STATE OF CONNECTICUT

DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE • HARTFORD, CONNECTICUT 06106

Notice of Decision and Statement of Principal Reasons in Support of and in Opposition to the Action of the Department of Social Services in Promulgating Regulations Concerning the Deficit Reduction Act of 2005

Introduction

Pursuant to section 4-168 (e) of the Connecticut General Statutes, after the close of the public comment period, and prior to the submission of the proposed regulations to the Attorney General, an agency must post on the eRegulations System an indication of whether it has decided to move forward with the proposed regulation and:

> (1) The final wording of the proposed regulation; (2) a statement of the principal reasons in support of its intended action; and (3) a statement of the principal considerations in opposition to its intended action as urged in written or oral comments on the proposed regulation and its reasons for rejecting such considerations.

The Department of Social Services does intend to move forward with the proposed regulation. With respect to the remaining requirements under section 4-168(e), the Department responds as follows:

1. Final Wording of the Proposed Regulation

The final wording of the proposed regulation is being posted with this statement.

2. Statement of the Principal Reasons in Support of its Intended Action

The proposed regulation amends the Uniform Policy Manual ("UPM") with respect to the eligibility requirements for individuals applying for or receiving long-term care benefits under the Medicaid program to comply with, and give effect to, the DRA.

Among the major revisions to the UPM are the following:

The "look-back" period during which asset transfers may affect eligibility for long-term care ("LTC") benefits under the Medicaid program is changing from three years to five years for transfers made on or after February 8, 2006.

The "penalty period" during which Medicaid will not pay for LTC services will generally begin as of the date that the applicant is eligible for Medicaid and would otherwise be receiving payments for LTC services under the Medicaid program based on an approved application, and which does not occur during any other period of ineligibility. For a recipient of LTC Medicaid

benefits, the penalty period begins as of the month of the transfer, as long as this month is not part of any other period of ineligibility. This change is also effective for transfers made on or after February 8, 2006. Previously, the penalty period generally began as of the month of the transfer for both applicants and recipients.

An individual with equity exceeding $750,000 in his or her home property is ineligible for payment of LTC services under the Medicaid program. This change is effective for applications being made on or after January 1, 2006. The individual may reduce equity in his or her home by taking out a home equity loan or a reverse annuity mortgage. However, if he or she transfers the proceeds from the loan or mortgage, a transfer of asset penalty may be imposed.

If an individual purchases an annuity on or after February 8, 2006, he or she must make the state the remainder beneficiary, or the purchase will be considered a transfer of assets for less than fair market value.

All of these provisions and others contained in the proposed regulation, including provisions regarding undue hardship, the treatment of annuities, mortgage notes, life estates and continuing care retirement communities, are either specifically required by, or necessary to give effect to, the DRA.

3. Statement of the Principal Considerations in Opposition to the Department's Intended Action as Urged in Written or Oral Comments and the Departments Reasons for Rejecting or Accepting Such Considerations

The Department is fulfilling this requirement by posting with this statement a memo setting forth the written and oral comments received regarding the proposed regulation and the Department's response to the comments.