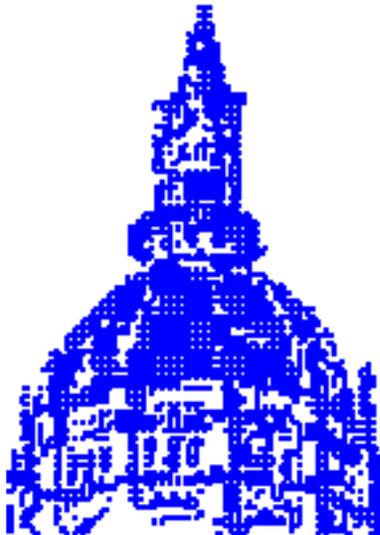


Office of Legislative Research
Connecticut General Assembly



OLR ACTS AFFECTING

SENIORS



By:
Helga Niesz, Principal Analyst

(Revised)
2004-R-0455
July 19, 2004

NOTICE TO READERS

This report provides brief highlights of new laws (public acts) affecting seniors enacted during the 2004 regular and May 2004 special legislative sessions. At the end of each summary we indicate the public act (PA) number or, if that is not yet available, the bill number. A number of the changes were made as part of several large acts that are commonly known as “the budget act” (PA 04-216, formerly HB 5692), the “DSS Implementer” (PA 04-258, formerly sHB 5689), and the “OPM Implementer” (PA 04-2, May Special Session, formerly HB 5801).

Not all provisions of the acts are included here. Complete summaries of all 2003 public acts passed will be available in the fall when OLR’s *Public Act Summary* book is published; some are already on OLR’s webpage: <http://www.cga.state.ct.us/olr/publicactsummaries.asp>.

Readers are encouraged to obtain the full text of acts that interest them from the Connecticut State Library, the House Clerk’s Office, or the General Assembly’s website: <http://www.cga.state.ct.us/default.asp>.

TABLE OF CONTENTS

MEDICAL ASSISTANCE PROGRAMS	4
ConnPACE and the Federal Medicare Drug Discount Card.....	4
ConnPACE Estate Recovery and Asset Test Repeal.....	4
ConnPACE Canadian Drug Reimportation Study	5
Lost or Stolen Prescription Drug Replacements under ConnPACE..	5
Preferred Drug List Expansion.....	5
Medicaid Co-Pays and Premiums Repeal.....	6
SAGA Prescription Copay Repeal And Look-Back	6
Medicare-Medicaid Dually-Eligible Managed Care Pilot	6
NURSING HOME RESIDENTS	6
Patients' Bill of Rights.....	7
PERSONAL CARE ASSISTANCE PILOT	7
ASSISTED LIVING	8
Combined Cap for Private Assisted Living Pilots	8
Long-Term Care Ombudsman Assisted Living Pilot	8
LEGAL IMMIGRANT PROGRAMS	9
PRIVATE HEALTH AND LIFE INSURANCE	9
HMO Coverage of Off-Label Cancer Drugs.....	9
Corporate-Owned Life Insurance.....	9
Coverage of Wigs for Chemotherapy Patients.....	10
JUDICIAL CHANGES	10
Compassionate Parole Release	10
Furloughs for Visits to Dying Relatives and Funerals	10
Northwest Corner Probate District	11
HEALTH CARE WORKFORCE SHORTAGE	11
TAXES	12
Property Tax Credit Increase.....	12
Deadline for Appeal Decisions under Elderly Circuit Breaker and Tax Freeze Programs.....	12
MISCELLANEOUS	13
Hospice Services in Rural Towns	13
Funeral And Burial Plot Allowances	13
Unemployment Compensation And Social Security	13
Eligibility for Veterans' Home Admission.....	13

MEDICAL ASSISTANCE PROGRAMS

ConnPACE and the Federal Medicare Drug Discount Card

This act conforms the Connecticut Pharmaceutical Assistance Contract to the Elderly and Disabled (ConnPACE) program to the first stage of a new federal law (P.L. 108-173) that establishes a voluntary prescription drug benefit for Medicare beneficiaries (seniors age 65 and over and younger disabled adults). In the first stage, Medicare beneficiaries can sign up for federally-endorsed Medicare drug discount cards offered by private companies from June 2004 through January 2006, when a more comprehensive program begins. Low-income people will receive a \$600 annual federal subsidy as a credit on the card and will have to pay copays of only 5% or 10% of the discounted price per prescription until the \$600 credit is exhausted. To qualify for the credit, incomes must be under 135% of the federal poverty level (FPL), i.e., \$12,569 for one person and \$16,862 for two in 2004.

