

Senate, April 14, 1998. The Committee on Appropriations reported through SEN. CRISCO, 17th DIST., Chairman of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT ESTABLISHING A PILOT PROGRAM OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE).

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

- 1 Section 1. (NEW) (a) As used in this section:
- 2 (1) "Commissioner" means the Commissioner of
- 3 Social Services;
- 4 (2) "Eligible individual" means "PACE program
- 5 eligible individual", as defined in Subtitle I of
- 6 Public Law 105-33, as amended from time to time;
- 7 (3) "PACE program" means "PACE program", as
- 8 defined in Subtitle I of Public Law 105-33, as
- 9 amended from time to time, and includes a program
- 10 of all-inclusive care for the elderly;
- 11 (4) "PACE program agreement" means "PACE
- 12 program agreement", as defined in Subtitle I of
- 13 Public Law 105-33, as amended from time to time;
- 14 (5) "PACE provider" means "PACE provider", as
- 15 defined in Subtitle I of Public Law 105-33, as
- 16 amended from time to time;
- 17 (6) "Secretary" means the Secretary of the
- 18 United States Department of Health and Human
- 19 Services;
- 20 (7) "State administering agency" means "state
- 21 administering agency", as defined in Subtitle I of
- 22 Public Law 105-33, as amended from time to time.

23 (b) Not later than July 1, 1998, the
24 commissioner shall conduct a pilot program in
25 which PACE providers deliver PACE program services
26 to eligible individuals in this state pursuant to
27 a PACE program agreement. Under said program, the
28 commissioner, in consultation with the Insurance
29 Commissioner, may initially enter into contracts
30 with integrated service networks which have
31 successfully completed a feasibility study, in
32 conjunction with a PACE technical assistance
33 center, for the provision of PACE program
34 services.

35 (c) The Department of Social Services shall
36 be the state administering agency for the state of
37 Connecticut responsible for administering PACE
38 program agreements in this state. The department,
39 upon request, shall assist the secretary in
40 establishing procedures for entering into,
41 extending and terminating PACE program agreements
42 for the operation of PACE programs by PACE
43 providers in this state.

44 (d) The commissioner shall provide medical
45 assistance under this section for PACE program
46 services to eligible individuals who are eligible
47 for medical assistance in this state and enrolled
48 in a PACE program under a PACE program agreement.
49 The commissioner shall seek any waiver from
50 federal law necessary to permit federal
51 participation for Medicaid expenditures for PACE
52 programs in this state.

53 (e) The commissioner may adopt regulations in
54 accordance with chapter 54 of the general statutes
55 to implement the provisions of this section.

56 Sec. 2. Section 113 of public act 97-2 of the
57 June 18 special session is repealed and the
58 following is substituted in lieu thereof:

59 (a) The Commissioner of Social Services
60 [shall] MAY submit an application for a federal
61 waiver for the purpose of conducting [an 1115
62 research and demonstration waiver] A PILOT program
63 BASED ON THE PRINCIPLES OF THE NATIONAL PROGRAM OF
64 ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE): (1) To
65 provide comprehensive health care and care
66 management services for elderly and disabled
67 Medicaid recipients who may also be eligible for
68 Medicare; and (2) to simplify eligibility for
69 Medicaid. The program shall be designed to reduce
70 costs and increase efficiency in the operation of

71 the Medicaid program and to improve the
72 coordination of health care benefits with the
73 Medicare program. Under said program, the
74 Commissioner of Social Services, in consultation
75 with the Insurance Commissioner, may INITIALLY
76 enter into contracts with integrated service
77 networks WHICH HAVE SUCCESSFULLY COMPLETED A
78 FEASIBILITY STUDY, IN CONJUNCTION WITH A PACE
79 TECHNICAL ASSISTANCE CENTER, for the provision of
80 comprehensive long-term health care and care
81 management for participating Medicaid recipients
82 on a prepayment or per capita basis. THE
83 COMMISSIONER OF SOCIAL SERVICES MAY MAKE PAYMENTS
84 ON SUCH BASIS TO DESIGNATED PACE SITES FROM FUNDS
85 APPROPRIATED TO THE MEDICAID ACCOUNT. THE
86 COMMISSIONER OF SOCIAL SERVICES, IN SUCH
87 CONTRACTS, MAY ESTABLISH CONDITIONS NECESSARY TO
88 OPERATE SUCH PILOT PROGRAM WITHIN AVAILABLE
89 APPROPRIATIONS, INCLUDING, BUT NOT LIMITED TO,
90 REQUIRING A NURSING FACILITY TO REDUCE ITS NUMBER
91 OF BEDS IN A CERTIFICATE OF NEED APPLICATION, TO
92 USE SPACE FOR ASSISTED LIVING SERVICES OR TO LIMIT
93 GROWTH IN SUCH PILOT PROGRAM. Integrated service
94 networks shall emphasize the utilization of
95 primary and community-based services to avoid
96 utilization of institutional care. Eligible
97 Medicaid recipients shall have a choice of
98 enrolling in an integrated service network or
99 receiving Medicaid covered services in a
100 fee-for-service program, and no copays or a lower
101 level of optional Medicaid state plan services
102 than currently covered under fee-for-service
103 Medicaid, shall be used to induce individuals to
104 transfer into the networks. Said program,
105 established pursuant to the waiver, may include,
106 but not be limited to: The retention of an
107 independent enrolment broker; quality and access
108 performance specifications for integrated service
109 networks; a competitive bidding process for
110 integrated service networks and enrolment brokers
111 seeking contracts; a recipient lock-in policy; and
112 eligibility criteria concerning assets. Said
113 program, established pursuant to the waiver,
114 shall: (A) Ensure continuity of care; (B)
115 establish notice rights, and prompt review and
116 appeal rights, whenever services are denied,
117 reduced, suspended, or terminated; (C) provide for
118 the conducting of quality monitoring of plans and

