



General Assembly

January Session, 2015

Raised Bill No. 915

LCO No. 3578



Referred to Committee on HUMAN SERVICES

Introduced by:
(HS)

AN ACT CONCERNING THE TREATMENT OF ASSETS IN MEDICAID ELIGIBILITY DETERMINATIONS.

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

1 Section 1. Section 17b-261 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2015*):

3 (a) Medical assistance shall be provided for any otherwise eligible
4 person whose income, including any available support from legally
5 liable relatives and the income of the person's spouse or dependent
6 child, is not more than one hundred forty-three per cent, pending
7 approval of a federal waiver applied for pursuant to subsection [(e)] (f)
8 of this section, of the benefit amount paid to a person with no income
9 under the temporary family assistance program in the appropriate
10 region of residence and if such person is an institutionalized
11 individual as defined in Section 1917 of the Social Security Act, 42 USC
12 1396p(h)(3), and has not made an assignment or transfer or other
13 disposition of property for less than fair market value for the purpose
14 of establishing eligibility for benefits or assistance under this section.
15 Any such disposition shall be treated in accordance with Section

16 1917(c) of the Social Security Act, 42 USC 1396p(c). Any disposition of
17 property made on behalf of an applicant or recipient or the spouse of
18 an applicant or recipient by a guardian, conservator, person
19 authorized to make such disposition pursuant to a power of attorney
20 or other person so authorized by law shall be attributed to such
21 applicant, recipient or spouse. A disposition of property ordered by a
22 court shall be evaluated in accordance with the standards applied to
23 any other such disposition for the purpose of determining eligibility.
24 The commissioner shall establish the standards for eligibility for
25 medical assistance at one hundred forty-three per cent of the benefit
26 amount paid to a family unit of equal size with no income under the
27 temporary family assistance program in the appropriate region of
28 residence. In determining eligibility, the commissioner shall not
29 consider as income Aid and Attendance pension benefits granted to a
30 veteran, as defined in section 27-103, or the surviving spouse of such
31 veteran. Except as provided in section 17b-277, the medical assistance
32 program shall provide coverage to persons under the age of nineteen
33 with family income up to one hundred eighty-five per cent of the
34 federal poverty level without an asset limit and to persons under the
35 age of nineteen and their parents and needy caretaker relatives, who
36 qualify for coverage under Section 1931 of the Social Security Act, with
37 family income up to one hundred eighty-five per cent of the federal
38 poverty level without an asset limit. Such levels shall be based on the
39 regional differences in such benefit amount, if applicable, unless such
40 levels based on regional differences are not in conformance with
41 federal law. Any income in excess of the applicable amounts shall be
42 applied as may be required by said federal law, and assistance shall be
43 granted for the balance of the cost of authorized medical assistance.
44 The Commissioner of Social Services shall provide applicants for
45 assistance under this section, at the time of application, with a written
46 statement advising them of (1) the effect of an assignment or transfer
47 or other disposition of property on eligibility for benefits or assistance,
48 (2) the effect that having income that exceeds the limits prescribed in
49 this subsection will have with respect to program eligibility, and (3)

50 the availability of, and eligibility for, services provided by the
51 Nurturing Families Network established pursuant to section 17b-751b.
52 Persons who are determined ineligible for assistance pursuant to this
53 section shall be provided a written statement notifying such persons of
54 their ineligibility and advising such persons of the availability of
55 HUSKY Plan, Part B health insurance benefits.

56 (b) For the purposes of the Medicaid program, the Commissioner of
57 Social Services shall consider parental income and resources as
58 available to a child under eighteen years of age who is living with his
59 or her parents and is blind or disabled for purposes of the Medicaid
60 program, or to any other child under twenty-one years of age who is
61 living with his or her parents.

62 (c) For the purposes of determining eligibility for the Medicaid
63 program, an available asset is one that is actually available to the
64 applicant or one that the applicant has the legal right, authority or
65 power to obtain or to have applied for the applicant's general or
66 medical support. If the terms of a trust provide for the support of an
67 applicant, the refusal of a trustee to make a distribution from the trust
68 does not render the trust an unavailable asset. Notwithstanding the
69 provisions of this subsection, the availability of funds in a trust or
70 similar instrument funded in whole or in part by the applicant or the
71 applicant's spouse shall be determined pursuant to the Omnibus
72 Budget Reconciliation Act of 1993, 42 USC 1396p. The provisions of
73 this subsection shall not apply to a special needs trust, as defined in 42
74 USC 1396p(d)(4)(A). For purposes of determining whether a
75 beneficiary under a special needs trust, who has not received a
76 disability determination from the Social Security Administration, is
77 disabled, as defined in 42 USC 1382c(a)(3), the Commissioner of Social
78 Services, or the commissioner's designee, shall independently make
79 such determination. The commissioner shall not require such
80 beneficiary to apply for Social Security disability benefits or obtain a
81 disability determination from the Social Security Administration for
82 purposes of determining whether the beneficiary is disabled.