The state act requires ConnPACE participants with incomes below 135% of the FPL (the group eligible for the \$600 federal credit) to obtain one of the discount cards designated by the Department of Social Services (DSS) for use in conjunction with

ConnPACE. The act combines ConnPACE and discount card benefits for this group and requires them to pay the discount card or ConnPACE copay, whichever is lower. The maximum ConnPACE copay is \$16.25 per prescription. (A second act requires these ConnPACE participants to reapply annually for a card and lets DSS enroll them if they do not choose one for themselves.) DSS has already begun mailing out letters providing information on the discount cards to ConnPACE participants.

Higher-income ConnPACE participants (who will not receive the federal \$600 credit) will see no change in their ConnPACE eligibility or benefits. The act allows DSS to require them to sign up for a card if it is cost-effective for the state, but DSS has decided not to require this.

(PA 04-6 & PA 04-101,
effective on passage)

ConnPACE Estate Recovery and Asset Test Repeal

This act repeals the never-implemented 2003 law that allowed the state to recoup ConnPACE benefits from the estates of deceased participants. It also repeals the law that set an asset limit for ConnPACE participation of \$100,000 for single people and \$125,000 for

married couples. DSS implemented the asset limit on February 1, 2004.

(PA 04-258, §§ 11 and 12, effective on passage)

ConnPACE Canadian Drug Reimportation Study

This act requires the DSS commissioner to (1) evaluate the feasibility, health and safety, legal sufficiency, and cost-effectiveness of re-importing prescription drugs from Canada under the ConnPACE program; (2) evaluate the feasibility of waiving the ConnPACE copayment for such drugs; and (3) report to the legislature by January 1, 2005.

(PA 04-101, effective upon passage)

Lost or Stolen Prescription Drug Replacements under ConnPACE

This act allows ConnPACE participants to obtain replacements for lost or stolen prescription drugs. It places a twice-a-year limit on replacements and exempts them from the program's \$16.25 copay requirement.

To receive the replacement, the participant must sign a statement saying that the drug is lost or was stolen or destroyed and he has made a good faith effort to recover it. Willful misrepresentations will result in (1) liability for up to five times the value of the material gain

received, (2) up to one year's suspension of program eligibility for the first offense, and (3) permanent revocation of eligibility for the second offense.

(PA 04-104, effective July 1, 2004)

Preferred Drug List Expansion

Existing law requires DSS to establish a preferred drug list for Medicaid, ConnPACE, and State Administered General Assistance (SAGA) in consultation with the Medicaid Pharmaceutical and Therapeutics Committee.

Prescriptions for drugs not on the list will need prior authorization except for mental health-related and antiretroviral drugs.

However, as a first step, in FY 2003-04, the law limits the list to three classes of drugs, proton pump inhibitors and two others yet to be chosen. The list has not yet been established.

This act allows different lists for different programs and requires the commissioner to include other classes of drugs on the lists by June 30, 2005. For one year, FY 2003-04, the act exempts SAGA from using a list. It also requires DSS to use the list in the HUSKY A and B programs under certain circumstances. Finally, it allows the commissioner to contract with a pharmacy benefits organization or a single entity qualified to negotiate with pharmaceutical

manufacturers for supplemental rebates for drugs on the preferred drug list.

(PA 04-258, § 8, PA 04-2, May Special Session § 41, both effective July 1, 2004)

Medicaid Co-Pays and Premiums Repeal

This act eliminates the Medicaid co-payments and premiums established last year. Consistent with this change, it also removes (1) pharmacists' authority to refuse to fill prescriptions for Medicaid recipients who continuously fail to pay their co-payments and (2) DSS's authority to deny coverage to families who are late paying their premiums.

(PA 04-258, § 43, effective July 1, 2004)

SAGA Prescription Copay Repeal And Look-Back

The act eliminates the \$1.50 copayment for prescription drugs under SAGA medical assistance and institutes a three-month "look-back" period for SAGA medical applicants. Specifically, it renders a person ineligible for SAGA medical assistance if he assigns, transfers, or otherwise disposes of property for less than fair market value during the three months before he applies for assistance. The number of months of ineligibility are determined by dividing the fair market value of the property, less any consideration received in

exchange for it, by \$500. The ineligibility period begins the month in which the applicant is determined otherwise eligible for assistance. The act establishes a presumption that any such disposition of property was made to qualify for assistance unless the person provides convincing evidence that it was done exclusively for some other purpose. SAGA covers mainly very poor single adults who are not otherwise eligible for Medicaid or other assistance programs.

