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I, Roderick L. Bremby, Commissioner of the Department of Social Services (DSS), hereby certify that:

1. In compliance with Conn. Gen. Stat. § 4-168(a)(1), on August 18, 2015, DSS gave notice by posting a notice on the eRegulations System of its intention to adopt regulations regarding the State-Administered General Assistance program that included the information required in said statute.
2. In compliance with Conn. Gen. Stat. § 4-168(a)(2), DSS on August 18, 2015, posted a copy of the proposed regulation on the eRegulations System.
3. In compliance with Conn. Gen. Stat. § 4-168(a)(3), DSS on August 18, 2015, gave notice electronically to each joint standing committee of the General Assembly having cognizance of the subject matter of the proposed regulation.
4. In compliance with Conn. Gen. Stat. § 4-168(a)(4), DSS on August 18, 2015, gave notice electronically or provided paper copies to all persons who made requests for advance notice of its regulation-making proceedings.
5. DSS received no requests for a paper copy or electronic version of the proposed regulation, as described in Conn. Gen. Stat. § 4-168(a)(5).
6. In compliance with Conn. Gen. Stat. § 4-168(a)(6), DSS prepared a fiscal note, including an estimate of the cost or of the revenue impact of the proposed regulations (A) on the state or any municipality of the state, and (B) on small businesses in the state, including an estimate of the number of small businesses subject to the proposed regulation and the projected costs, including but not limited to, reporting, recordkeeping and administrative, associated with compliance with the proposed regulation and, if applicable, the regulatory flexibility analysis prepared under Conn. Gen. Stat. § 4-168a.
7. All interested persons were given reasonable opportunities to submit data, views or arguments, orally at a hearing if granted under Conn. Gen. Stat. § 4-168(b) or in writing, concerning the proposed regulations and to inspect and copy or view online and print the fiscal note referred to in paragraph (6) above.
8. No request for an opportunity to present oral argument was made by fifteen persons, by a governmental subdivision or agency or by an association having not less than fifteen members, within fourteen days of the posting of the notice on the eRegulations System.
9. No written or oral submissions respecting the proposed regulation were received by DSS.

10. No revisions to the fiscal note referred to in paragraph (6) above were necessary in light of the absence of submissions respecting the proposed regulation.
11. In compliance with Conn. Gen. Stat. § 4-168(e), on September 28, 2015, DSS posted on the eRegulations System notice that it decided to take action on the proposed regulation and has provided such notice electronically to all persons who submitted oral or written comments concerning the regulation and has provided a paper copy of such notice to all persons who submitted comments in a non-electronic format. DSS has also posted on the eRegulations Systems the final wording of the proposed regulation. DSS did not issue the statements described in Conn. Gen. Stat. § 4-168(e)(1)-(2) because no oral or written data, views or comments were received by DSS.



Roderick L. Bremby
Commissioner

September 28, 2015

The Connecticut General Assembly

Legislative Commissioners' Office

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Memorandum

To: Legislative Regulation Review Committee
From: Legislative Commissioners' Office
Committee Meeting Date: December 15, 2015

Regulation No:	2015-28
Agency:	Department of Social Services
Subject Matter:	State-Administered General Assistance Program
Statutory Authority: (copy attached)	17b-198

	Yes or No
Mandatory	Y
Federal Requirement	N
Permissive	N

For the Committee's Information:

(1) The State-Administered General Assistance (SAGA) program is a cash assistance program operated by the Department of Social Services (DSS) that primarily serves adults who are not receiving other forms of cash assistance, are either permanently or temporarily unable to work and whose income and assets are below allowable limits. Standards for the program have previously been included in the DSS Uniform Policy Manual (UPM). This proposed regulation repeals and replaces most sections of the UPM referencing SAGA. An attachment amends two sections of the UPM concerning general provisions for the administration of SAGA.

(2) On November 25, 2015, the Department of Social Services submitted substitute pages 1 to 59, inclusive. This report is based, in part, on the substitute pages.

Substantive Concerns:

1. On page 2, in section 17b-198-2(13), "Notice" is defined as a "written statement sent by the department to the assistance unit that informs the assistance unit the department has taken or intends to take a specific action in the assistance unit's case". In section 17b-198-2(2), the term "assistance unit" shares the same definition as the terms "assistance unit member" or "member of an assistance unit" and therefore, by definition, the department's notice would seemingly also have to be sent to any "assistance unit member" as well. It is unclear whether the department intends to obligate itself to send notice to an assistance unit, as well as, any "assistance unit member". As such, further clarification concerning the definition of "notice" is required. In addition, on page 42, in section 17b-198-14(g), and on page 46, in section 17b-198-16(c), the term "notice" is used in a context that is at variance with the defined term. To the extent that the definition section has been made applicable to all sections of the regulation, any use of the term "notice" should comport with the definition of the term.

