

IMPORTANT: Read instructions on back of last page (Certification Page) before completing this form. Failure to comply with instructions may cause disapproval of proposed Regulations

State of Connecticut
REGULATION
of

NAME OF AGENCY
Department of Social Services

Concerning

SUBJECT MATTER OF REGULATION
Connecticut Statewide Respite Program

Section 1. Sections 17b-349e-1 to 17b-349e-9, inclusive, of the Regulations of Connecticut State Agencies are amended as follows:

Sec. 17b-349e-1. Scope

(a) Sections 17b-349e-1 to 17b-349e-9, inclusive, of the Regulations of Connecticut State Agencies, describe administration, eligibility criteria, provider qualifications, service parameters [,] and funding guidelines for the [demonstration program known as] Connecticut Statewide Respite Care Program. [and] Sections 17b-349e-1 to 17b-349e-9, inclusive, of the Regulations of Connecticut State Agencies apply to all activities and persons participating in the Connecticut Statewide Respite Program, including, but not limited to, applicants, eligible [persons] individuals, caretakers, sponsor agencies [,] and providers.

(b) Pursuant to section 17b-349e of the Connecticut General Statutes, the Connecticut Statewide Respite Care [demonstration program] Program is limited to the provision of and payment for respite care for individuals with Alzheimer’s disease or related disorders as described in sections 17b-349e-1 to 17b-349e-9, inclusive, of the Regulations of Connecticut State Agencies.

Sec. 17b-349e-2. Purposes

The [purposes] purpose of the Connecticut Statewide Respite Care Program [are] is to[:] provide, within available appropriations, the following services:

(1) [Provide respite] Respite care services for individuals with Alzheimer’s disease residing in the community in order to relieve some of the stress [to] experienced by caretakers caused by the responsibility of daily caregiving;

(2) [Prevent] supportive services to relieve caregivers in order to prevent premature institutionalization of an individual with Alzheimer’s disease [by providing supportive services to relieve caretakers]; and

(3) [Provide] new services, or expand available services, for eligible individuals with Alzheimer's disease residing in the community.

Sec. 17b-349e-3. Definitions

For the purposes of [Sections] sections 17b-349e-1 to 17b-349e-9, inclusive, of the Regulations of Connecticut State Agencies, the following definitions shall apply:

(1) "Adult day health services" means a program, of either [the "medical" or "social"] a medical or social model, designed to meet the needs of cognitively or physically impaired adults through a structured, comprehensive program that provides a variety of health, social and related support services, in a protective setting, during any part of a day; [.]

[(2)] (2) "Authorized agent" means a conservator of the person or other legally appointed guardian, any individual who has been designated by an applicant to act on his or her behalf, a representative payee designated by the Social Security Administration, or a staff person of a public or private social service agency, of which an applicant is a client, who has been designated by the applicant to act.]

[(3)] (2) "Campership" means a day or overnight accredited camp program for functionally impaired adults; [.]

[(4)] (3) "Caretaker" or "caregiver" means ["caretaker" as defined in section 17b-349e of the Connecticut General Statutes.] a person who has the responsibility for the care of an eligible individual with Alzheimer's disease or has assumed the responsibility of such individual voluntarily, by contract or by order of a court of competent jurisdiction;

[(5)] (4) "Commissioner" means the [commissioner of the department of social services.] Commissioner of Social Services;

[(6)] (5) "Companion service" or "sitter [services] service" means a non-medical, basic protection and supervision service [, which is, provided for the eligible person] provided to an eligible individual in [his or her] the eligible individual's home on a short-term basis; [Companion or sitter services provide company to the eligible person in a protective and supervisory capacity.]

[(7)] (6) "Copayment" means ["copayment" as defined in section 17b-349e of the Connecticut General Statutes.] a payment made by or on behalf of an eligible individual with Alzheimer's disease for respite care services;

[(8)] (7) "Department" means the [Connecticut department of social services.] Department of Social Services;

[(9)] (8) "Division" means the department's division of [elderly] aging services; [.]

