

Legal Assistance Resource Center

❖ of Connecticut, Inc. ❖

363 Main Street, Suite 301 ❖ Hartford, Connecticut 06106
(860) 616-4472 ❖ cell (860) 836-6355 ❖ RPodolsky@LARCC.org

S.B. 110 -- “Fraud” prevention in shutoffs of seriously ill customers

Energy and Technology Committee public hearing -- February 20, 2014

Testimony of Raphael L. Podolsky

Recommended Committee action: REJECTION OF THE BILL

This bill purports to “prevent fraud in the state’s utility termination protection programs.” In reality, however, its primary impact is not to reduce fraud but rather to reduce the protections against utility termination for customers who suffer from serious illness, including physically fragile seniors and persons with disabilities. Its real effect will be to make it even more difficult than it already is to get doctors to certify serious medical conditions. If it has any cost impact at all, it will be by discouraging people who are seriously ill or whose lives depend on access to electricity from seeking the relief to which they are entitled.

What this bill does:

- **Redefines “seriously ill”** so that an illness is not considered serious unless it is life-threatening (l. 88-90);
- **Redefines “life-threatening situation”** to limit it to situations in which a doctor has prescribed specific life-sustaining equipment that has no battery back-up, thereby excluding all other circumstances in which a customer’s life may depend on the continuation of electric service (l. 82-87);
- **Prohibits a physician** from immediately initiating a serious illness or life-threatening situation certificate to the utility by telephone (l. 32-35);
- **Imposes an asset test** apparently not only for serious illness and life-threatening situations (l. 63-66) but also for all hardship customers (l. 94-105);
- **Removes deprivation of food and necessities** as a basis for a determination of financial hardship.
- **Discourages customers** who are seriously ill or whose life would be threatened by the loss of electricity from seeking relief, e.g., by threatening them with perjury prosecutions (l. 104), making application more complex (l. 32-35 and 102-105), and requiring documentation of assets and income in all cases (l. 100-101), even when the customer is categorically eligible for shutoff relief because of the receipt of Social Security, veterans’ benefits, or similar assistance (l. 67-70);
- **Makes it harder than ever to get doctors to certify** medical hardship by threatening them with investigations over the accuracy or good faith of their certifications (l. 114-116).

Why these changes are unnecessary:

- **There is no basis for claiming that any but a small number of medical claims are fraudulent.** The fact that a utility company disagrees with a doctor’s, nurse’s, or

(continued on the reverse side....)

a customer's own assessment of medical condition is not evidence of "fraud." The bill is extraordinarily overbroad.

- **Certification as having a serious illness does NOT allow the customer to avoid paying the bill.** All it does is assure the customer's right to a reasonable amortization agreement on an arrearage. If they fail to keep current going forward and to comply with such an amortization agreement, they can be terminated. This is substantially the same protection as for any other customer facing termination. Even if one were to assume that every serious illness certification is wrong, there would be no significant cost impact on the utility.
- **Certification of a life-threatening situation does NOT preclude the utility company from taking action to collect** a bill or arrearage from the customer, particularly of a customer with assets. It only precludes use of the one collection method that puts the life of the customer at risk – shutoff. The company can get a small claims judgment and enforce it by such means as bank account execution or placement of a lien on the home.

Why these changes are undesirable:

- **Neither the utility nor the PURA is suited to making medical assessments.** All serious illness and life-threatening relief requires certification by a medical professional. There is no reason for utility companies to be disputing those assessments.
- **The proposed new definition of "serious illness" narrows the serious illness category out of existence.** That is because it provides that an illness is not serious unless "the disconnection of utility service would seriously endanger a customer's life or the life of a member of the customer's household." This is not a definition of "serious illness" at all but rather a definition of "life-threatening situation."
- **The proposed narrowing of the definition of "life-threatening situation" will actually put the lives of frail elderly and disabled customers at serious risk.** Under the current definition, the doctor certifies that a loss of electricity will be life-threatening to the resident. The utility can require recertifications as frequently as every 15 days unless the doctor certifies a longer period. Certifications are based on a total assessment as to whether the customer's life depends on access to electricity – it is not tied to a particular piece of electrical equipment. For example, a frail elderly homeowner may need electricity to keep the heat on (a furnace thermostat will not work without electricity) or to maintain life-sustaining medication that must be refrigerated or for numerous other purposes related to their medical condition. This bill precludes a life-threatening certification unless the customer relies on "life-sustaining equipment" that is "prescribed" by the physician.
- **More than anything else, this bill is designed to discourage customers from seeking relief based on their medical condition, including customers who are genuinely sick, frail, or disabled.** It does so by discouraging doctors from making certifications, notwithstanding their medical judgment, and by discouraging customers from seeking certifications, notwithstanding their illness or fragile condition.