LeadingAge™
Connecticut
Formerly CANPFA

Testimony to the Human Services Committee

Regarding

Senate Bill 394, An Act Concerning Medicaid Eligibility and the Identification and Recovery of Assets

Senate Bill 395, An Act Increasing the Personal Needs Allowance for Certain Long-Term Care Facility Residents

House Bill 5475, An Act Concerning Nursing Homes

House Bill 5476, An Act Expanding Consumer Choice for Skilled Nursing Care at Home

House Bill 5480, An Act Concerning Increasing Community-Based Care for Elderly Medicaid Recipients

House bill 5482, An Act Expanding the Congregate Meals Program for the Elderly

House Bill 5483, An Act Concerning Coverage of Telemedicine Services Under Medicaid

Presented by Mag Morelli, President of LeadingAge Connecticut

March 13, 2012

Good afternoon Senator Musto, Representative Tercyak and members of the Human Services Committee. My name is Mag Morelli and I am the President of LeadingAge Connecticut, a membership association of over 130 mission-driven and not-for-profit provider organizations serving older adults across the entire continuum of long term care. *(LeadingAge Connecticut was formerly known as the Connecticut Association of Not-for-profit Providers for the Aging or CANPFA.)* LeadingAge Connecticut members are sponsored by religious, fraternal, community and municipal organizations and are dedicated to expanding the world of possibilities for aging.

We have submitted written testimony on several bills before you today and I would like to speak in support of one of those bills, ***Senate Bill 394, An Act Concerning Medicaid Eligibility and the Identification and Recovery of Assets.***

LeadingAge Connecticut would like to thank the Committee for raising this bill which proposes to ease the financial burden placed on nursing homes when a Medicaid penalty period is imposed on a nursing homes resident. This legislation would also strengthen asset recover efforts and insert common sense rules into the eligibility process. We believe that modifying the regulations in this manner will not only assist nursing homes, but will also promote the use of private resources to pay for nursing home care rather than encouraging a reliance on Medicaid funding.

All of the issues addressed in this bill center around the process of a nursing home resident applying to qualify for the Medicaid program so that Medicaid will assume payment for their nursing home stay. A nursing home resident's Medicaid application is often one of the most difficult applications for a state eligibility worker to process. The look back period is five years long and the spend down process may involve multiple bank accounts, investments, insurance policies and other assets that the resident has accumulated over decades. It is for just this reason that many such applications sit pending in the state office for months and months.

Intentionally Transferred Assets

Most nursing home residents are not admitted to the facility as Medicaid recipients. The typical resident spends down their assets paying for their nursing home care before applying for Medicaid. Once they apply, the state conducts the five year look back as part of the eligibility process. If a determination is made by the state that within the look back period, the resident intentionally and inappropriately transferred assets so as to qualify for Medicaid, the state will impose a **penalty period** on the nursing home resident. During that penalty period, Medicaid will not pay for that resident's nursing home care. The length of a penalty period is calculated to be equal to the amount of the transferred asset. A $100,000 transferred asset is calculated into a penalty period equal to $100,000 of nursing home care. The resident remains in the nursing home for that amount of time, but with no source of payment. In these cases, it is impossible for the facility to discharge the resident as no other facility will accept them under these circumstances.

Nursing homes are the only providers in the continuum that are required to provide this level of uncompensated care during Medicaid penalty periods.

One LeadingAge Connecticut nursing home was notified in 2010 that one of their residents intentionally transferred $700,000 and therefore was placed into a penalty period that will last until 2016. That nursing home is now expected to provide skilled care to that resident for five and half years without any payment.

Nursing homes cannot afford to provide these extended periods of uncompensated care to residents who have purposely given away their private assets to avoid paying for their nursing home care. This is not an issue for resident who *un*intentionally gift assets – only for those who do so with the intention of avoiding payment for the nursing home care.

We urge you to pass this legislation which would provide nursing homes with financial relief during extended Medicaid penalty periods if the nursing home has already made an effort to recover the transferred asset and if the nursing home resident has not applied or qualified for a hardship waiver.

Assisting in Recovery of Assets

Nursing homes not only incur the total cost of providing care during a penalty period, they also bear the sole burden of pursuing recovery of the missing or transferred asset. While the nursing home is limited to pursuing collection from the nursing home resident, state statute currently allows the state to pursue recovery of the asset from the person who actually received it – *but only* if the state has paid for medical assistance during the time of the penalty period.

Unfortunately, because the state does not currently pay the nursing home during the penalty period, this statute is of no assistance to our recovery or collection efforts. However, if the state provides financial relief to a nursing home during the time of a penalty period, as is proposed in

this legislation, the state payments would trigger the existing statute and allow the state to pursue recovery of the transferred asset.

We believe that involving the state in the recovery effort will not only increase the amount of recovered assets, but will also influence the behavior of consumers who might otherwise attempt to move assets when a relative is admitted to a nursing home. We believe that consumers will be more fearful of intentionally taking an asset from a nursing home resident if they believe that the state will assist the nursing home in pursuing collection.

