



General Assembly

January Session, 2013

Committee Bill No. 5919

LCO No. 3422



Referred to Committee on HUMAN SERVICES

Introduced by:
(HS)

AN ACT CONCERNING PRESUMPTIVE MEDICAID ELIGIBILITY FOR HOME CARE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 17b-342 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2013*):

3 (a) The Commissioner of Social Services shall administer the
4 Connecticut home-care program for the elderly state-wide in order to
5 prevent the institutionalization of elderly persons (1) who are
6 recipients of medical assistance, (2) who are eligible for such
7 assistance, (3) who would be eligible for medical assistance if residing
8 in a nursing facility, or (4) who meet the criteria for the state-funded
9 portion of the program under subsection [(i)] (j) of this section. For
10 purposes of this section, a long-term care facility is a facility which has
11 been federally certified as a skilled nursing facility or intermediate care
12 facility. The commissioner shall make any revisions in the state
13 Medicaid plan required by Title XIX of the Social Security Act prior to
14 implementing the program. The annualized cost of the community-
15 based services provided to such persons under the program shall not
16 exceed sixty per cent of the weighted average cost of care in skilled

17 nursing facilities and intermediate care facilities. The program shall be
18 structured so that the net cost to the state for long-term facility care in
19 combination with the community-based services under the program
20 shall not exceed the net cost the state would have incurred without the
21 program. The commissioner shall investigate the possibility of
22 receiving federal funds for the program and shall apply for any
23 necessary federal waivers. A recipient of services under the program,
24 and the estate and legally liable relatives of the recipient, shall be
25 responsible for reimbursement to the state for such services to the
26 same extent required of a recipient of assistance under the state
27 supplement program, medical assistance program, temporary family
28 assistance program or supplemental nutrition assistance program.
29 Only a United States citizen or a noncitizen who meets the citizenship
30 requirements for eligibility under the Medicaid program shall be
31 eligible for home-care services under this section, except a qualified
32 alien, as defined in Section 431 of Public Law 104-193, admitted into
33 the United States on or after August 22, 1996, or other lawfully
34 residing immigrant alien determined eligible for services under this
35 section prior to July 1, 1997, shall remain eligible for such services.
36 Qualified aliens or other lawfully residing immigrant aliens not
37 determined eligible prior to July 1, 1997, shall be eligible for services
38 under this section subsequent to six months from establishing
39 residency. Notwithstanding the provisions of this subsection, any
40 qualified alien or other lawfully residing immigrant alien or alien who
41 formerly held the status of permanently residing under color of law
42 who is a victim of domestic violence or who has mental retardation
43 shall be eligible for assistance pursuant to this section. Qualified aliens,
44 as defined in Section 431 of Public Law 104-193, or other lawfully
45 residing immigrant aliens or aliens who formerly held the status of
46 permanently residing under color of law shall be eligible for services
47 under this section provided other conditions of eligibility are met.

48 (b) The commissioner shall solicit bids through a competitive
49 process and shall contract with an access agency, approved by the
50 Office of Policy and Management and the Department of Social

51 Services as meeting the requirements for such agency as defined by
52 regulations adopted pursuant to subsection [(e)] (n) of this section, that
53 submits proposals which meet or exceed the minimum bid
54 requirements. In addition to such contracts, the commissioner may use
55 department staff to provide screening, coordination, assessment and
56 monitoring functions for the program.

57 (c) The community-based services covered under the program shall
58 include, but not be limited to, the following services to the extent that
59 they are not available under the state Medicaid plan, occupational
60 therapy, homemaker services, companion services, meals on wheels,
61 adult day care, transportation, mental health counseling, care
62 management, elderly foster care, minor home modifications and
63 assisted living services provided in state-funded congregate housing
64 and in other assisted living pilot or demonstration projects established
65 under state law. Personal care assistance services shall be covered
66 under the program to the extent that (1) such services are not available
67 under the Medicaid state plan and are more cost effective on an
68 individual client basis than existing services covered under such plan,
69 and (2) the provision of such services is approved by the federal
70 government. Recipients of state-funded services pursuant to
71 subsection (j) of this section and persons who are determined to be
72 functionally eligible for community-based services who have an
73 application for medical assistance pending and are determined
74 presumptively eligible for Medicaid pursuant to subsection (e) of this
75 section, shall have the cost of home health and community-based
76 services covered by the program, provided they comply with all
77 medical assistance application requirements. Access agencies shall not
78 use department funds to purchase community-based services or home
79 health services from themselves or any related parties.

