



General Assembly

Substitute Bill No. 392

February Session, 2016

* SB00392HS 031616 *

AN ACT CONCERNING THE ADOPTION OF THE SPECIAL NEEDS TRUST FAIRNESS ACT IN CONNECTICUT UPON PASSAGE IN CONGRESS.

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

1 Section 1. Subsection (c) of section 17b-261 of the 2016 supplement
2 to the general statutes is repealed and the following is substituted in
3 lieu thereof (*Effective from passage*):

4 (c) For the purposes of determining eligibility for the Medicaid
5 program, an available asset is one that is actually available to the
6 applicant or one that the applicant has the legal right, authority or
7 power to obtain or to have applied for the applicant's general or
8 medical support. If the terms of a trust provide for the support of an
9 applicant, the refusal of a trustee to make a distribution from the trust
10 does not render the trust an unavailable asset. Notwithstanding the
11 provisions of this subsection, the availability of funds in a trust or
12 similar instrument funded in whole or in part by the applicant or the
13 applicant's spouse shall be determined pursuant to the Omnibus
14 Budget Reconciliation Act of 1993, 42 USC 1396p. The provisions of
15 this subsection shall not apply to a special needs trust, as defined in 42
16 USC 1396p(d)(4)(A), as amended from time to time. For purposes of
17 determining whether a beneficiary under a special needs trust, who
18 has not received a disability determination from the Social Security

19 Administration, is disabled, as defined in 42 USC 1382c(a)(3), the
20 Commissioner of Social Services, or the commissioner's designee, shall
21 independently make such determination. The commissioner shall not
22 require such beneficiary to apply for Social Security disability benefits
23 or obtain a disability determination from the Social Security
24 Administration for purposes of determining whether the beneficiary is
25 disabled.

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| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | <i>from passage</i> | 17b-261(c) |

Statement of Legislative Commissioners:

The bill became a substitute due to a title change.

HS *Joint Favorable Subst. -LCO*