
OLR BILL ANALYSIS

SB 1013

AN ACT IMPLEMENTING THE GOVERNOR'S BUDGET RECOMMENDATIONS CONCERNING HUMAN SERVICES.

SUMMARY:

This bill makes numerous changes in the law governing programs administered by the Department of Social Services (DSS).

EFFECTIVE DATE: July 1, 2011, except the provisions relating to nursing home resident asset transfers and the School-Based Child Health program are effective upon passage, and provisions relating to the hospital tax are effective July 1, 2011 and applicable to quarters beginning on and after July 1, 2011.

§ 1 — NURSING HOME RATES

The bill freezes for the next two fiscal years the Medicaid reimbursement to nursing homes. By law and regulation, homes should be getting higher rates due to rate re-basing and inflationary adjustments. Facilities that would have been issued lower rates in either year due to their interim rate status receive the lower rate.

Currently, facilities that undergo material changes in circumstances related to fair rent (e.g., building an addition) have an additional payment built into their rate. In FYs 10 and 11, these additional payments can be made only if the homes have an approved certificate of need (presumably for these material changes). The bill extends this limitation for the next two fiscal years.

§ 2 — MEDICAL ASSISTANCE PRESCRIPTION DRUG COSTS

The bill requires the state to pay the same rate it pays for retail prescription drugs through the state employee and retiree bulk purchasing pool for drugs prescribed under DSS-administered medical assistance programs (Medicaid, HUSKY, ConnPACE, Charter Oak,

and the AIDS Drug Assistance Program).

It reduces the dispensing fee for pharmacists filling medical assistance prescriptions from \$2.90 per prescription to the amount paid by the pool.

§ 3 — FREEZING TEMPORARY FAMILY ASSISTANCE AND STATE-ADMINISTERED GENERAL ASSISTANCE BENEFITS

The bill freezes Temporary Family Assistance and State-Administered General Assistance cash assistance benefits for the next two fiscal years.

§ 4 — STATE SUPPLEMENT BENEFITS

The bill freezes benefits in the State Supplement to Supplemental Security Income program for the next two fiscal years.

The bill also eliminates automatic indexing of the unearned income disregard in the program. Currently, individuals applying for the program have a certain amount of unearned income disregarded, which makes their state benefit higher. Since 2006, this “disregard” has been adjusted upwards to reflect increases in Social Security benefits. The bill eliminates these adjustments.

The combined effect of these two changes is that people will see a net reduction in their State Supplement benefit if Social Security benefits increase in the next fiscal year. Social Security benefits did not increase in 2010 or 2011.

§ 5 — CHARTER OAK EXCLUSIONS AND REDUCTIONS IN PREMIUM ASSISTANCE

The bill excludes from coverage in Connecticut’s health insurance plan for the uninsured (Charter Oak Health Plan) anyone who is eligible for the high risk pool established by the federal Patient Protection and Affordable Care Act.

It also reduces the state’s premium assistance obligations for low-income participants. Currently, the state offers premium assistance using a sliding scale based on need for FYs 10 and 11 to low income

participants enrolled in the plan by April 30th 2010. The bill extends the program into future years, but closes it to those who did not enroll by May 31, 2010.

Finally, the bill requires premium assistance recipients to pay a larger portion of the premium. Currently, premium assistance amounts range from \$50 to \$175; under the bill, the range is reduced to between \$35 and \$115.

§ 6 — MEDICAID LIMITS ON ADULT DENTAL SERVICES

The bill limits adult Medicaid dental services to those available within DSS appropriations. It allows the commissioner to implement policies and procedures while in the process of adopting them as regulations.

§ 7 — COST SHARING IN MEDICAID

The bill requires the DSS commissioner, to the extent permitted by federal law, to impose cost sharing requirements on Medicaid recipients, with the exception of the following services (1) inpatient hospitalization, (2) hospital emergency, (3) home health care, (4) home and community-based care waiver services, (5) laboratory, (6) emergency ambulance, and (7) nonemergency medical transportation.

The bill limits prescription drug cost sharing to a maximum of \$20 per month.