2. On page 5, section 17b-198-4(b) describes the composition of the needs group for purposes of determining whether the assistance unit meets asset and income requirements and "for the purpose of calculating the appropriate level of assistance." The section then states that the needs group shall consist of the assistance unit and his or her spouse unless they are separated and no longer living together. Since "needs group" is not defined elsewhere in the proposed regulation, it is unclear whether the needs group composition always excludes children and other individuals dependent on the assistance unit or whether this description is only for the purpose of determining income and assets of an assistance unit. The section should be rewritten for clarity or the term "needs group" should be defined.

3. On page 8, section 17b-198-5(f)(4)(C) states the department will consider an assistance unit member and his or her spouse to be separated if such member or spouse belongs to a "community-based services special needs group". It is not clear what such a group is. The term "community-based services special needs group" should be defined for clarity.

4. On page 8, section 17b-198-5(f)(6) states that any penalty assessed under the subsection shall also affect eligibility for AABD during the penalty period. It is unclear whether the SAGA program encompasses the AABD program, an optional state supplementation program for the aged, blind and disabled authorized under federal law and section 17b-600 of the Connecticut General Statutes. Section 17b-600 contains no references to the SAGA program. If SAGA does not encompass AABD, there may have been insufficient notice for this regulatory provision since it is included in proposed regulation for a separate financial assistance program. Section 4-168 of the Connecticut General Statutes requires "a description sufficiently detailed so as to apprise persons likely to be affected of the issues and subjects involved in the proposed regulation."

5. On page 8, section 17b-198-5(f)(7) states the department shall provide notice when it intends to deny or discontinue assistance because of an improper asset transfer but does not state how soon before the denial or discontinuance of assistance such notice shall be given and how or whether such notice differs from the "adequate notice" provisions contained in section 17b-198-15 of the proposed regulation. This subdivision should be rewritten to comport with section 17b-198-15 or include specific information concerning the timeliness of notice regarding denial or discontinuance of assistance related to improper asset transfers.

6. On page 9, section 17b-198-6(a)(3) states the department may request that any person it comes into contact with who is not applying for SAGA or who is ineligible for SAGA for reasons other than failing to provide a Social Security number voluntarily disclose his or her Social Security number to the department. It is not clear whether this authority of the department is limited to persons who are part of the needs group of a SAGA applicant. Section 17b-198 of the Connecticut General Statutes gives the department authority to promulgate SAGA regulations but does not confer a broad-based authority to ask any person to voluntarily disclose his or her Social Security number. The section should be rewritten to limit the circumstances under which the department may ask for such information. Alternatively, the department should include a cite to the state or federal law that authorizes the department to request that a person, who may or may not have some connection to a department administered program, voluntarily disclose his or her Social Security number to the department.

7. On page 12, in section 17b-198-6(f), the regulation requires an applicant to assign to the state any interest such applicant has in an estate or settlement. On pages 55 and 56, in sections 17b-198-18(a) and 17b-198-18(c), the regulation allows the department to recover the full amount of any assistance obtained from estate or settlement proceeds. Section 17b-94 of the Connecticut General Statutes limits state recovery from an estate or settlement proceeds to the amount of benefits paid, or 50 percent of the proceeds, *whichever is less* (emphasis added). The sections should be rewritten to state that recovery of such interest or settlement shall be in accordance with section 17b-94 of the Connecticut General Statutes.

8. On page 17, in sections 17b-198-8(d)(1)(A) and 17b-198-8(d)(1)(C), and on page 23, in sections 17b-189-9(d)(7) and 17b-198-9(d)(11), it is not clear whether references to federal acts with the original enactment date are meant to exclude any amendments made since the original enactment dates; if not, the phrase "as amended from time to time" should be added after the references to the acts.

9. On page 23, in section 17b-198-9(d)(18), Aid and Attendance pension benefits paid by the United States Department of Veterans Affairs are listed as excluded income. On page 25, in section 17b-198-9(l), retirement and veterans' benefits paid by the United States Department of Veterans Affairs are listed as counted unearned income. It is not clear that the latter does not include the former. Sections 17b-198-9(d)(18) and 17b-198-9(l) should be reconciled for clarity.