[(10)] (9) "Eligible [person] individual" means an applicant who meets the eligibility criteria as set forth in [sections 17b-349e-1 to 17b-349e-9, inclusive,] section 17b-349e-6 of the Regulations of Connecticut State Agencies; [.]

[(11)] (10) "Homemaker [/home health aide] services" means household tasks and activities provided to [recipients] an eligible individual in [their homes] the eligible individual's home by a

homemaker [or home health agency], including, but not limited to, cooking, cleaning, laundry, mending [,] and other light household chores; [.]

[(12)] (11) “[Homemaker] Home health aide services” means services [which] that include personal hands-on care, [house-hold] household tasks [,] and similar activities provided to [recipients] an eligible individual in [their homes] the eligible individual’s home by a [homemaker or] home health agency; [.]

[(13)] (12) “Income” means any payment from any source and of any kind including, but not limited to, Social Security (minus Medicare Part B premiums), Supplemental Security, Railroad Retirement income, pensions, wages, interest, dividends, net rental income, veteran’s benefits [,] or any other payments received on a one-time or recurring basis; [.]

[(14)] (13) “Individual with Alzheimer’s disease” [means “individual with Alzheimer’s disease” as defined] has the same meaning as provided in section 17b-349e of the Connecticut General Statutes; [.]

[(15)] (14) “Liquid assets” means any checking accounts, savings accounts, individual retirement accounts, certificates of deposits, stocks [,] or bonds, that can be converted into cash within [20] twenty working days; [.]

[(16)] (15) “Personal emergency response system” means a twenty-four hour electronic alarm system which enables a high risk individual to secure help in a medical, physical, emotional or environmental emergency; [.]

(16) “Personal care assistant services” means physical assistance to enable the eligible individual to carry out activities of daily living and instrumental activities of daily living. These services are provided by a person who is employed by the eligible individual or the eligible individual’s representative to assist the eligible individual in carrying out the tasks required in the service plan;

(17) “Private duty nursing” means hourly services delivered by licensed nursing personnel in the eligible [person’s] individual’s home; [.]

(18) “Program” means the Connecticut Statewide Respite Care Program; [.]

(19) “Provider” means a person, public agency, private non-profit agency [,] or proprietary agency [which] that is licensed, [or] certified or otherwise approved by the commissioner to supply any service, or combination of services, described under “respite care services” as defined in this section; [.]

(20) “Representative” means a person designated by an eligible individual or the probate court to act on the eligible individual’s behalf. A representative may include a family member, an attorney, a guardian, a conservator or a person designated by the eligible individual to act as the eligible individual’s representative;

[(20)] (21) “Residential health care facility” means a facility [which] that, on a short-term basis, provides food, shelter, supervised health care and related services to four or more persons, [18]

eighteen years of age or older, who are unrelated to the owner or administrator; [.]

[(21)] (22) “Respite care services” means support services [which] that provide short-term relief from the demands of ongoing care for an individual with Alzheimer’s disease provided hourly, daily, overnight [.] or on weekends including, but not limited to, companion or sitter services, home health aid services, homemaker services, [and] personal care assistant services, adult day health services, short-term inpatient care in a licensed nursing facility, residential health care facility [or], overnight campership program, private duty nursing, transportation [.] and the personal emergency response system; [.]

[(22)] (23) “Service plan” means a written document agreed upon by the eligible [person] individual, the caretaker [.] and the sponsor agency [which] that specifies the type, frequency [.] and duration of services to be provided. The service plan shall take into account other services available to the eligible [person] individual and [his] the eligible individual’s caretaker; [.]

[(23)] (24) “Sponsor agency” means the [regional Area Agency on Aging which] organization that contracts with the department to administer the regional program, determine eligibility[,] and arrange for services for eligible [persons.] individuals; and

[(24)] (25) “Relative” means spouse, natural parent, child, sibling, adoptive child, adoptive parent, stepparent, stepchild, stepbrother, stepsister, father-in-law, mother-in-law, son-in-law, daughter-in-law, sister-in-law, brother-in-law, grandparent, grandchild, aunt, uncle, niece[,] or nephew.

