
OLR Bill Analysis

sSB 418

AN ACT INCREASING THE PERSONAL NEEDS ALLOWANCE FOR CERTAIN LONG-TERM CARE FACILITY RESIDENTS AND AUTHORIZING A DEDUCTION FOR CONSERVATOR EXPENSES FROM THE AMOUNT OF INCOME A MEDICAID RECIPIENT APPLIES TO THE COST OF CARE.

SUMMARY

This bill requires the Department of Social Services (DSS) commissioner to increase, from \$60 to \$72.75 per month, the personal needs allowance (PNA) provided to long-term care facility residents who receive Medicaid or certain other federal or state assistance (see BACKGROUND).

The bill also requires the commissioner to amend the Medicaid state plan by December 31, 2021, to allow the deduction of certain conservator expenses when calculating a Medicaid-eligible nursing home resident's applied income. In general, these residents must spend any income they have on their care, except for certain allowances (i.e., applied income).

The bill also:

1. requires DSS to increase a nursing home's Medicaid payment by the amount of the reduced applied income;
2. requires the DSS commissioner to annually notify the probate court administrator of the total conservatorship expenses deducted from the applied income in the preceding fiscal year;
3. requires the probate court administrator to annually transfer from the Probate Court Administration Fund to DSS an amount equal to half of such conservatorship expenses for Medicaid-eligible nursing home residents for that year;

4. requires the DSS commissioner to deduct a baseline of \$125 in conservatorship expenses from a nursing home resident's applied income and approve deductions that exceed this amount under certain conditions; and
5. prohibits DSS from treating any probate court-approved conservator or fiduciary fees as an improper asset transfer for purposes of imposing a penalty period.

EFFECTIVE DATE: July 1, 2021, except the provisions on Medicaid applied income take effect upon passage.

APPLIED INCOME

Medicaid State Plan Amendment

The bill requires the DSS commissioner to amend the Medicaid state plan by December 31, 2021, to allow the deduction of the following conservatorship expenses:

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

Under the bill, whenever these conservator fees and expenses are deducted from the applied income, DSS must increase the nursing home's Medicaid payment by the amount of the reduced applied income.

The DSS commissioner must seek approval from the federal Centers for Medicare and Medicaid Services (CMS) for the state plan amendment. The bill applies to conservator expenses incurred on or after October 1, 2021, or the date CMS approves the state plan

amendment, whichever is later.

Notification and Transfer of Funds

The bill requires the DSS commissioner, by December 31, 2022, and annually thereafter, to calculate the total conservatorship expenses deducted from a nursing home resident's applied income in the preceding fiscal year and inform the probate court administrator in writing of the amount.

Within 30 days after receiving the commissioner's calculation, the probate court administrator must transfer from the Probate Court Administration Fund to DSS funds equal to half of the conservatorship expenses for that year.

Deduction Amount

Under the bill, DSS must deduct from a conserved nursing home resident's applied income a baseline of \$125 per month in conservatorship expenses. The DSS commissioner must approve deductions above this amount if they are approved by the probate court (1) when the conserved nursing home resident is initially granted Medicaid benefits and (2) upon eligibility redeterminations.

PENALTY PERIOD

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 care services and supports during the penalty period.

BACKGROUND

Medicaid Personal Needs Allowance

Covered facilities include nursing homes, chronic disease hospitals, intermediate care facilities for individuals with intellectual disabilities, and state humane institutions. Residents of these facilities who receive Medicaid apply their monthly income (e.g., Social Security) towards the cost of their care. But federal law allows them to keep a portion of this income (the PNA) to pay for incidental items, such as haircuts, telephone expenses, newspapers, or hobbies. Facilities deposit the PNA into residents' personal fund accounts.

Probate Court Fees

By law, the general fee for most probate court matters related to conservatorship is \$250 (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.

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

Yea 15 Nay 0 (03/02/2021)