatives, the majority leader of the Senate, the majority leader  
10 of the House of Representatives, the minority leader of the Senate and  
11 the minority leader of the House of Representatives.

12 (b) The commission shall investigate ways to improve the quality of  
13 services provided to recipients of medical assistance pursuant to  
14 federal Medicaid waivers by coordinating care, certifying and tracking

15 providers, improving provider training and increasing retention of  
16 providers' employees.

17 (c) All appointments to the council shall be made not later than  
18 August 15, 2009. The council shall convene its first meeting not later  
19 than September 15, 2009. The commission shall elect a chairperson  
20 from among its members. Members shall serve three-year terms from  
21 the date of their appointment and until successors are appointed.

22 Sec. 2. (NEW) (*Effective July 1, 2009*) For the fiscal year ending June  
23 30, 2010, and each fiscal year thereafter, for any new or expanded  
24 initiative included in the appropriation to the Department of Social  
25 Services in the budget document, the Commissioner of Social Services  
26 shall issue quarterly progress reports on the status of the  
27 implementation of such initiatives to the joint standing committees of  
28 the General Assembly having cognizance of matters relating to  
29 appropriations and the budgets of state agencies and human services,  
30 and to the Office of Fiscal Analysis, in accordance with the provisions  
31 of section 11-4a of the general statutes.

32 Sec. 3. Section 17b-10 of the general statutes is repealed and the  
33 following is substituted in lieu thereof (*Effective July 1, 2009*):

34 (a) The Department of Social Services shall prepare and routinely  
35 update state medical services and public assistance manuals. The  
36 pages of such manuals shall be consecutively numbered and indexed,  
37 containing all departmental policy regulations and substantive  
38 procedure, written in clear and concise language. Said manuals shall  
39 be published by the department and distributed so that they are  
40 available to (1) all regional and subregional offices of the Department  
41 of Social Services; (2) each town hall in the state; (3) all legal assistance  
42 programs in the state; and (4) any interested member of the public who  
43 requests a copy. All policy manuals of the department, as they exist on  
44 May 23, 1984, including the supporting bulletins but not including  
45 statements concerning only the internal management of the  
46 department and not affecting private rights or procedures available to  
47 the public, shall be construed to have been adopted as regulations in

48 accordance with the provisions of chapter 54. [After] For the period  
49 commencing May 23, 1984, and ending December 31, 2009, any policy  
50 issued by the department, except a policy necessary to conform to a  
51 requirement of a federal or joint federal and state program  
52 administered by the department, including, but not limited to, the state  
53 supplement program to the Supplemental Security Income Program,  
54 shall be adopted as a regulation in accordance with the provisions of  
55 chapter 54. On and after January 1, 2010, any policy issued by the  
56 department shall be adopted as a regulation in accordance with the  
57 provisions of chapter 54. The provisions of subsections (b), (c) and (d)  
58 of this section shall not apply to any policy issued after December 31,  
59 2009.

60 (b) The department shall adopt as a regulation in accordance with  
61 the provisions of chapter 54, any new policy necessary to conform to a  
62 requirement of an approved federal waiver application initiated in  
63 accordance with section 17b-8 and any new policy necessary to  
64 conform to a requirement of a federal or joint state and federal  
65 program administered by the department, including, but not limited  
66 to, the state supplement program to the Supplemental Security Income  
67 Program, but the department may, for the period commencing May 23,  
68 1984, and ending December 31, 2009, operate under such policy while  
69 it is in the process of adopting the policy as a regulation, provided the  
70 Department of Social Services prints notice of intent to adopt the  
71 regulation in the Connecticut Law Journal within twenty days after  
72 adopting the policy. Such policy shall be valid until the time final  
73 regulations are effective.

74 (c) On and after July 1, 2004, the department shall submit proposed  
75 regulations that are required by subsection (b) of this section to the  
76 standing legislative regulation review committee, as provided in  
77 subsection (b) of section 4-170, not later than one hundred eighty days  
78 after publication of the notice of its intent to adopt regulations. The  
79 department shall include with the proposed regulation a statement  
80 identifying (1) the date on which the proposed regulation became  
81 effective as a policy as provided in subsection (b) of this section, and

82 (2) any provisions of the proposed regulation that are no longer in  
83 effect on the date of the submittal of the proposed regulation, together  
84 with a list of all policies that the department has operated under, as  
85 provided in subsection (b) of this section, that superseded any  
86 provision of the proposed regulation.

