

**Proposed Substitute
Bill No. 913**

January Session, 2021

LCO No. 4710

**AN ACT REQUIRING FAIRNESS FOR FAMILIES IN MEDICAID
ELIGIBILITY AND REIMBURSEMENT DETERMINATIONS.**

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

1 Section 1. (NEW) (*Effective July 1, 2021*) To the extent permissible
2 under federal law, payment rates for family caregivers authorized to
3 receive compensation in programs administered by the Department of
4 Social Services shall be equal to the rates set for nonfamily professional
5 caregivers providing the same types of services to participants in such
6 programs. The Commissioner of Social Services shall use the fair market
7 value of services provided by a family caregiver in determining whether
8 a Medicaid applicant who transferred assets to such caregiver as part of
9 a legally enforceable compensation agreement for such services violated
10 any provision of federal law regarding the transfer of assets.

11 Sec. 2. Subsection (h) of section 17b-342 of the general statutes is
12 repealed and the following is substituted in lieu thereof (*Effective July 1,*
13 *2021*):

14 (h) An individual who is otherwise eligible for services pursuant to
15 this section shall, as a condition of participation in the program, apply
16 for medical assistance benefits pursuant to section 17b-260 when
17 requested to do so by the department and shall accept such benefits if
18 determined eligible. The Commissioner of Social Services shall provide

19 medical assistance payments for Medicaid-eligible home care services
20 retroactive to not more than three months before the date an eligible
21 individual applied for Medicaid, to the extent permissible under 42 CFR
22 435.915, as amended from time to time, provided such individual was
23 otherwise eligible for Medicaid not more than three months before
24 applying for Medicaid. Any Medicaid applicant who has transferred
25 assets for less than fair market value for purposes of obtaining or
26 maintaining Medicaid eligibility in the sixty months before applying
27 shall not be eligible for retroactive medical assistance payments. If the
28 applicant has made such a transfer, the commissioner shall impose a
29 penalty period in accordance with 42 USC 1396p(c)(1)(D)(ii), as
30 amended from time to time.

31 Sec. 3. Section 17b-261 of the general statutes is repealed and the
32 following is substituted in lieu thereof (*Effective July 1, 2021*):

33 (a) Medical assistance shall be provided for any otherwise eligible
34 person whose income, including any available support from legally
35 liable relatives and the income of the person's spouse or dependent
36 child, is not more than one hundred forty-three per cent, pending
37 approval of a federal waiver applied for pursuant to subsection (e) of
38 this section, of the benefit amount paid to a person with no income
39 under the temporary family assistance program in the appropriate
40 region of residence and if such person is an institutionalized individual
41 as defined in Section 1917 of the Social Security Act, 42 USC 1396p(h)(3),
42 and has not made an assignment or transfer or other disposition of
43 property for less than fair market value for the purpose of establishing
44 eligibility for benefits or assistance under this section. Any such
45 disposition shall be treated in accordance with Section 1917(c) of the
46 Social Security Act, 42 USC 1396p(c). Any disposition of property made
47 on behalf of an applicant or recipient or the spouse of an applicant or
48 recipient by a guardian, conservator, person authorized to make such
49 disposition pursuant to a power of attorney or other person so
50 authorized by law shall be attributed to such applicant, recipient or
51 spouse. A disposition of property ordered by a court shall be evaluated

