
OLR Bill Analysis

sSB 264

AN ACT CONCERNING A QUALIFIED DEDUCTION FROM MEDICAID APPLIED INCOME FOR CONSERVATOR COSTS.

SUMMARY

This bill requires the Department of Social Services (DSS) commissioner to amend the Medicaid state plan by December 31, 2022, to allow the deduction of certain conservator expenses when calculating a Medicaid eligible nursing home resident's applied income. In general, these residents must spend any income they have on their care, except for certain allowances (i.e., applied income).

In doing so, the bill requires the DSS commissioner, starting by December 31, 2023, to annually calculate the total conservatorship expenses deducted from a nursing home resident's applied income in the preceding fiscal year and inform the probate court administrator in writing of the amount.

Within 30 days after receiving the commissioner's calculation, the probate court administrator must transfer half of the conservatorship expenses for that year from the Probate Court Administration fund to DSS.

The bill also prohibits DSS from treating any probate court-approved conservator or fiduciary fees as an improper asset transfer for purposes of imposing a penalty period.

Lastly, the bill increases, from \$50 to \$90, the minimum monthly compensation for a conservator of a person receiving state assistance.

EFFECTIVE DATE: Upon passage

APPLIED INCOME

Medicaid State Plan Amendment

Under the bill, the DSS commissioner must amend the Medicaid state plan to allow the deduction from applied income of the following conservatorship expenses:

1. compensation for the individual's conservator, in an amount the probate court approves or \$90 per month, whichever is greater;
2. probate court filing fees and expenses, including conservatorship fees, fiduciary accounting fees, and miscellaneous fees (see BACKGROUND);
3. premiums for any probate bond the court requires; and
4. any other fiduciary expenses approved by the probate court that are allowed under federal law.

The commissioner must seek approval from the federal Centers for Medicare and Medicaid Services (CMS) for the state plan amendment. The bill applies to conservator expenses incurred on or after October 1, 2022, or the date CMS approves the state plan amendment, whichever is later.

PENALTY PERIOD

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 (i.e., improper asset transfer). The bill prohibits DSS from treating any probate court-approved conservator or fiduciary fees as an improper asset transfer. To be exempt from the penalty (1) applicants must provide documentation of the fees and (2) the services must be provided according to existing court regulations.

By law, the penalty period (in months) is generally calculated by dividing the value of all assets transferred during the 60 months before application by the average monthly cost to a private patient of nursing facility services in the state or community. Medicaid does not pay for long-term services and supports during the penalty period.

BACKGROUND

Probate Court Fees

By law, the general fee for most probate court matters related to conservatorship is \$225 (CGS § 45a-106a). This includes filing motions to (1) appoint a conservator, (2) change residence or placement in a long-term care facility, and (3) terminate a conservatorship. Under the law, the basic fee for a fiduciary to file an account in the probate court in any matter other than estate settlement is at least \$50 and up to \$500 per year, based on a statutory formula (CGS § 45a-108a).

The law also allows the probate court to charge fees for miscellaneous expenses (i.e., filing or copying certain documents) (CGS § 45a-109).

The law allows an indigent petitioner or applicant to the probate court to apply for a fee waiver (CGS § 45a-111).

COMMITTEE ACTION

Aging Committee

Joint Favorable Substitute

Yea 15 Nay 0 (03/10/2022)