119 the publication of regular report cards comparing
120 plans; (D) set standards for access to health
121 care; (E) prohibit involuntary terminations of
122 enrollees from a plan because of their frequent
123 use of services, their high risk for needing
124 services, or any other reason not directly related
125 to furthering their health or safety; AND (F) the
126 commissioner shall solicit public response on the
127 waiver application through a series of public
128 hearings held at a central location in each of the
129 [department's] regions IN WHICH THE PILOT PROGRAM
130 IS TO BE ESTABLISHED. For the purpose of obtaining
131 responses from nursing facility residents who may
132 be unable to attend these [hearing] HEARINGS, the
133 commissioner shall also solicit responses from the
134 resident councils in a sample of the nursing
135 facilities in each region. [; and (G) provide
136 coverage of asymptomatic HIV individuals for drug
137 therapies connected to the treatment of their
138 condition to the extent permitted by federal law.]
139 The commissioner, upon approval of said waiver,
140 shall adopt regulations, in accordance with
141 chapter 54 of the general statutes, to implement
142 the eligibility provisions of this section.

143 (b) The Commissioner of Social Services shall
144 submit said application for a federal waiver to
145 the joint standing committees of the General
146 Assembly having cognizance of matters relating to
147 human services, public health and appropriations
148 and the budgets of state agencies prior to the
149 submission of such application to the federal
150 government. Within fifteen days of their receipt
151 of such application, the joint standing committees
152 may advise the commissioner of their approval,
153 nonapproval or modifications, if any, of his
154 application.

155 (c) Prior to submission of said application
156 for a waiver from federal law to the General
157 Assembly under subsection (b) of this section, the
158 Commissioner of Social Services shall publish a
159 notice that the commissioner intends to seek such
160 a waiver in the Connecticut Law Journal, along
161 with a summary of the provisions of the waiver
162 application and the manner in which individuals
163 may submit comments. The commissioner shall allow
164 fifteen days for written comments on the waiver
165 application prior to submission of the application
166 for a waiver to the General Assembly under

167 subsection (a) of this section and shall include
168 all written comments with the waiver application
169 in the submission to the General Assembly.
170 Sec. 3. This act shall take effect from its
171 passage.

172 HS COMMITTEE VOTE: YEA 16 NAY 0 JFS C/R APP
173 APP COMMITTEE VOTE: YEA 49 NAY 0 JFS

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"THE FOLLOWING FISCAL IMPACT STATEMENT AND BILL ANALYSIS ARE PREPARED FOR THE BENEFIT OF MEMBERS OF THE GENERAL ASSEMBLY, SOLELY FOR PURPOSES OF INFORMATION, SUMMARIZATION AND EXPLANATION AND DO NOT REPRESENT THE INTENT OF THE GENERAL ASSEMBLY OR EITHER HOUSE THEREOF FOR ANY PURPOSE."

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FISCAL IMPACT STATEMENT - BILL NUMBER sSB 329

STATE IMPACT None, see explanation below

MUNICIPAL IMPACT None

STATE AGENCY(S) Department of Social Services

EXPLANATION OF ESTIMATES:

This bill requires the Commissioner of Social Services to conduct the PACE pilot program within available appropriations. PACE programs are intended to be budget neutral through the diversion of nursing home clients to PACE services. This may be accomplished through a reduction of the number of beds in a certificate of need application and the redirection of Medicaid funds for nursing home beds at the facilities conducting the pilot programs. If a federal waiver is obtained, the pilot programs would be financed through a capitated arrangement with the provider with both Medicare and Medicaid funding.

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OLR BILL ANALYSIS

sSB 329

AN ACT ESTABLISHING A PILOT PROGRAM OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE)

SUMMARY: This bill requires the Department of Social Services (DSS) commissioner to implement a Program for All-Inclusive Care of the Elderly (PACE) pilot program by July 1, 1998, and allows her to seek a federal waiver to implement a separate pilot program based on

PACE principles.

EFFECTIVE DATE: Upon Passage

FURTHER EXPLANATION

PACE Pilot Program

The bill requires the commissioner to establish a PACE pilot program under which providers deliver PACE services to eligible individuals pursuant to a PACE program agreement (which the bill defines as an agreement to operate a PACE site, consistent with federal law, between either DSS and the provider or the provider and the U.S. Department of Health and Human Services (HHS)). She can, after consulting with the insurance commissioner, contract initially with integrated service networks (ISNs) that have successfully completed a feasibility study with a PACE technical assistance center. She must use state Medicaid funds to pay for the program and seek any federal waiver necessary for federal financial participation.

