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## **OLR Bill Analysis**

### **sSB 913**

#### ***AN ACT REQUIRING FAIRNESS FOR FAMILIES IN MEDICAID ELIGIBILITY AND REIMBURSEMENT DETERMINATIONS.***

#### **SUMMARY**

This bill generally requires, to the extent permissible under federal Medicaid law, (1) payment parity for family caregivers, (2) retroactive coverage for home care services, and (3) a process for resolving undisclosed assets discovered during the application process.

Additionally, the bill replaces an obsolete reference to the Connecticut Law Journal with the Department of Social Services' (DSS) website and the eRegulations system for posting required notices of intention to adopt regulations. It also makes technical and conforming changes.

EFFECTIVE DATE: July 1, 2021

#### **§ 1 — FAMILY CAREGIVER PAYMENT RATES**

The bill requires, to the extent permissible under federal law, payment rates for authorized family caregivers in DSS-administered programs to equal the rates for non-family professional caregivers providing the same types of services to program participants. By law, the DSS commissioner must determine whether a Medicaid applicant transferred assets in violation of federal law. Under the bill, the commissioner must use the fair market value of the family caregiver's provided services when making this determination with regard to a legally enforceable compensation agreement for the services.

#### **§ 2 — RETROACTIVE MEDICAID BENEFITS**

The bill requires the DSS commissioner to provide, in accordance with federal regulations, retroactive benefits to applicants of the Connecticut Home Care Program for Elders (CHCPE, see

BACKGROUND) for up to three months before the date of their application, as long as they were otherwise eligible during that time period. In practice and under federal law, DSS already makes retroactive payments for certain other Medicaid services, including long-term care services.

Under federal law, DSS must impose a penalty period when individuals transfer assets for less than fair market value in the 60 months before applying for Medicaid coverage. The bill makes any CHCPE applicant who has made such a transfer ineligible for the retroactive Medicaid payments and requires the commissioner to impose a penalty period in accordance with federal regulations.

### **§ 3 — LATE-DISCOVERED ASSETS**

The bill prohibits, to the extent permissible under federal law, Medicaid coverage denial solely on the basis of an asset discovered by an applicant during the application process, as long as the applicant (1) reports the discovery to DSS within ten days of the discovery and (2) takes steps to liquidate it and spend-down the proceeds in accordance with Medicaid income and asset limits. The bill directs the department to assist these applicants to gain access to their assets if they are unable to do so.

### **BACKGROUND**

#### ***Retroactive Medicaid Payments***

Under federal regulations, individuals are eligible for up to three months of retroactive Medicaid coverage, as long as they (1) received Medicaid services during that time and (2) would have been Medicaid eligible if they had applied (42 C.F.R. § 435.915).

#### ***Asset Transfer Penalties***

Generally, the penalty period (in months) is calculated by dividing the value of all assets transferred for less than fair market value during the 60 months before application by the average monthly cost of private nursing home care in the state or community. Medicaid does not pay for long-term care services and supports during the penalty period.

***Connecticut Home Care Program for Elders***

CHCPE is a Medicaid-waiver and a state-funded program that provides a range of home- and community-based services for eligible individuals age 65 or older who are at risk of inappropriate institutionalization (e.g., nursing home placement). To be eligible for CHCPE, individuals must meet income and asset limits.

**COMMITTEE ACTION**

Human Services Committee

Joint Favorable Substitute

Yea 19 Nay 0 (03/09/2021)