



General Assembly

February Session, 2022

Raised Bill No. 5340

LCO No. 2442



Referred to Committee on HUMAN SERVICES

Introduced by:
(HS)

AN ACT CONCERNING EQUITABLE MEDICAID PAYMENTS AND ELIGIBILITY DETERMINATIONS FOR APPLICANTS, RECIPIENTS AND FAMILY CAREGIVERS.

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

1 Section 1. (NEW) (*Effective July 1, 2022*) The Commissioner of Social
2 Services shall set payment rates for family caregivers authorized to
3 receive compensation in programs administered by the Department of
4 Social Services equal to the rates set for nonfamily professional
5 caregivers providing the same types of services to participants in such
6 programs, including, but not limited to, providing family caregivers
7 who provide personal care services the same rates received by personal
8 care attendants negotiated pursuant to section 17b-706b of the general
9 statutes. The commissioner shall utilize such rates to determine the
10 value of personal care services provided by a family caregiver to a
11 Medicaid applicant who transferred assets to the family caregiver as
12 part of a legally enforceable compensation agreement with such
13 caregiver.

14 Sec. 2. Subsection (h) of section 17b-342 of the 2022 supplement to the

15 general statutes is repealed and the following is substituted in lieu
16 thereof (*Effective July 1, 2022*):

17 (h) An individual who is otherwise eligible for services pursuant to
18 this section shall, as a condition of participation in the program, apply
19 for medical assistance benefits pursuant to section 17b-260 when
20 requested to do so by the department and shall accept such benefits if
21 determined eligible. The Commissioner of Social Services shall provide
22 medical assistance payments for Medicaid-eligible home care services
23 retroactive to not more than three months before the date an eligible
24 individual applied for Medicaid, to the extent permissible under 42 CFR
25 435.915, as amended from time to time.

26 Sec. 3. Section 17b-261 of the 2022 supplement to the general statutes
27 is repealed and the following is substituted in lieu thereof (*Effective July*
28 *1, 2022*):

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

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

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

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

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

117 (d) The transfer of an asset in exchange for other valuable
118 consideration shall be allowable to the extent the value of the other
119 valuable consideration is equal to or greater than the value of the asset
120 transferred.

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

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

133 (g) An institutionalized spouse applying for Medicaid and having a
134 spouse living in the community shall be required, to the maximum
135 extent permitted by law, to divert income to such community spouse in
136 order to raise the community spouse's income to the level of the
137 minimum monthly needs allowance, as described in Section 1924 of the
138 Social Security Act. Such diversion of income shall occur before the
139 community spouse is allowed to retain assets in excess of the
140 community spouse protected amount described in Section 1924 of the
141 Social Security Act. The Commissioner of Social Services, pursuant to
142 section 17b-10, may implement the provisions of this subsection while
143 in the process of adopting regulations, provided the commissioner
144 [prints] posts notice of intent to adopt the regulations [in the
145 Connecticut Law Journal within] on the eRegulations System not later
146 than twenty days [of] after adopting such policy. Such policy shall be
147 valid until the time final regulations are effective.

148 (h) To the extent permissible under federal law, an institutionalized

149 individual, as defined in Section 1917 of the Social Security Act, 42 USC
150 1396p(h)(3), shall not be determined ineligible for Medicaid solely on
151 the basis of the cash value of a life insurance policy worth less than ten
152 thousand dollars provided the individual is pursuing the surrender of
153 the policy.

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

165 (j) To the extent permissible under federal law, an individual who has
166 applied for Medicaid shall not be determined ineligible on the basis of a
167 single, unliquidated asset, provided such individual presents evidence
168 to the Commissioner of Social Services that such asset is inaccessible to
169 the individual because it is not possible to liquidate the asset in fewer
170 than thirty days.

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

182 for, the Medicaid program.

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

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

194 [(l)] (n) On and after January 1, 2023, the Commissioner of Social
 195 Services shall, within available appropriations, provide state-funded
 196 medical assistance to any child eight years of age and younger,
 197 regardless of immigration status, whose household income does not
 198 exceed two hundred one per cent of the federal poverty level without
 199 an asset limit and who does not otherwise qualify for Medicaid, the
 200 Children's Health Insurance Program, or an offer of affordable,
 201 employer-sponsored insurance as defined in the Affordable Care Act, as
 202 an employee or a dependent of an employee.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2022	New section
Sec. 2	July 1, 2022	17b-342(h)
Sec. 3	July 1, 2022	17b-261

Statement of Purpose:

To (1) provide the same Medicaid payment rates to family caregivers providing the same services as professional caregivers, (2) authorize retroactive Medicaid coverage for home care if federally permissible, and (3) not delay a Medicaid eligibility determination due to an asset

discovered after the application or an asset that cannot be liquidated within thirty days.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]