Sec. 17b-349e-4. Organization and administration of program

(a) The division shall oversee and regularly monitor the administration of the program as follows:

(1) The division shall ensure that [the original allocation of] the first \$500,000 of funds appropriated is distributed in equal shares among Connecticut’s five regional Area Agencies on Aging as sponsor agencies administering the program. The division may allocate [additional funds] appropriations exceeding \$500,000 to sponsor agencies based upon the demonstrated level of need for services in a particular region, and may transfer funds between regions based upon the demonstrated level of need in a particular region. A percentage of each allocation to the [sponsors] sponsor agencies shall be designated to cover the cost of administering the program.

(2) The division shall regularly monitor the administration of the program to ensure, verify[,] and determine the effectiveness and quality of the program.

[(3)] Not later than January 1, 2000, the division shall submit a program report to the commissioner analyzing the strengths and shortcomings of the demonstration, including the number of individuals served, the number and types of services offered under the program and the average cost per service, and the effectiveness of the program at reducing admissions of such individuals to long-term care facilities.]

(b) Sponsor agencies statewide shall administer the program at a regional level as follows:

(1) Sponsor agencies shall process program applications for eligibility, [and] establish service plans and contract for services when applicable, for eligible [persons] individuals within their designated regions.

(2) Sponsor agencies shall monitor client satisfaction and compile and submit reports to the division as required.

Sec. 17b-349e-5. Application process

(a) The application process includes all activity related to a request for a determination of eligibility under the program. The process begins with the receipt of an application by [or on behalf of] a sponsor agency and continues in effect until there is an official disposition of the eligibility request from that sponsor agency.

(b) The sponsor agency servicing the city or town in which the applicant resides shall [make a determination of eligibility and] perform appropriate assessments and make a written determination of eligibility within [30] thirty days after the receipt of an application.

(c) When the applicant is incompetent or incapable of filing an application on [his or her] the applicant's own behalf, the sponsor agency shall recognize any [authorized agent] representative as defined in section 17b-349e-3 of the Regulations of Connecticut State Agencies for the purpose of initiating such application.

(d) Each sponsor agency has the responsibility to explain to the applicant or the applicant's representative the purposes and eligibility requirements of the program and [explain] the applicant's rights and responsibilities. Each sponsor agency shall accept and process applications and maintain files that shall [including] include applications and documents supporting each application.

(e) The applicant [has the responsibility to complete] is responsible for completing the application forms truthfully, legibly [,] and accurately. [and] The applicant shall provide the sponsor agency with documentation [as] required [which supports] to support statements made on the application.

(f) Each applicant or eligible [person] individual shall notify the sponsor agency whenever a change in his or her circumstances relating to income, assets[,] or address occurs.

[(g) Each sponsor agency shall provide an applicant with a written statement of eligibility determination within 30 days of receipt of the application.]

Sec. 17b-349e-6. Eligibility

(a) An eligible [person] individual shall be any [individual] person diagnosed with Alzheimer's or related diseases [as defined in section 17b-349e of the Connecticut General Statutes]. [Applicants] Eligible individuals who have been given a generic diagnosis of dementia shall have had a sufficient medical evaluation to rule out unrelated conditions such as depression, traumatic brain injury, alcoholism [,] or drug interactions. [Applicants] Eligible individuals shall [also be expected to] have a physician [contact] with whom the sponsor agency [can work on behalf of the applicant] may contact regarding the eligible individual. The physician shall certify that the [applicant] eligible individual has completed an appropriate medical examination showing a diagnosis of irreversible and deteriorating dementia of the Alzheimer's type [as defined in section 17b-349e of the Connecticut General Statutes].

(b) An eligible [person] individual shall be a resident of the state of Connecticut, be residing in a home in the community [,] and be at risk of long-term institutional placement if [his or her] the eligible individual's regular caretaker [could] can not continue in that role.

