



General Assembly

January Session, 2021

**Raised Bill No. 913**

LCO No. 3527



Referred to Committee on HUMAN SERVICES

Introduced by:  
(HS)

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

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

1 Section 1. (NEW) (*Effective July 1, 2021*) The Commissioner of Social  
2 Services shall set payment rates for family caregivers authorized to  
3 receive compensation in programs administered by the Department of  
4 Social Services equal to the rates set for nonfamily professional  
5 caregivers providing the same types of services to participants in such  
6 programs, including, but not limited to, providing family caregivers  
7 rates received by personal care attendants negotiated pursuant to  
8 section 17b-706b of the general statutes and rates received by providers  
9 of home care services pursuant to section 17b-343 of the general statutes.  
10 The commissioner shall also use such rates to determine the value of  
11 services provided by a family caregiver to a Medicaid applicant who  
12 transferred assets to the family caregiver as part of a legally enforceable  
13 compensation agreement with such caregiver.

14 Sec. 2. Subsection (h) of section 17b-342 of the general statutes is  
15 repealed and the following is substituted in lieu thereof (*Effective July 1,*

16 2021):

17 (h) An individual who is otherwise eligible for services pursuant to  
18 this section shall, as a condition of participation in the program, apply  
19 for medical assistance benefits pursuant to section 17b-260 when  
20 requested to do so by the department and shall accept such benefits if  
21 determined eligible. The Commissioner of Social Services shall provide  
22 medical assistance payments for Medicaid-eligible home care services  
23 retroactive to not more than three months before the date an eligible  
24 individual applied for Medicaid, to the extent permissible under 42 CFR  
25 435.915, as amended from time to time. Any Medicaid applicant who  
26 has transferred assets for less than fair market value for purposes of  
27 obtaining or maintaining Medicaid eligibility in the sixty months before  
28 applying shall not be eligible for retroactive medical assistance  
29 payments. If the applicant has made such a transfer, the commissioner  
30 shall impose a penalty period in accordance with 42 USC  
31 1396p(c)(1)(D)(ii), as amended from time to time.

32 Sec. 3. Section 17b-261 of the general statutes is repealed and the  
33 following is substituted in lieu thereof (*Effective July 1, 2021*):

34 (a) Medical assistance shall be provided for any otherwise eligible  
35 person whose income, including any available support from legally  
36 liable relatives and the income of the person's spouse or dependent  
37 child, is not more than one hundred forty-three per cent, pending  
38 approval of a federal waiver applied for pursuant to subsection (e) of  
39 this section, of the benefit amount paid to a person with no income  
40 under the temporary family assistance program in the appropriate  
41 region of residence and if such person is an institutionalized individual  
42 as defined in Section 1917 of the Social Security Act, 42 USC 1396p(h)(3),  
43 and has not made an assignment or transfer or other disposition of  
44 property for less than fair market value for the purpose of establishing  
45 eligibility for benefits or assistance under this section. Any such  
46 disposition shall be treated in accordance with Section 1917(c) of the  
47 Social Security Act, 42 USC 1396p(c). Any disposition of property made  
48 on behalf of an applicant or recipient or the spouse of an applicant or

