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Testimony of Scott D. Rosenberg
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IN SUPPORT OF
SB107: An Act Concerning the Treatment of the Cash Value of Life
Insurance Policies When Evaluating Medicaid Eligibility

Human Services Committee

My name is Scott Rosenberg. I am a Connecticut attorney with a practice focused on elder law and care planning for the elderly and mentally ill. I am also a member of the Elder Law Section of the Connecticut Bar Association and a member of their subcommittee on Legislation. I write for myself and on behalf of my colleagues to express our support for S.B. 107, An Act Concerning the Treatment of Cash Value of Life Insurance Policies When Evaluating Medicaid Eligibility.

Many seniors consider ensuring the availability of their own funds for their eventual funeral and burial arrangements to be of tantamount importance. Ordinarily, this is accomplished either through a prepaid funeral, or through small life insurance policies. It is widely known that prepaid funerals offer fewer choices and can be significantly more expensive than services purchased at the time they are needed. As such, the use of life insurance for this purpose is a very common occurrence, whether by maintaining a small insurance policy through one's regular carrier or through purchase of "guaranteed acceptance" policies, such as those offered by Colonial Penn or AARP/New York Life, which are specifically designed and marketed for this purpose.

Unfortunately, the federal Medicaid statute does not recognize these two common planning options as being remotely equal. Under Connecticut Law, adopted consistent with Title XIX of the Social Security Act, an individual can purchase and retain a prepaid funeral for ten, fifteen, or even twenty thousand dollars, without having any adverse impact on their eligibility for Medicaid long-term services and supports. Conversely, any life insurance above \$1,500 in cash value is treated as an asset that could disqualify a needy individual for Medicaid eligibility. Thus, individuals in need of care who have these policies are advised to promptly cash them out. Due to the popularity of burial life policies, this is a routine occurrence.

Unfortunately, insurance companies often have lengthy processing times, delays, and bureaucratic channels to navigate to request and actually receive the cash-out of a life insurance policy. These delays are frequently compounded where the request is being made by family with authorization, or through a power of attorney document or



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conservatorship. It is not uncommon for life insurance liquidations to take three or more months due to processing errors and delays that are no fault of the policyholder. Federal regulations suggest that such policies be treated as “illiquid” and be excluded from consideration in determining eligibility. Current DSS policy, UPM §4015.05, .05P, expressly provides that assets which are “unavailable” at the time of application should be excluded from consideration, provided the applicant “proves” the unavailability and cooperates with the State to make the asset available. However, state policy does not provide any further guidance, and while some eligibility workers will disregard the pending cash-outs and properly approve benefits, the majority will reject the application, even where families have provided all possible documentation showing that they have requested the surrender and cash-out of these policies. In addition to improperly denying care to individuals who are in need and who have expended all significant assets on their own care, worker may insist that families refile an entire new benefits application, and depending upon the time lapse may not be able to re-open the processed file in house.

Senate Bill 107 provides significant benefits to the State and to the public by requiring DSS to clarify for eligibility workers its preexisting legal obligation to disregard small insurance policies that remain undivested solely due to insurer delays. It ensures eligibility workers will act consistently with respect to such policies, and can timely resolve applications and grant benefits in this fairly common situation, while also ensuring that the proceeds are expended on their care. It increases the ability of DSS to comply with its obligation to promptly process applications (both under the Medicaid Statute and a recent federal consent decree), without forcing needy individuals to go without care for no good reason, and without forcing families to reapply and DSS to reprocess applications for a second time.

For all of these reasons, my committee and I strongly endorse the passage of SB 107.