(PA 04-258, § 9, effective July 1, 2004)

Medicare-Medicaid Dually-Eligible Managed Care Pilot

The act requires DSS, to the extent permitted by federal law, to amend the Medicaid state plan to establish a pilot program for up to 500 Medicare-Medicaid dually-eligible elderly and disabled people who volunteer to participate. The pilot must demonstrate the feasibility and cost-effectiveness of delivering comprehensive health insurance coverage in a managed care setting to these people. To encourage voluntary participation, the pilot can include services not previously covered under Medicaid and other modifications.

(PA 04-258, § 4, effective upon passage)

NURSING HOME RESIDENTS

Patients' Bill of Rights

Under state and federal law, nursing homes and chronic disease hospitals must fully inform patients about their numerous rights and provide each patient with a copy of a document that lists them (called the "patients' bill of rights").

This act gives these patients the specific right to be fully informed by state or federally funded patient advocacy programs about their rights and requires the institutions to include this right in the patients' bill of rights. It also (1) requires the patients' bill of rights to conform to federal law concerning general patients' rights, written care plans, and quality of care; (2) adds receiving quality care as one of the rights that must be disclosed in the bill of rights; and (3) specifies that development of the written care plan for a patient to receive psychopharmacologic drugs must conform to federal law.

(**PA 04-158**, effective October 1, 2004)

PERSONAL CARE ASSISTANCE PILOT

Under this act, DSS must:

1. operate a new state-funded pilot program until June 30, 2006, within available appropriations, that permits up to 100 eligible seniors to receive

consumer-directed personal care assistance (PCA) as an alternative to home care through home health agencies in order to avoid institutionalization;

2. apply for a federal waiver to include the pilot in the Medicaid portion of the Connecticut Home Care Program for Elders (CHCPE), which currently provides formal home health care through agencies for seniors who would otherwise be in a nursing home and meet certain financial requirements; and
3. carry out certain monitoring, regulatory, and reporting duties for the pilot.

To qualify for the pilot, seniors must be age 65 or older and meet CHCPE's financial requirements. Recipients' relatives, other than spouses, can function as personal care assistants in this pilot.

PCA services are a "consumer-directed" alternative to nursing homes or home care through an agency. In such a program, the client chooses his own personal care assistant to help him with care and activities of daily living, such as dressing, eating, bathing, using the toilet, or transferring from a bed to a chair. The client employs, trains, supervises, and may fire the attendant, but a financial intermediary takes care of paperwork.

(PA 04-258, §§ 40-41, effective July 1, 2004, but upon passage for the Medicaid waiver application requirement)

ASSISTED LIVING

Assisted living is primarily for people age 55 and older who do not need full nursing home services, but require some health care, nursing, or assistance with activities of daily living. These “assisted living services” can be provided in a number of different settings, such as private apartments, continuing care retirement communities, or certain government-assisted elderly housing projects. The facility provides “core services,” such as separate apartments with some communal areas, meals, housekeeping, laundry, maintenance, transportation, and social and recreational activities, and a licensed assisted living services agency (ALSA) provides the assisted living services.

Combined Cap for Private Assisted Living Pilots

The act sets a combined overall limit of 75 participants in two private assisted living pilot programs (one Medicaid, one purely state-funded). Prior law had set separate limits of 50 for the Medicaid pilot and 25 for the state-funded pilot. The programs help pay for assisted living services (but not room and

board) for people living in private assisted living facilities who have used up their own resources.

(PA 04-258 §§ 5 and 6, effective July 1, 2004)

Long-Term Care Ombudsman Assisted Living Pilot

This act requires the Office of the Long-Term Care Ombudsman to develop and implement a pilot program to provide assistance and education to residents in assisted living facilities and to report on the pilot by June 30, 2005. (The office helps residents in nursing homes and residential care homes with complaints and advocates for them.) The pilot must be conducted within available appropriations.

Under the pilot, the long-term care ombudsman office must provide assistance and education (1) to residents who are temporarily in a hospital or nursing home and return to the facility or who have issues relating to an admissions contract and (2) to assure adequate and appropriate services are being provided, such as services for cognitive impairments. The act requires the office to develop the pilot in cooperation with the facilities and the ALSAs providing the services and to give priority to residents in state-subsidized assisted living programs.

To the extent appropriations are still available after services are provided to residents in the state-subsidized programs, the act also requires the office to assist and educate residents in private assisted living facilities.