87 (d) In lieu of submitting proposed regulations by the date specified  
88 in subsection (c) of this section, the department may submit to the  
89 legislative regulation review committee a notice not later than thirty-  
90 five days before such date that the department will not be able to  
91 submit the proposed regulations on or before such date and shall  
92 include in such notice (1) the reasons why the department will not  
93 submit the proposed regulations by such date, and (2) the date by  
94 which the department will submit the proposed regulations. The  
95 legislative regulation review committee may require the department to  
96 appear before the committee at a time prescribed by the committee to  
97 further explain such reasons and to respond to any questions by the  
98 committee about the policy. The legislative regulation review  
99 committee may request the joint standing committee of the General  
100 Assembly having cognizance of matters relating to human services to  
101 review the department's policy, the department's reasons for not  
102 submitting the proposed regulations by the date specified in  
103 subsection (c) of this section and the date by which the department will  
104 submit the proposed regulations. Said joint standing committee may  
105 review the policy, such reasons and such date, may schedule a hearing  
106 thereon and may make a recommendation to the legislative regulation  
107 review committee.

108 (e) If amendments to an existing regulation are necessary solely to  
109 conform the regulation to amendments to the general statutes, and if  
110 the amendments to the regulation do not entail any discretion by the  
111 department, the department may elect to comply with the  
112 requirements of subsection (a) of section 4-168 or may proceed without  
113 prior notice or hearing. Any such amendments to a regulation shall be  
114 submitted in the form and manner prescribed in subsection (b) of  
115 section 4-170, to the Attorney General, as provided in section 4-169,

116 and to the committee, as provided in section 4-170, for approval and  
117 upon approval shall be filed in the office of the Secretary of the State.

118 (f) On and after January 1, 2010, concurrent with the submission of a  
119 proposed regulation to the standing legislative regulation review  
120 committee, in accordance with subsection (b) of section 4-170, (1) the  
121 Department of Social Services shall submit such proposed regulation  
122 to the joint standing committee of the General Assembly having  
123 cognizance of matters relating to human services. The joint standing  
124 committee of the General Assembly having cognizance of matters  
125 relating to human services shall review such proposed regulation and  
126 make a recommendation to the legislative regulation review committee  
127 on whether such regulation should be approved; (2) the department  
128 shall submit any proposed regulation affecting the Medicaid program  
129 and the HUSKY Plan to the advisory council on Medicaid managed  
130 care, established pursuant to section 17b-28, as amended by this act.  
131 Said council shall review the proposed regulation and make a  
132 recommendation to the legislative regulation review committee on  
133 whether such regulation should be approved; and (3) the Department  
134 of Social Services shall submit any proposed regulation affecting the  
135 Behavioral Health Partnership to the Behavioral Health Partnership  
136 Oversight Council, established pursuant to section 17a-22j, as amended  
137 by this act. Said council shall review the proposed regulation and  
138 make a recommendation to the legislative regulation review committee  
139 on whether such regulation should be approved.

140 Sec. 4. Section 17a-6 of the general statutes is repealed and the  
141 following is substituted in lieu thereof (*Effective July 1, 2009*):

142 The commissioner, or the commissioner's designee, shall:

143 (a) Establish or contract for the use of a variety of facilities and  
144 services for identification, evaluation, discipline, rehabilitation,  
145 aftercare, treatment and care of children and youths in need of the  
146 department's services;

147 (b) Administer in a coordinated and integrated manner all

148 institutions and facilities which are or may come under the jurisdiction  
149 of the department and may appoint advisory groups for any such  
150 institution or facility;

151 (c) Encourage the development of programs and the establishment  
152 of facilities for children and youths by public or private agencies and  
153 groups;

154 (d) Enter into cooperative arrangements with public or private  
155 agencies outside the state;

156 (e) [Insure] Ensure that all children under the commissioner's  
157 supervision have adequate food, clothing, shelter and adequate  
158 medical, dental, psychiatric, psychological, social, religious and other  
159 services;

160 (f) Provide, in the commissioner's discretion, needed service to any  
161 municipality, agency, or person, whether or not such person is  
162 committed to the commissioner;

163 (g) Adopt and enforce regulations and establish rules for the  
164 internal operation and administration of the department in accordance  
165 with chapter 54 and submit any proposed regulation affecting the  
166 Behavioral Health Partnership to the Behavioral Health Partnership  
167 Oversight Council, established pursuant to section 17a-22j, as amended  
168 by this act, for the council's review and recommendation to the  
169 standing legislative regulation review committee on whether such  
170 regulation should be approved;

171 (h) Undertake, contract for or otherwise stimulate research  
172 concerning children and youths;

173 (i) Subject to the provisions of chapter 67, appoint such professional,  
174 technical and other personnel as may be necessary for the efficient  
175 operation of the department;

176 (j) Coordinate the activities of the department with those of other  
177 state departments, municipalities and private agencies concerned with

178 providing services for children and youths and their families;