52 in accordance with the standards applied to any other such disposition
53 for the purpose of determining eligibility. The commissioner shall
54 establish the standards for eligibility for medical assistance at one
55 hundred forty-three per cent of the benefit amount paid to a household
56 of equal size with no income under the temporary family assistance
57 program in the appropriate region of residence. In determining
58 eligibility, the commissioner shall not consider as income Aid and
59 Attendance pension benefits granted to a veteran, as defined in section
60 27-103, or the surviving spouse of such veteran. Except as provided in
61 section 17b-277 and section 17b-292, the medical assistance program
62 shall provide coverage to persons under the age of nineteen with
63 household income up to one hundred ninety-six per cent of the federal
64 poverty level without an asset limit and to persons under the age of
65 nineteen, who qualify for coverage under Section 1931 of the Social
66 Security Act, with household income not exceeding one hundred
67 ninety-six per cent of the federal poverty level without an asset limit,
68 and their parents and needy caretaker relatives, who qualify for
69 coverage under Section 1931 of the Social Security Act, with household
70 income not exceeding one hundred fifty-five per cent of the federal
71 poverty level without an asset limit. Such levels shall be based on the
72 regional differences in such benefit amount, if applicable, unless such
73 levels based on regional differences are not in conformance with federal
74 law. Any income in excess of the applicable amounts shall be applied as
75 may be required by said federal law, and assistance shall be granted for
76 the balance of the cost of authorized medical assistance. The
77 Commissioner of Social Services shall provide applicants for assistance
78 under this section, at the time of application, with a written statement
79 advising them of (1) the effect of an assignment or transfer or other
80 disposition of property on eligibility for benefits or assistance, (2) the
81 effect that having income that exceeds the limits prescribed in this
82 subsection will have with respect to program eligibility, and (3) the
83 availability of, and eligibility for, services provided by the Nurturing
84 Families Network established pursuant to section 17b-751b. For
85 coverage dates on or after January 1, 2014, the department shall use the

86 modified adjusted gross income financial eligibility rules set forth in
87 Section 1902(e)(14) of the Social Security Act and the implementing
88 regulations to determine eligibility for HUSKY A, HUSKY B and
89 HUSKY D applicants, as defined in section 17b-290. Persons who are
90 determined ineligible for assistance pursuant to this section shall be
91 provided a written statement notifying such persons of their ineligibility
92 and advising such persons of their potential eligibility for one of the
93 other insurance affordability programs as defined in 42 CFR 435.4.

94 (b) For the purposes of the Medicaid program, the Commissioner of
95 Social Services shall consider parental income and resources as available
96 to a child under eighteen years of age who is living with his or her
97 parents and is blind or disabled for purposes of the Medicaid program,
98 or to any other child under twenty-one years of age who is living with
99 his or her parents.

100 (c) For the purposes of determining eligibility for the Medicaid
101 program, an available asset is one that is actually available to the
102 applicant or one that the applicant has the legal right, authority or
103 power to obtain or to have applied for the applicant's general or medical
104 support. If the terms of a trust provide for the support of an applicant,
105 the refusal of a trustee to make a distribution from the trust does not
106 render the trust an unavailable asset. Notwithstanding the provisions of
107 this subsection, the availability of funds in a trust or similar instrument
108 funded in whole or in part by the applicant or the applicant's spouse
109 shall be determined pursuant to the Omnibus Budget Reconciliation Act
110 of 1993, 42 USC 1396p. The provisions of this subsection shall not apply
111 to a special needs trust, as defined in 42 USC 1396p(d)(4)(A), as
112 amended from time to time. For purposes of determining whether a
113 beneficiary under a special needs trust, who has not received a disability
114 determination from the Social Security Administration, is disabled, as
115 defined in 42 USC 1382c(a)(3), the Commissioner of Social Services, or
116 the commissioner's designee, shall independently make such
117 determination. The commissioner shall not require such beneficiary to
118 apply for Social Security disability benefits or obtain a disability

119 determination from the Social Security Administration for purposes of
120 determining whether the beneficiary is disabled.

121 (d) The transfer of an asset in exchange for other valuable
122 consideration shall be allowable to the extent the value of the other
123 valuable consideration is equal to or greater than the value of the asset
124 transferred.

125 (e) The Commissioner of Social Services shall seek a waiver from
126 federal law to permit federal financial participation for Medicaid
127 expenditures for families with incomes of one hundred forty-three per
128 cent of the temporary family assistance program payment standard.