80 (d) Physicians, hospitals, long-term care facilities and other licensed
81 health care facilities may disclose, and, as a condition of eligibility for
82 the program, elderly persons, their guardians, and relatives shall
83 disclose, upon request from the Department of Social Services, such

84 financial, social and medical information as may be necessary to enable
85 the department or any agency administering the program on behalf of
86 the department to provide services under the program. Long-term care
87 facilities shall supply the Department of Social Services with the names
88 and addresses of all applicants for admission. Any information
89 provided pursuant to this subsection shall be confidential and shall not
90 be disclosed by the department or administering agency.

91 [(e) The commissioner shall adopt regulations, in accordance with
92 the provisions of chapter 54, to define "access agency", to implement
93 and administer the program, to establish uniform state-wide standards
94 for the program and a uniform assessment tool for use in the screening
95 process and to specify conditions of eligibility.]

96 (e) Not later than October 1, 2013, the Commissioner of Social
97 Services, in consultation with the Commissioner on Aging, shall
98 establish a system under which the state will fund services under the
99 Connecticut home-care program for the elderly for a period of up to
100 ninety days for applicants who require a skilled level of nursing care
101 and who are determined to be presumptively eligible for Medicaid
102 coverage. Such system shall include, but not be limited to: (1) The
103 development of a preliminary screening tool to be used by
104 representatives of the access agency selected pursuant to subsection (b)
105 of this section to determine whether an applicant is functionally able to
106 live at home or in a community setting and is likely to be financially
107 eligible for Medicaid; (2) authorization by the Commissioner of Social
108 Services for such access agency representatives to initiate home-care
109 services not later than five days after such functional eligibility
110 determination for applicants deemed likely to be eligible for Medicaid;
111 (3) a presumptive financial Medicaid eligibility determination for such
112 applicants by the Department of Social Services not later than seventy-
113 two hours after the functional eligibility determination; and (4) a
114 written agreement to be signed by such applicant attesting to the
115 accuracy of financial and other information such applicant provides
116 and acknowledging that (A) state-funded services shall be provided

117 not later than ninety days from the date on which the applicant applies
118 for Medicaid coverage, and (B) such applicant shall complete a
119 Medicaid application on the date such applicant is screened for
120 functional eligibility or not later than ten days from such screening.
121 The Department of Social Services shall make a final determination as
122 to Medicaid eligibility for presumptive eligibility applicants not later
123 than forty-five days after receipt of a completed Medicaid application
124 from such applicant.

125 (f) Pursuant to section 1560.10 of the Department of Social Services'
126 uniform policy manual, the Commissioner of Social Services shall
127 retroactively apply a final determination of Medicaid eligibility for
128 presumptive Medicaid eligibility applicants. The commissioner shall
129 request available federal matching Medicaid funds for state costs
130 during the ninety-day presumptive Medicaid eligibility period for
131 applicants determined to be eligible for Medicaid coverage. The
132 commissioner, in consultation with the Commissioner on Aging, shall
133 identify funding pursuant to the federal Older Americans Act of 1965,
134 as amended from time to time, that may be allocated to subsidize costs
135 during the presumptive eligibility period for those applicants who are
136 not determined eligible for Medicaid. State costs during the
137 presumptive eligibility period shall be offset by federal Medicaid
138 reimbursements and savings realized for institutional care that would
139 have been necessary but for the presumptive eligibility system.

140 ~~[(f)]~~ (g) The commissioner may require long-term care facilities to
141 inform applicants for admission ~~[of the]~~ to the Connecticut home-care
142 program for the elderly established under this section and to distribute
143 such forms as the commissioner prescribes for the program. Such
144 forms shall be supplied by and be returnable to the department.

145 ~~[(g)]~~ (h) The commissioner shall ~~report annually, by June first, in~~
146 accordance with the provisions of section 11-4a, to the joint standing
147 committee of the General Assembly having cognizance of matters
148 relating to human services on the Connecticut home-care program for

149 the elderly in such detail, depth and scope as said committee requires
150 to evaluate the effect of the program on the state and program
151 participants. Such report shall include information on (1) the number
152 of persons diverted from placement in a long-term care facility as a
153 result of the program, (2) the number of persons screened, (3) the
154 average cost per person in the program, (4) the administration costs,
155 (5) the estimated savings, and (6) a comparison between costs under
156 the different contracts.

157 [(h)] (i) An individual who is otherwise eligible for services
158 pursuant to this section shall, as a condition of participation in the
159 program, apply for medical assistance benefits pursuant to section 17b-
160 260 when requested to do so by the department and shall accept such
161 benefits if determined eligible.