179 (k) Act as administrator of the Interstate Compact for Juveniles  
180 under section 46b-151h;

181 (l) Provide or arrange for the provision of suitable education for  
182 every child under the commissioner's supervision, either in public  
183 schools, special educational programs, private schools, educational  
184 programs within the institutions or facilities under the commissioner's  
185 jurisdiction, or work and training programs otherwise provided by  
186 law. The suitability of educational programs provided by the  
187 commissioner shall be subject to review by the Department of  
188 Education;

189 (m) Submit to the state advisory council for its comment proposals  
190 for new policies or programs and the proposed budget for the  
191 department;

192 (n) Have any and all other powers and duties as are necessary to  
193 administer the department and implement the purposes of sections  
194 17a-1 to 17a-26, inclusive, as amended by this act, and 17a-28 to 17a-49,  
195 inclusive;

196 (o) Conduct and render a final decision in administrative hearings;  
197 and

198 (p) Provide programs for juvenile offenders that are gender specific  
199 in that they comprehensively address the unique needs of a targeted  
200 gender group.

201 Sec. 5. Subsection (b) of section 17b-28 of the general statutes is  
202 repealed and the following is substituted in lieu thereof (*Effective July*  
203 *1, 2009*):

204 (b) The council shall make recommendations concerning (1)  
205 guaranteed access to enrollees and effective outreach and client  
206 education; (2) available services comparable to those already in the  
207 Medicaid state plan, including those guaranteed under the federal

208 Early and Periodic Screening, Diagnostic and Treatment Services  
209 Program under 42 USC 1396d; (3) the sufficiency of provider networks;  
210 (4) the sufficiency of capitated rates provider payments, financing and  
211 staff resources to guarantee timely access to services; (5) participation  
212 in managed care by existing community Medicaid providers; (6) the  
213 linguistic and cultural competency of providers and other program  
214 facilitators; (7) quality assurance; (8) timely, accessible and effective  
215 client grievance procedures; (9) coordination of the Medicaid managed  
216 care plan with state and federal health care reforms; (10) eligibility  
217 levels for inclusion in the program; (11) cost-sharing provisions; (12) a  
218 benefit package; (13) coordination with coverage under the HUSKY  
219 Plan, Part B; (14) the need for program quality studies within the areas  
220 identified in this section and the department's application for available  
221 grant funds for such studies; (15) the managed care portion of the  
222 state-administered general assistance program; [and] (16) any  
223 proposed regulations of the Department of Social Services concerning  
224 the Medicaid program and the HUSKY Plan in accordance with  
225 subsection (f) of section 17b-10, as amended by this act; and (17) other  
226 issues pertaining to the development of a Medicaid Research and  
227 Demonstration Waiver under Section 1115 of the Social Security Act.

228 Sec. 6. Section 17b-28e of the general statutes is repealed and the  
229 following is substituted in lieu thereof (*Effective July 1, 2009*):

230 (a) The Commissioner of Social Services shall amend the Medicaid  
231 state plan to include: [, on] (1) On and after January 1, 2009, hospice  
232 services as optional services covered under the Medicaid program; and  
233 (2) on and after January 1, 2010, podiatry services as optional services  
234 covered under the Medicaid program. Said state plan [amendment]  
235 amendments shall supersede any regulations of Connecticut state  
236 agencies concerning such optional services.

237 (b) The Commissioner of Social Services shall amend the Medicaid  
238 state plan to include foreign language interpreter services provided to  
239 any beneficiary with limited English proficiency as a covered service  
240 under the Medicaid program.

241 Sec. 7. Subsection (f) of section 17a-22j of the general statutes is  
242 repealed and the following is substituted in lieu thereof (*Effective July*  
243 *1, 2009*):

244 (f) The council shall make specific recommendations on matters  
245 related to the planning and implementation of the Behavioral Health  
246 Partnership which shall include, but not be limited to: (1) Review of  
247 any contract entered into by the Departments of Children and Families  
248 and Social Services with an administrative services organization, to  
249 assure that the administrative services organization's decisions are  
250 based solely on clinical management criteria developed by the clinical  
251 management committee established in section 17a-22k; (2) review of  
252 behavioral health services pursuant to Title XIX and Title XXI of the  
253 Social Security Act to assure that federal revenue is being maximized;  
254 [and] (3) review of any proposed regulations concerning the  
255 Behavioral Health Partnership submitted by the Departments of  
256 Children and Families and Social Services in accordance with  
257 subsection (g) of section 17a-6, as amended by this act, and subsection  
258 (f) of section 17b-10, as amended by this act; and (4) review of periodic  
259 reports on the program activities, finances and outcomes, including  
260 reports from the director of the Behavioral Health Partnership on  
261 achievement of service delivery system goals, pursuant to section 17a-  
262 22i. The council may conduct or cause to be conducted an external,  
263 independent evaluation of the Behavioral Health Partnership.

