
OLR Bill Analysis

sSB 58

AN ACT CONCERNING CONSERVATOR COMPENSATION BY MEDICAID APPLICANTS AND RECIPIENTS.

SUMMARY

This bill requires the Department of Social Services (DSS) commissioner to amend the Medicaid state plan by December 31, 2023, to permit 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, minus certain allowances (i.e., applied income).

Additionally, the bill:

1. requires the DSS commissioner to apply deductions for conservator expenses incurred beginning October 1, 2023, or the date the Centers for Medicare and Medicaid Services approves Medicaid state plan amendment, whichever is later;
2. requires the DSS commissioner to annually notify the probate court administrator of the total conservatorship expenses deducted from applied income in the previous fiscal year;
3. requires the probate court administrator to annually transfer from the Probate Court Administration Fund to DSS, an amount equal to half the conservatorship expenses for that year;
4. prohibits DSS from treating any probate court-approved conservator or fiduciary fees as an improper asset transfer for purposes of imposing a penalty period; and
5. increases, from \$50 to \$125 per month, the minimum compensation for conservators or guardians of people supported

by the state (e.g., Medicaid recipients).

EFFECTIVE DATE: October 1, 2023, except the improper transfer provision is effective July 1, 2023.

APPLIED INCOME

Medicaid State Plan Amendment

Under the bill, the DSS commissioner must amend the Medicaid state plan by December 31, 2023, to allow the deduction of the following conservatorship expenses when calculating a resident's applied income:

1. \$125 per month in compensation for the resident's conservator or a higher amount approved by the probate court;
2. probate court filing fees and expenses, including conservatorship fees, fiduciary accounting fees, and miscellaneous fees (see BACKGROUND);
3. premiums for any probate bond required by the probate court; and
4. any other fiduciary expenses approved by the probate court that are permissible under federal law.

The bill requires these deductions to be taken from applied income after all other deductions under the Medicaid state plan.

Notification and Funds Transfer

The bill requires the DSS commissioner, by December 31, 2024, and each year after, to calculate the total conservatorship expenses deducted from a nursing home resident's applied income in the last 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 funds from the Probate Court Administration fund to DSS equal to half of the conservatorship expenses for that year.

PENALTY PERIOD

Under federal law, DSS must impose a penalty period when people 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, as long as the applicant or recipient submits documentation demonstrating that the services were rendered according to probate court regulations and the fees were for the fair market value of the services rendered.

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

By law, the general fee for most probate court matters related to conservatorship is \$250 (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 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

Human Services Committee

Joint Favorable Substitute

Yea 21 Nay 0 (02/14/2023)