

Aging Committee JOINT FAVORABLE REPORT

Bill No.: SB-84

AN ACT CONCERNING RETROACTIVE MEDICAID ELIGIBILITY FOR HOME

Title: CARE SERVICES.

Vote Date: 3/3/2020

Vote Action: Joint Favorable

PH Date: 2/18/2020

File No.:

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SPONSORS OF BILL:

Aging Committee

REASONS FOR BILL:

Living independently becomes difficult due to age or disability; it is the desire of the elderly to maintain their life in the comfort of their home. This bill would provide Medicaid coverage retroactively for eligible individuals. It requires the DSS Commissioner to provide retroactive benefits for up to 3 months before the date of their application to those applying to the CT Home-Care Program for Elderly in accordance with federal regulations.

RESPONSE FROM ADMINISTRATION/AGENCY:

Connecticut Dept. of Social Services: The Dept. opposes this bill. They state that while they share the desire for people to obtain prompt access to home care service, they do not believe this proposal can be operationalized given the current allocation of resources and processes for determining eligibility. They also believe this will require additional financial, administrative and staff resources.

For waiver applications, services cannot begin until the application is processed. Retroactive eligibility is not permissible under the structure of their waiver programs. If retroactive payments were possible, there could be no assurance that these CMS requirements were met. Additionally, there are specific rates and approved providers in a waiver. The Dept. would like to note that clients who are active participants on the state-funded Connecticut Home Care Program for Elders and who become Medicaid active with a retroactive effective date are able to have their services retroactively billed to Medicaid.

Most importantly, waivers such as the Connecticut Home Care Program for Elders, include assurances to CMS that clients are provided a choice of a provider and that they receive care management services that include ongoing monthly monitoring of the clients' status and the effectiveness of the person-centered plan. Transfer of asset penalties cannot begin until Medicaid would otherwise pay for waiver services and since waiver services cannot begin until the application is processed, transfer of asset penalties cannot begin until the application is processed. Because federal law does not support the changes sought by this proposal the Dept. cannot support this bill.

NATURE AND SOURCES OF SUPPORT:

Jean Mills Aranha, Attorney, Connecticut Legal Services: She testified in support of this legislation stating that, under current law persons residing in nursing homes are entitled to up to three months of retroactive coverage under Medicaid for the nursing home costs. This bill simply puts individuals who are applying for home care services on the same footing, with a similar three-month retroactive eligibility period. This bill would allow the person to receive home health care services while waiting for the processing of the Medicaid application which could keep them out of a more expensive nursing home care environment

Edward Lang, President, Connecticut Chapter of the National Academy of Elder Law Attorneys: They testified in support of this bill. In accordance with Federal Law, the Dept. of Social Services makes payment for nursing home care for three months directly prior to the date of the Medicaid application if the applicant had less than \$1,600 in assets on the filing date. Although the home care program is governed by the same law as care for institutionalized persons, DSS does not pay for services until the date the Medicaid application is approved. In most cases that it takes approximately 90 days from the date of application to obtain approval for Medicaid Home Care benefits. In some cases, it may take longer for approval. The program begins when the application is approved, not when it is retroactive to 90 days prior to the date of the application or even to the date of the application.

The state, the Aging Committee and members of NAELA have studied Connecticut's Long-Term Services and Supports System in the past and suggested that the state develop a system where individuals enter institutions by choice and not because necessary and reasonable support is unavailable for them to live in the community.

The testimony contained several specific examples that would justify their reasoning.

Tracy Wodatch, President and CEO, Connecticut Association for healthcare at Home: Her testimony was in support of this proposal. This legislation would endure Medicaid coverage retroactively for eligible people. Many of their medical home health provider members, as well as many of the non-medical home care provider members, have serviced Medicaid clients in the community, which is the least costly setting that promotes independence and the client's desire to stay in their own homes. Their providers receive referrals for clients that need care in the home, but they don't have a payment source. They must decide based on the information whether they can commit to providing care knowing that there is currently no payer. It's a gamble as they may not qualify, or they may be required to go into a spend down which usually means that the provider does not get paid.

Home health care agencies have been longtime willing and collaborative state partners, but they have struggled with inadequate and stagnant Medicaid reimbursement rate for some 13 years while state regulatory burdens related to caring for the Medicaid population have increased.

They ask that the DSS once again consider presumptive eligibility or some type of temporary approval based on initial paperwork submitted so that the provider gets paid for services rendered.

Kathleen Flaherty, Executive Director, Connecticut Legal Rights Project, Inc. They support this legislation and feel that the state should do what it can to reduce the financial burden on spouses of nursing home residents whose care is being funded under the Medicaid program. Persons should have the same right to retroactive Medicaid for home care services as they would have for nursing home care.

Linnea Levine, Board Member and Member of the Legislative Policy Committee of the CT Chapter of the National Academy of Elder Law Attorneys: They are supportive of this proposal and feel it would make sure that there is no gap in care from the date a person runs out of money to pay privately for home care and the date the home health care aid is paid by Medicaid. There is no predictable time as to when the home care application will be approved as the applicant is at the mercy of disinterested third parties to provide clear evidence of assets and income. So much is out of control of the applicant who is most always physically and/or mentally impaired.

They conclude that SB 84, if passed, will assure that the impoverished, ill and elderly population can receive care in their homes without a dangerous gap in the provision of essential home health care services. And will assist the DSS in moving forward with its rebalancing efforts to provide quality care at home for more elders at a lower cost to the state than Connecticut's cost for similar services in a nursing home.

NATURE AND SOURCES OF OPPOSITION:

No testimony submitted

Reported by: Richard Ferrari, Assistant Clerk
Gaia McDermott, Clerk

Date: 3/10/2020