Federal law limits what states may require in cost sharing to nominal amounts. And it prohibits cost sharing for certain children under age 18, individuals with incomes up to 100% of the federal poverty level, SSI recipients, pregnant women, women being treated for breast or cervical cancer, and people residing in institutions. Cost sharing cannot exceed 5% of family income.

§ 8 — RATES PAID TO REGIONAL EDUCATION SERVICE CENTERS

The bill freezes the rates DSS pays these centers for the next two fiscal years, with two exceptions. The rates can be higher than the FY 11 rate if the center makes a capital improvement that the Department

of Developmental Services (DDS) requires for resident health or safety during either of the next two fiscal years. The rates can be lower if the center would have been issued a lower rate in either year due to its interim rate status or an agreement with DSS.

§ 9 — RATES PAID TO RESIDENTIAL CARE HOMES

For the next two fiscal years, the bill freezes the rates DSS pays residential care homes. Homes that should get lower rates due to their interim rate status or an agreement with DSS receive the lower rate. The DSS commissioner can increase a home's rate during this period for reasonable costs associated with the bill's provisions concerning the administration of medications by unlicensed personnel.

§§ 10-12 — STRETCHER VANS

This bill explicitly limits the mode of medical transportation DSS will pay for to that which is medically necessary. It authorizes use of stretcher vans for those who must be transported to non-emergency medical appointments lying down, but do not need medical services on route. Currently, they have to be transported by ambulance.

The bill directs the DSS commissioner to set stretcher van reimbursement rates.

It also transfers most regulatory authority over stretcher vans from the Department of Public Health (DPH) to the Department of Transportation, requiring the latter to adopt implementing regulations.

Finally, it includes stretcher vans in DPH's existing definition of "invalid coach," thus allowing them to be used as back-ups when there are not enough emergency vehicles available.

§ 13 — FOREIGN LANGUAGE INTERPRETERS FOR MEDICAID RECIPIENTS

PA 09-5, September Special Session (SSS) required DSS to amend the Medicaid state plan by February 1, 2011 to include foreign language interpreter services as a "covered service" to any beneficiary with limited English proficiency. DSS also was supposed to establish billing codes for interpreter services provided under the Medicaid and

HUSKY B programs. DSS never amended the plan or developed these codes.

The bill instead directs DSS, by July 1, 2013, to enter into a contract to provide interpreter services.

The bill also repeals a provision in PA 09-5, SSS that directed each managed care organization that contracted with DSS to provide interpreter services to HUSKY A recipients to submit semiannual reports to DSS, which the department would submit to the Medicaid Care Management Oversight Council.

Federal Medicaid law allows states to receive federal matching funds for limited English proficiency interpreters, either by designating them as (1) a covered state plan service or (2) an administrative cost.

§ 14 — CONNECTICUT HOME CARE PROGRAM FOR ELDERS — STATE FUNDED PORTION

The Connecticut Home Care Program for Elders provides home care services to frail elders as an alternative to nursing home care. The program has state- and Medicaid-funded components. For any applications that DSS receives for the state-funded portion after June 30, 2011, the bill allows only those individuals “requiring a nursing home level of care” to receive state-funded services. This appears to make people who are moderately frail ineligible for services (Level 1).

The bill also increases cost sharing for the state-funded portion of the program from 6% to 15% of service costs. For people with higher incomes, this charge is in addition to any income DSS applies toward the cost of their care.

§ 15 — MEDICATION ADMINISTRATION BY UNLICENSED HOME HEALTH CARE PERSONNEL

Currently, only nurses administer medication to home health care agency personnel. The bill requires the agencies to ensure that an appropriate number of their unlicensed personnel become certified for administering non-injectable medication to their clients.

The requirements are similar to those currently applicable to residential care home (RCH) personnel, and existing DPH implementing policies and regulations for RCHs will also cover home health care agencies.

§§ 16-18, 42 — ENROLLMENT FREEZE AND OTHER CHANGES IN CONNPACE PROGRAM

ConnPACE traditionally has provided prescription drug assistance to individuals aged 65 and older and younger people with disabilities, many of whom are Medicare Part D recipients.

Currently, ConnPACE pays any Medicare Part D prescription co-payments over ConnPACE's \$16.25 and any Part D plan's premiums and deductibles. It also pays for prescriptions needed during the coverage gap ("donut hole"). The bill eliminates all of this.

