



Testimony of Commissioner Michael P. Starkowski

Before the Human Services Committee

March 15, 2011

Good morning, Senator Musto and Representative Tercyak and members of the Human Services Committee. I am pleased to be here this morning to present testimony on a variety of bills, including the Governor's budget implementation bills and legislation introduced at the request of the department. I would like to thank the Committee for raising these bills. In addition, I am providing testimony on several other bills that impact the department.

Governor's Budget Implementation Bills:

S.B. No. 1012 AN ACT IMPLEMENTING THE GOVERNOR'S BUDGET RECOMMENDATIONS CONCERNING THE TRANSFER OF FUNCTIONS FROM THE BOARD OF EDUCATION AND SERVICES FOR THE BLIND AND THE COMMISSION ON THE DEAF AND HEARING IMPAIRED TO THE DEPARTMENTS OF EDUCATION AND SOCIAL SERVICES.

Under this proposal, the Commission on the Deaf and Hearing Impaired (CDHI) and certain functions of the Board of Education and Services for the Blind (BESB) will be consolidated within the Department of Social Services (DSS).

In an effort to achieve a smooth, seamless transition, the department has already begun discussions with the leadership at CDHI and BESB, and has meetings scheduled to begin work on a transition plan. We do not anticipate any effect on the quality of services being delivered, as the direct service staff is all transitioning with the program. This will make the transition more seamless for the customers of both CDHI and BESB.

The Department of Social Services is the state's lead agency for services to people with disabilities, and the designated state unit that oversees the Bureau of Rehabilitation Services (BRS). BRS receives federal funding to administer the Title I Vocational Rehabilitation and Title VI Supported Employment programs of the Rehabilitation Act of 1973. The mission of BRS is to create opportunities that enable individuals with significant disabilities to work competitively and live independently. BRS works to provide appropriate, individualized services, develop effective partnerships, and share

sufficient information so that consumers and their families may make informed choices about the rehabilitation process and employment options.

We feel that BRS is uniquely qualified to provide services to those with any and all disabilities, including those individuals who have blindness, visual impairment, deafness or hearing impairment. The bureau administers a wide variety of programs for Connecticut citizens with disabilities. Its programs cross the spectrum: from Disability Determination Services and Independent Living programs which assist individuals with access to cash benefits and basic independent living skills, to Vocational Rehabilitation, Supported Employment, Benefits Counseling, and Ticket to Work programs, which are designed to provide supports for individuals with disabilities who are working or about to enter employment. The bureau also offers an Assistive Technology program that provides devices, loans and guidance for individuals across all age groups.

Beyond traditional formula grant programs, the bureau actively seeks out opportunities for federal grants, and in the last five years, it has administered five additional grant programs, bringing over \$26 million to the state. The largest federal grant, a Medicaid Infrastructure Grant, is funded by the Centers for Medicare and Medicaid Services. This grant, known to most as Connect-Ability, supports an initiative to strengthen the competitive infrastructure around employment for people with disabilities. The impact of this grant is seen statewide, and we have won a number of awards, including the Excellence in Media award from the National Rehabilitation Association, and two Bell Ringer Awards: one for our Connect-Ability website, and another for a video demonstrating the successful career of Kathy Flaherty, a lawyer with bi-polar disorder.

The Vocational Rehabilitation program was recognized just last week with the Mutual of America Community Partnership Award for partnering with the Walgreens Distribution Center, Community Enterprises, and the Department of Developmental Services on an innovative employment model for people with disabilities. This has been an exciting partnership with tremendous outcomes. BRS took a leadership role in coordinating the employment process for people with disabilities. Since April 2009, when the distribution center opened, 42% of hires have been individuals with disabilities, and we are proud to have contributed to that success.

BRS has a strong track record of partnering with other state agencies. Positions are co-funded with both the Department of Mental Health and Addiction Services and the Department of Education. The bureau is working on a cross-agency data interoperability platform, and has multiple memoranda of agreement focused on improving the infrastructure of state agencies to support the employment of people with disabilities.