264 Sec. 8. Subsection (g) of section 17b-192 of the general statutes is  
265 repealed and the following is substituted in lieu thereof (*Effective from*  
266 *passage*):

267 (g) On or before January 1, [2008] 2010, the Commissioner of Social  
268 Services shall seek a waiver of federal law for the purpose of extending  
269 health insurance coverage under Medicaid to persons with income not  
270 in excess of one hundred per cent of the federal poverty level who  
271 otherwise qualify for medical assistance under the state-administered  
272 general assistance program. If the commissioner fails to submit a  
273 waiver by January 1, 2010, as provided in this subsection, the

274 commissioner shall submit a written report, in accordance with the  
275 provisions of section 11-4a, to the joint standing committee of the  
276 General Assembly having cognizance of matters relating to human  
277 services not later than February 1, 2010, explaining the reasons for such  
278 failure. The provisions of section 17b-8 shall apply to this section.

279 Sec. 9. Subsection (a) of section 17b-297 of the general statutes is  
280 repealed and the following is substituted in lieu thereof (*Effective July*  
281 *1, 2009*):

282 (a) The commissioner, in consultation with the Children's Health  
283 Council, the [Medicaid Managed Care Council] advisory council on  
284 Medicaid managed care, established pursuant to section 17b-28, as  
285 amended by this act, and the 2-1-1 Infoline program, shall develop  
286 mechanisms to increase outreach and maximize enrollment of eligible  
287 children and adults in the HUSKY Plan, Part A or Part B, including,  
288 but not limited to, development of mail-in applications and  
289 appropriate outreach materials through the Department of Revenue  
290 Services, the Labor Department, the Department of Social Services, the  
291 Department of Public Health, the Department of Children and Families  
292 and the Office of Protection and Advocacy for Persons with  
293 Disabilities. Such mechanisms shall seek to maximize federal funds  
294 where appropriate for such outreach activities.

295 Sec. 10. Section 17b-306a of the general statutes is repealed and the  
296 following is substituted in lieu thereof (*Effective July 1, 2009*):

297 (a) The Commissioner of Social Services, in collaboration with the  
298 Commissioners of Public Health and Children and Families, shall  
299 establish a child health quality improvement program for the purpose  
300 of promoting the implementation of evidence-based strategies by  
301 providers participating in the HUSKY Plan, Part A and Part B to  
302 improve the delivery of and access to children's health services. Such  
303 strategies shall focus on physical, dental and mental health services  
304 and shall include, but need not be limited to: (1) Methods for early  
305 identification of children with special health care needs; (2) integration  
306 of care coordination and care planning into children's health services;

307 (3) implementation of standardized data collection to measure  
308 performance improvement; and (4) implementation of family-centered  
309 services in patient care, including, but not limited to, the development  
310 of parent-provider partnerships. The Commissioner of Social Services  
311 shall seek the participation of public and private entities that are  
312 dedicated to improving the delivery of health services, including  
313 medical, dental and mental health providers, academic professionals  
314 with experience in health services research and performance  
315 measurement and improvement, and any other entity deemed  
316 appropriate by the Commissioner of Social Services, to promote such  
317 strategies. The commissioner shall ensure that such strategies reflect  
318 new developments and best practices in the field of children's health  
319 services. As used in this section, "evidence-based strategies" means  
320 policies, procedures and tools that are informed by research and  
321 supported by empirical evidence, including, but not limited to,  
322 research developed by organizations such as the American Academy  
323 of Pediatrics, the American Academy of Family Physicians, the  
324 National Association of Pediatric Nurse Practitioners and the Institute  
325 of Medicine.

326 (b) Not later than July 1, 2008, and annually thereafter, the  
327 Commissioner of Social Services shall report, in accordance with  
328 section 11-4a, to the joint standing committees of the General  
329 Assembly having cognizance of matters relating to human services,  
330 public health and appropriations, and to the [Medicaid Managed Care  
331 Council] advisory council on Medicaid managed care, established  
332 pursuant to section 17b-28, as amended by this act, on (1) the  
333 implementation of any strategies developed pursuant to subsection (a)  
334 of this section, and (2) the efficacy of such strategies in improving the  
335 delivery of and access to health services for children enrolled in the  
336 HUSKY Plan.