129 (f) To the extent [permitted by] permissible under federal law,
130 Medicaid eligibility shall be extended for one year to a family that
131 becomes ineligible for medical assistance under Section 1931 of the
132 Social Security Act due to income from employment by one of its
133 members who is a caretaker relative or due to receipt of child support
134 income. A family receiving extended benefits on July 1, 2005, shall
135 receive the balance of such extended benefits, provided no such family
136 shall receive more than twelve additional months of such benefits.

137 (g) An institutionalized spouse applying for Medicaid and having a
138 spouse living in the community shall be required, to the maximum
139 extent permitted by law, to divert income to such community spouse in
140 order to raise the community spouse's income to the level of the
141 minimum monthly needs allowance, as described in Section 1924 of the
142 Social Security Act. Such diversion of income shall occur before the
143 community spouse is allowed to retain assets in excess of the
144 community spouse protected amount described in Section 1924 of the
145 Social Security Act. The Commissioner of Social Services, pursuant to
146 section 17b-10, may implement the provisions of this subsection while
147 in the process of adopting regulations, provided the commissioner
148 prints notice of intent to adopt the regulations [in the Connecticut Law
149 Journal within] on the Internet web site of the Department of Social

150 Services and the eRegulations System not later than twenty days of
151 adopting such policy. Such policy shall be valid until the time final
152 regulations are effective.

153 (h) To the extent permissible under federal law, an institutionalized
154 individual, as defined in Section 1917 of the Social Security Act, 42 USC
155 1396p(h)(3), shall not be determined ineligible for Medicaid solely on
156 the basis of the cash value of a life insurance policy worth less than ten
157 thousand dollars provided the individual is pursuing the surrender of
158 the policy.

159 (i) To the extent permissible under federal law, an individual who has
160 applied for Medicaid shall not be determined ineligible solely on the
161 basis of an asset discovered by such individual after the date of
162 application, provided (1) the individual reports the discovery of the
163 asset to the Commissioner of Social Services not later than ten days after
164 the discovery, (2) the individual takes steps to liquidate such
165 individual's interest in the asset and spend down the proceeds in
166 accordance with Medicaid income and asset limits, and (3) in the event
167 the individual is unable to gain access to the asset, the Department of
168 Social Services provides assistance to the individual to gain access to the
169 asset.

170 [(i)] (j) Medical assistance shall be provided, in accordance with the
171 provisions of subsection (e) of section 17a-6, to any child under the
172 supervision of the Commissioner of Children and Families who is not
173 receiving Medicaid benefits, has not yet qualified for Medicaid benefits
174 or is otherwise ineligible for such benefits. Medical assistance shall also
175 be provided to any child in the behavioral services program operated
176 by the Department of Developmental Services who is not receiving
177 Medicaid benefits, has not yet qualified for Medicaid benefits or is
178 otherwise ineligible for benefits. To the extent practicable, the
179 Commissioner of Children and Families and the Commissioner of
180 Developmental Services shall apply for, or assist such child in qualifying
181 for, the Medicaid program.

182 [(j)] (k) The Commissioner of Social Services shall provide Early and
183 Periodic Screening, Diagnostic and Treatment program services, as
184 required and defined as of December 31, 2005, by 42 USC 1396a(a)(43),
185 42 USC 1396d(r) and 42 USC 1396d(a)(4)(B) and applicable federal
186 regulations, to all persons who are under the age of twenty-one and
187 otherwise eligible for medical assistance under this section.

188 [(k)] (l) A veteran, as defined in section 27-103, and any member of
189 his or her family, who applies for or receives assistance under the
190 Medicaid program, shall apply for all benefits for which he or she may
191 be eligible through the United States Department of Veterans Affairs or
192 the United States Department of Defense.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2021</i>	New section
Sec. 2	<i>July 1, 2021</i>	17b-342(h)
Sec. 3	<i>July 1, 2021</i>	17b-261