



General Assembly

January Session, 2009

**Raised Bill No. 1085**

LCO No. 4164

\* SB01085HS 031909 \*

Referred to Committee on Human Services

Introduced by:  
(HS)

**AN ACT CONCERNING HOMEMAKER AND COMPANION AGENCIES  
AND AUDITS FOR VENDOR FRAUD.**

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

1 Section 1. Subsection (d) of section 17b-99 of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective July*  
3 *1, 2009*):

4 (d) The Commissioner of Social Services, or any entity with whom  
5 the commissioner contracts, for the purpose of conducting an audit of  
6 a service provider that participates as provider of services in a  
7 program operated or administered by the department pursuant to this  
8 chapter or chapter 319t, 319v, 319y or 319ff, shall conduct any such  
9 audit in accordance with the provisions of this subsection. For  
10 purposes of this subsection "provider" means a person, public agency,  
11 private agency or proprietary agency that is licensed, certified or  
12 otherwise approved by the commissioner to supply services  
13 authorized by the programs set forth in said chapters.

14 (1) Not less than thirty days prior to the commencement of any such  
15 audit, the commissioner, or any entity with whom the commissioner

16 contracts to conduct an audit of a participating provider, shall provide  
17 written notification of the audit to such provider, unless the  
18 commissioner, or any entity with whom the commissioner contracts to  
19 conduct an audit of a participating provider makes a good faith  
20 determination that (A) the health or safety of a recipient of services is  
21 at risk; or (B) the provider is engaging in vendor fraud. A copy of the  
22 regulations established pursuant to subdivision (12) of this subsection  
23 shall be appended to such notification.

24 (2) Any audit conducted pursuant to this subsection shall be limited  
25 to a review of claims filed during the two-year period prior to the date  
26 that the provider receives written notice from the commissioner of the  
27 audit, pursuant to subdivision (1) of this subsection, or two hundred  
28 claims, whichever is less.

29 ~~[(2)]~~ (3) Any clerical error, including, but not limited to,  
30 recordkeeping, typographical, scrivener's or computer error,  
31 discovered in a record or document produced for any such audit, shall  
32 not of itself constitute a wilful violation of program rules and shall not  
33 be used as the basis for extrapolated projections unless proof of intent  
34 to commit fraud or otherwise violate program rules is established.

35 ~~[(3)]~~ (4) A finding of overpayment or underpayment to a provider in  
36 a program operated or administered by the department pursuant to  
37 this chapter or chapter 319t, 319v, 319y or 319ff, shall not be based on  
38 extrapolated projections unless the error rate exceeds ten per cent and  
39 (A) there is a sustained or high level of payment error involving the  
40 provider, or (B) documented educational intervention has failed to  
41 correct the level of payment error, [ , or (C) the value of the claims in  
42 aggregate exceeds one hundred fifty thousand dollars on an annual  
43 basis.]

44 ~~[(4)]~~ (5) A provider, in complying with the requirements of any such  
45 audit, shall be allowed not less than thirty days to provide  
46 documentation in connection with any discrepancy discovered and  
47 brought to the attention of such provider in the course of any such

48 audit.

49 ~~[(5)]~~ (6) The commissioner, or any entity with whom the  
50 commissioner contracts, for the purpose of conducting an audit of a  
51 provider of any of the programs operated or administered by the  
52 department pursuant to this chapter or chapter 319t, 319v, 319y or  
53 319ff, shall produce a preliminary written report concerning any audit  
54 conducted pursuant to this subsection, and such preliminary report  
55 shall be provided to the provider that was the subject of the audit, not  
56 more than sixty days after the conclusion of such audit.

57 ~~[(6)]~~ (7) The commissioner, or any entity with whom the  
58 commissioner contracts, for the purpose of conducting an audit of a  
59 provider of any of the programs operated or administered by the  
60 department pursuant to this chapter or chapter 319t, 319v, 319y or  
61 319ff, shall, following the issuance of the preliminary report pursuant  
62 to subdivision ~~[(5)]~~ (6) of this subsection, hold an exit conference with  
63 any provider that was the subject of any audit pursuant to this  
64 subsection for the purpose of discussing the preliminary report.

65 ~~[(7)]~~ (8) The commissioner, or any entity with which the  
66 commissioner contracts, for the purpose of conducting an audit of a  
67 service provider, shall produce a final written report concerning any  
68 audit conducted pursuant to this subsection. Such final written report  
69 shall be provided to the provider that was the subject of the audit not  
70 more than sixty days after the date of the exit conference conducted  
71 pursuant to subdivision ~~[(6)]~~ (7) of this subsection, unless the  
72 commissioner, or any entity with which the commissioner contracts,  
73 for the purpose of conducting an audit of a service provider, agrees to  
74 a later date or there are other referrals or investigations pending  
75 concerning the provider.