(c) An eligible [person may] individual shall not have an annual income [which exceeds thirty thousand dollars (\$ 30,000), nor may an eligible person have liquid assets exceeding eighty thousand dollars (\$ 80,000)] or liquid assets that exceed the amounts designated in section 17b-349e of the Connecticut General Statutes. On July 1, 2009, and annually thereafter, the department shall recalculate the income and asset limitations over that of the previous year to account for the annual cost of living adjustment in Social Security income, if any.

[(d) An eligible person may not be eligible for, nor receiving, Medicaid benefits.]

(d) An individual receiving services through the Connecticut Homecare Program for Elders shall not be eligible for services under the Connecticut Statewide Respite Care Program.

Sec. 17b-349e-7. Sponsor agency requirements

(a) Each sponsor agency shall contract annually with the department to administer the regional program. [and] Each sponsor agency shall determine the maximum number of eligible [persons] individuals to be served in its respective region based on the financial allocation made by the department. The sponsor agency shall not admit or serve more eligible [persons] individuals than can be afforded within available [resources] appropriations.

(b) Each sponsor agency shall determine the eligibility of all applicants for services under the program, additional sources of payment for such services [,] and assess and collect all co-payments through retrospective billing.

(c) Each sponsor agency shall develop, as necessary, a service plan for each eligible [person, as necessary,] individual to be served under the program, pay providers as required, provide statistical and financial reports as required by the department, and comply with sections 17b-349e-1 to 17b-349e-9, inclusive, of the Regulations of Connecticut State Agencies.

Sec. 17b-349e-8. Provider qualifications and requirements

(a) Providers shall enter into contracts with sponsor agencies for the delivery of respite care services to individual clients under the program, and shall be accountable to each contracting sponsor

agency as well as to individual clients or each individual's representative for the provision of those services.

(b) Providers shall have demonstrated prior experience and training in delivering services to individuals with Alzheimer's disease [,] and agree to provide services at the rates set by the department.

(c) Providers who have received accreditation by the [joint commission on the accreditation of healthcare organizations] Joint Commission on the Accreditation of Healthcare Organizations, when available, shall receive preference in contracting for services.

(d) Providers shall meet the requirements of provider participation of the specified services as established for the Connecticut Home Care Program for Elders, pursuant to [Section] section 17b-342-2 of the Regulations of Connecticut State Agencies to the extent that such requirements do not conflict with sections 17b-349e-1 to 17b-349e-9, inclusive, of the Regulations of Connecticut State Agencies.

(e) A provider of services under [this program] the Connecticut Statewide Respite Program shall not be a [relative] spouse or conservator of the person receiving the services. A relative of the conservator of the eligible individual receiving the services may be a provider of service with prior approval of the department.

Sec. 17b-349e-9. Service, payment and cost limitations; fees

(a) The department shall determine provider reimbursement and payment levels for the respite care services to be provided under the program. Reimbursement levels for services provided under the program shall not exceed the levels established under the Connecticut Home Care Program for Elders for similar services.

(b) [Eligible persons] An eligible individual may not receive more than three thousand five hundred dollars (\$3,500) for respite care services or receive more than thirty [(30)] days of out-of-home respite care services, other than adult day care, under the program in any fiscal year. An eligible individual may receive additional respite services not to exceed seven thousand five hundred dollars (\$7,500) if the eligible individual has demonstrated to the sponsor agency a need for additional respite care services. A sponsor agency may consider various factors to determine if an eligible individual needs additional respite care services including, but not limited to, whether:

- (1) The primary caregiver is experiencing a physical or mental impairment;
- (2) the caregiver is not receiving any other respite services;
- (3) the client is physically or emotionally abusive to the primary caregiver;
- (4) the client is at risk for neglect or abuse; or
- (5) the burden of care is significant.