337 Sec. 11. Subsection (b) of section 17a-22o of the general statutes is  
338 repealed and the following is substituted in lieu thereof (*Effective July*  
339 *1, 2009*):

340 (b) (1) All proposals for initial rates, reductions to existing rates and  
341 changes in rate methodology within the Behavioral Health Partnership  
342 shall be submitted to the Behavioral Health Partnership Oversight  
343 Council for review. If the council does not recommend acceptance, it  
344 may forward its recommendation to the joint standing committees of  
345 the General Assembly having cognizance of matters relating to public  
346 health, human services and appropriations and the budgets of state  
347 agencies. The committees shall hold a joint public hearing on the  
348 subject of the proposed rates, to receive the partnership's rationale for  
349 making such a rate change. Not later than ninety days after submission  
350 by the departments, the committees of cognizance shall make  
351 recommendations to the departments regarding the proposed rates.  
352 The departments shall make every effort to incorporate  
353 recommendations of both the council and the committees of  
354 cognizance when setting rates.

355 (2) The Department of Social Services shall increase Medicaid  
356 reimbursement rates for the Behavioral Health Partnership providers  
357 on an annual basis at a percentage rate not less than the annual  
358 increase provided to HUSKY managed care organization providers.

359 Sec. 12. Section 17b-278a of the general statutes is repealed and the  
360 following is substituted in lieu thereof (*Effective July 1, 2009*):

361 The Commissioner of Social Services shall amend the Medicaid state  
362 plan to provide coverage for treatment for smoking cessation ordered  
363 by a licensed health care professional who possesses valid and current  
364 state licensure to prescribe such drugs. [in accordance with a plan  
365 developed by the commissioner to provide smoking cessation services.  
366 The commissioner shall present such plan to the joint standing  
367 committees of the General Assembly having cognizance of matters  
368 relating to human services and appropriations by January 1, 2003, and,  
369 if such plan is approved by said committees and funding is provided  
370 in the budget for the fiscal year ending June 30, 2004, such plan shall  
371 be implemented on July 1, 2003. If the initial treatment provided to the  
372 patient for smoking cessation, as allowed by the plan, is not successful

373 as determined by a licensed health care professional, all prescriptive  
374 options for smoking cessation shall be available to the patient.]

375 Sec. 13. Section 17b-260c of the general statutes is repealed and the  
376 following is substituted in lieu thereof (*Effective from passage*):

377 [The] Not later than September 1, 2009, the Commissioner of Social  
378 Services shall apply for a Medicaid waiver, pursuant to Section 1115 of  
379 the Social Security Act, for the purpose of providing coverage for  
380 family planning services to adults in households with income that does  
381 not exceed one hundred eighty-five per cent of the federal poverty  
382 level and who are not otherwise eligible for Medicaid services. If the  
383 commissioner fails to apply for such waiver by said date, the  
384 commissioner shall, not later than September 15, 2009, submit a written  
385 report in accordance with the provisions of section 11-4a, to the joint  
386 standing committee of the General Assembly having cognizance of  
387 matters relating to human services explaining the reasons for such  
388 failure.

389 Sec. 14. Subsection (a) of section 17b-28 of the general statutes is  
390 repealed and the following is substituted in lieu thereof (*Effective July*  
391 *1, 2009*):

392 (a) There is established a council which shall advise the  
393 Commissioner of Social Services on the planning and implementation  
394 of a system of Medicaid managed care and shall monitor such  
395 planning and implementation and shall advise the Waiver Application  
396 Development Council, established pursuant to section 17b-28a, on  
397 matters including, but not limited to, eligibility standards, benefits,  
398 access and quality assurance. The council shall be composed of the  
399 chairpersons and ranking members of the joint standing committees of  
400 the General Assembly having cognizance of matters relating to human  
401 services, public health and appropriations and the budgets of state  
402 agencies, or their designees; two members of the General Assembly,  
403 one to be appointed by the president pro tempore of the Senate and  
404 one to be appointed by the speaker of the House of Representatives;  
405 the director of the Commission on Aging, or a designee; the director of