Most individuals eligible for ConnPACE and Medicare qualify for the Medicare Savings Program, which makes them eligible for the federal Low-Income Subsidy (LIS) program. LIS offers Part D recipients significant premium and co-payment subsidies, and pays for the donut hole (starts when annual drugs costs reach \$2,840 and continues until they reach \$6,448).

The bill also closes enrollment for the ConnPACE program after June 30, 2011. Thus, individuals who do not qualify for Medicare Part D and are not enrolled in ConnPACE on that date will not qualify for state-funded drug assistance thereafter.

The bill also eliminates the Medicare Part D Supplemental Needs Fund, which paid for drugs a recipient needed that were not in their Part D plan's formulary. DSS stopped making payments from this fund in January 2010.

§ 19 — FROZEN RATES FOR INTERMEDIATE CARE FACILITIES FOR PEOPLE WITH MENTAL RETARDATION

The bill extends for two fiscal years the rate freeze applicable to intermediate care facilities for people with mental retardation (ICF-MRs). The last increase, 2.9%, went into effect in FY 08.

§ 20 — UNIFORM MEDICAID FEES FOR OUTPATIENT HOSPITAL SERVICES

The bill allows the DSS commissioner to establish a statewide Medicaid fee schedule for outpatient hospital services. Currently, DSS uses a formula under which fee amounts can vary from hospital to hospital.

§ 21 — LIMITS ON DSS PAYMENTS FOR PRESCRIPTIONS FOR DUALY ELIGIBLE CLIENTS

Currently, individuals who are eligible for Medicare and the full Medicaid benefit get help with their Medicare Part D costs. Currently, DSS pays for any co-payments above \$15 per month. Under the bill, DSS pays once the client has paid more than \$25 in monthly co-payments.

§ 22 — REDUCING SIZE OF AIDS WAIVER PROGRAM

The bill reduces, from 100 to 50, the number of AIDS patients who will be able to participate in the AIDS home and community services waiver that DSS must apply for. The waiver program is for patients who would otherwise require care in a hospital, nursing home, or ICF-MR.

§ 23 — REDUCTION IN LONG-TERM CARE FACILITIES PERSONAL NEEDS ALLOWANCE

Currently, residents of long-term care facilities who receive Medicaid must spend all of their monthly income (e.g., Social Security) towards their care costs, but may keep a small portion to pay for incidentals. This is called a personal needs allowance. The amount of the allowance is increased each year based on any increases in Social Security benefits. Currently, the allowance is \$69 per month. The bill reduces the allowance to \$60 and eliminates the provision indexing increases to Social Security COLAs.

§ 24 — RESTRICTION ON EYEGLASS COVERAGE

The bill limits coverage for eyeglass purchases from one pair a year to one pair every other year.

§ 25 — LIMITATION ON NUMBER OF SMALL HOUSE NURSING HOME PROJECTS IN DSS PILOT PROGRAM

Existing law allows the DSS commissioner to approve one project, containing up to 280 beds, in the department's small nursing home pilot program through June 30, 2011. The bill makes the one-project limit permanent.

§ 26 — REDUCED FOOD ASSISTANCE FOR LEGAL IMMIGRANTS INELIGIBLE FOR FEDERAL ASSISTANCE

Most legal immigrants are ineligible for federally funded assistance programs until they have lived in the United States for at least five years. For many years, the state has funded its own programs, including food assistance for this group while they are ineligible for federal benefits. Currently, DSS provides families 75% of what they would receive if they qualified for the federal Supplemental Nutrition Assistance Program (SNAP, formerly Food Stamps). The bill lowers this to 50% of the SNAP amount.

§ 27 — RESTRICTIONS ON SECURITY DEPOSIT GUARANTEE PROGRAM

DSS operates a program that provides landlords a security deposit guarantee when they rent a unit to specified low income tenants, the homeless, and those against whom a court eviction action is pending. Unless expressly authorized by DSS, no one can get more than one guarantee in an 18-month period; the bill lengthens this to one every five years. Currently, repeat tenants are ineligible if DSS has paid more than one damage claim on their behalf in the past five years. The bill makes them ineligible if DSS has ever paid more than one claim.