76 ~~[(8)]~~ (9) Any provider aggrieved by a decision contained in a final  
77 written report issued pursuant to subdivision ~~[(7)]~~ (8) of this  
78 subsection, may, not later than thirty days after the receipt of the final  
79 report, request, in writing, a review on all items of aggrievement. Such

80 request shall contain a detailed written description of each specific  
81 item of aggrievement. The designee of the commissioner who presides  
82 over the review shall be impartial and shall not be an employee of the  
83 Department of Social Services Office of Quality Assurance or an  
84 employee of an entity with whom the commissioner contracts for the  
85 purpose of conducting an audit of a service provider. Following  
86 review on all items of aggrievement, the designee of the commissioner  
87 who presides over the review shall issue a final decision.

88 (10) The provider shall have the right to appeal a final decision to  
89 the Superior Court in accordance with the provisions of chapter 54.

90 [(9)] (11) The provisions of this subsection shall not apply to any  
91 audit conducted by the Medicaid Fraud Control Unit established  
92 within the Office of the Chief State's Attorney.

93 (12) The commissioner shall adopt regulations, in accordance with  
94 the provisions of chapter 54, to carry out the provisions of this  
95 subsection and to ensure the fairness of the audit process, including,  
96 but not limited to, the sampling methodologies associated with the  
97 process.

98 Sec. 2. Subsection (c) of section 17b-342 of the general statutes is  
99 repealed and the following is substituted in lieu thereof (*Effective July*  
100 *1, 2009*):

101 (c) The community-based services covered under the program shall  
102 include, but not be limited to, the following services to the extent that  
103 they are not available under the state Medicaid plan, occupational  
104 therapy, homemaker services, companion services, meals on wheels,  
105 adult day care, transportation, mental health counseling, care  
106 management, elderly foster care, personal care assistance, minor home  
107 modifications and assisted living services provided in state-funded  
108 congregate housing and in other assisted living pilot or demonstration  
109 projects established under state law. For purposes of this subsection,  
110 "personal care assistance" means assistance with activities of daily

111 living, including, but not limited to, bathing, dressing, grooming,  
112 toileting and mobility. Recipients of state-funded services and persons  
113 who are determined to be functionally eligible for community-based  
114 services who have an application for medical assistance pending shall  
115 have the cost of home health and community-based services covered  
116 by the program, provided they comply with all medical assistance  
117 application requirements. Access agencies shall not use department  
118 funds to purchase community-based services or home health services  
119 from themselves or any related parties.

120       Sec. 3. Section 17b-343 of the general statutes is repealed and the  
121 following is substituted in lieu thereof (*Effective July 1, 2009*):

122       The Commissioner of Social Services shall establish annually the  
123 maximum allowable rate to be paid by said agencies for homemaker  
124 services, chore person services, companion services, respite care, meals  
125 on wheels, adult day care services, case management and assessment  
126 services, transportation, mental health counseling and elderly foster  
127 care, except that the maximum allowable rates in effect July 1, 1990,  
128 shall remain in effect during the fiscal years ending June 30, 1992, and  
129 June 30, 1993. The Commissioner of Social Services shall prescribe  
130 uniform forms on which agencies providing such services shall report  
131 their costs for such services. Such rates shall be determined on the  
132 basis of a reasonable payment for necessary services rendered. The  
133 maximum allowable rates established by the Commissioner of Social  
134 Services for the Connecticut home-care program for the elderly  
135 established under section 17b-342, as amended by this act, shall  
136 constitute the rates required under this section until revised in  
137 accordance with this section. The Commissioner of Social Services shall  
138 establish a fee schedule, to be effective on and after July 1, 1994, for  
139 homemaker services, chore person services, companion services,  
140 respite care, meals on wheels, adult day care services, case  
141 management and assessment services, transportation, mental health  
142 counseling and elderly foster care. The commissioner shall establish a  
143 fee for transportation services of not less than eight dollars for each

144 trip away from the elderly person's home. Such transportation fee shall  
145 be in addition to the applicable hourly rate for the agency's services.  
146 The commissioner may annually increase any fee in the fee schedule  
147 based on an increase in the cost of services. The commissioner shall  
148 increase the fee schedule effective July 1, 2000, by not less than five per  
149 cent, for adult day care services. Nothing contained in this section shall  
150 authorize a payment by the state to any agency for such services in  
151 excess of the amount charged by such agency for such services to the  
152 general public.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2009</i>	17b-99(d)
Sec. 2	<i>July 1, 2009</i>	17b-342(c)
Sec. 3	<i>July 1, 2009</i>	17b-343

**HS**            *Joint Favorable*