49 recipient by a guardian, conservator, person authorized to make such  
50 disposition pursuant to a power of attorney or other person so  
51 authorized by law shall be attributed to such applicant, recipient or  
52 spouse. A disposition of property ordered by a court shall be evaluated  
53 in accordance with the standards applied to any other such disposition  
54 for the purpose of determining eligibility. The commissioner shall  
55 establish the standards for eligibility for medical assistance at one  
56 hundred forty-three per cent of the benefit amount paid to a household  
57 of equal size with no income under the temporary family assistance  
58 program in the appropriate region of residence. In determining  
59 eligibility, the commissioner shall not consider as income Aid and  
60 Attendance pension benefits granted to a veteran, as defined in section  
61 27-103, or the surviving spouse of such veteran. Except as provided in  
62 section 17b-277 and section 17b-292, the medical assistance program  
63 shall provide coverage to persons under the age of nineteen with  
64 household income up to one hundred ninety-six per cent of the federal  
65 poverty level without an asset limit and to persons under the age of  
66 nineteen, who qualify for coverage under Section 1931 of the Social  
67 Security Act, with household income not exceeding one hundred  
68 ninety-six per cent of the federal poverty level without an asset limit,  
69 and their parents and needy caretaker relatives, who qualify for  
70 coverage under Section 1931 of the Social Security Act, with household  
71 income not exceeding one hundred fifty-five per cent of the federal  
72 poverty level without an asset limit. Such levels shall be based on the  
73 regional differences in such benefit amount, if applicable, unless such  
74 levels based on regional differences are not in conformance with federal  
75 law. Any income in excess of the applicable amounts shall be applied as  
76 may be required by said federal law, and assistance shall be granted for  
77 the balance of the cost of authorized medical assistance. The  
78 Commissioner of Social Services shall provide applicants for assistance  
79 under this section, at the time of application, with a written statement  
80 advising them of (1) the effect of an assignment or transfer or other  
81 disposition of property on eligibility for benefits or assistance, (2) the  
82 effect that having income that exceeds the limits prescribed in this  
83 subsection will have with respect to program eligibility, and (3) the

84 availability of, and eligibility for, services provided by the Nurturing  
85 Families Network established pursuant to section 17b-751b. For  
86 coverage dates on or after January 1, 2014, the department shall use the  
87 modified adjusted gross income financial eligibility rules set forth in  
88 Section 1902(e)(14) of the Social Security Act and the implementing  
89 regulations to determine eligibility for HUSKY A, HUSKY B and  
90 HUSKY D applicants, as defined in section 17b-290. Persons who are  
91 determined ineligible for assistance pursuant to this section shall be  
92 provided a written statement notifying such persons of their ineligibility  
93 and advising such persons of their potential eligibility for one of the  
94 other insurance affordability programs as defined in 42 CFR 435.4.

95 (b) For the purposes of the Medicaid program, the Commissioner of  
96 Social Services shall consider parental income and resources as available  
97 to a child under eighteen years of age who is living with his or her  
98 parents and is blind or disabled for purposes of the Medicaid program,  
99 or to any other child under twenty-one years of age who is living with  
100 his or her parents.

101 (c) For the purposes of determining eligibility for the Medicaid  
102 program, an available asset is one that is actually available to the  
103 applicant or one that the applicant has the legal right, authority or  
104 power to obtain or to have applied for the applicant's general or medical  
105 support. If the terms of a trust provide for the support of an applicant,  
106 the refusal of a trustee to make a distribution from the trust does not  
107 render the trust an unavailable asset. Notwithstanding the provisions of  
108 this subsection, the availability of funds in a trust or similar instrument  
109 funded in whole or in part by the applicant or the applicant's spouse  
110 shall be determined pursuant to the Omnibus Budget Reconciliation Act  
111 of 1993, 42 USC 1396p. The provisions of this subsection shall not apply  
112 to a special needs trust, as defined in 42 USC 1396p(d)(4)(A), as  
113 amended from time to time. For purposes of determining whether a  
114 beneficiary under a special needs trust, who has not received a disability  
115 determination from the Social Security Administration, is disabled, as  
116 defined in 42 USC 1382c(a)(3), the Commissioner of Social Services, or  
117 the commissioner's designee, shall independently make such

118 determination. The commissioner shall not require such beneficiary to  
119 apply for Social Security disability benefits or obtain a disability  
120 determination from the Social Security Administration for purposes of  
121 determining whether the beneficiary is disabled.

122 (d) The transfer of an asset in exchange for other valuable  
123 consideration shall be allowable to the extent the value of the other  
124 valuable consideration is equal to or greater than the value of the asset  
125 transferred.

126 (e) The Commissioner of Social Services shall seek a waiver from  
127 federal law to permit federal financial participation for Medicaid  
128 expenditures for families with incomes of one hundred forty-three per  
129 cent of the temporary family assistance program payment standard.