10. On page 28, section 17b-198-10(b)(2) of the regulation conflicts with the controlling statutory provision, section 17b-104 of the Connecticut General Statutes, as amended by section 375 of public act 15-5 of the June 2015 special session. The regulatory provision

should be reconciled with, or cross reference, the statutory provision. In addition, the reference to "unless the General Assembly directs the department to withhold such annual increase" should be deleted. The General Assembly cannot unilaterally direct the department to withhold such annual increase absent a statutory change through the legislative process.

11. On page 39, section 17b-198-13 establishes a forty-five day deadline for the department to make a non-medical determination of SAGA eligibility and sixty days for the department to determine whether a person has a "medical condition that renders him or her unemployable." The current UPM allows ten days for a non-medical SAGA eligibility determination and forty-five days for medical determinations of unemployability. The department appears to be relying on section 17b-80 of the Connecticut General Statutes, which establishes a forty-five day deadline for the department to process financial assistance applications or sixty days to make "disability" determinations. To the extent that "a determination concerning whether a person has a medical condition that renders him or her unemployable" may not equate to a "determination of disability" as set forth in said section 17b-80, the department should reword this section to conform to the statute or alternatively specifically cite to the statute providing the authority for the regulatory provision in its present form.

12. On page 39, in section 17b-198-13(b), the regulation allows the department to extend the processing time "as necessary" when the department has assumed responsibility to obtain required information, is awaiting receipt of the information or the information is otherwise unavailable. This provision appears to benefit applicants by preventing rejection of the application but also allows an indefinite time period for the department to act in certain cases. To the extent that a failure to act on an application is tantamount to a denial, the provision may conflict with an applicant's right to appeal a denial of benefits via a fair hearing pursuant to section 17b-193 of the Connecticut General Statutes or the department's failure to process the application in a timely manner pursuant to section 17b-80 of the Connecticut General Statutes. The section should be rewritten to state that the department's discretion to extend processing deadlines does not conflict with an applicant's rights to appeal a denial of benefits or failure to process applications in a timely manner.

13. On page 48, in section 17b-198-16(i)(3), the regulation states "Notwithstanding the provisions of subsection (a) of this section, any such replacement payment shall be limited to an amount equal to the portion of the previously issued benefit payment or payments that were misused." Subsection (a) defines the term "electronic benefits transfer account" but does not contain any limitation on department repayment terms. The section should be reworded for accuracy to cite the proper subsection.

14. On page 57, section 17b-198-19 of the regulation sets forth, in part, "any married person receiving SAGA benefits at the time said sections become effective, *and who would be adversely affected by the implementation of said sections*, shall continue to receive the same amount of SAGA benefits such person was receiving prior to the effective date of said sections, provided other circumstances affecting such person's eligibility and appropriate level of assistance do not change." (emphasis added). The phrase "adversely affected by the implementation of said sections" seemingly means that a person would receive a reduction in benefits. However, the regulation provides no guidance as to (1)

whether one might be adversely affected in some other way, or (2) who makes the determination as to whether one is adversely affected. Further clarification of this provision is required.

Technical Corrections:

1. On page 1, in section 17b-198-1, the catchline "Scope. Effective date." should be "**Scope. Effective Date.**" for consistency. Thereafter, the catchlines for sections 17b-198-2 to 17b-198-19, inclusive, should be bolded for consistency.
2. On page 1, in section 17b-198-1, "8000 " should be "8000 et seq." for accuracy.
3. On page 1, in section 17b-198-2(9), "17b-60 to 17b-66" should be "17b-60, 17b-61 and 17b-66" for accuracy.
4. On page 1, section 17b-198-2(10), which defines the term "MA", should be deleted and the remaining subdivisions renumbered accordingly as the defined term does not appear elsewhere in the specified sections of the regulation.
5. On page 3, in section 17b-198-3(b)(1), a semi-colon should be inserted as the end of the subdivision for accuracy and consistency.
6. On page 5, in section 17b-198-3(h), "next succeeding business day" should be "next business day" for clarity.
7. On page 6, in section 17b-198-5(f)(2)(A), "Except as provided in subdivision (5)" should be "Except as provided in subparagraph (C) of this subdivision and subdivision (5)" for accuracy and consistency.
8. On page 8, in section 17b-198-5(f)(5), "was incompetent" and "is incompetent" should be "has been declared incompetent by a court of appropriate jurisdiction" for consistency with the provisions of section 17b-198-3 of the regulation.
9. On page 9, in section 17b-198-5(h), "subdivision" should be "subsection" for accuracy.
10. On page 10, in section 17b-198-6(b)(3), "subsection" should be "subdivision" for accuracy.
11. On page 11, in section 17b-198-6(c)(4), in line 13, "allegation circumstances" should be "allegation of circumstances" for clarity.
12. On page 16, section 17b-198-8(14), which defines the term "revocable burial fund", should be deleted and the remaining subdivision renumbered accordingly as the defined term does not appear in this section of the regulation.

