



General Assembly

January Session, 2019

Raised Bill No. 943

LCO No. 4767



Referred to Committee on HUMAN SERVICES

Introduced by:
(HS)

**AN ACT CONCERNING MEDICAID TREATMENT OF AN
INACCESSIBLE ASSET.**

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

1 Section 1. Section 17b-261 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2019*):

3 (a) Medical assistance shall be provided for any otherwise eligible
4 person whose income, including any available support from legally
5 liable relatives and the income of the person's spouse or dependent
6 child, is not more than one hundred forty-three per cent, pending
7 approval of a federal waiver applied for pursuant to subsection (e) of
8 this section, of the benefit amount paid to a person with no income
9 under the temporary family assistance program in the appropriate
10 region of residence and if such person is an institutionalized
11 individual as defined in Section 1917 of the Social Security Act, 42 USC
12 1396p(h)(3), and has not made an assignment or transfer or other
13 disposition of property for less than fair market value for the purpose
14 of establishing eligibility for benefits or assistance under this section.
15 Any such disposition shall be treated in accordance with Section

16 1917(c) of the Social Security Act, 42 USC 1396p(c). Any disposition of
17 property made on behalf of an applicant or recipient or the spouse of
18 an applicant or recipient by a guardian, conservator, person
19 authorized to make such disposition pursuant to a power of attorney
20 or other person so authorized by law shall be attributed to such
21 applicant, recipient or spouse. A disposition of property ordered by a
22 court shall be evaluated in accordance with the standards applied to
23 any other such disposition for the purpose of determining eligibility.
24 The commissioner shall establish the standards for eligibility for
25 medical assistance at one hundred forty-three per cent of the benefit
26 amount paid to a household of equal size with no income under the
27 temporary family assistance program in the appropriate region of
28 residence. In determining eligibility, the commissioner shall not
29 consider as income Aid and Attendance pension benefits granted to a
30 veteran, as defined in section 27-103, or the surviving spouse of such
31 veteran. Except as provided in section 17b-277 and section 17b-292, the
32 medical assistance program shall provide coverage to persons under
33 the age of nineteen with household income up to one hundred ninety-
34 six per cent of the federal poverty level without an asset limit and to
35 persons under the age of nineteen, who qualify for coverage under
36 Section 1931 of the Social Security Act, with household income not
37 exceeding one hundred ninety-six per cent of the federal poverty level
38 without an asset limit, and their parents and needy caretaker relatives,
39 who qualify for coverage under Section 1931 of the Social Security Act,
40 with household income not exceeding one hundred fifty per cent of the
41 federal poverty level without an asset limit. Such levels shall be based
42 on the regional differences in such benefit amount, if applicable, unless
43 such levels based on regional differences are not in conformance with
44 federal law. Any income in excess of the applicable amounts shall be
45 applied as may be required by said federal law, and assistance shall be
46 granted for the balance of the cost of authorized medical assistance.
47 The Commissioner of Social Services shall provide applicants for
48 assistance under this section, at the time of application, with a written
49 statement advising them of (1) the effect of an assignment or transfer
50 or other disposition of property on eligibility for benefits or assistance,

51 (2) the effect that having income that exceeds the limits prescribed in
52 this subsection will have with respect to program eligibility, and (3)
53 the availability of, and eligibility for, services provided by the
54 Nurturing Families Network established pursuant to section 17b-751b.
55 For coverage dates on or after January 1, 2014, the department shall
56 use the modified adjusted gross income financial eligibility rules set
57 forth in Section 1902(e)(14) of the Social Security Act and the
58 implementing regulations to determine eligibility for HUSKY A,
59 HUSKY B and HUSKY D applicants, as defined in section 17b-290.
60 Persons who are determined ineligible for assistance pursuant to this
61 section shall be provided a written statement notifying such persons of
62 their ineligibility and advising such persons of their potential
63 eligibility for one of the other insurance affordability programs as
64 defined in 42 CFR 435.4.

65 (b) For the purposes of the Medicaid program, the Commissioner of
66 Social Services shall consider parental income and resources as
67 available to a child under eighteen years of age who is living with his
68 or her parents and is blind or disabled for purposes of the Medicaid
69 program, or to any other child under twenty-one years of age who is
70 living with his or her parents.

