General Assembly

Substitute Bill No. 1110

January Session, 2023

AN ACT CONCERNING REQUIREMENTS FOR THIRD-PARTY MEDICAID PAYMENT REIMBURSEMENTS, VENDOR PAYMENT STANDARDS IN THE LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM AND MEDICAID PAYMENTS FOR MATERNITY 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 Section 17b-265 of the general statutes is repealed and the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 October 1, 2023*):

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. Whenever funds owed to a person
26 are collected pursuant to this section and the person who otherwise
27 would have been entitled to such funds is subject to a court-ordered
28 current or arrearage child support payment obligation in an IV-D
29 support case, such funds shall first be paid to the state for
30 reimbursement of Medicaid funds paid on behalf of such person for
31 medical expenses incurred for injuries related to a legal claim by such
32 person that was the subject of the state's right of subrogation, and
33 remaining funds, if any, shall then be paid to the Office of Child Support
34 Services for distribution pursuant to the federally mandated child
35 support distribution system implemented pursuant to subsection (j) of
36 section 17b-179. Any additional claim of the state to the remainder of
37 such funds, if any, shall be paid in accordance with state law.

38 (b) An applicant or recipient or legally liable relative, by the act of the
39 applicant's or recipient's receiving medical assistance, shall be deemed
40 to have made a subrogation assignment and an assignment of claim for
41 benefits to the department. The department shall inform an applicant of
42 such assignments at the time of application. Any entitlements from a
43 contractual agreement with an applicant or recipient, legally liable
44 relative or a state or federal program for such medical services, not to
45 exceed the amount expended by the department, shall be so assigned.
46 Such entitlements shall be directly reimbursable to the department by
47 **[**third party**]** third-party payors. The Department of Social Services may
48 assign its right to subrogation or its entitlement to benefits to a designee
49 or a health care provider participating in the Medicaid program and
50 providing services to an applicant or recipient, in order to assist the
51 provider in obtaining payment for such services. In accordance with

52 subsection (b) of section 38a-472, a provider that has received an
53 assignment from the department shall notify the recipient's health
54 insurer or other legally liable third party including, but not limited to, a
55 self-insured plan, group health plan, as defined in Section 607(1) of the
56 Employee Retirement Income Security Act of 1974, service benefit plan,
57 managed care organization, health care center, pharmacy benefit
58 manager, dental benefit manager, third-party administrator or other
59 party that is, by statute, contract or agreement, legally responsible for
60 payment of a claim for a health care item or service, of the assignment
61 upon rendition of services to the applicant or recipient. Failure to so
62 notify the health insurer or other legally liable third party shall render
63 the provider ineligible for payment from the department. The provider
64 shall notify the department of any request by the applicant or recipient
65 or legally liable relative or representative of such applicant or recipient
66 for billing information. This subsection shall not be construed to affect
67 the right of an applicant or recipient to maintain an independent cause
68 of action against such **[**third party**]** third-party tortfeasor.

69 (c) Claims for recovery or indemnification submitted by the
70 department, or the department's designee, shall not be denied solely on
71 the basis of the date of the submission of the claim, the type or format of
72 the claim, the lack of prior authorization or the failure to present proper
73 documentation at the point-of-service that is the basis of the claim, if (1)
74 the claim is submitted by the state within the three-year period
75 beginning on the date on which the item or service was furnished; and
76 (2) any action by the state to enforce its rights with respect to such claim
77 is commenced within six years of the state's submission of the claim.

78 (d) (1) A party to whom a claim for recovery or indemnification is
79 submitted for an item or service furnished under the Medicaid state
80 plan, or a waiver of such plan, who requires prior authorization for such
81 item or service shall accept authorization provided by the Department
82 of Social Services that the item or service is covered under such plan or
83 waiver as if such authorization were the prior authorization made by
84 such party for the item or service.

85 (2) The provisions of subdivision (1) of this subsection shall not apply
86 with respect to a claim for recovery or indemnification submitted to
87 Medicare, a Medicare Advantage plan or a Medicare Part D plan.

88 **[**(d)**]** (e) When a recipient of medical assistance has personal health
89 insurance in force covering care or other benefits provided under such
90 program, payment or part-payment of the premium for such insurance
91 may be made when deemed appropriate by the Commissioner of Social
92 Services. The commissioner shall limit reimbursement to medical
93 assistance providers for coinsurance and deductible payments under
94 Title XVIII of the Social Security Act to assure that the combined
95 Medicare and Medicaid payment to the provider shall not exceed the
96 maximum allowable under the Medicaid program fee schedules.