In summary, the Department of Social Services, encompassing the Bureau of Rehabilitation Services and other service areas for Connecticut residents with disabilities, is a appropriate and welcoming agency for the services of the Commission on Deaf and Hearing Impaired and certain services of the Board of Education and Services for the Blind (adult services, vocational rehabilitation, business enterprises and management). The Commission and Board have long been attached to DSS for 'administrative

purposes only.’ We look forward to coordinating and maximizing our services and economies of scale with the dedicated staff of CDHI and BESB.

S.B. No. 1013 AN ACT IMPLEMENTING THE GOVERNOR'S BUDGET RECOMMENDATIONS CONCERNING HUMAN SERVICES.

In these difficult times, it is critical that we strive to meet the needs of Connecticut’s residents while always being cognizant of the continuing budget and economic pressures the state is under. I am thankful for Governor Malloy’s reasoned and caring approach to maintaining a strong package of services for Connecticut’s neediest residents – at a time when other states are cutting deeply into critical human service programs.

While the urgent need to control spending means that there will be some service reductions and cost-sharing increases in the DSS budget, the safety net remains intact and caseload growth for the major entitlement programs is funded.

As Secretary Barnes has provided comprehensive written testimony on the bill, I will not go into a detailed explanation in my testimony; however I am happy to answer any questions you have about the provisions contained in the bill.

There are a few sections that the department requests changes to the language as currently written.

First, we propose the following change to Section 10 of the bill, regarding the use of stretcher vans to transport patients when medically appropriate.

Sec. 10. (NEW) (*Effective July 1, 2011*) (a) The Commissioner of Social Services shall only authorize payment for the mode of transportation service that is medically necessary for a recipient of assistance under a medical assistance program administered by the Department of Social Services. Notwithstanding any provisions of the general statutes or regulations of Connecticut state agencies, a recipient who requires nonemergency transportation and who must be transported in a prone position but who does not require medical services during transport may be transported in a stretcher van. The commissioner shall establish rates for nonemergency transportation provided by stretcher van.

(b) Notwithstanding any provision of the general statutes or the regulations of Connecticut state agencies, the Commissioner of Transportation shall adopt regulations, in accordance with chapter 54 of the general statutes, to establish oversight of stretcher vans as a livery service for which a permit [is] shall be required. The regulations shall prescribe safety standards for stretcher vans, including, but not limited to, a requirement that an attendant in addition to the driver shall accompany a person transported in a stretcher van.], provided certification issued by the Department of Public Health to provide transportation on a stretcher shall be

sufficient qualification to be issued a stretcher van permit by the Commissioner of Transportation.]

[Sec. 12. Subdivision (11) of section 19a-175 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2011*):

(11) "Invalid coach" means a vehicle used exclusively for the transportation of nonambulatory patients [, who are not confined to stretchers,] to or from either a medical facility or the patient's home in nonemergency situations or utilized in emergency situations as a backup vehicle when insufficient emergency vehicles exist;]

Second, with regard to the sections proposing to eliminate ConnPACE coverage for individuals who are eligible for Medicare, the department requests that the following section be inserted with the remaining sections renumbered accordingly. This change will ensure that all ConnPACE clients who are Medicare eligible meet the eligibility requirements for the Medicare Savings Programs.

Sec. 19. Section 17b-256f of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2011*):

Beginning October 1, 2009, and annually thereafter, the Commissioner of Social Services shall increase income disregards used to determine eligibility by the Department of Social Services for the federal Specified Low-Income Medicare Beneficiary, the Qualified Medicare Beneficiary and the Qualifying Individual Programs, administered in accordance with the provisions of 42 USC 1396d(p), by an amount that equalizes the income levels and deductions used to determine eligibility for said programs with income levels and deductions used to determine eligibility for the ConnPACE program under subsection (a) of section 17b-492. The commissioner shall not apply an asset test for eligibility under the Medicare Savings Program. The Commissioner of Social Services, pursuant to section 17b-10, may implement policies and procedures to administer the provisions of this section while in the process of adopting such policies and procedures in regulation form, provided the commissioner prints notice of the intent to adopt the regulations in the Connecticut Law Journal not later than twenty days after the date of implementation. Such policies and procedures shall be valid until the time final regulations are adopted.

Third, in Section 19 regarding the elimination of rate increases for Intermediate Care Facilities, the department requests the following technical correction to line 1164 which will allow for rate increases associated with the implementation of a user fee:

After the period, insert: "Notwithstanding the provisions of this section, the Commissioner of Social Services may, within available appropriations, increase rates issued to intermediate care facilities for the mentally retarded."