(c) Service levels are subject to the limits of the funding allocations to an eligible [person's] individual's sponsor agency. In the event that it appears that all requests for services cannot be accommodated within funding allocations, then approval for services under the program may be limited. Priority for the receipt of services shall be determined by the [Sponsor] sponsor agency on a case by case basis, giving primary consideration to the following factors:

- (1) The [applicant] eligible individual is not currently receiving any other respite care;
- (2) [The caretaker] the caregiver is experiencing physical [and/or] or mental impairments[,] and has primary responsibility for caring for the [applicant] eligible individual;

(3) [The applicant] the eligible individual has been combative, non-compliant or physically or mentally abusive to [his caretaker] the caregiver;

(4) [Respite] respite care services are being requested for a specific event or commitment rather than for ongoing, periodic services; [and] or

(5) [The applicant] the eligible individual lives alone.

(d) If an eligible [person's] individual's respite care service costs are covered in whole or in part by another [State or Federal] state or federal government program or insurance contract, the government program or insurance carrier shall be the primary payer and the Connecticut Statewide Respite Care Program shall be the secondary payer.

(e) [Eligible persons] An eligible individual shall pay a copayment of twenty per cent of the cost of all respite care services to the sponsor agency as required, unless granted a reduction or a waiver of the copayment in accordance with subsection (f) of this section. The copayment shall be applied to the cost of program services.

(f) The sponsor agency may [seek a reduction or waiver of the copayment requirement through submission of a written request to the Elderly Services Division, Department of Social Services, 25 Sigourney Street, Hartford, Connecticut 06106. Requests for reduction or waiver of copayment shall be considered] grant a reduction or waiver of the copayment to an eligible individual based upon demonstration of financial hardship by the applicant as determined by the sponsor agency. [No reduction or waiver of a copayment may be made without written Department approval. The amount by which a copayment is either reduced or waived shall be payable by the sponsor agency.]

Statement of Purpose

Pursuant to CGS Section 4-170(b)(3), "Each proposed regulation shall have a statement of its purpose following the final section of the regulation." Enter the statement here.

Statement of Purpose: The purpose of the proposed amendment is to establish the former Connecticut Statewide Respite demonstration project as a permanent Department of Social Services program. In addition, the proposed amendments add personal care assistant services to the list of respite care services administered by the Department; includes a provision that annually increases the maximum asset level permitted for eligibility; and makes several technical changes.

R-39 Rev. 02/2012
(Certification page—see Instructions on back)

CERTIFICATION

This certification statement must be completed in full, including items 3 and 4, if they are applicable.

- 1) I hereby certify that the above (check one) Regulations Emergency Regulations
- 2) are (check all that apply) adopted amended repealed by this agency pursuant to the following authority(ies): (complete all that apply)
- a. Connecticut General Statutes section(s) _____.
- b. Public Act Number(s) 09-75.
(Provide public act number(s) if the act has not yet been codified in the Connecticut General Statutes.)
- 3) And I further certify that notice of intent to adopt, amend or repeal said regulations was published in the **Connecticut Law Journal** on 11/22/11;
(Insert date of notice publication if publication was required by CGS Section 4-168.)
- 4) And that a public hearing regarding the proposed regulations was held on _____;
(Insert date(s) of public hearing(s) held pursuant to CGS Section 4-168(a)(7), if any, or pursuant to other applicable statute.)
- 5) And that said regulations are **EFFECTIVE** (check one, and complete as applicable)
- When filed with the Secretary of the State
- OR on (insert date) _____

DATE	SIGNED (Head of Board, Agency or Commission)	OFFICIAL TITLE, DULY AUTHORIZED
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APPROVED by the Attorney General as to legal sufficiency in accordance with CGS Section 4-169, as amended

DATE	SIGNED (Attorney General or AG's designated representative)	OFFICIAL TITLE, DULY AUTHORIZED
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*Proposed regulations are **DEEMED APPROVED** by the Attorney General in accordance with CGS Section 4-169, as amended, if the attorney General fails to give notice to the agency of any legal insufficiency within thirty (30) days of the receipt of the proposed regulation.*

(For Regulation Review Committee Use ONLY)

- Approved Rejected without prejudice
- Approved with technical corrections Disapproved in part, (Indicate Section Numbers disapproved only)
- Deemed approved pursuant to CGS Section 4-170(c)

By the Legislative Regulation Review Committee in accordance with CGS Section 4-170, as amended	DATE	SIGNED (Administrator, Legislative Regulation Review Committee)
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Two certified copies received and filed and one such copy forwarded to the Commission on Official Legal Publications in accordance with CGS Section 4-172, as amended.