97 **[**(e)**]** (f) No self-insured plan, group health plan, as defined in Section
98 607(1) of the Employee Retirement Income Security Act of 1974, service
99 benefit plan, managed care plan, or any plan offered or administered by
100 a health care center, pharmacy benefit manager, dental benefit manager,
101 third-party administrator or other party that is, by statute, contract or
102 agreement, legally responsible for payment of a claim for a health care
103 item or service, shall contain any provision that has the effect of denying
104 or limiting enrollment benefits or excluding coverage because services
105 are rendered to an insured or beneficiary who is eligible for or who
106 received medical assistance under this chapter. No insurer, as defined
107 in section 38a-497a, shall impose requirements on the state Medicaid
108 agency, which has been assigned the rights of an individual eligible for
109 Medicaid and covered for health benefits from an insurer, that differ
110 from requirements applicable to an agent or assignee of another
111 individual so covered.

112 **[**(f)**]** (g) The Commissioner of Social Services shall not pay for any
113 services provided under this chapter if the individual eligible for
114 medical assistance has coverage for the services under an accident or
115 health insurance policy.

116 **[**(g)**]** (h) An insurer or other legally liable third party, upon receipt of

117 a claim submitted by the department or the department's designee, in
118 accordance with the requirements of subsection (c) of this section, for
119 payment of a health care item or service covered under a state medical
120 assistance program administered by the department, shall, not later
121 than **[**ninety**]** sixty days after receipt of the claim or not later than **[**ninety
122 days after the effective date of this section**]** November 30, 2023,
123 whichever is later, (1) make payment on the claim, (2) request
124 information necessary to determine its legal obligation to pay the claim,
125 or (3) issue a written reason for denial of the claim. Failure to pay,
126 request information necessary to determine legal obligation to pay or
127 issue a written reason for denial of a claim not later than one hundred
128 twenty days after receipt of the claim, or not later than **[**one hundred
129 twenty days after the effective date of this section**]** January 30, 2024,
130 whichever is later, creates an uncontestable obligation to pay the claim.
131 The provisions of this subsection shall apply to all claims, including
132 claims submitted by the department or the department's designee prior
133 to July 1, 2021.

134 **[**(h)**]** (i) On and after July 1, 2021, an insurer or other legally liable
135 third party who has reimbursed the department for a health care item
136 or service paid for and covered under a state medical assistance
137 program administered by the department shall, upon determining it is
138 not liable and at risk for cost of the health care item or service, request
139 any refund from the department not later than twelve months from the
140 date of its reimbursement to the department.

141 Sec. 2. Section 17b-265g of the general statutes is repealed and the
142 following is substituted in lieu thereof (*Effective October 1, 2023*):

143 Any health insurer, including a self-insured plan, group health plan,
144 as defined in Section 607(1) of the Employee Retirement Income Security
145 Act of 1974, service benefit plan, managed care organization, health care
146 center, pharmacy benefit manager, dental benefit manager or other
147 party that is, by statute, contract or agreement, legally responsible for
148 payment of a claim for a health care item or service, and which may or
149 may not be financially at risk for the cost of a health care item or service,

150 shall, as a condition of doing business in the state, be required to:

151 (1) Provide, with respect to an individual who is eligible for, or is
152 provided, medical assistance under the Medicaid state plan, to all third-
153 party administrators, pharmacy benefit managers, dental benefit
154 managers or other entities with which the health insurer has a contract
155 or arrangement to adjudicate claims for a health care item or service,
156 and to the Commissioner of Social Services, or the commissioner's
157 designee, any and all information in a manner and format prescribed by
158 the commissioner, or commissioner's designee, necessary to determine
159 when the individual, his or her spouse or the individual's dependents
160 may be or have been covered by a health insurer and the nature of the
161 coverage that is or was provided by such health insurer including the
162 name, address and identifying number of the plan;

163 (2) **[**accept**]** Accept the state's right of recovery and the assignment to
164 the state of any right of an individual or other entity to payment from
165 the health insurer for an item or service for which payment has been
166 made under the Medicaid state plan;

167 (3) **[**respond to**]** Respond not later than sixty days after receiving any
168 inquiry **[**by**]** from the commissioner, or the commissioner's designee,
169 regarding a claim for payment for any health care item or service that is
170 submitted not later than three years after the date of the provision of the
171 item or service; and

172 (4) **[**agree**]** Agree (A) to accept authorization provided by the
173 Department of Social Services that an item or service is covered under
174 the Medicaid state plan, or a waiver of such plan, as if such
175 authorization were the prior authorization made by such health insurer
176 for such item or service, and (B) not to deny a claim submitted by the
177 state solely on the basis of the date of submission of the claim, the type
178 or format of the claim form or a failure to present proper documentation
179 at the point-of-sale that is the basis of the claim, if **[**(A)**]** (i) the claim is
180 submitted by the state or its agent within the three-year period
181 beginning on the date on which the item or service was furnished; and

182 **[**(B)**]** (ii) any legal action by the state to enforce its rights with respect to
183 such claim is commenced within six years of the state's submission of
184 such claim.