13. On page 17, in section 17b-198-8(d)(1)(E), and on page 25, in section 17b-198-9(l), "U.S." should be "United States" for consistency.
14. On page 19, in sections 17b-198-8(f) and (g), "As a general rule, money received on a recurring basis" should be "Money received on a recurring basis" for clarity.
15. On page 21, in section 17b-198-8(r), in line 2, "owns or" should be deleted; and in line 4, "acquires or" should also be deleted for accuracy and clarity.
16. On page 24, in section 17b-198-9(e)(5)(B), "room" should be "a room" for consistency.
17. On page 25, in section 17b-198-9(h), "17b-812" should be "8-345" for accuracy.
18. On page 35, in section 17b-198-12 (b)(4), "(l)" should be italicized for consistency.
19. On page 42, in section 17b-198-14(i), in line 5, "good cause for such assistance unit's failure" should be "good cause, as defined in subsection (f) of this section, for such assistance unit's failure" and the succeeding sentence should be deleted for consistency.
20. On page 43, in section 17b-198-15(k)(2)(B)(ii), "good cause has the same meaning as provided in subsection (i) of this section" should be "good cause has the same meaning as provided in subsection (f) of this section" for consistency.
21. On page 49, in section 17b-198-17(b), the first sentence should be rewritten for clarity to state: "The department shall investigate and correct any past underpayment when such underpayment is discovered regardless of when the underpayment occurred or whether the underpaid assistance unit's case has been closed."
22. On page 49, in section 17b-198-17(c), the first sentence should be rewritten for clarity to state: "The department shall investigate and take action in accordance with this subdivision with respect to any past overpayment when such overpayment is discovered regardless of when the overpayment occurred or whether the overpaid assistance unit's case has been closed."
23. On page 51, in sections 17b-198-17(e)(2)(A) and 17b-198-17(e)(3)(A)(i), "subsection (i) of section 17b-198-14" should be "subsection (f) of section 17b-198-14" for consistency.
24. In section 8080.10(A) of the Uniform Policy Manual, "section 1000" should be "section 1000 et seq." for accuracy.

Recommendation:

<p>Approval in whole with technical corrections with deletions with substitute pages Disapproval in whole or in part <input checked="" type="checkbox"/> Rejection without prejudice</p>

Reviewed by: Marie Grady / William F. O'Shea

Date: December 4, 2015

Sec. 17b-198. (Formerly Sec. 17b-78). Adoption of regulations concerning the state-administered general assistance program. The Commissioner of Social Services shall adopt regulations, in accordance with the provisions of chapter 54, to implement policies and procedures necessary to carry out the purposes of sections 17b-131, 17b-191 to 17b-194, inclusive, and 17b-197. The Commissioner of Social Services shall implement such policies and procedures while in the process of adopting such policies and procedures as regulations, or amending existing regulations provided notice of intent to adopt or amend the regulations is published in the Connecticut Law Journal within twenty days of implementation, and such policies and procedures shall be valid until the time final regulations are effective. The commissioner shall also amend any regulations in existence on August 20, 2003, to conform to the provisions of this section and sections 17b-131, 17b-191 to 17b-194, inclusive, and 17b-197.

Connecticut General Assembly



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December 4, 2015

TO: Senator Clark Chapin
Representative Brian Becker
Co-Chairs, Regulations Review Committee

FROM: Christopher Perillo, Acting Director *CP*

SUBJECT: Review of Agenda Item 2015-028 for the December 15, 2015 Meeting

OFA has reviewed the state and municipal fiscal impact of item 2015-028 for the Department of Social Services for the above meeting.¹ The following table summarizes our review.

Reg. #	Agency	Is Agency Estimate of State Impact Reasonable?	Is Agency Estimate of Municipal Impact Reasonable?	Did Agency Submit a Small Business Impact Statement??	Did Agency Submit a Regulatory Flexibility Analysis??
2015-028	DSS	Yes	Yes	Yes	No

Please contact me if you have any questions or would like additional information.

¹ CGS Section 2-71c(c)(7) requires OFA to prepare "short analyses of the costs and long range projections of ... proposed agency regulations."

² CGS Section 4-168a requires agencies to prepare a small business impact statement on all regulation submittals and prepare a regulatory flexibility analysis statement when there is an impact on small businesses.