



General Assembly

Substitute Bill No. 6461

January Session, 2013



AN ACT CONCERNING PRESUMPTIVE MEDICAID ELIGIBILITY FOR THE CONNECTICUT HOME-CARE PROGRAM FOR THE ELDERLY.

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 Section 17b-342 of the general statutes is repealed and the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 after 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 after such screening.

121 The Department of Social Services shall make a final determination as
122 to Medicaid eligibility for presumptive Medicaid eligibility applicants
123 not later than forty-five days after receipt of a completed Medicaid
124 application 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 available federal
138 Medicaid reimbursements and savings realized for institutional care
139 that would have been necessary but for the presumptive Medicaid
140 eligibility system.

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

146 ~~[(g)]~~ (h) The commissioner shall report annually, by June first, in
147 accordance with the provisions of section 11-4a, to the joint standing
148 committee of the General Assembly having cognizance of matters
149 relating to human services on the Connecticut home-care program for
150 the elderly in such detail, depth and scope as said committee requires
151 to evaluate the effect of the program on the state and program
152 participants. Such report shall include information on (1) the number
153 of persons diverted from placement in a long-term care facility as a

154 result of the program, (2) the number of persons screened, (3) the
155 average cost per person in the program, (4) the administration costs,
156 (5) the estimated savings, and (6) a comparison between costs under
157 the different contracts.

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

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

180 (2) Except for persons residing in affordable housing under the
181 assisted living demonstration project established pursuant to section
182 17b-347e, as provided in subdivision (3) of this subsection, any person
183 whose income is at or below two hundred per cent of the federal
184 poverty level and who is ineligible for Medicaid shall contribute seven
185 per cent of the cost of his or her care. Any person whose income
186 exceeds two hundred per cent of the federal poverty level shall

187 contribute seven per cent of the cost of his or her care in addition to the
188 amount of applied income determined in accordance with the
189 methodology established by the Department of Social Services for
190 recipients of medical assistance. Any person who does not contribute
191 to the cost of care in accordance with this subdivision shall be
192 ineligible to receive services under this subsection. Notwithstanding
193 any provision of the general statutes, the department shall not be
194 required to provide an administrative hearing to a person found
195 ineligible for services under this subsection because of a failure to
196 contribute to the cost of care.

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

214 (4) The annualized cost of services provided to an individual under
215 the state-funded portion of the program shall not exceed fifty per cent
216 of the weighted average cost of care in nursing homes in the state,
217 except an individual who received services costing in excess of such
218 amount under the Department of Social Services in the fiscal year
219 ending June 30, 1992, may continue to receive such services, provided

220 the annualized cost of such services does not exceed eighty per cent of
221 the weighted average cost of such nursing home care. The
222 commissioner may allow the cost of services provided to an individual
223 to exceed the maximum cost established pursuant to this subdivision
224 in a case of extreme hardship, as determined by the commissioner,
225 provided in no case shall such cost exceed that of the weighted cost of
226 such nursing home care.

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

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

237 ~~[(l)]~~ [(m)] In determining eligibility for the program described in this
238 section, the commissioner shall not consider as income Aid and
239 Attendance pension benefits granted to a veteran, as defined in section
240 27-103, or the surviving spouse of such veteran.

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

248 Sec. 2. Subsection (a) of section 17b-253 of the general statutes is
249 repealed and the following is substituted in lieu thereof (*Effective*
250 *October 1, 2013*):

251 (a) The Department of Social Services shall seek appropriate
252 amendments to its Medicaid regulations and state plan to allow
253 protection of resources and income pursuant to section 17b-252. Such
254 protection shall be provided, to the extent approved by the federal
255 Centers for Medicare and Medicaid Services, for any purchaser of a
256 precertified long-term care policy and shall last for the life of the
257 purchaser. Such protection shall be provided under the Medicaid
258 program or its successor program. Any purchaser of a precertified
259 long-term care policy shall be guaranteed coverage under the
260 Medicaid program or its successor program, to the extent the
261 individual meets all applicable eligibility requirements for the
262 Medicaid program or its successor program. Until such time as
263 eligibility requirements are prescribed for Medicaid's successor
264 program, for the purposes of this subsection, the applicable eligibility
265 requirements shall be the Medicaid program's requirements as of the
266 date its successor program was enacted. The Department of Social
267 Services shall count insurance benefit payments toward resource
268 exclusion to the extent such payments (1) are for services paid for by a
269 precertified long-term care policy; (2) are for the lower of the actual
270 charge and the amount paid by the insurance company; (3) are for
271 nursing home care, or formal services delivered to insureds in the
272 community as part of a care plan approved by an access agency
273 approved by the Office of Policy and Management and the
274 Department of Social Services as meeting the requirements for such
275 agency as defined in regulations adopted pursuant to subsection [(e)]
276 (n) of section 17b-342, as amended by this act; and (4) are for services
277 provided after the individual meets the coverage requirements for
278 long-term care benefits established by the Department of Social
279 Services for this program. The Commissioner of Social Services shall
280 adopt regulations, in accordance with chapter 54, to implement the
281 provisions of this subsection and sections 17b-251, 17b-252, 17b-254
282 and 38a-475, as amended by this act, relating to determining eligibility
283 of applicants for Medicaid, or its successor program, and the coverage
284 requirements for long-term care benefits.