71 (c) For the purposes of determining eligibility for the Medicaid
72 program, an available asset is one that is actually available to the
73 applicant or one that the applicant has the legal right, authority or
74 power to obtain or to have applied for the applicant's general or
75 medical support. If the terms of a trust provide for the support of an
76 applicant, the refusal of a trustee to make a distribution from the trust
77 does not render the trust an unavailable asset. Notwithstanding the
78 provisions of this subsection, the availability of funds in a trust or
79 similar instrument funded in whole or in part by the applicant or the
80 applicant's spouse shall be determined pursuant to the Omnibus
81 Budget Reconciliation Act of 1993, 42 USC 1396p. The provisions of
82 this subsection shall not apply to a special needs trust, as defined in 42
83 USC 1396p(d)(4)(A), as amended from time to time. For purposes of
84 determining whether a beneficiary under a special needs trust, who

85 has not received a disability determination from the Social Security
86 Administration, is disabled, as defined in 42 USC 1382c(a)(3), the
87 Commissioner of Social Services, or the commissioner's designee, shall
88 independently make such determination. The commissioner shall not
89 require such beneficiary to apply for Social Security disability benefits
90 or obtain a disability determination from the Social Security
91 Administration for purposes of determining whether the beneficiary is
92 disabled.

93 (d) The transfer of an asset in exchange for other valuable
94 consideration shall be allowable to the extent the value of the other
95 valuable consideration is equal to or greater than the value of the asset
96 transferred.

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

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

109 (g) An institutionalized spouse applying for Medicaid and having a
110 spouse living in the community shall be required, to the maximum
111 extent permitted by law, to divert income to such community spouse
112 in order to raise the community spouse's income to the level of the
113 minimum monthly needs allowance, as described in Section 1924 of
114 the Social Security Act. Such diversion of income shall occur before the
115 community spouse is allowed to retain assets in excess of the
116 community spouse protected amount described in Section 1924 of the

117 Social Security Act. The Commissioner of Social Services, pursuant to
118 section 17b-10, may implement the provisions of this subsection while
119 in the process of adopting regulations, provided the commissioner
120 [prints] publishes notice of intent to adopt the regulations [in the
121 Connecticut Law Journal within twenty days of] on the eRegulations
122 System prior to adopting such policy. Such policy shall be valid until
123 the time final regulations are effective.

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

130 (i) To the extent permissible under federal law, an individual who
131 has applied for Medicaid and otherwise qualifies for Medicaid shall
132 not be determined ineligible on the basis of a single, unliquidated
133 asset, provided such individual presents evidence acceptable to the
134 Commissioner of Social Services that such asset is inaccessible to the
135 individual because it is not possible to liquidate the asset in fewer than
136 thirty days.

137 [(i)] (j) Medical assistance shall be provided, in accordance with the
138 provisions of subsection (e) of section 17a-6, to any child under the
139 supervision of the Commissioner of Children and Families who is not
140 receiving Medicaid benefits, has not yet qualified for Medicaid benefits
141 or is otherwise ineligible for such benefits. Medical assistance shall also
142 be provided to any child in the behavioral services program operated
143 by the Department of Developmental Services who is not receiving
144 Medicaid benefits, has not yet qualified for Medicaid benefits or is
145 otherwise ineligible for benefits. To the extent practicable, the
146 Commissioner of Children and Families and the Commissioner of
147 Developmental Services shall apply for, or assist such child in
148 qualifying for, the Medicaid program.

149 [(j)] (k) The Commissioner of Social Services shall provide Early and
150 Periodic Screening, Diagnostic and Treatment program services, as
151 required and defined as of December 31, 2005, by 42 USC 1396a(a)(43),
152 42 USC 1396d(r) and 42 USC 1396d(a)(4)(B) and applicable federal
153 regulations, to all persons who are under the age of twenty-one and
154 otherwise eligible for medical assistance under this section.

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2019	17b-261

Statement of Purpose:

To allow a person to become eligible for Medicaid if he or she otherwise qualifies but for one inaccessible asset that cannot be liquidated in fewer than thirty days.

[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.]