406 the Commission on Children, or a designee; [two community  
407 providers of health care,] a representative of each organization that has  
408 been selected by the state to provide managed care to be appointed by  
409 the president pro tempore of the Senate; two representatives of the  
410 insurance industry, to be appointed by the speaker of the House of  
411 Representatives; two advocates for persons receiving Medicaid, one to  
412 be appointed by the majority leader of the Senate and one to be  
413 appointed by the minority leader of the Senate; one advocate for  
414 persons with substance use disorders, to be appointed by the majority  
415 leader of the House of Representatives; one advocate for persons with  
416 psychiatric disabilities, to be appointed by the minority leader of the  
417 House of Representatives; two advocates for the Department of  
418 Children and Families foster families, one to be appointed by the  
419 president pro tempore of the Senate and one to be appointed by the  
420 speaker of the House of Representatives; two members of the public  
421 who are currently recipients of Medicaid, one to be appointed by the  
422 majority leader of the House of Representatives and one to be  
423 appointed by the minority leader of the House of Representatives; two  
424 representatives of the Department of Social Services, to be appointed  
425 by the Commissioner of Social Services; two representatives of the  
426 Department of Public Health, to be appointed by the Commissioner of  
427 Public Health; two representatives of the Department of Mental Health  
428 and Addiction Services, to be appointed by the Commissioner of  
429 Mental Health and Addiction Services; two representatives of the  
430 Department of Children and Families, to be appointed by the  
431 Commissioner of Children and Families; two representatives of the  
432 Office of Policy and Management, to be appointed by the Secretary of  
433 the Office of Policy and Management; one representative of the office  
434 of the State Comptroller, to be appointed by the State Comptroller and  
435 the members of the Health Care Access Board who shall be ex-officio  
436 members and who may not designate persons to serve in their place.  
437 The council shall choose a chair from among its members. The joint  
438 committee on Legislative Management shall provide administrative  
439 support to such chair. The council shall convene its first meeting no  
440 later than June 1, 1994.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>July 1, 2009</i>	New section
Sec. 3	<i>July 1, 2009</i>	17b-10
Sec. 4	<i>July 1, 2009</i>	17a-6
Sec. 5	<i>July 1, 2009</i>	17b-28(b)
Sec. 6	<i>July 1, 2009</i>	17b-28e
Sec. 7	<i>July 1, 2009</i>	17a-22j(f)
Sec. 8	<i>from passage</i>	17b-192(g)
Sec. 9	<i>July 1, 2009</i>	17b-297(a)
Sec. 10	<i>July 1, 2009</i>	17b-306a
Sec. 11	<i>July 1, 2009</i>	17a-22o(b)
Sec. 12	<i>July 1, 2009</i>	17b-278a
Sec. 13	<i>from passage</i>	17b-260c
Sec. 14	<i>July 1, 2009</i>	17b-28(a)

**Statement of Legislative Commissioners:**

In section 8(g), redundant new language was removed for clarity and accuracy. In section 14(a), the word "provider" in the new language was changed to the word "organization" for clarity and accuracy.

**HS**      *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

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**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 10 \$	FY 11 \$
Department of Social Services	GF - Cost	Significant	Significant

**Municipal Impact:** None

**Explanation**

Section 1 of the bill establishes a commission on managing and improving Medicaid services. It is anticipated that the state agencies involved with the commission can participate within their anticipated budgetary resources.

Section 2 requires the Department of Social Services (DSS) to report certain information to the General Assembly. DSS will incur a minimal administrative cost to meet this requirement.

Section 3 repeals DSS's authority to implement and operate policy while in the process of adopting regulations concerning that policy. This change may impede the agency's ability to carry out state or federally required programmatic changes if the department cannot adopt regulations within assumed programmatic timeframes. Should any of these required changes have an associated cost or savings, that fiscal impact may be delayed. Further, the department may lose federal financial participation if a federally required programmatic change is delayed.

Section 4, 5, and 8 require DSS (and the Department of Children and Families for Behavioral Health Partnership changes) to submit proposed regulations to additional legislative bodies beyond the regulations review committee. These bodies may review the proposals and make recommendations to the regulations review committee. This

change is not expected to have a direct fiscal impact on the departments.

Section 6 restores podiatry as an optional service under the Medicaid program. This change is anticipated to have an annual cost of up to \$1 million.

Section 8 requires DSS to submit a report to the General Assembly detailing any reason why the department did not submit a legislatively required Medicaid waiver. DSS will incur a minimal administrative cost to meet this requirement.

Sections 9 and 10 make technical changes that have no fiscal impact.

Section 11 requires DSS to increase Medicaid rates for the Behavioral Health Partnership by the same annual percentage increase that is provided to the HUSKY managed care organizations. As the rates are negotiated with the providers, the impact of this cannot be known in advance. The FY 10-11 biennial budget (as approved by the Appropriations Committee) assumes the same rate increases for both programs.

Section 12 requires Medicaid coverage of smoking cessation treatment. Depending on the plan developed, the annual cost is estimated to be between \$1,175,000 and \$3,948,000.

#### POPULATION

There are approximately 188,000 adults receiving health services through Medicaid (80,000 in fee for service and 108,000 in HUSKY). It is unknown how many in this population smokes and would attempt to quit. Assuming that 20% of this population smokes, and that 25% of these smokers will attempt to quit, the Office of Fiscal Analysis assumes that smoking cessation services would be provided to 9,400 people annually.

#### COST ESTIMATE

The total cost of this service extension will depend upon the Medicaid amendment to be developed by DSS. Such plan could include a wide range of services with varying costs, from nicotine chewing gum to pharmaceuticals to psychiatric counseling. It is expected that DSS will include measures within this plan to manage services and contain costs. Therefore, until the department develops such a plan, the total cost of this bill can only be estimated.

