General Assembly **Substitute Bill No. 523**

January Session, 2013 *____SB00523AGE__021413___*

AN ACT CONCERNING THE RETURN OF A GIFT TO A PERSON IN NEED OF LONG-TERM CARE SERVICES.

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

Section 1. Subsection (d) of section 17b-261a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2013*):

(d) (1) For purposes of this subsection, an "institutionalized individual" means an individual who has applied for or is receiving (A) services from a long-term care facility, (B) services from a medical institution that are equivalent to those services provided in a long-term care facility, or (C) home and community-based services under a Medicaid waiver.

[(d)**]** (2) An institutionalized individual shall not be penalized for the transfer of an asset if the entire amount of the transferred asset is returned to the institutionalized individual. **[**The partial return of a transferred asset shall not result in a reduced penalty period.**]** A transferee may return any portion of a transferred asset to the transferor. If any transferred asset is returned to the transferor, the Department of Social Services shall adjust the penalty period to the extent permitted by federal law, provided the ending date of the penalty period as originally determined by the department shall not change. The department shall consider the entire amount of the

returned asset to be available to the transferor only from the date of return of the transferred asset, and shall not determine the transferor to be ineligible in the month the transferred asset is returned, provided the transferor reduced the returned asset in accordance with federal law.

[(1)**]** (3) If there are multiple transfers of assets to the same or different transferees, a return of anything less than the total amount of the transferred assets from all of the separate transferees shall not constitute a return of the entire amount of the transferred assets and shall represent a partial return.

[(2) If the circumstances surrounding the transfer of an asset and return of the entire amount of the asset to the institutionalized individual indicates to the Department of Social Services that such individual, such individual's spouse or such individual's authorized representative intended, from the time the asset was transferred, that the transferee would subsequently return the asset to such individual, such individual's spouse or such individual's authorized representative for the purpose of altering the start of the penalty period or shifting nursing facility costs, that may have been borne by such individual, to the Medicaid program, the entire amount of the returned asset shall be considered available to such individual from the date of transfer. If such individual demonstrates to the department that the purpose of the transfer and its subsequent return was not to alter the penalty period or qualify such individual for Medicaid eligibility, the entire amount of the returned asset is considered available to the individual from the date of the return of the transferred asset.**]**

[(3)**]** (4) The conveyance and subsequent return of an asset for the purpose of shifting costs to the Medicaid program shall be regarded as a trust-like device. Such asset shall be considered available for the purpose of determining Medicaid eligibility. The conveyance and subsequent return of an asset made exclusively for a purpose other than to qualify for the payment of long-term care services under the

Medicaid program shall not be regarded as a trust-like device.

[(4) For purposes of this section, an "institutionalized individual" means an individual who is receiving (A) services from a long-term care facility, (B) services from a medical institution which are equivalent to those services provided in a long-term care facility, or (C) home and community-based services under a Medicaid waiver.**]**

This act shall take effect as follows and shall amend the following sections:		
Section 1	*July 1, 2013*	17b-261a(d)

Statement of Legislative Commissioners:
In the last sentence of Section 1 (d)(2), "transferee" and "institutionalized individual" were changed to "transferor" for accuracy.

AGE *Joint Favorable Subst. -LCO*