
OLR Bill Analysis

sSB 258

AN ACT CONCERNING THE EXEMPTION OF PROBATE-COURT APPROVED CONSERVATOR AND FIDUCIARY FEES FROM MEDICAID APPLIED INCOME AND ASSET TRANSFER DETERMINATIONS.

SUMMARY

This bill requires the Department of Social Services (DSS) commissioner to amend the Medicaid state plan by December 31, 2018, to permit the deduction of certain conservator expenses when calculating a Medicaid-eligible nursing home resident's applied income. In general, such residents must spend any income they have on their care except for certain allowances (i.e., applied income). Specifically, the plan must allow the deduction of the following conservatorship expenses:

1. compensation for the individual's conservator, in amounts established in probate court regulations;
2. probate court filing fees and expenses, including conservatorship fees, fiduciary accounting fees, and miscellaneous fees (see BACKGROUND);
3. premiums for any probate bond required by the probate court; and
4. any other fiduciary expenses approved by the probate court that are permissible under federal law.

Under federal law, DSS must impose a penalty period when individuals transfer assets for less than fair market value in the 60 months before applying for Medicaid coverage (i.e., improper asset transfer). The bill prohibits DSS from treating any probate court-approved conservator or fiduciary fees as an improper asset transfer.

By law, the penalty period (in months) is generally calculated by dividing the value of all assets transferred during the 60 months before application by the average monthly cost to a private patient of nursing facility services in the state or community. Medicaid does not pay for long-term services and supports during the penalty period.

EFFECTIVE DATE: Upon passage

BACKGROUND

Probate Court Fees

By law, the general fee for most probate court matters related to conservatorship is \$225 (CGS § 45a-106a). This includes filing motions to (1) appoint a conservator, (2) change residence or placement in a long term care facility, and (3) terminate a conservatorship.

Under the law, the basic fee for a fiduciary to file an account in the probate court in any matter other than estate settlement is at least \$50 and up to \$500 per year, based on a formula (CGS § 45a-108a).

The law also allows the probate court to charge fees for miscellaneous expenses (i.e., filing or copying certain documents) (CGS § 45a-109).

The law allows an indigent petitioner or applicant to the probate court to apply for a fee waiver (CGS § 45a-111).

COMMITTEE ACTION

Aging Committee

Joint Favorable Substitute Change of Reference - HS
Yea 12 Nay 0 (03/15/2018)

Human Services Committee

Joint Favorable
Yea 19 Nay 0 (03/22/2018)