DATE	SIGNED (Secretary of the State)	BY
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(For Secretary of the State Use ONLY)

GENERAL INSTRUCTIONS

1. All regulations proposed for adoption, amendment or repeal, *except* emergency regulations, must be presented to the Attorney General for his/her determination of legal sufficiency. (See CGS Section 4-169.)
2. After approval by the Attorney General, the original and one electronic copy (in Word format) of all regulations proposed for adoption, amendment or repeal must be presented to the Legislative Regulation Review Committee for its action. (See CGS Sections 4-168 and 4-170 as amended by Public Act 11-150, Sections 18 and 19.)
3. Each proposed regulation section must include the appropriate regulation section number and a section heading. (See CGS Section 4-172.)
4. New language added to an existing regulation must be in underlining or CAPITAL LETTERS, as determined by the Regulation Review Committee. (See CGS 4-170(b).)
5. Existing language to be deleted must be enclosed in brackets []. (See CGS 4-170(b).)
6. A completely new regulation or a new section of an existing regulation must be preceded by the word "(NEW)" in capital letters. (See CGS Section 4-170(b).)
7. The proposed regulation must have a statement of its purpose following the final section of the regulation. (See CGS Section 4-170(b).)
8. The Certification Statement portion of the form must be completed, including all applicable information regarding *Connecticut Law Journal* notice publication date(s) and public hearing(s). (See more specific instructions below.)
9. Additional information regarding rules and procedures of the Legislative Regulation Review Committee can be found on the Committee's web site: <http://www.cga.ct.gov/rr/>.
10. A copy of the Legislative Commissioners' Regulations Drafting Manual is located on the LCO website at http://www.cga.ct.gov/lco/pdfs/Regulations_Drafting_Manual.pdf.

CERTIFICATION STATEMENT INSTRUCTIONS

(Numbers below correspond to the numbered sections of the statement)

1. Indicate whether the regulation is a regular or an emergency regulation adopted under the provisions of CGS Section 4-168(f).
2. a) Indicate whether the regulations contains newly adopted sections, amendments to existing sections, and/or repeals existing sections. Check all cases that apply.
b) Indicate the specific legal authority that authorizes or requires adoption, amendment or repeal of the regulation. If the relevant public act has been codified in the most current biennial edition of the *Connecticut General Statutes*, indicate the relevant statute number(s) instead of the public act number. If the public act has not yet been codified, indicate the relevant public act number.
3. Except for emergency regulations adopted under CGS 4-168(f), and technical amendments to an existing regulation adopted under CGS 4-168(g), an agency must publish notice of its intent to adopt a regulation in the *Connecticut Law Journal*. Enter the date of notice publication.
4. CGS Section 4-168(a)(7) prescribes requirements for the holding of an agency public hearing regarding proposed regulations. Enter the date(s) of the hearing(s) held under that section, if any; also enter the date(s) of any hearing(s) the agency was required to hold under the provisions of any other law.
5. As applicable, enter the effective date of the regulation here, or indicate that it is effective upon filing with the Secretary of the State. Please note the information below.

Regulations are effective upon filing with the Secretary of the State or at a later specified date. See CGS Section 4-172(b) which provides that each regulation is effective upon filing, or, if a later date is required by statute or specified in the regulation, the later date is the effective date. An effective date may not precede the effective date of the public act requiring or permitting the regulation. Emergency regulations are effective immediately upon filing with the Secretary of the State, or at a stated date less than twenty days thereafter.