

Human Services Committee JOINT FAVORABLE REPORT

Bill No.: SB-913

AN ACT REQUIRING FAIRNESS FOR FAMILIES IN MEDICAID ELIGIBILITY
Title: AND REIMBURSEMENT DETERMINATIONS.

Vote Date: 3/9/2021

Vote Action: Joint Favorable Substitute

PH Date: 2/23/2021

File No.:

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SPONSORS OF BILL:

Human Services Committee

REASONS FOR BILL:

In Section 1 language was added to designate the Commissioner of Social Services to set payment rates for family caregivers in programs administered by the Department of Social Services equal to the rates set for nonfamily professional caregivers. This provision seeks pay parity between privately paid and family providers for the same services. The new language in Section 2 allows a three-month retroactive period for medical assistance payments for Medicaid-eligible home care services. This provision ensures equity in Medicaid reimbursements. The new language in Section 3 prohibits the ineligibility of individuals who discover an asset or who are unable to immediately liquidate an asset after applying for Medicaid. This ensures more time and flexibility for applicants in these extenuating circumstances.

RESPONSE FROM ADMINISTRATION/AGENCY:

Deidre Gifford, Commissioner, Department of Social Services opposes this bill. While the Department recognizes the importance of supporting family caregivers, they oppose Section 1 because they have limited authority to reimburse family members for Medicaid-covered services. Commissioner Gifford explained that the Department opposes Section 2 because the Centers for Medicare & Medicaid Services (CMS) and federal law do not allow for the changes sought by this proposal. The Department opposes Section 3 of this bill as it allows institutionalized individuals to have assets above the Medicaid asset limit. Commissioner Gifford notes that the exclusion of a single disqualifying asset would eliminate “the incentive for individuals or their representatives to reduce their assets in a timely manner” and

“increase Medicaid expenditures by allowing applicants to be eligible for Medicaid services earlier.”

NATURE AND SOURCES OF SUPPORT:

The Connecticut Chapter of the National Academy of Elder Law Attorneys (CTNAELA) and Elder Law Section of the Connecticut Bar Association support this bill with a technical amendment to Section 1. They believe that closing the current wage gap between family and professional caregivers will relieve financial instability for caregivers, allowing families to continue caring for their loved ones. CTNAELA and the Elder Law Section request that Section 1, lines 10-13, are amended to prohibit the Commissioner of Social Services from using “payment rates set by the Department to determine the value of services provided by a family caregiver under a legally enforceable compensation agreement.” The current language creates a risk that additional money paid to the caregiver by an applicant might be considered a “gift.” This has numerous negative consequences, including a penalty period of disqualification from Medicaid benefits. They fully support Section 3, as it creates a more “flexible, rational, and compassionate treatment of asset issues arising during the Medicaid application process.” CTNAELA and the Elder Law Section believe the bill benefits the State and the public by requiring DSS to clarify its preexisting legal obligation to disregard assets that are not available for individuals to use or apply to their care during the pendency of their applications.

Sheldon Toubman, Staff Attorney, New Haven Legal Assistance Association supports Section 2 of this bill because it aligns with federal law and is economically beneficial for the state. By requiring retroactive eligibility for home care services, this bill will bring Connecticut into compliance with federal law. Mr. Toubman argues that Section 2 will promote the provision of services during the critical period when a Medicaid application is pending. It will give hope to providers that they might receive payment for their services. This provision will ensure that Medicaid applicants can immediately receive services, if needed, without being forced into a nursing home. Reducing unnecessary institutionalization is cost-effective for the state because home care services provided under Medicaid are cheaper. Mr. Toubman includes a few language revisions to expand the impact of the bill.

NATURE AND SOURCES OF OPPOSITION:

None expressed

Reported by: Gianna Vollano

Date: March 23, 2021