(PA 04-158, § 2, effective upon passage)

LEGAL IMMIGRANT PROGRAMS

This act reopens the state-funded legal immigrant programs to new applicants who are excluded from federal programs. These state programs include state-funded Temporary Family Assistance, cash assistance under SAGA, state-funded medical assistance (equivalent to Medicaid, SAGA medical, or HUSKY B, as appropriate), the Connecticut Home Care Program for Elders, and state-funded food assistance equivalent to the federal Food Stamp Program. New applicants have not been accepted in these programs since June 30, 2003.

(PA 04-258, §§ 15-18, effective on July 1, 2004)

PRIVATE HEALTH AND LIFE INSURANCE

HMO Coverage of Off-Label Cancer Drugs

The act prohibits HMOs that cover drugs approved by the federal Food and Drug Administration (FDA) for cancer

treatment from excluding coverage for “off-label use” of such drugs. “Off-label use” means that the approved drugs are used to treat a type of cancer not included in the medication’s labeling. In order to be covered, the drug must be recognized for treatment of the specific cancer for which it is prescribed in one of several specified reference sources. The act applies to HMO plans delivered, issued for delivery, or renewed in this state after September 30, 2004.

(PA 04-49, effective October 1, 2004)

Corporate-Owned Life Insurance

This act permits an employer or a trustee of a trust that provides life, health, disability, retirement, or similar benefits to employees or retirees to purchase life insurance on those employees or retirees under specified conditions and only with the insured’s consent.

The act also (1) prohibits retaliation against people who do not consent; (2) requires the amount of life insurance coverage taken out on non-key or non-managerial employees to be reasonably related to the amount of benefits provided to those employees in the aggregate; and (3) requires that when life insurance is purchased to finance an employer-provided employee benefit plan, it can only be taken out on the lives of employees and retirees eligible to

participate in the benefit plan when their lives are first insured. The act applies to policies and contracts delivered or issued for delivery in this state after September 30, 2004.

(PA 04-24, effective October 1, 2004)

Coverage of Wigs for Chemotherapy Patients

This act requires certain health insurance policies to provide coverage of at least \$350 per year for a wig prescribed by a licensed oncologist for a patient who suffers hair loss as a result of chemotherapy. The change applies to individual and group health insurance policies delivered or issued for delivery in Connecticut after September 30, 2004 that cover (1) basic hospital expenses, (2) basic medical-surgical expenses, (3) major medical expenses, (4) limited benefit expenses (individual policies only), or (5) hospital or medical services.

(PA 04-34, effective October 1, 2004)

JUDICIAL CHANGES

Compassionate Parole Release

The act allows the Board of Parole to grant an inmate, other than one convicted of a capital felony, a compassionate parole release if he:

1. is physically incapable of presenting a danger to society because he is physically or mentally debilitated, incapacitated or infirm because of advanced age, or has a non-terminal condition, disease, or syndrome and
2. has served at least half of his sentence or half of his remaining sentence after the board commuted his original sentence.

A person granted a release is subject to terms and conditions set by the board and is supervised by the Department of Correction (DOC).

(PA 04-234, § 28, effective upon passage)

Furloughs for Visits to Dying Relatives and Funerals

The act increases, from 15 to 30 days, the length of time DOC can release an inmate on furlough to visit a dying relative, attend a relative's funeral, or for other certain compelling reasons. By law, DOC must have a reasonable belief that the inmate will honor the trust, specifically designate the place to be visited, and prescribe conditions.

(PA 04-234, § 31, effective upon passage)

Northwest Corner Probate District

This act replaces four probate court districts in northwestern Connecticut with a new probate district of the Northwest Corner and requires a judge to be elected for the new district in 2006 and then every four years. The new consolidated probate court begins operation on January 3, 2007. The eliminated districts include Canaan (consisting of the towns of Canaan and North Canaan), Cornwall, Salisbury, and Sharon. (Probate courts have jurisdiction over estates of deceased people, trusts, guardianships and conservatorships for people unable to handle their own affairs, adoptions, and other issues.)

(PA 04-19, upon passage, except elimination of the current districts takes effect January 3, 2007)

HEALTH CARE WORKFORCE SHORTAGE

Three acts address health care workforce shortages, which are often of concern to seniors who need medical attention, home care, or nursing home services.

