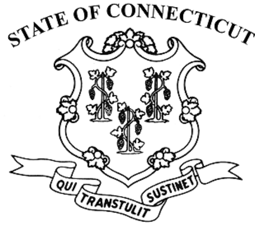

General Assembly

Governor's Bill No. 5015

February Session, 2020

LCO No. **384**

Referred to Committee on HUMAN SERVICES

Introduced by:
REP. ARESIMOWICZ, 30th Dist.
REP. RITTER M., 1st Dist.
SEN. LOONEY, 11th Dist.
SEN. DUFF, 25th Dist.

AN ACT CONCERNING THE GOVERNOR'S BUDGET RECOMMENDATIONS FOR HUMAN SERVICES.

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

1 Section 1. Section 17b-265 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2020*):

3 (a) In accordance with 42 USC 1396k, the Department of Social
4 Services shall be subrogated to any right of recovery or indemnification
5 that an applicant or recipient of medical assistance or any legally liable
6 relative of such applicant or recipient has against an insurer or other
7 legally liable third party including, but not limited to, a self-insured
8 plan, group health plan, as defined in Section 607(1) of the Employee
9 Retirement Income Security Act of 1974, service benefit plan, managed
10 care organization, health care center, pharmacy benefit manager, dental
11 benefit manager, third-party administrator or other party that is, by
12 statute, contract or agreement, legally responsible for payment of a

13 claim for a health care item or service, for the cost of all health care items
14 or services furnished to the applicant or recipient, including, but not
15 limited to, hospitalization, pharmaceutical services, physician services,
16 nursing services, behavioral health services, long-term care services and
17 other medical services, not to exceed the amount expended by the
18 department for such care and treatment of the applicant or recipient. In
19 the case of such a recipient who is an enrollee in a care management
20 organization under a Medicaid care management contract with the state
21 or a legally liable relative of such an enrollee, the department shall be
22 subrogated to any right of recovery or indemnification which the
23 enrollee or legally liable relative has against such a private insurer or
24 other third party for the medical costs incurred by the care management
25 organization on behalf of an enrollee.

26 (b) An applicant or recipient or legally liable relative, by the act of the
27 applicant's or recipient's receiving medical assistance, shall be deemed
28 to have made a subrogation assignment and an assignment of claim for
29 benefits to the department. The department shall inform an applicant of
30 such assignments at the time of application. Any entitlements from a
31 contractual agreement with an applicant or recipient, legally liable
32 relative or a state or federal program for such medical services, not to
33 exceed the amount expended by the department, shall be so assigned.
34 Such entitlements shall be directly reimbursable to the department by
35 third party payors. The Department of Social Services may assign its
36 right to subrogation or its entitlement to benefits to a designee or a
37 health care provider participating in the Medicaid program and
38 providing services to an applicant or recipient, in order to assist the
39 provider in obtaining payment for such services. In accordance with
40 subsection (b) of section 38a-472, a provider that has received an
41 assignment from the department shall notify the recipient's health
42 insurer or other legally liable third party including, but not limited to, a
43 self-insured plan, group health plan, as defined in Section 607(1) of the
44 Employee Retirement Income Security Act of 1974, service benefit plan,
45 managed care organization, health care center, pharmacy benefit

46 manager, dental benefit manager, third-party administrator or other
47 party that is, by statute, contract or agreement, legally responsible for
48 payment of a claim for a health care item or service, of the assignment
49 upon rendition of services to the applicant or recipient. Failure to so
50 notify the health insurer or other legally liable third party shall render
51 the provider ineligible for payment from the department. The provider
52 shall notify the department of any request by the applicant or recipient
53 or legally liable relative or representative of such applicant or recipient
54 for billing information. This subsection shall not be construed to affect
55 the right of an applicant or recipient to maintain an independent cause
56 of action against such third party tortfeasor.

57 (c) Claims for recovery or indemnification submitted by the
58 department, or the department's designee, shall not be denied solely on
59 the basis of the date of the submission of the claim, the type or format of
60 the claim, the lack of prior authorization or the failure to present proper
61 documentation at the point-of-service that is the basis of the claim, if (1)
62 the claim is submitted by the state within the three-year period
63 beginning on the date on which the item or service was furnished; and
64 (2) any action by the state to enforce its rights with respect to such claim
65 is commenced within six years of the state's submission of the claim.

66 (d) When a recipient of medical assistance has personal health
67 insurance in force covering care or other benefits provided under such
68 program, payment or part-payment of the premium for such insurance
69 may be made when deemed appropriate by the Commissioner of Social
70 Services. **[**Effective January 1, 1992, the**]** <u>The</u> commissioner shall limit
71 reimbursement to medical assistance providers for coinsurance and
72 deductible payments under Title XVIII of the Social Security Act to
73 assure that the combined Medicare and Medicaid payment to the
74 provider shall not exceed the maximum allowable under the Medicaid
75 program fee schedules.

76 (e) No self-insured plan, group health plan, as defined in Section
77 607(1) of the Employee Retirement Income Security Act of 1974, service

78 benefit plan, managed care plan, or any plan offered or administered by
79 a health care center, pharmacy benefit manager, dental benefit manager,
80 third-party administrator or other party that is, by statute, contract or
81 agreement, legally responsible for payment of a claim for a health care
82 item or service, shall contain any provision that has the effect of denying
83 or limiting enrollment benefits or excluding coverage because services
84 are rendered to an insured or beneficiary who is eligible for or who
85 received medical assistance under this chapter. No insurer, as defined
86 in section 38a-497a, shall impose requirements on the state Medicaid
87 agency, which has been assigned the rights of an individual eligible for
88 Medicaid and covered for health benefits from an insurer, that differ
89 from requirements applicable to an agent or assignee of another
90 individual so covered.

91 (f) The Commissioner of Social Services shall not pay for any services
92 provided under this chapter if the individual eligible for medical
93 assistance has coverage for the services under an accident or health
94 insurance policy.

95 (g) An insurer or other legally liable third party, upon receipt of a
96 claim submitted by the department or the department's designee, in
97 accordance with the requirements of subsection (c) of this section, for
98 payment of a health care item or service covered under a state medical
99 assistance program administered by the department, shall, not later
100 than ninety days after receipt of the claim, or not later than ninety days
101 after the effective date of this section, whichever is later, (1) make
102 payment on the claim, (2) request information necessary to determine
103 its legal obligation to pay the claim, or (3) issue a written reason for
104 denial of the claim. Failure to pay, request information necessary to
105 determine legal obligation to pay or issue a written reason for denial of
106 a claim not later than one hundred twenty days after receipt of the claim,
107 or not later than one hundred twenty days after the effective date of this
108 section, whichever is later, creates an uncontestable obligation to pay
109 the claim. The provisions of this subsection shall apply to all claims,
110 including claims submitted by the department or the department's

111 designee, prior to July 1, 2020.

112 (h) On and after July 1, 2020, an insurer or other legally liable third
113 party who has reimbursed the department for a health care item or
114 service paid for and covered under a state medical assistance program
115 administered by the department, shall, upon determining it is not liable
116 and at risk for cost of the health care item or service, request any refund
117 from the department not later than twelve months from the date of its
118 reimbursement to the department.

119 Sec. 2. Section 315 of public act 19-117 is repealed. (*Effective July 1,*
120 *2020*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	*July 1, 2020*	17b-265
Sec. 2	*July 1, 2020*	Repealer section

Statement of Purpose:
To implement the Governor's budget recommendations.

[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.]