The table below details two potential cost scenarios, both of which assume certain cost containment measures. The first is based on a plan that covers two quit attempts of up to 90 days per year, which has been implemented in other states. The estimated annual cost per case for this coverage is \$125, which results in an annual cost of \$1.175 million. Extrapolating the first scenario to more expansive coverage, as may be necessary under the Medicaid program results in a per person cost of \$420, illustrated as scenario two below.

Scenario	Participants	Cost per Person	Annual Cost
One	9,400	\$125	\$1,175,000
Two	9,400	\$420	\$3,948,000

As stated above, the final cost will depend upon the plan implemented by DSS. The costs illustrated in the table represent a likely range of costs.

Section 13 requires DSS to apply for a Medicaid family planning waiver by September 1, 2009. It is anticipated the DSS will incur an administrative cost of up to \$200,000 to develop this waiver. The cost of this waiver would be dependent upon what services are allowed under the plan, which cannot be known in advance. Experience in other states has shown that family planning expenditures can result in significant savings through reduced Medicaid funded deliveries. The FY 10-11 biennial budget (as approved by the Appropriations Committee) contains \$2 million in each year to provide family

planning services, and assumes a savings of \$6 million in FY11. Services provided under a family planning waiver are reimbursed 90% by the Federal Medicaid program.

Section 14 makes a change to a council that has no fiscal impact.

***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

*Sources: DSS cost and caseload data, DSS biennial budget request, outside research.*

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**OLR Bill Analysis****sHB 6417*****AN ACT CONCERNING MEDICAID ADMINISTRATION AND SERVICES.*****SUMMARY:**

Beginning January 1, 2010, this bill prevents DSS from operating programs for which it issues policy before adopting the policy as regulation. It requires DSS to submit copies of proposed regulations to committees of cognizance at the same time it submits them to the Regulation Review Committee.

The bill establishes an 11-member commission to manage and improve services for Medicaid recipients and charges it with finding ways to improve the quality of services provided to Medicaid recipients participating in federal waiver programs. It also changes the membership of the Medicaid Managed Care Council, which advises DSS on the operation of the Medicaid managed care program.

The bill requires DSS to:

1. issue quarterly progress reports to the legislature on any new and expanded initiatives;
2. amend the Medicaid state plan to restore Medicaid coverage (eliminated in 2002) for podiatry services beginning January 1, 2010; and
3. increase Medicaid reimbursement rates for Behavioral Health Partnership (BHP) providers annually and as much as, or more than, it increases payments to HUSKY managed care organizations (MCOs). (DSS pays the MCOs, which determine HUSKY provider rates.)

The bill establishes a deadline and extends another for DSS to seek federal waivers to get Medicaid coverage for certain populations not otherwise eligible for Medicaid.

Finally, the bill makes technical, conforming changes.

EFFECTIVE DATE: July 1, 2009, except the provisions pertaining to the new commission and waiver application deadlines are effective upon passage.

### **DSS TO OPERATE PROGRAMS ONCE REGULATIONS ADOPTED**

The bill specifies that beginning January 1, 2010, any policy that DSS issues must be adopted as regulation in accordance with the state's Uniform Administrative Procedures Act. Current law already requires this, except for policies necessary to conform to a requirement of any federal or joint federal and state program that DSS administers, such as Medicaid and the State Supplement Program.

It further provides that beginning that date, the law authorizing (1) DSS to operate a federal waiver or federal-state programs under policies it issues while in the process of adopting the policy in regulation form, (2) time frames for submitting these regulations to the Regulation Review Committee, and (3) that committee to ask the Human Services Committee for its recommendation no longer applies to any policy issued after December 31, 2009 (see BACKGROUND).

Beginning January 1, 2010, the bill requires DSS, at the same time it submits regulations to the Regulation Review Committee, to submit them to the Human Services Committee, which must review them and recommend to the Regulation Review Committee whether they should be approved.

If the regulation pertains to the Medicaid or HUSKY programs, DSS must also send a copy of it to the Medicaid Managed Care Council, which must review it and recommend to the Regulation Review Committee whether it should be approved. And if the regulation concerns the Behavioral Health Partnership (BHP), DSS must also give

a copy of it to the Behavioral Health Partnership Council, which must review it and recommend to the Regulation Review Committee whether it should be approved. The bill also requires the Department of Children and Families to submit any proposed regulation affecting the BHP to the council, which must review and recommend whether it should be approved. Both agencies have jurisdiction over the BHP.