One act creates a Connecticut Allied Health Workforce Policy Board to work with the Connecticut Career Ladder Advisory Committee and requires it to report its findings and

recommendations annually, beginning by January 1, 2006. Among other duties, the board must (1) monitor supply and demand data and trends and the public higher education system's capacity to train allied health professionals; (2) identify recruitment and retention strategies; (3) recommend how to enhance the professions' attractiveness, promote diversity, and recruit retired nursing faculty members to train practical or registered nurses; and (4) recommend how to streamline nursing programs. Allied health workers include physician assistants, registered nurses, licensed practical nurses, certified nurse assistants, home health aides, radiological technologists and technicians, and medical therapists.

(PA 04-220, effective October 1, 2004)

Another act:

1. establishes a Connecticut Nursing Faculty Incentive Program administered by the Office of Workforce Competitiveness (OWC) to provide grants to higher education institutions that work with hospitals to establish or expand programs that qualify people to train registered nurses or encourage those already qualified to serve as faculty in such programs (a status report is due January 1, 2006) and

2. requires a Department of Higher Education (DHE) assessment by January 1, 2005 on the state higher education system's current and future capacity to train nurses.

(PA 04-196, effective upon passage)

A third act establishes a Connecticut Nursing Incentive Program, administered by DHE, to assist the state's four regional community-technical colleges if they enter into partnerships with health care institutions and secure private funding to increase faculty members qualified to train registered nurses. The act also requires the OWC to establish a challenge grant program for regional workforce development boards for FY 2004-05 to, among other purposes, provide training in high-growth, workforce-shortage areas, including health care.

(PA 04-253, effective upon passage, except for the challenge grant program, which takes effect July 1, 2004)

TAXES

Property Tax Credit Increase

The act increases the maximum property tax credit against the state personal income tax from \$350 to \$500 starting with tax years beginning on or after January 1, 2005. The change restores the maximum to its prior level before 2003

legislation reduced it to \$350. The credit applies to all qualifying home and motor vehicle owners who pay the personal income tax, including seniors.

(PA 04-216, § 52, effective July 1, 2004 and applicable to tax years starting on or after January 1, 2005)

Deadline for Appeal Decisions under Elderly Circuit Breaker and Tax Freeze Programs

Under the elderly and disabled homeowners "circuit breaker" tax relief program and the property tax freeze program, people can appeal the Office of Policy and Management secretary's decision affecting their eligibility. For such an appeal, the act gives the secretary up to a year to send the final decision notice to the claimant and the appropriate local officials. Under prior law, the secretary had to send the final decision notice by the statutory deadline for certifying the benefit amount to the state comptroller.

(PA 04-2, May Special Session, § 78, effective July 1, 2004, and applicable to certifications occurring on or after July 1, 2001)

MISCELLANEOUS

Hospice Services in Rural Towns

This act allows a licensed home health care agency that does not meet certain staffing requirements to apply for a two-year, renewable Department of Public Health (DPH) waiver to provide hospice services in a rural town. The agency can apply for the waiver only if it cannot access licensed or Medicare-certified hospice care to consistently provide adequate services to its rural town patients. By law, hospice care can be provided in a patient's home only by a licensed home health agency with DPH approval. DPH can grant the waiver if it will not adversely affect the health, safety, and welfare of hospice patients and their families.

(PA 04-81, effective October 1, 2004 (but PA 04-258, § 42 made this act effective upon passage)

Funeral And Burial Plot Allowances

This act requires DSS to apply certain asset exclusions uniformly throughout the state when determining eligibility for the State Supplement, Temporary Family Assistance, and Medicaid programs. These are the exclusion for a burial fund amount (\$1,200), the value of a burial plot, and the value of

an irrevocable funeral contract (by law, limited to \$5,400). By statute, the \$1,200 burial fund amount is reduced by the value of a revocable or irrevocable funeral contract and the face value of a life insurance policy that the client may own.

The act defines "burial plot" as the purchase of a gravesite, opening and closing of a gravesite, cremation urn, casket, outer burial container, and headstone or marker.

(PA 04-233, effective October 1, 2004)

Unemployment Compensation And Social Security

This act eliminates the unemployment compensation benefit reduction for individuals receiving a Social Security pension. Previously, Connecticut reduced an individual's weekly unemployment benefit by 50% of his pro-rated weekly Social Security pension benefit. Now, the individual can receive all of his unemployment benefits and Social Security.

(PA 04-214, effective October 1, 2004)

Eligibility for Veterans' Home Admission

This act increases the number of veterans eligible for burial in the state veterans' cemetery and admission to the state Veterans' Home and Hospital, which it renames the Veterans' Home. It does so by eliminating war

service as a criterion for burial or admission, making any veteran honorably discharged from active service in the U.S. Armed Forces eligible.

(**PA 04-169**, effective on passage)

HN:nf/ts