



**Testimony of AARP, in opposition to S.B. 233, AAC the Discharge of  
Patients for Nonpayment of Applied Income  
Select Committee on Aging  
March 9, 2010**

AARP is a nonprofit, non-partisan membership organization that serves people 50 and older. We have approximately 40 million members nationwide and over 600,000 in Connecticut. AARP opposes S.B. 233, An Act Concerning the Discharge of Patients for Nonpayment of Applied Income. This legislation would kick frail, nursing facility residents out of their homes for nonpayment of applied income, even if: (1) nonpayment is beyond the control of the nursing home resident; or (2) the nonpayment is justified. For example:

- Family members may be competing in probate court for appointment as conservator or for the removal of the current conservator or guardian. Until that dispute is resolved, it may be legally impossible for anyone to direct applied income to the nursing home. Such dispute may well go past the strict 60-day time limit imposed by the proposal;
- There may be a dispute with DSS as to the amount of the applied income. This is particularly the case where there is a community spouse, who is entitled to some or all of the resident's income as a community spousal allowance and where the law allows the community spouse to seek more than the statutory minimal allowance. These appeals typically take longer than 60 days at the agency level and much longer if a Superior Court appeal is needed;
- There may be other valid legal claims against the resident's income. Some—federal taxes—for example, may have superior legal claim to this income;
- The delay in paying the applied income may be caused by delays or mistakes in the probate court system.

In addition to imposing significant hardship on nursing home residents for something that may be entirely beyond their control, S.B. 233 would also increase state Medicaid expenditures. Medicaid coverage for nursing home care is only available to those who are so disabled or in need of medical care that institutionalization is required. If discharged, the resident would need to be transferred to another nursing home or a hospital. Since no nursing home would accept a patient unable to pay their applied income, transfer to a hospital would be the only option. Patients transferred to a hospital would have to remain there until the applied income issue was resolved, at much higher cost to Medicaid and the State. In addition, such patients would be taking up valuable hospital rooms and services that may be needed by others.

Under existing laws, nursing homes can and routinely do seek payment of applied income through the Probate and Superior Courts. This has, and remains, an adequate legal remedy for the nursing home industry. Should members of the Committee insist on moving forward with this proposal, AARP would as that at the very least, limit its applicability to only the following situations:

- The nursing home has received written verification from the Department of Social Services that there is no dispute as to amount of the applied income, no claim against any of the resident's income by a community spouse or disabled child, and no pending appeals.
- If there is a court appointed conservator or guardian, the nursing home has received written verification from the appointing court that the conservator or guardian has undisputed and authorized access to funds sufficient to pay the asserted applied income and the legal authority and obligation to make such payment to the nursing home and that there are no other pending claims against these funds.
- The nursing home has arranged for transfer of the resident to another Medicaid-certified nursing home or hospital that is willing to accept the resident and that the transfer will not require increased Medicaid expenditures.

AARP asks members of the Aging Committee to reject S.B. 233, which we believe will impose a significant hardship on nursing home residents for nonpayment of applied income that is either within their legal rights or beyond the residents' control. We also believe the proposal will drive up Medicaid costs by forcing nursing facility residents into more costly hospital care until the nonpayment issue is resolved. On behalf of older adults in Connecticut, AARP urges Committee members to vote against S.B. 233. Thank you!