Single Disqualifying Asset

A nursing home resident is deemed eligible for Medicaid once their assets are spent down to less than $1,600. If a Medicaid applicant is found to have an asset that is more than that, it is considered a "disqualifying asset" and the applicant is not eligible for Medicaid during the month in which they possessed the disqualifying asset. The difficulty occurs when a single disqualifying asset is not discovered right away or cannot be easily liquidated and serves to deem the applicant ineligible for each month that they possessed the asset. A simple example would be if you applied for Medicaid in January and it was discovered in June that you possessed a $2,000 disqualifying asset, then that asset disqualified you in January, in February, in March, in April, in May, and then in June. Six months of ineligibility because of a $2,000 asset.

The delays in processing Medicaid applications have exacerbated this problem. Medicaid applicants are being deemed ineligible for several months due of the *delayed discovery* of a single disqualifying asset that triggers ineligibility for all the months the application sat pending in the state office. It might be just a $5,000 life insurance policy purchased fifty years ago that no one was aware of at the time of the application, but it will deem the person ineligible for all the months that application sat waiting to be processed. *And the nursing home will not be paid for those months of care provided.* Similarly, single disqualifying assets that are difficult to liquidate have historically caused distressing eligibility situations and months of uncompensated care. This proposed legislation offers a common sense solution that *acknowledges* and *accounts* for the disqualifying asset without causing extended periods of uncompensated care.

Again, we thank the Committee for raising this bill and addressing these crucial issues.

Senate Bill 395, An Act Increasing the Personal Needs Allowance

LeadingAge Connecticut supports this and other bills proposed to increase the amount of the nursing home resident's personal needs allowance which was reduced in the last legislative session. The additional amount of money provided through an increase can enhance an individual's personal experience and quality of life as a resident of a skilled nursing facility.

House Bill 5475, An Act Concerning Nursing Homes

LeadingAge Connecticut appreciates the proposal to conduct this study of the factors deemed pertinent to nursing home quality of care and the current nursing home bed need, but it is our understanding that theses same issues are expected to be addressed by the consultants currently assisting in the development of the Long Term Care Rightsizing Strategic Plan being conducted through the Money Follows the Person Program.

House Bill 5476, An Act Expanding Consumer Choice for Skilled Nursing Care at Home

LeadingAge Connecticut promotes a long term care system that provides for consumer choice, but we have some concerns and reservations with this specific proposal to create the independent practice of nursing. First, we do not understand why the current licensed home care field can not meet the consumer demand articulated in this bill. It appears that this proposal

is challenging the home health care agency model of care and we do not understand why. Second, we are concerned with how this proposal changes the current scope of practice for nursing and how those changes will affect other elements of the health care field. Third, the creation of a central registry raises questions regarding whether the registry will be exclusive and whether consumers would be able to choose outside of the registry. At this point this bill raises too many concerns and we are not be in a position to support it.

House Bill 5480, An Act Concerning Increasing Home and Community-Based Care for Elderly Medicaid Recipients
LeadingAge Connecticut would support the state's effort to apply for the State Balancing Incentive Payment Program.

House Bill 5482, An Act Expanding the Congregate Meals Program for the Elderly
LeadingAge Connecticut supports efforts to increase support and funding for the elderly nutrition programs. Funding for the nutrition programs has not increased for several years, but the costs associated with the delivery of congregate and home delivered meals have dramatically increased over that same period and the result has been a reduction in the ability to provide the same level of service to our elderly. It is critical that we increase support and provide an adequate level of service because affordable, nutritious meals for seniors are essential for their health and well-being. For many, the meal they receive at the congregate meal sites or through home delivery is the only nutritious meal they can afford. That is why we support this bill to expand the Congregate Meals Program for the Elderly.

House Bill 5483, An Act Concerning Coverage of Telemedicine Services Under Medicaid
LeadingAge Connecticut believes that technology will transform the aging experience and that telemedicine will play a crucial role in the future of aging services. LeadingAge CAST has just released an analysis of state payments for Aging Services Technologies (AST) and the link to that report is printed below. The analysis shows that 44 states reimburse for Personal Emergency Response Systems (PERS), 16 states reimburse for medication management and seven states reimburse for home telehealth/telemonitoring. While this is promising, we do remain cautious regarding the reimbursement for telemedicine. Precautions must be in place to ensure a standard of care that is required by state statute and regulation. We would therefore recommend that Medicaid reimbursement be limited to telehealth/telemonitoring that is being performed by licensed Connecticut providers.

Link to the CAST Analysis of State Payments for AST:
http://www.leadingage.org/uploadedFiles/Content/About/CAST/CAST_State_Paymen_%20Analysis.pdf

Thank you for this opportunity to testify and I would be glad to answer any questions.

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