The bill allows the commissioner to adopt regulations. It requires her to help the HHS secretary establish PACE contract procedures if requested to do so.

Definitions. The bill uses federal definitions in defining key terms including:

1. a PACE program, which is a program providing comprehensive health care services to eligible people in accordance with a PACE provider agreement and federal law, and provides necessary transitional care to people who lose PACE eligibility;
2. eligible individuals, who are (a) age 55 and older, (b) certified by the state Medicaid agency as nursing-home-eligible, and (c) living in the PACE service area; and
3. a PACE provider, which is (a) a public entity or a private nonprofit organization with 501(c)(3) tax-exempt status, that has entered into a PACE provider agreement, (b) a for-profit entity for which the state has

received a federal waiver (HHS can grant 10 such waivers), or (c) a for-profit entity if the HHS secretary makes certain findings about the quality of for-profit entities operating PACE sites in a report she must submit to Congress by August, 2001.

PACE-Based Pilot Program

The bill allows the commissioner to seek a federal PACE waiver instead of requiring her to seek an 1115 waiver, as current law does. The bill makes several changes to existing 1115 waiver provisions and applies them to the pilot program instead. It also adds several new requirements for the pilot program. Specifically, it:

1. requires the commissioner to provide services by contracting initially with ISNs that have completed a feasibility study with a PACE technical center;
2. allows the commissioner to pay ISNs a capitated Medicaid rate;
3. allows the commissioner to negotiate contractual provisions that allow her to administer the program within available appropriations. These provisions may require a nursing home to (a) reduce the number of beds it has in a certificate of need application, (b) use space for assisted living services, or (c) limit the number of new participants; and
4. eliminates the 1115 waiver provision requiring any program established under this waiver to provide coverage for drug therapies for asymptomatic HIV infected individuals.

Existing 1115 Provisions Applicable to Pilot Program.

Current law requires the DSS commissioner to seek a federal 1115 waiver to provide comprehensive health care for the elderly and disabled who are both Medicaid and Medicare eligible. The bill applies these existing requirements to the pilot program instead. These include (1) establishing a process for waiver approval, including a public comment period and (2) requiring the

waiver to be submitted to the Human Services, Public Health, and Appropriations committees. It permits these committees to advise the commissioner of their waiver approval or modifications, if any.

As with 1115 waiver, the pilot program must simplify Medicaid eligibility, reduce Medicaid costs and increase efficiency, and improve the coordination of Medicare and Medicaid health care benefits. It allows the commissioner to contract with ISNs, which must emphasize the use of primary and community-based services to avoid institutional care. It requires DSS to give Medicaid recipients the choice of enrolling in an ISN or receiving Medicaid-covered services under a fee-for-service system. It prohibits DSS from using disincentives to discourage individuals from choosing the fee-for-service program.

BACKGROUND

PACE

The PACE model of community-based long-term care for the frail elderly began in the 1970s in San Francisco. There are currently 12 PACE sites across the country operating under federal waivers. The federal 1997 Balanced Budget Act (P.L. 105-33) establishes PACE as a permanent provider under Medicare and allows states the option to pay for PACE services under Medicaid; states will not need to apply for a federal waiver to administer a PACE site after federal regulations are adopted in August, 1998. The law allows HHS to approve 40 new sites in 1998 and 20 more each succeeding year.

PACE is designed to enable the frail elderly to remain in familiar surroundings; maintain their autonomy; and preserve maximum physical, social, and cognitive function. All PACE participants must be at least 55 years of age and certified by the state as requiring nursing home care. They must also reside in the PACE site's service area. Participants are assessed continuously by an interdisciplinary team consisting of the primary care physician, nurse, social worker, rehabilitation therapist, home health workers, and others. Primary medical care, nursing, social, rehabilitative, recreational, and personal care services are available at the PACE site. PACE also provides home health care services. Most PACE sites

serve between 100 to 120 enrollees and have a daily attendance of 50 to 70.

PACE sites must provide all items and services covered by Medicare and Medicaid and all additional items and services specified in regulations, primarily through each site's own interdisciplinary team, but also through contracts with other entities (e.g., for hospital and nursing home care). Access to necessary covered services must be made available to enrollees on a 24-hour basis. Such services must be provided without any limitation or condition as to amount, duration, or scope and without deductibles, copayments, coinsurance, or other cost-sharing that otherwise applies under Medicare or Medicaid. PACE providers receive capitation payments pursuant to arrangements with the state for Medicaid recipients and the federal government for Medicare patients. Capitation levels must be less than what would otherwise have been paid for a comparable frail population not enrolled under a PACE program.

COMMITTEE ACTION

Human Services Committee

Joint Favorable Substitute Change of Reference
Yea 16 Nay 0

Appropriations Committee

Joint Favorable Substitute
Yea 49 Nay 0