285 Sec. 3. Subdivision (1) of subsection (g) of section 17b-354 of the
286 general statutes is repealed and the following is substituted in lieu
287 thereof (*Effective October 1, 2013*):

288 (g) (1) A continuing care facility which guarantees life care for its
289 residents, as defined in subsection (b) of this section, (A) shall arrange
290 for a medical assessment to be conducted by an independent physician
291 or an access agency approved by the Office of Policy and Management
292 and the Department of Social Services as meeting the requirements for
293 such agency as defined by regulations adopted pursuant to subsection
294 [(e)] (n) of section 17b-342, as amended by this act, prior to the
295 admission of any resident to the nursing facility and shall document
296 such assessment in the resident's medical file, and (B) may transfer or
297 discharge a resident who has intentionally transferred assets in a sum
298 which will render the resident unable to pay the cost of nursing facility
299 care in accordance with the contract between the resident and the
300 facility.

301 Sec. 4. Subsection (a) of section 17b-617 of the general statutes is
302 repealed and the following is substituted in lieu thereof (*Effective*
303 *October 1, 2013*):

304 (a) The Commissioner of Social Services shall, within available
305 appropriations, establish and operate a state-funded pilot program to
306 allow not more than fifty persons with disabilities (1) who are age
307 eighteen to sixty-four, inclusive, (2) who are inappropriately
308 institutionalized or at risk of inappropriate institutionalization, and (3)
309 whose assets do not exceed the asset limits of the state-funded home
310 care program for the elderly, established pursuant to subsection [(i)] (j)
311 of section 17b-342, as amended by this act, to be eligible to receive the
312 same services that are provided under the state-funded home care
313 program for the elderly. At the discretion of the Commissioner of
314 Social Services, such persons may also be eligible to receive services
315 that are necessary to meet needs attributable to disabilities in order to
316 allow such persons to avoid institutionalization.

317 Sec. 5. Section 38a-475 of the general statutes is repealed and the
 318 following is substituted in lieu thereof (*Effective October 1, 2013*):

319 The Insurance Department shall only precertify long-term care
 320 insurance policies which (1) alert the purchaser to the availability of
 321 consumer information and public education provided by the
 322 Department of Social Services pursuant to section 17b-251; (2) offer the
 323 option of home and community-based services in addition to nursing
 324 home care; (3) in all home care plans, include case management
 325 services delivered by an access agency approved by the Office of
 326 Policy and Management and the Department of Social Services as
 327 meeting the requirements for such agency as defined in regulations
 328 adopted pursuant to subsection [(e)] (n) of section 17b-342, as amended
 329 by this act, which services shall include, but need not be limited to, the
 330 development of a comprehensive individualized assessment and care
 331 plan and, as needed, the coordination of appropriate services and the
 332 monitoring of the delivery of such services; (4) provide inflation
 333 protection; (5) provide for the keeping of records and an explanation of
 334 benefit reports on insurance payments which count toward Medicaid
 335 resource exclusion; and (6) provide the management information and
 336 reports necessary to document the extent of Medicaid resource
 337 protection offered and to evaluate the Connecticut Partnership for
 338 Long-Term Care. No policy shall be precertified if it requires prior
 339 hospitalization or a prior stay in a nursing home as a condition of
 340 providing benefits. The commissioner may adopt regulations, in
 341 accordance with chapter 54, to carry out the precertification provisions
 342 of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2013</i>	17b-342
Sec. 2	<i>October 1, 2013</i>	17b-253(a)
Sec. 3	<i>October 1, 2013</i>	17b-354(g)(1)
Sec. 4	<i>October 1, 2013</i>	17b-617(a)
Sec. 5	<i>October 1, 2013</i>	38a-475

Statement of Legislative Commissioners:

Technical changes were made in subsections (e), (f) and (g) of section 1 for accuracy and sections 2 to 5, inclusive, were added for accuracy and uniformity.

AGE *Joint Favorable Subst. -LCO*