



# Senate

General Assembly

**File No. 607**

February Session, 2018

Senate Bill No. 249

*Senate, April 19, 2018*

The Committee on Judiciary reported through SEN. DOYLE of the 9th Dist. and SEN. KISSEL of the 7th Dist., Chairpersons of the Committee on the part of the Senate, that the bill ought to pass.

***AN ACT CONCERNING ADMINISTRATION OF THE HOME-CARE PROGRAM FOR THE ELDERLY BY THE DEPARTMENT OF SOCIAL SERVICES.***

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

1 Section 1. Subsection (j) of section 17b-342 of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective*  
3 *October 1, 2018*):

4 (j) The Commissioner of Social Services may implement revised  
5 criteria for the operation of the program while in the process of  
6 adopting such criteria in regulation form, [provided the commissioner  
7 prints notice of intention to adopt the regulations in the Connecticut  
8 Law Journal within twenty days of implementing the policy] if such  
9 implementation is necessary to conform to a requirement of federal  
10 law relating to the operation of the program. The commissioner shall  
11 post notice of the criteria and the intent to adopt such criteria in  
12 regulation form on the eRegulations System not less than one hundred

13 eighty days prior to the date of implementing the criteria. Such criteria  
14 shall be minimally burdensome to any person affected by the criteria  
15 and valid until the time final regulations are effective. Prior to the  
16 adoption of the criteria in regulation form, any person aggrieved by  
17 the Department of Social Services' application of the criteria or  
18 otherwise affected by the criteria may bring a civil action in the  
19 Superior Court challenging the validity and application of the criteria  
20 without seeking an administrative remedy from the department  
21 pursuant to the provisions of chapter 54.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2018	17b-342(j)

**JUD**      *Joint Favorable*

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The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 19 \$	FY 20 \$
Social Services, Dept.	GF - Potential	See Below	See Below

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill allows for the implementation of operational changes to the Connecticut Home Care Program for Elders (CHCPE) while in the process of adopting regulations only if (1) they are needed to conform to federal requirements or (2) notice of such changes is issued at least 180 days prior to implementation. This could result in delaying related savings or costs to the extent the bill requires the Department of Social Services (DSS) to implement program changes later than they otherwise would have.

The bill also allows individuals aggrieved by the revised program criteria to bring a civil action in the Superior Court without seeking an administrative remedy from DSS under the Uniform Administrative Procedures Act. It is unclear how this may impact the agency's fair hearing process and representation in such cases.

**The Out Years**

The annualized ongoing fiscal impact identified above would continue into the future subject to the length of time for which the implementation of a program change is delayed and the extent to which the fair hearings process is bypassed.

**OLR Bill Analysis****SB 249*****AN ACT CONCERNING ADMINISTRATION OF THE HOME-CARE PROGRAM FOR THE ELDERLY BY THE DEPARTMENT OF SOCIAL SERVICES.*****SUMMARY**

By law, the Department of Social Services (DSS) commissioner may implement revised criteria for operating the Connecticut Home Care Program for Elders (CHCPE) while adopting them in regulations. This bill allows the commissioner to do this only if (1) implementing the criteria is necessary to conform to federal law and (2) he posts notice of the criteria and the intent to adopt regulations on the eRegulations System at least 180 days before the implementation date.

Under current law, the commissioner may implement revised program criteria if he publishes notice of intent to adopt regulations in the *Connecticut Law Journal* within 20 days after the date of implementation.

Under the bill, the revised criteria must be minimally burdensome to people affected by them and, as under current law, they are valid until final regulations are adopted.

Before the revised criteria are adopted in regulations, the bill authorizes any person aggrieved by the department's application of the criteria, or otherwise affected by them, to bring a civil action in Superior Court challenging the criteria's validity and application. Aggrieved persons may do this without seeking an administrative remedy from the department under the Uniform Administrative Procedure Act.

The bill also makes technical changes.

EFFECTIVE DATE: October 1, 2018

**BACKGROUND*****CHCPE***

CHCPE is a Medicaid waiver and state-funded program that provides a range of home and community-based services for individuals age 65 and older who are at risk for institutionalization. To be eligible for CHCPE, individuals must be under income and asset limits. The state may limit enrollment or establish wait lists for CHCPE based on available resources.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable

Yea 41 Nay 0 (04/04/2018)