83 (d) To the extent permissible under federal law, an individual who
84 has applied for Medicaid shall not be determined ineligible on the
85 basis of a single, unliquidated asset, provided such individual
86 provides the Commissioner of Social Services with evidence that such
87 asset is inaccessible to the individual.

88 [(d)] (e) The transfer of an asset in exchange for other valuable
89 consideration shall be allowable to the extent the value of the other
90 valuable consideration is equal to or greater than the value of the asset
91 transferred.

92 [(e)] (f) The Commissioner of Social Services shall seek a waiver
93 from federal law to permit federal financial participation for Medicaid
94 expenditures for families with incomes of one hundred forty-three per
95 cent of the temporary family assistance program payment standard.

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

104 [(g)] (h) An institutionalized spouse applying for Medicaid and
105 having a spouse living in the community shall be required, to the
106 maximum extent permitted by law, to divert income to such
107 community spouse in order to raise the community spouse's income to
108 the level of the minimum monthly needs allowance, as described in
109 Section 1924 of the Social Security Act. Such diversion of income shall
110 occur before the community spouse is allowed to retain assets in excess
111 of the community spouse protected amount described in Section 1924
112 of the Social Security Act. The Commissioner of Social Services,
113 pursuant to section 17b-10, may implement the provisions of this

114 subsection while in the process of adopting regulations, provided the
115 commissioner prints notice of intent to adopt the regulations [in the
116 Connecticut Law Journal] on the Internet web site of the Department
117 of Social Services and the eRegulations system within twenty days of
118 adopting such policy. Such policy shall be valid until the time final
119 regulations are effective.

120 [(h)] (i) To the extent permissible under federal law, an
121 institutionalized individual, as defined in Section 1917 of the Social
122 Security Act, 42 USC 1396p(h)(3), shall not be determined ineligible for
123 Medicaid solely on the basis of the cash value of a life insurance policy
124 worth less than ten thousand dollars provided (1) the individual is
125 pursuing the surrender of the policy, and (2) upon surrendering such
126 policy all proceeds of the policy are used to pay for the
127 institutionalized individual's long-term care.

128 (j) To the extent permissible under federal law, an individual who
129 has applied for Medicaid shall not be determined ineligible solely on
130 the basis of an asset discovered by such individual after the date of
131 application, provided (1) the individual reports the discovery of the
132 asset to the Commissioner of Social Services, (2) the individual takes
133 steps to liquidate such individual's interest in the asset and spend
134 down the proceeds in accordance with Medicaid income and asset
135 limits, and (3) in the event the individual is unable to gain access to the
136 asset, the Department of Social Services provides assistance to the
137 individual to gain access.

138 [(i)] (k) Medical assistance shall be provided, in accordance with the
139 provisions of subsection (e) of section 17a-6, to any child under the
140 supervision of the Commissioner of Children and Families who is not
141 receiving Medicaid benefits, has not yet qualified for Medicaid benefits
142 or is otherwise ineligible for such benefits. Medical assistance shall also
143 be provided to any child in the voluntary services program operated
144 by the Department of Developmental Services who is not receiving
145 Medicaid benefits, has not yet qualified for Medicaid benefits or is

146 otherwise ineligible for benefits. To the extent practicable, the
147 Commissioner of Children and Families and the Commissioner of
148 Developmental Services shall apply for, or assist such child in
149 qualifying for, the Medicaid program.

150 [(j)] (l) The Commissioner of Social Services shall provide Early and
151 Periodic Screening, Diagnostic and Treatment program services, as
152 required and defined as of December 31, 2005, by 42 USC 1396a(a)(43),
153 42 USC 1396d(r) and 42 USC 1396d(a)(4)(B) and applicable federal
154 regulations, to all persons who are under the age of twenty-one and
155 otherwise eligible for medical assistance under this section.

156 [(k)] (m) A veteran, as defined in section 27-103, and any member of
157 his or her family, who applies for or receives assistance under the
158 Medicaid program, shall apply for all benefits for which he or she may
159 be eligible through the Veterans' Administration or the United States
160 Department of Defense.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2015</i>	17b-261

Statement of Purpose:

To provide relief to Medicaid applicants who are unable to immediately liquidate assets to remain within eligibility guidelines.

[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.]