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

138 (g) An institutionalized spouse applying for Medicaid and having a  
139 spouse living in the community shall be required, to the maximum  
140 extent permitted by law, to divert income to such community spouse in  
141 order to raise the community spouse's income to the level of the  
142 minimum monthly needs allowance, as described in Section 1924 of the  
143 Social Security Act. Such diversion of income shall occur before the  
144 community spouse is allowed to retain assets in excess of the  
145 community spouse protected amount described in Section 1924 of the  
146 Social Security Act. The Commissioner of Social Services, pursuant to  
147 section 17b-10, may implement the provisions of this subsection while  
148 in the process of adopting regulations, provided the commissioner  
149 prints notice of intent to adopt the regulations [in the Connecticut Law

150 Journal within] on the Internet web site of the Department of Social  
151 Services and the eRegulations System not later than twenty days of  
152 adopting such policy. Such policy shall be valid until the time final  
153 regulations are effective.

154 (h) To the extent permissible under federal law, an institutionalized  
155 individual, as defined in Section 1917 of the Social Security Act, 42 USC  
156 1396p(h)(3), shall not be determined ineligible for Medicaid solely on  
157 the basis of the cash value of a life insurance policy worth less than ten  
158 thousand dollars provided the individual is pursuing the surrender of  
159 the policy.

160 (i) To the extent permissible under federal law, an individual who has  
161 applied for Medicaid shall not be determined ineligible solely on the  
162 basis of an asset discovered by such individual after the date of  
163 application, provided (1) the individual reports the discovery of the  
164 asset to the Commissioner of Social Services not later than ten days after  
165 the discovery, (2) the individual takes steps to liquidate such  
166 individual's interest in the asset and spend down the proceeds in  
167 accordance with Medicaid income and asset limits, and (3) in the event  
168 the individual is unable to gain access to the asset, the Department of  
169 Social Services provides assistance to the individual to gain access to the  
170 asset.

171 (j) To the extent permissible under federal law, an individual who has  
172 applied for Medicaid shall not be determined ineligible on the basis of a  
173 single, unliquidated asset, provided such individual presents evidence  
174 to the Commissioner of Social Services that such asset is inaccessible to  
175 the individual because it is not possible to liquidate the asset in fewer  
176 than thirty days.

177 [(i)] (k) Medical assistance shall be provided, in accordance with the  
178 provisions of subsection (e) of section 17a-6, to any child under the  
179 supervision of the Commissioner of Children and Families who is not  
180 receiving Medicaid benefits, has not yet qualified for Medicaid benefits  
181 or is otherwise ineligible for such benefits. Medical assistance shall also

182 be provided to any child in the behavioral services program operated  
183 by the Department of Developmental Services who is not receiving  
184 Medicaid benefits, has not yet qualified for Medicaid benefits or is  
185 otherwise ineligible for benefits. To the extent practicable, the  
186 Commissioner of Children and Families and the Commissioner of  
187 Developmental Services shall apply for, or assist such child in qualifying  
188 for, the Medicaid program.

189 [(j)] (l) The Commissioner of Social Services shall provide Early and  
190 Periodic Screening, Diagnostic and Treatment program services, as  
191 required and defined as of December 31, 2005, by 42 USC 1396a(a)(43),  
192 42 USC 1396d(r) and 42 USC 1396d(a)(4)(B) and applicable federal  
193 regulations, to all persons who are under the age of twenty-one and  
194 otherwise eligible for medical assistance under this section.

195 [(k)] (m) A veteran, as defined in section 27-103, and any member of  
196 his or her family, who applies for or receives assistance under the  
197 Medicaid program, shall apply for all benefits for which he or she may  
198 be eligible through the United States Department of Veterans Affairs or  
199 the United States Department of Defense.

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|---|---------------------|-------------|
| This act shall take effect as follows and shall amend the following sections: |                     |             |
| Section 1   | <i>July 1, 2021</i> | New section |
| Sec. 2  | <i>July 1, 2021</i> | 17b-342(h)  |
| Sec. 3  | <i>July 1, 2021</i> | 17b-261     |

**Statement of Purpose:**

To ensure equity in payment between privately paid and family providers of human services, equity in Medicaid reimbursement for home care services compared to institutional care and fairness to families who discover an asset or are unable to immediately liquidate an asset after applying for Medicaid.

*[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.]*