And finally, the department requests the following technical corrections:

Section 1 on line 165, after the period, insert:

“Notwithstanding the provisions of this section, the Commissioner of Social Services may, within available appropriations, increase rates issued to licensed chronic and convalescent nursing homes and licensed rest homes with nursing supervision.” This correction will allow for rate increases associated with the changes in the nursing home user fee.

Section 40, strike line 1793 and insert in its place:

“An institutionalized individual, as defined in subsection (B) of section 3029.05 of the Department of Social Services' Uniform Policy Manual, shall not be penalized for the”

On lines 1797 – 1798, delete “by the institutionalized individual”

Bills raised at the request of the Department:

H.B. No. 6552 AN ACT CONCERNING THE TRANSFER AND DISCHARGE OF NURSING FACILITY RESIDENTS.

The proposal is intended to clarify and make more explicit current statutes regarding the transfer, discharge and readmission of nursing facility residents.

The proposal is the product of a voluntary, informal work group convened by DSS and comprised of representatives from DSS, DPH, for-profit and non-profit nursing homes, legal services and the state long-term care ombudsman. The work group was convened for the purpose of reviewing state and federal law concerning the transfer, discharge and readmission of nursing home residents in light of some difficult cases and questions that have arisen in recent years. The group met monthly on an informal basis from March 2010 through the end of last year.

The proposed legislation accomplishes four main goals: 1) provides greater protections to residents of nursing facilities in the event of a proposed transfer, discharge or readmission after hospitalization; 2) encourages better communication and collaboration between hospitals and nursing facilities throughout the transfer, discharge and readmission process, 3) clarifies notice requirements and timelines for appeals and (4) tightens timelines for decision making.

More specifically, the proposal:

- Revises the definition of “self-pay” to exclude a nursing facility resident who has filed an application for Medicaid, but not yet been determined eligible, provided the resident is timely and fully responding to DSS requests for information necessary to determine eligibility.
- Specifies that a nursing facility resident may request a hearing within sixty days of a notice of proposed transfer or discharge, may stay a proposed discharge by initiating an appeal within 10 days of notice and provides an exception to that date for good cause.
- Requires that a final decision in a hearing to contest a nursing facility transfer or discharge must be issued within thirty days from the close of the hearing record, as opposed to the current sixty days.
- Clarifies that a hearing officer may order a facility to readmit a resident, a remedy that is not currently specified in statute, and further clarifies circumstances where a resident retains the right to be readmitted to a facility from which he or she has been discharged.
- Establishes a distinct right to a hearing for a nursing home resident that has been denied readmission to a nursing facility from which he has been discharged.
- Establishes a mandatory consultation between the nursing facility, the hospital and the resident who has been transferred to the hospital from a nursing facility when the transferring facility has concerns about whether the facility can care for the resident upon readmission.
- Clarifies that each day a nursing facility fails to readmit a resident in violation of law shall be a separate violation for the purposes of assessing a penalty.
- Requires a nursing home receiver to comply with resident notice requirements when overseeing a facility closure.
- Requires a hospital to provide a nursing facility with access to a patient and his records for the purpose of care planning when the hospital is proposing discharge of the patient to the facility.

The department requests the following revisions to the bill as currently written:

In line 54, bracket “patient” and insert “resident” after the closing bracket

In line 65, after the comma insert “the date by which an appeal must be initiated,”

In line 90, delete “facility” and substitute “Department of Social Services” in lieu thereof

Bills with DSS Impact:

H.B. No. 6550 AN ACT CONCERNING MEDICAID COVERAGE FOR SMOKING CESSATION TREATMENT.

This legislation requires that DSS amend the Medicaid state plan to provide coverage for treatment for smoking cessation recommended by a licensed health care provider effective July 1, 2011. It should be noted that the Governor's budget recognizes the benefits of this coverage under Medicaid and includes funding to support this expansion beginning on January 1, 2012. Additional funding of approximately \$3.75 million beyond that recommended in the Governor's budget would be required if this bill were to move forward with the earlier effective date.