162 [(i)] (j) (1) On and after July 1, 1992, the Commissioner of Social
163 Services shall, within available appropriations, administer a state-
164 funded portion of the Connecticut home-care program for the elderly
165 for persons (A) who are sixty-five years of age and older and who are
166 not eligible for Medicaid; (B) who are inappropriately institutionalized
167 or at risk of inappropriate institutionalization; (C) whose income is less
168 than or equal to the amount allowed under subdivision (3) of
169 subsection (a) of this section; and (D) whose assets, if single, do not
170 exceed the minimum community spouse protected amount pursuant
171 to [Section] section 4022.05 of the department's uniform policy manual
172 or, if married, the couple's assets do not exceed one hundred fifty per
173 cent of said community spouse protected amount and on and after
174 April 1, 2007, whose assets, if single, do not exceed one hundred fifty
175 per cent of the minimum community spouse protected amount
176 pursuant to [Section] section 4022.05 of the department's uniform
177 policy manual or, if married, the couple's assets do not exceed two
178 hundred per cent of said community spouse protected amount.

179 (2) Except for persons residing in affordable housing under the
180 assisted living demonstration project established pursuant to section

181 17b-347e, as provided in subdivision (3) of this subsection, any person
182 whose income is at or below two hundred per cent of the federal
183 poverty level and who is ineligible for Medicaid shall contribute seven
184 per cent of the cost of his or her care. Any person whose income
185 exceeds two hundred per cent of the federal poverty level shall
186 contribute seven per cent of the cost of his or her care in addition to the
187 amount of applied income determined in accordance with the
188 methodology established by the Department of Social Services for
189 recipients of medical assistance. Any person who does not contribute
190 to the cost of care in accordance with this subdivision shall be
191 ineligible to receive services under this subsection. Notwithstanding
192 any provision of the general statutes, the department shall not be
193 required to provide an administrative hearing to a person found
194 ineligible for services under this subsection because of a failure to
195 contribute to the cost of care.

196 (3) Any person who resides in affordable housing under the assisted
197 living demonstration project established pursuant to section 17b-347e
198 and whose income is at or below two hundred per cent of the federal
199 poverty level, shall not be required to contribute to the cost of care.
200 Any person who resides in affordable housing under the assisted
201 living demonstration project established pursuant to section 17b-347e
202 and whose income exceeds two hundred per cent of the federal
203 poverty level, shall contribute to the applied income amount
204 determined in accordance with the methodology established by the
205 Department of Social Services for recipients of medical assistance. Any
206 person whose income exceeds two hundred per cent of the federal
207 poverty level and who does not contribute to the cost of care in
208 accordance with this subdivision shall be ineligible to receive services
209 under this subsection. Notwithstanding any provision of the general
210 statutes, the department shall not be required to provide an
211 administrative hearing to a person found ineligible for services under
212 this subsection because of a failure to contribute to the cost of care.

213 (4) The annualized cost of services provided to an individual under

214 the state-funded portion of the program shall not exceed fifty per cent
215 of the weighted average cost of care in nursing homes in the state,
216 except an individual who received services costing in excess of such
217 amount under the Department of Social Services in the fiscal year
218 ending June 30, 1992, may continue to receive such services, provided
219 the annualized cost of such services does not exceed eighty per cent of
220 the weighted average cost of such nursing home care. The
221 commissioner may allow the cost of services provided to an individual
222 to exceed the maximum cost established pursuant to this subdivision
223 in a case of extreme hardship, as determined by the commissioner,
224 provided in no case shall such cost exceed that of the weighted cost of
225 such nursing home care.

226 ~~[(j)]~~ (k) The Commissioner of Social Services may implement revised
227 criteria for the operation of the program while in the process of
228 adopting such criteria in regulation form, provided the commissioner
229 prints notice of intention to adopt the regulations in the Connecticut
230 Law Journal within twenty days of implementing the policy. Such
231 criteria shall be valid until the time final regulations are effective.

232 ~~[(k)]~~ (l) The commissioner shall notify any access agency or area
233 agency on aging that administers the program when the department
234 sends a redetermination of eligibility form to an individual who is a
235 client of such agency.

236 ~~[(l)]~~ (m) In determining eligibility for the program described in this
237 section, the commissioner shall not consider as income Aid and
238 Attendance pension benefits granted to a veteran, as defined in section
239 27-103, or the surviving spouse of such veteran.

240 (n) The commissioner shall adopt regulations, in accordance with
241 the provisions of chapter 54, to (1) define "access agency", (2)
242 implement and administer the program, (3) implement and administer
243 the presumptive Medicaid eligibility system, (4) establish uniform
244 state-wide standards for the program and a uniform assessment tool
245 for use in the screening process, and (5) specify conditions of

246 eligibility.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2013	17b-342

Statement of Purpose:

To save the state money that would be spent on institutional care for Medicaid recipients by establishing a system of presumptive Medicaid eligibility for the Connecticut home-care program for the elderly.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

Co-Sponsors: REP. WOOD, 141st Dist.

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