## **COMMISSION ON MANAGING AND IMPROVING SERVICES FOR MEDICAID RECIPIENTS**

### ***Membership***

The bill's commission comprises the following members:

1. the Human Services Committee chairpersons and ranking members;
2. the DSS commissioner; and
3. six public members knowledgeable about health care services, one each appointed by the House and Senate leaders.

The commission elects a chairperson from its membership. Members serve three-year terms from their appointment dates and until successors are appointed. All appointments must be made by August 15, 2009, and the council must hold its first meeting by September 15, 2009.

### ***Charge***

The bill requires the commission to investigate ways to improve the quality of services provided to Medicaid recipients under federal waivers by coordinating care, certifying and tracking providers, improving provider training, and increasing retention of providers' employees. It is not clear whether the commission would perform these tasks.

DSS operates several Medicaid waiver programs. For example, the HUSKY A program operates under a Section 1915(b) waiver. Other waivers cover the elderly and people with disabilities.

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**MEDICAID MANAGED CARE COUNCIL**

The Medicaid Managed Care Council oversees the HUSKY program and advises the legislature on its operation. Its membership comprises legislators and executive branch heads, as well as representatives from numerous groups that work with the HUSKY population.

Currently, two community providers of health care appointed by the Senate president pro tempore are on the council. The bill replaces these members with a representative of each managed care organization (MCO) that the state has selected to manage HUSKY recipients' care.

Currently, three MCOs contract with the state to manage the care of HUSKY recipients. The House speaker's two appointments, which by law must be insurance industry representatives, represent two of the three.

**DSS PROGRESS REPORTS ON NEW AND EXPANDED INITIATIVES**

Beginning in FY 10, the bill requires DSS to issue quarterly progress reports on the status and implementation of any new or expanded initiatives included in the DSS budget to the Appropriations and Human Services committees and the Office of Fiscal Analysis.

**MEDICAID COVERAGE THROUGH WAIVERS*****SAGA Recipients***

The bill extends, from January 1, 2009 to January 1, 2010, the deadline for the DSS commissioner to seek a federal waiver to get Medicaid coverage for people with income up to 100% of the federal poverty level (FPL) and who otherwise qualify for SAGA medical assistance. If the commissioner fails to submit the waiver on time, he must submit a report to the Human Services Committee, by February 10, 2010, explaining why.

***Family Planning Services***

The bill establishes a September 1, 2009 deadline for the DSS commissioner to apply for a family planning waiver for adults in

households with income up to 185% of the FPL who are not otherwise eligible for Medicaid. PA 05-120 directed the commissioner to seek the waiver. If the commissioner does not apply by that date, he must report to the Human Services Committee, by September 15, 2009, explaining why.

## **BACKGROUND**

### ***UAPA and DSS Policy and Regulations***

According to the UAPA (Chapter 54), if a public act requires an agency to adopt regulations, the agency has five months from the act's effective date, or by the time specified in the act, to publish in the *Connecticut Law Journal* notice of intent to adopt them. The agency must submit the regulations to the Regulation Review Committee within 180 days of publishing the notice of intent, or a written statement as to why it cannot meet the deadline (CGS § 4-170).

But the legislature historically has authorized DSS to implement policies and procedures to carry out public acts while in the process of adopting them in regulation, provided it publishes notice of intent to adopt in the law journal within 20 days of implementing them.

In addition, a more generic law (which this bill amends) (1) requires DSS to adopt as regulation any new policy necessary to conform to an approved federal waiver application and any policy needed to conform to a federal or joint federal and state program that DSS administers and (2) allows DSS to operate under the policy while in the process of adopting the regulations. Since mid-2004, the law has further required DSS to submit proposed regulations to the Regulation Review Committee within 180 days of publishing the notice of intent, along with information about the regulation.

But the law allows DSS, in lieu of submitting the regulations, to submit a notice to the Regulation Review Committee that it will not be able to submit them on time, indicating the reasons why and the date by which it will submit them. The Committee can ask DSS to appear before it to further explain itself and answer questions. It can also ask

the Human Services Committee to review DSS policy and the contents of DSS notice to the committee, and the Human Services Committee can schedule a hearing and make recommendations to the Regulation Review Committee based on this (CGS § 17b-10 (b),(c), & (d)).

**Related Bill**

SB 988 (File 195) requires the DSS commissioner to seek a Medicaid waiver to cover SAGA recipients with lower incomes. HB 6402, reported favorably by the Human Services Committee, requires the DSS commissioner to apply for a federal Health Insurance and Flexibility and Accountability (HIFA) demonstration waiver to provide Medicaid coverage to individuals qualifying for SAGA medical assistance.

**COMMITTEE ACTION**

Human Services Committee

Joint Favorable Substitute

Yea 13      Nay 6      (03/19/2009)