Unless waived for good cause, the bill requires potential tenants with incomes above 150% of the federal poverty level (\$27,795 for a three-person household) to pay 10% of the first month's rent towards the deposit.

The bill also requires landlords to file damage claims within 45 days after a tenancy ends. A landlord must submit receipts showing that the unit has been repaired, rather than only repair estimates. DSS will not pay damages when it is determined that the tenant left because

substandard conditions made the unit uninhabitable.

§§ 28, 29 — CHILD CARE AND SCHOOL READINESS PROGRAM TRANSFER FROM DSS TO STATE DEPARTMENT OF EDUCATION (SDE)

Currently, DSS, in consultation with SDE (1) provides direct subsidies to providers for child care slots and (2) awards grants to school readiness programs. The bill eliminates DSS' role in these programs and permits, instead of requires, the SDE commissioner to model its direct provider subsidy on the Care4Kids child care subsidy program, which DSS administers. The bill also makes the SDE commissioner alone responsible for a grant program for child care and school readiness providers to enhance their programs' quality. Currently, DSS transfers funds to SDE for this purpose.

§§ 30-34 — NET PATIENT REVENUE TAX

Other than for the Children's Medical Center and John Dempsey Hospital, the bill establishes a quarterly tax on hospitals' net patient revenue, calculated as the amount of the hospital's gross revenue minus its federal Medicare reimbursement. The rate is indexed to the maximum allowed under federal law.

The comptroller may count the amount collected each fiscal year as revenue.

§ 35 — NURSING HOME RESIDENT USER FEE

Beginning, October , 2011, the bill increases the nursing home resident user fee from 5.5% to the maximum allowed by federal law (6% starting October 1, 2011). This fee, originally enacted in 2005, is a percentage of most nursing homes' revenues.

The bill also removes obsolete reporting requirements regarding the effects of the user fee.

§§ 36-39 — NEW USER FEE FOR PROVIDERS OF CARE TO INDIVIDUALS WITH MENTAL RETARDATION

The bill establishes a new resident user fee for ICF-MR. Before October 1, 2011, the fee can go up to 5.5%. After that date, it can

increase to the maximum amount federal law allows (6%).

§ 40 — ASSET TRANSFERS BY NURSING HOME RESIDENTS

The bill specifies when Medicaid asset assignments and transfers involving nursing home residents trigger penalties and how they are measured. DSS may consider the total value of returned assets as being available to the resident from the date of transfer if the department determines that the transaction was undertaken to intentionally (1) change the start date of a penalty period or (2) shift Medicaid costs from the resident to the Medicaid program (ordinarily DSS can set aside a portion of an asset's value when making Medicaid eligibility decisions). If the resident or asset recipient proves that this was not the case, the asset is deemed available as of the date of its return.

§ 41 — SCHOOL-BASED CHILD HEALTH PROGRAM

Federal law requires local education agencies (LEA) to identify all children with disabilities who are in need of special education and related services. The LEAs must provide the related services and, for Medicaid-eligible students, bill DSS for the cost of services. DSS bills the federal government for 100% of what the LEA spends, keeps one half of the reimbursement, and passes the other half to the LEA. These services are diagnostic, evaluative, and rehabilitative in nature.

The bill requires DSS to amend its Medicaid state plan for this program to maintain and enhance, to the extent allowed, federal matching funds associated with costs through a service-specific, rather than the current "bundling" of services, billing method.

§§ 42 — REPEALERS

The bill repeals provisions in state law that:

1. allow DSS to make payments to short-term general hospitals located in distressed municipalities and targeted investment communities (17b-239a);
2. allow the community spouse of someone in a nursing home to

keep the maximum community spouse protected amount instead of one half of the assets, up to the maximum 17b-239a);

3. authorize a Long-Term Care Reinvestment Fund that holds enhanced federal Medicaid matching funds the state receives from the Money Follows the Person Demonstration program (17b-371);
4. establish a Medicare Part D Supplemental Needs Funds for nonformulary drugs (17b-265e);
5. establish the adult foster care program (17b-424); and
6. require pharmacists to participate in other DSS pharmacy programs as a condition of ConnPACE participation (17b-492a).

EFFECTIVE DATE:

PRELIMINARY