



# House of Representatives

General Assembly

**File No. 283**

January Session, 2015

Substitute House Bill No. 6770

*House of Representatives, March 30, 2015*

The Committee on Human Services reported through REP. ABERCROMBIE of the 83rd Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

***AN ACT CONCERNING MEDICAID COVERAGE FOR OVER-THE-COUNTER DRUGS, MEDICAID BENEFIT CARDS AND NOTICE OF REGULATIONS.***

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

1 Section 1. Section 17b-280a of the general statutes is repealed and  
2 the following is substituted in lieu thereof (*Effective July 1, 2015*):

3 [Notwithstanding any provision of the general statutes, no] No  
4 payment shall be made under a medical assistance program  
5 administered by the Department of Social Services for over-the-counter  
6 [drugs] medications, except for (1) the medical assistance program  
7 established pursuant to section 17b-256, (2) insulin and insulin  
8 syringes, (3) nutritional supplements for individuals who are required  
9 to be tube fed or who cannot safely ingest nutrition in any other form,  
10 and as may be required by federal law, (4) [effective January 1, 2012,]  
11 smoking cessation [drugs] medications as provided in section 17b-  
12 278a, (5) over-the-counter medications determined by the

13 Commissioner of Social Services to be medically necessary or cost  
14 effective, and [(5)] (6) over-the-counter [drugs] medications that are  
15 required to be covered pursuant to 42 CFR 440.347, including [drugs]  
16 medications for individuals with specified diagnoses that have a rating  
17 of "A" or "B" in the current recommendations of the United States  
18 Preventive Services Task Force, provided the Department of Social  
19 Services may also pay for such over-the-counter [drugs] medications  
20 under a medical assistance program or portion thereof that is not  
21 subject to 42 CFR 440.347. [On or before August 1, 2011, the  
22 Commissioner of Social Services shall provide notice to pharmacists  
23 who provide services to beneficiaries of a medical assistance program  
24 administered by the department that such pharmacists may bill the  
25 department for supplies utilized in the treatment of diabetes using the  
26 durable medical equipment, medical surgical supply fee schedule. The  
27 commissioner shall provide a copy of such notice to the joint standing  
28 committees of the General Assembly having cognizance of matters  
29 relating to human services and appropriations and the budgets of state  
30 agencies.]

31 Sec. 2. Section 17b-10a of the general statutes is repealed and the  
32 following is substituted in lieu thereof (*Effective July 1, 2015*):

33 The Commissioner of Social Services, pursuant to section 17b-10,  
34 may implement policies and procedures necessary to administer  
35 section 17b-197, subsection (d) of section 17b-266, section 17b-280a, as  
36 amended by this act, and subsection (a) of section 17b-295, while in the  
37 process of adopting such policies and procedures as regulation,  
38 provided the commissioner prints notice of intent to adopt regulations  
39 [in the Connecticut Law Journal] on the department's Internet web site  
40 and the eRegulations System not later than twenty days after the date  
41 of implementation. Policies and procedures implemented pursuant to  
42 this section shall be valid until the time final regulations are adopted.

43 Sec. 3. Section 17b-261t of the general statutes is repealed. (*Effective*  
44 *from passage*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2015</i>	17b-280a
Sec. 2	<i>July 1, 2015</i>	17b-10a
Sec. 3	<i>from passage</i>	Repealer section

**Statement of Legislative Commissioners:**

Throughout Section 1, "drugs" was changed to "medications" for internal consistency; in Section 2, "as amended by this act," was added after "section 17b-280a" for accuracy and clarity.

**HS**      *Joint Favorable Subst. -LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the 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 chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 16 \$	FY 17 \$
Department of Social Services	GF - Savings	Potential	Potential

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill allows the Department of Social Services (DSS) to purchase over-the-counter (OTC) medications when it is determined that they are medically necessary or cost effective. To the extent that DSS is able to substitute an OTC drug for a more expensive prescription drug, the state may realize a savings. The extent of these savings will be dependent upon the number of applicable lower cost OTC substitutes, which is not known. For purposes of perspective, the department spent a net \$374 million on pharmaceuticals in FY 14.

**The Out Years**

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

**OLR Bill Analysis****sHB 6770*****AN ACT CONCERNING MEDICAID COVERAGE FOR OVER-THE-COUNTER DRUGS, MEDICAID BENEFIT CARDS AND NOTICE OF REGULATIONS.*****SUMMARY:**

This bill expands the types of over-the-counter drugs that the Department of Social Services (DSS) may pay for through its medical assistance programs to include those the DSS commissioner determines to be medically necessary or cost effective (see BACKGROUND). The law generally bans DSS from paying for over-the-counter drugs, with the following exceptions:

1. over-the-counter drug coverage through the Connecticut AIDS Drug Assistance Program;
2. insulin or insulin syringes;
3. nutritional supplements for people who must be tube fed or who cannot safely get nutrition in any other form;
4. smoking cessation drugs; and
5. drugs that must be covered as essential health benefits under the federal Affordable Care Act.

By law, DSS may require prior authorization for any covered over-the-counter drugs.

Current law requires DSS to print notice of intent to adopt regulations in the Connecticut Law Journal within 20 days of implementation. Instead the bill requires DSS, within the same time period, to instead print the notice on the department's website and the eRegulations system.

The bill also repeals a law that is unworkable because it is scheduled to take effect July 1, 2016 but it required DSS, by January 1, 2015 (i.e., 18 months before the effective date), to require state-issued Medicaid benefit cards to include the name and contact information for the beneficiary's primary care provider, if he or she has chosen one.

Additionally, the bill makes minor technical changes, including renaming "drugs" in this section of the law as "medications."

EFFECTIVE DATE: July 1, 2105, except for the repealer, which is effective upon passage.

### **BACKGROUND**

The law defines "medical necessity" as those health services required to prevent, identify, diagnose, treat, rehabilitate, or ameliorate a person's medical condition, including mental illness, or its effects, in order to attain or maintain the person's achievable health and independent functioning. The services must be consistent with generally accepted medical practice standards based on (1) credible scientific evidence published in recognized peer-reviewed medical literature, (2) physician-specialty society recommendations, (3) the views of physicians practicing in relevant clinical areas, and (4) any other relevant factors. The services must also be:

1. clinically appropriate in terms of type, frequency, timing, extent, and duration and considered effective for the person's illness, injury, or disease;
2. not primarily for the convenience of the person, the person's health care provider, or other health care providers;
3. no more costly than an alternative service or services at least as likely to produce equivalent therapeutic or diagnostic results for the person's illness, injury, or disease; and
4. based on an assessment of the person's medical condition (CGS § 17b-259b).

**COMMITTEE ACTION**

Human Services Committee

Joint Favorable

Yea 18 Nay 0 (03/12/2015)