



General Assembly

February Session, 2016

Raised Bill No. 5586

LCO No. 2435



Referred to Committee on HUMAN SERVICES

Introduced by:
(HS)

AN ACT CONCERNING WORKERS' COMPENSATION COVERAGE FOR INJURIES SUSTAINED BY PERSONAL CARE ATTENDANTS EMPLOYED DIRECTLY BY CONSUMERS IN STATE-FUNDED PROGRAMS.

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

1 Section 1. (NEW) (*Effective July 1, 2016*) (a) For purposes of this
2 section and sections 17b-706a, 17b-706b and 31-275, of the general
3 statutes, as amended by this act, and section 5 of this act, "consumer",
4 "personal care attendant" and "state-funded program" have the same
5 meaning as provided in section 17b-706 of the general statutes. The
6 Commissioner of Social Services, in consultation with the
7 Commissioner of Developmental Services, shall collaborate with the
8 Commissioner of Administrative Services and the chairman of the
9 Workers' Compensation Commission to provide workers'
10 compensation benefits for any personal care attendant employed
11 directly by a consumer in a state-funded program. The Commissioner
12 of Social Services shall require any fiscal intermediary for such state-
13 funded program to manage workers' compensation benefits and
14 disburse the benefits to such personal care attendant who sustains

15 injuries on the property of a consumer.

16 (b) The Commissioner of Social Services shall, if necessary, amend
17 any Medicaid waiver or the Medicaid state plan, in accordance with
18 section 17b-8 of the general statutes, to (1) require fiscal intermediaries
19 to manage and disburse workers' compensation benefits pursuant to
20 subsection (a) of this section, and (2) increase allotment of Medicaid
21 moneys per consumer, to the extent permissible under federal law, to
22 cover the cost of workers' compensation benefits.

23 (c) The provisions of this section shall not apply to a personal care
24 attendant hired by a consumer through a third-party employer other
25 than the state in a state-funded program.

26 Sec. 2. Subparagraph (B) of subdivision (2) of subsection (e) of
27 section 17b-706a of the general statutes is repealed and the following is
28 substituted in lieu thereof (*Effective July 1, 2016*):

29 (B) In those covered programs where budgets provided to
30 consumers receiving direct support services are allocated using the
31 individual budget methodology, budgets shall be increased to account
32 for additional expenses caused by (i) a contract or award negotiated in
33 accordance with this section [which] that includes increases in wages
34 or benefits, or (ii) the cost of providing workers' compensation benefits
35 for personal care attendants.

36 Sec. 3. Subparagraph (B) of subdivision (9) of section 31-275 of the
37 general statutes is repealed and the following is substituted in lieu
38 thereof (*Effective July 1, 2016*):

39 (B) "Employee" shall not be construed to include:

40 (i) Any person to whom articles or material are given to be treated
41 in any way on premises not under the control or management of the
42 person who gave them out;

43 (ii) One whose employment is of a casual nature and who is

44 employed otherwise than for the purposes of the employer's trade or
45 business;

46 (iii) A member of the employer's family dwelling in his house; but,
47 if, in any contract of insurance, the wages or salary of a member of the
48 employer's family dwelling in his house is included in the payroll on
49 which the premium is based, then that person shall, if he sustains an
50 injury arising out of and in the course of his employment, be deemed
51 an employee and compensated in accordance with the provisions of
52 this chapter;

53 (iv) Any person, other than a personal care attendant, as defined in
54 section 17b-706, engaged in any type of service in or about a private
55 dwelling provided he is not regularly employed by the owner or
56 occupier over twenty-six hours per week;

57 (v) An employee of a corporation who is a corporate officer and
58 who elects to be excluded from coverage under this chapter by notice
59 in writing to his employer and to the commissioner; or

60 (vi) Any person who is not a resident of this state but is injured in
61 this state during the course of his employment, unless such person (I)
62 works for an employer who has a place of employment or a business
63 facility located in this state at which such person spends at least fifty
64 per cent of his employment time, or (II) works for an employer
65 pursuant to an employment contract to be performed primarily in this
66 state.

67 Sec. 4. Subsection (a) of section 17b-706b of the general statutes is
68 repealed and the following is substituted in lieu thereof (*Effective July*
69 *1, 2016*):

70 (a) Personal care attendants shall not be considered state employees,
71 except as provided in section 5 of this act, and shall be exempt from
72 any and all provisions of the general statutes creating rights,
73 obligations, privileges or immunities to state employees as a result of

74 or incident to their state service.

75 Sec. 5. (NEW) (*Effective July 1, 2016*) Notwithstanding the provisions
76 of section 17b-706b of the general statutes, as amended by this act, any
77 personal care attendant employed directly by a consumer in a state-
78 funded program shall be deemed a state employee for purposes of
79 chapter 568 of the general statutes.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2016</i>	New section
Sec. 2	<i>July 1, 2016</i>	17b-706a(e)(2)(B)
Sec. 3	<i>July 1, 2016</i>	31-275(9)(B)
Sec. 4	<i>July 1, 2016</i>	17b-706b(a)
Sec. 5	<i>July 1, 2016</i>	New section

Statement of Purpose:

To require fiscal intermediaries to manage workers' compensation benefits for consumers in state-funded programs that provide personal care attendants to consumers and to make personal care attendants employed directly by consumers state employees for the purposes of workers' compensation.

[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.]