185 Sec. 3. Subsection (e) of section 12-746 of the general statutes is
186 repealed and the following is substituted in lieu thereof (*Effective from*
187 *passage*):

188 (e) Amounts rebated pursuant to this section shall not be considered
189 income for purposes of sections 8-119*l*, 8-345, 12-170d, 12-170aa, **[**17b-
190 550,**]** 47-88d and 47-287.

191 Sec. 4. Section 16a-41a of the general statutes is repealed and the
192 following is substituted in lieu thereof (*Effective July 1, 2023*):

193 (a) The Commissioner of Social Services shall submit to the joint
194 standing committees of the General Assembly having cognizance of
195 energy planning and activities, appropriations, and human services the
196 following on the implementation of the block grant program authorized
197 under the Low-Income Home Energy Assistance Act of 1981, as
198 amended:

199 (1) Not later than August first, annually, a Connecticut energy
200 assistance program annual plan which establishes guidelines for the use
201 of funds authorized under the Low-Income Home Energy Assistance
202 Act of 1981, as amended, and includes the following:

203 (A) Criteria for determining which households are to receive
204 emergency assistance;

205 (B) A description of systems used to ensure referrals to other energy
206 assistance programs and the taking of simultaneous applications, as
207 required under section 16a-41;

208 (C) A description of outreach efforts;

209 (D) Estimates of the total number of households eligible for assistance

210 under the program and the number of households in which one or more
211 elderly or physically disabled individuals eligible for assistance reside;

212 (E) Design of a basic grant for eligible households that does not
213 discriminate against such households based on the type of energy used
214 for heating; and

215 (F) A payment plan for fuel deliveries beginning November 1, **[**2018**]**
216 2023, that ensures a vendor of deliverable fuel who completes deliveries
217 authorized by a community action agency that contracts with the
218 commissioner to administer a fuel assistance program is **[**paid**]** provided
219 the option to be paid electronically by the community action agency and
220 is paid not later than **[**thirty**]** ten business days after the date the
221 community action agency receives an authorized fuel slip or invoice for
222 payment from the vendor;

223 (2) Not later than January thirtieth, annually, a report covering the
224 preceding months of the program year, including:

225 (A) In each community action agency geographic area, the number of
226 fuel assistance applications filed, approved and denied, and the number
227 of emergency assistance requests made, approved and denied;

228 (B) In each such area, the total amount of fuel and emergency
229 assistance, itemized by such type of assistance, and total expenditures
230 to date;

231 (C) For each state-wide office of each state agency administering the
232 program and each community action agency, administrative expenses
233 under the program, by line item, and an estimate of outreach
234 expenditures; and

235 (D) A list of community action agencies that failed to make timely
236 payments to vendors of deliverable fuel in the Connecticut energy
237 assistance program and the steps taken by the commissioner to ensure
238 future timely payments by such agencies; and

239 (3) Not later than November first, annually, a report covering the
240 preceding twelve calendar months, including:

241 (A) In each community action agency geographic area, (i) seasonal
242 totals for the categories of data submitted under subdivision (1) of this
243 subsection, (ii) the number of households receiving fuel assistance in
244 which elderly or physically disabled individuals reside, and (iii) the
245 average combined benefit level of fuel, emergency and renter assistance;

246 (B) The number of homeowners and tenants whose heat or total
247 energy costs are not included in their rent receiving fuel and emergency
248 assistance under the program by benefit level;

249 (C) The number of homeowners and tenants whose heat is included
250 in their rent and who are receiving assistance, by benefit level; and

251 (D) The number of households receiving assistance, by energy type
252 and total expenditures for each energy type.

253 (b) The Commissioner of Social Services shall implement a program
254 to purchase deliverable fuel for low-income households participating in
255 the Connecticut energy assistance program and the state-appropriated
256 fuel assistance program. The commissioner shall ensure an adequate
257 supply of vendors for the program by (1) establishing county and
258 regional pricing standards for deliverable fuel, (2) reimbursing fuel
259 providers based on the price of the fuel on the date of delivery, (3)
260 establishing a discount on the vendor's retail price, and (4) allowing a
261 vendor to electronically submit an authorized fuel slip or invoice for
262 payment.

263 (c) The commissioner shall ensure that no fuel vendor discriminates
264 against fuel assistance program recipients who are under the vendor's
265 standard payment, delivery, service or other similar plans. The
266 commissioner may take advantage of programs offered by fuel vendors
267 that reduce the cost of the fuel purchased, including, but not limited to,
268 fixed price, capped price, prepurchase or summer-fill programs that
269 reduce program cost and that make the maximum use of program

270 revenues. As funding allows, the commissioner shall ensure that all
271 agencies administering the fuel assistance program shall make
272 payments to program fuel vendors in advance of the delivery of energy
273 where vendor provided price-management strategies require payments
274 in advance.

