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Human Services Committee

February 19, 2013

Testimony of Joelen J. Gates

H.B. 6413 AN ACT CONCERNING MEDICAID ELIGIBILITY AND THE IDENTIFICATION AND RECOVERY OF ASSETS

Recommended Action: Reject Section 4 unless changes are incorporated

Good afternoon, my name is Joelen Gates. I am an attorney at Connecticut Legal Services, Inc. in Willimantic where I represent elderly people, including nursing home residents, with legal problems involving medical care. I am submitting this testimony to express our concerns regarding Section 4 of H.B. 6413 as it is currently drafted, on behalf of the Legal Services programs in Connecticut.

Section 4 of H.B. 6413 would allow nursing homes to collect double damages from nursing home residents who fail to pay their share of the cost of care. This amount is called the resident's "applied income." For single residents, the resident must usually pay all of his or her income to the nursing home except \$60.00 which the resident is allowed to keep as a personal monthly allowance.

We are currently negotiating with the proponents of this bill and we believe we will be able to support the bill if our concerns can be addressed.

The changes we are negotiating with the proponents are:

1) Adding a definition of "willfully" in subsection (b) of Section 4; Specifically, a nursing home could only sue for amounts for which the resident had received written notice prior to when the amount was due. The nursing home could not sue for amounts due before the notice was given.

2) Changing the language referring to a "defendant" in (c). We are worried that the broad use of the word "defendant" might expose a person who signed an admission contracts as a "responsible party" to liability for failure to pay applied income when the person had no access to the resident's funds. The proponents want to add a third category of person



who can be sued to include someone who in fact controls the resident's money but is not authorized by law to do so; and

(3) Changing the double damages penalty in subsection (b). Currently nursing homes may bring an action against nursing home residents for unpaid debt pursuant to C.G.S. §37-3a(a) and obtain up to 10% interest on the amount owed. We don't agree that nursing home residents who fail to pay applied income should be singled out with a double damages award which they would not have the ability to pay.