STATE OF CONNECTICUT

QUI TRANSTULIT SUSTINET

Senate

General Assembly

File No. 301

February Session, 2010

Substitute Senate Bill No. 370

Senate, April 6, 2010

The Committee on Human Services reported through SEN. DOYLE of the 9th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING MEDICAID LONG-TERM CARE COVERAGE FOR MARRIED COUPLES.

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

Section 1. (NEW) (*Effective from passage*) Notwithstanding any provision of subsection (g) of section 17b-261 of the general statutes, the Commissioner of Social Services shall amend the Medicaid state plan to require that the spouse of an institutionalized person who is applying for Medicaid receives the maximum community spouse protected amount, as determined pursuant to 42 USC 1396r-5. The commissioner shall adopt regulations, in accordance with chapter 54 of the general statutes, to implement the provisions of this section.

Sec. 2. (NEW) (*Effective from passage*) The Commissioner of Social Services shall amend the Medicaid state plan to require that funds derived from equity in home property through a reverse annuity mortgage loan or other home equity conversion loan are not treated as income or assets for the purpose of qualifying for benefits under the Medicaid program, provided (1) such funds are held in an account that does not contain any other funds, and (2) the Medicaid recipient does not transfer such funds to another person for less than fair market value. The commissioner shall adopt regulations, in accordance with chapter 54 of the general statutes, to implement the provisions of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*from passage*	New section
Sec. 2	*from passage*	New section

HS *Joint Favorable Subst.*

OFA Fiscal Note

State Impact: See Below

Municipal Impact: None

Explanation

Section 1 of the bill increases the amount of assets that the spouse of an institutionalized person can keep, known as the community spouse protected amount (CSPA). Currently, a non-institutionalized spouse (community spouse) has access to half of the couple's assets as determined by DSS, up to $109,560. For example, if a couple's total counted assets equal $150,000, the community spouse would now keep $109,560 instead of $75,000. This means the amount available for the institutionalized spouse decreased by $34,560 to $40,440. To the extent that this results in the institutionalized spouse being eligible for Medicaid sooner than he or she otherwise would have, DSS would incur these earlier Medicaid costs, which would be partially offset by federal reimbursements. The state could also incur a minimal administrative savings associated with fewer appeals regarding the CSPA.

Section 2 requires DSS to amend the Medicaid state plan to make changes to income and asset requirements, related to reverse annuity mortgage or other home equity conversion loans, for the purposes of Medicaid eligibility. To the extent that this results in the maintenance of Medicaid benefits, the state would incur the cost of providing such benefits for the period of time during which the individual otherwise would have been considered ineligible. These costs would be partially offset by federal reimbursements.

The Out Years

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

OLR Bill Analysis

sSB 370

AN ACT CONCERNING MEDICAID LONG-TERM CARE COVERAGE FOR MARRIED COUPLES.

SUMMARY:

This bill makes two changes in the way the Department of Social Services (DSS) determines eligibility for Medicaid long-term care services. First, it requires the DSS commissioner to amend the Medicaid state plan to require that the spouse of someone in an institution (i.e., nursing home) who remains in the community be allowed to receive the maximum amount of assets allowed by federal law. Currently, the spouse can keep half of the couple's combined assets, up to that maximum.

The bill also requires the commissioner to amend the plan to require that funds from reverse annuity mortgages not be treated as income or assets for purposes of Medicaid eligibility, in certain circumstances.

The commissioner must adopt regulations to carry out both changes.

EFFECTIVE DATE: Upon passage

COMMUNITY SPOUSE PROTECTED ASSETS

Federal law generally prescribes the rules states use when determining Medicaid eligibility. The spousal impoverishment provisions in the law allow the spouse of someone who applies for Medicaid in a nursing home to keep a portion of the couple's assets in order not to impoverish him or herself and end up also requiring institutional care.

Currently, DSS adds together the counted assets of both spouses as of the date the institutionalized spouse begins a continuous period of institutionalization which lasts 30 or more days, and divides the amount in half to establish a "spousal share." This amount is than compared to the Community Spouse Protected Amount (CSPA), which is the amount of assets the community spouse may keep when the institutionalized spouse is eligible for Medicaid.

Under current DSS regulations (based on federal law), the CSPA is the greater of:

1. $21,912;

2. the lesser of (a) the spousal share or (b) $109,560;

3. the amount established through a fair hearing decision; or

4. the amount a court order establishes.

The maximum and minimum amounts are set by federal law and the state must update them yearly.

Under the bill, the community spouse must be allowed to keep the maximum CSPA (see 2(b) above). An example will help illustrate. If the couple has $150,000 in counted assets, under current DSS regulations, DSS would divide this in half and the community spouse would keep $75,000 and the institutionalized spouse would get the other $75,000, most of which would have to be spent on his or her nursing home care. Under the bill, the community spouse would get to keep the full CSPA or $109,560, and the remaining $40,440 would go to the institutionalized spouse towards his or her care costs.

REVERSE ANNUITY MORTGAGES (RAM)

The bill requires DSS to amend the Medicaid state plan to require that funds derived from RAMs or other home equity conversion loans not to be treated as income or assets for purposes of Medicaid eligibility. But they are excluded only if (1) they are held in an account that does not contain any other funds and (2) the Medicaid recipient does not transfer these funds to another person for less than fair market value.

Under current DSS regulations, the loan proceeds, including those from RAMs, are excluded as income in the first month that they are received. After that, if the money is not spent, it counts as an asset unless the money is kept in a separate account.

DSS does not believe that federal law permits this and in 2007 drafted regulations that would have removed the exclusion. The regulations have not been adopted. But federal rules allow states to have more liberal methodologies for determining Medicaid eligibility and the state could make this change through a state plan amendment.

BACKGROUND

Transfers of Assets

Federal Medicaid law generally presumes that someone who is applying for Medicaid long-term care and transfers assets for less than fair market value within three years of applying has done so to qualify for assistance. The presumption can be rebutted. If a state determines that the transfer was made to qualify and cannot be successfully rebutted, the person transferring the funds is subject to a period of Medicaid ineligibility based on the value of the asset (42 USC § 1396p).

RAMs

A RAM is a home equity loan that allows certain seniors (generally age 62 and older) to convert some of the equity in their homes to cash and still retain ownership. Generally, the homeowner (or the homeowner's estate) repays the lender the loan amount plus interest when he or she dies, sells, or moves out of the home. The loan proceeds are tax-free, and there are no minimum income requirements for most RAMs.

COMMITTEE ACTION

Human Services Committee

Joint Favorable Substitute
Yea 17 Nay 2 (03/18/2010)