



OLR RESEARCH REPORT

December 19, 2011

2011-R-0493

LEGISLATIVE OVERSIGHT OF PROPOSED LIA CHANGES

By: Robin K. Cohen, Principal Analyst

You asked whether changes the Department of Social Services (DSS) is proposing or the legislature approved for the Medicaid Low-Income Adults (LIA) program are subject to legislative oversight.

The Office of Legislative Research is not authorized to give legal opinions and the following should not be considered one.

SUMMARY

Since 2010, DSS has operated the Medicaid for Low-Income Adults (LIA) program, which provides Medicaid-funded health care to low-income, childless adults. According to DSS, the program has grown beyond expectations and is putting considerable pressure on DSS' Medicaid budget. To address this, DSS has submitted a "demonstration" proposal to the federal government to control program costs, including limiting enrollment and services, for its comments. PA 11-44 already provides DSS with a mechanism to control LIA costs by allowing the department to provide an alternative benefit package to program enrollees. By law, both the demonstration proposal and the creation of an alternative LIA benefit package appear to be subject to legislative review.

The law requires DSS to submit applications for virtually any federal waiver of assistance program requirements to the Human Services and Appropriations committees for their review before submitting the request to the federal government. A demonstration program, such as the one presented in the DSS letter, would require a federal waiver. Therefore, the committees' approval would seem to be required if DSS formally submits the demonstration request.

PA 11-44 requires DSS to obtain the committees' approval before submitting state plan amendments for program changes that would have required federal waivers but for the passage of the federal Affordable Care and Patient Protection Act of 2010 (ACA) (P.L. 111-148, as amended by P.L. 111-152, codified in 42 USC § 1396a(k)(2)). PA 11-44 also permits DSS to implement an alternative benefit package for LIA recipients. To do this, DSS would have to amend the Medicaid state plan. And since federal Medicaid law before the passage of the ACA does not contemplate an alternative benefit package for this group of individuals, it would appear that states wishing to include them in their Medicaid program would need a federal waiver to do so. Thus, under PA 11-44, DSS appears to need the committees' approval to implement an alternative benefit package.

DEMONSTRATION WAIVER

The demonstration program DSS proposes in its October 27, 2011 letter to the federal Medicaid agency would restrict LIA enrollment and contain costs by (1) imposing an asset test, (2) counting parental income, and (3) limiting benefits to LIA enrollees. In its letter, DSS suggests that these changes would be implemented under a federal Section 1115 demonstration waiver.

State law requires the DSS commissioner to submit applications for federal waivers of any assistance program requirement, except those pertaining to routine operational issues, to the Human Services and Appropriations committees for their review. The law sets out a process that the committees must follow and timelines. The committees can approve, amend, or deny the application and the DSS commissioner must act in accordance with the committees' decision ([CGS § 17b-8](#)).

Thus, it appears that such a waiver request would be subject to legislative oversight.

STATE PLAN AMENDMENT

PA 11-44 (§ 116) authorizes DSS to establish an alternative benefit package for LIA enrollees. To implement such a package, DSS needs to file a state Medicaid plan amendment with the federal government. PA 11-44 sets up a legislative review process for amendments that pertain to the ACA.

Specifically, PA 11-44 (§ 144, effective July 1, 2011) requires the DSS commissioner to follow a legislative oversight process when seeking a state plan amendment for any change in program requirements that otherwise would have required a waiver but for passage of the ACA. PA 11-44's oversight process is virtually the same as the one the law sets for federal waivers.

The ACA requires states to provide Medicaid coverage to anyone with income up to 133% of the federal poverty level starting in 2014. The act gave states the option of expanding Medicaid coverage as early as April 2010, and Connecticut was the first state to do this, essentially converting the state-funded State-Administered General Assistance program (primarily single, childless adults) into a state and federally funded program under Medicaid (children and their caretaker adults were already covered by the Medicaid-funded HUSKY A program). It did this through a Medicaid state plan amendment.

Currently, LIA benefits are no different than the benefits for any other Medicaid recipient. But the ACA permits states to have alternative benefit packages. DSS' current Medicaid state plan indicates that LIA recipients receive the same benefits as other Medicaid recipients. If DSS were to adopt the alternative benefit package, it would have to amend the state plan. While the federal ACA allows states to adopt an alternative benefit plan, in the absence of such authority, it is likely that a federal waiver would be required. Arguably, this position is supported by the fact that DSS is proposing an 1115 waiver that includes an alternate benefit package.

Therefore, if DSS were to adopt an alternative benefit package for LIA enrollees, legislative oversight would appear to be required.

RC:ts