The bill would require a prescription from a licensed health care provider for legend drugs. In addition, the bill requires treatment for smoking cessation be consistent with the United States Public Health Service clinical practice guideline for tobacco use and dependence and must include (1) legend and over-the-counter drugs, and (2) counseling by a physician, qualified clinician or other person trained and experienced in providing tobacco use cessation counseling.

The Department is concerned about the last sentence of the first provision of the bill, which reads "Coverage under the Medicaid state plan, as amended in accordance with this section, shall be limited to not more than two treatment plans per year for each Medicaid beneficiary." We understand that the intent of this language is to achieve cost effectiveness. We are interested in working with legislators to determine the most medically appropriate and fiscally sound way to address this issue.

H.B. No. 6551 AN ACT CONCERNING POLICIES AND PROCEDURES FOR THE ADMINISTRATION OF MEDICATION TO RESIDENTS OF RESIDENTIAL CARE HOMES.

The department recognizes the concerns that this bill is attempting to address, specifically, the somewhat burdensome requirements imposed pursuant to Section 19a-495 for mandatory certification of unlicensed personnel to administer medication in residential care homes. It is worth noting here that when the department issued a Request for Applications (RFA) for interested parties to perform the certification training, we did not receive a single response to the RFA. We would like to work together with this committee, interested parties and the agencies involved to find a solution that addresses the root cause of this problem, which is the high cost to the state of medication administration.

H.B. No. 6587 AN ACT CONCERNING THE DEPARTMENT OF SOCIAL SERVICES' ESTABLISHMENT OF A BASIC HEALTH PROGRAM.

This bill requires the department to establish a basic health program for uninsured individuals with incomes between 133 – 200% FPL, which is an option available under the federal Affordable Care Act (ACA). Specifically, this bill 1) requires DSS to establish a basic health program on or after January 1, 2014 that mirrors the benefits under the Medicaid program and 2) creates a basic health program non-lapsing account that will be administered by the Sustinet Authority.

At this early stage in the development of this option under the ACA, the department must oppose this bill. There is a considerable amount of essential information which is currently unknown. For instance, the basic health program will be funded by the federal government providing the state 95% of the premium subsidies it would have provided if individuals with incomes between 133 – 200% FPL would have purchased coverage through the Exchange. Those premium subsidies will be tied to the Essential Health Benefits Package, which has yet to be developed by the Department of Health and Human Services. Because HHS is not expected to finish its work until later this year, it will be some time before states know whether the 95% of premium subsidies the federal government would have paid in the Exchange would ultimately save or cost money. In addition, the state should study whether it is best for individuals to have a basic health program available or rather to have the ability to get subsidies through the Exchange – if the state develops a BHP then individuals with incomes between 133 – 200% FPL will not be able to get subsidies through the Exchange.

It is our understanding that the Office of Policy and Management's federal Exchange Planning Grant should provide some data to help in this decision later this summer. This data, coupled with guidance from HHS, should give the state the information it needs to make an informed, reasoned decision.

This bill also commits the state to provide the basic health program with the same benefits as under Medicaid. Again, without more information and guidance from HHS, it would be imprudent to commit the state to this level of benefits.

Since a BHP can't be implemented until 2014, we believe it is more appropriate to have the legislature and the Governor address this issue in the 2012 session once it has more information in hand.

S.B. No. 1146 AN ACT CONCERNING THE RESERVATION OF SECURITY DEPOSIT GUARANTEES TO ASSIST PARTICIPANTS IN THE SECTION 8 HOUSING CHOICE PROGRAM AND THE RENTAL ASSISTANCE PROGRAM WITH MOBILITY MOVES.

Proposed Bill 1146 would expand eligibility in the Security Deposit Guarantee Program to include a population that was previously ineligible, namely, applicants that already

have housing. Currently, in order to qualify, applicants must be homeless, in danger of homelessness or have been selected from a housing authority's waiting list and just been issued their first Section 8 Voucher or RAP Certificate. Demand for the program is great and already strains the limits of available funding. DSS must prioritize this limited funding for those who are most in need, including those who are moving out of institutional settings under the Money Follows the Person program.

It is worth noting that the Governor's budget assumes savings due to the program changes proposed in the budget. These changes are meant to make the program more efficient and less subject to fraud and abuse, which will help to ensure that those truly in need are receiving the benefit of the program.