275 **[**(c)**]** (d) Each community action agency administering a fuel
276 assistance program shall submit reports, as requested by the
277 Commissioner of Social Services, concerning pricing information from
278 vendors of deliverable fuel participating in the program. Such
279 information shall include, but not be limited to, the state-wide or
280 regional retail price per unit of deliverable fuel, the reduced price per
281 unit paid by the state for the deliverable fuel in utilizing price
282 management strategies offered by program vendors for all consumers,
283 the number of units delivered to the state under the program and the
284 total savings under the program due to the purchase of deliverable fuel
285 utilizing price-management strategies offered by program vendors for
286 all consumers.

287 **[**(d)**]** (e) If funding allows, the Commissioner of Social Services, in
288 consultation with the Secretary of the Office of Policy and Management,
289 shall require that, each community action agency administering a fuel
290 assistance program begin accepting applications for the program not
291 later than September first of each year.

292 **[**(e)**]** (f) Not later than November 1, **[**2018**]** 2023, the Commissioner of
293 Social Services shall require each community action agency
294 administering a fuel assistance program to make payment to a vendor
295 of deliverable fuel not later than **[**thirty**]** ten days after the community
296 action agency receives an authorized fuel slip or invoice for payment
297 from the vendor and to give the vendor the options of (1) being paid
298 electronically, and (2) submitting electronically an authorized fuel slip
299 or invoice for payment.

300 **[**(f)**]** (g) The Commissioner of Social Services shall submit each plan
301 or report described in subsection (a) of this section to the Low-Income

302 Energy Advisory Board, established pursuant to section 16a-41b, not
303 later than seven days prior to submitting such plan or report to the joint
304 standing committee of the General Assembly having cognizance of
305 matters relating to energy and technology, appropriations and human
306 services.

307 Sec. 5. (NEW) (*Effective July 1, 2023*) To the extent permissible under
308 federal law and within available appropriations, as the single state
309 Medicaid agency designated under sections 17b-2 and 17b-260 of the
310 general statutes, the Commissioner of Social Services may implement a
311 bundled payment for maternity services and any other alternative
312 payment methodology or combination of methodologies for maternity
313 services that the commissioner determines are designed to improve
314 health quality, equity, member experience, cost containment and
315 coordination of care. The commissioner may implement policies and
316 procedures to the extent that regulations may be required to carry out
317 any of the provisions of this section while in the process of adopting
318 such policies and procedures as regulations, provided the commissioner
319 publishes notice of intent to adopt regulations on the eRegulations
320 System not later than twenty days after the date of implementation of
321 such policies and procedures. Any policies and procedures
322 implemented pursuant to this section shall be valid until the time final
323 regulations are adopted.

324 Sec. 6. Section 53a-290 of the general statutes is repealed and the
325 following is substituted in lieu thereof (*Effective from passage*):

326 A person commits vendor fraud when, with intent to defraud and
327 acting on such person's own behalf or on behalf of an entity, such person
328 provides goods or services to a beneficiary under sections 17b-22, 17b-
329 75 to 17b-77, inclusive, 17b-79 to 17b-103, inclusive, 17b-180a, 17b-183,
330 17b-260 to 17b-262, inclusive, 17b-264 to 17b-285, inclusive, 17b-357 to
331 17b-361, inclusive, 17b-600 to 17b-604, inclusive, 17b-749 **[**, 17b-807**]** and
332 17b-808 or provides services to a recipient under Title XIX of the Social
333 Security Act, as amended, and, (1) presents for payment any false claim
334 for goods or services performed; (2) accepts payment for goods or

335 services performed, which exceeds either the amounts due for goods or
336 services performed, or the amounts authorized by law for the cost of
337 such goods or services; (3) solicits to perform services for or sell goods
338 to any such beneficiary, knowing that such beneficiary is not in need of
339 such goods or services; (4) sells goods to or performs services for any
340 such beneficiary without prior authorization by the Department of
341 Social Services, when prior authorization is required by said department
342 for the buying of such goods or the performance of any service; (5)
343 accepts from any person or source other than the state an additional
344 compensation in excess of the amount authorized by law; or (6) having
345 knowledge of the occurrence of any event affecting (A) his or her initial
346 or continued right to any such benefit or payment, or (B) the initial or
347 continued right to any such benefit or payment of any other individual
348 in whose behalf he or she has applied for or is receiving such benefit or
349 payment, conceals or fails to disclose such event with an intent to
350 fraudulently secure such benefit or payment either in a greater amount
351 or quantity than is due or when no such benefit or payment is
352 authorized.

353 Sec. 7. Subsection (l) of section 17b-261 of the general statutes is
354 repealed and the following is substituted in lieu thereof (*Effective from*
355 *passage*):

356 (l) On and after January 1, 2023, the Commissioner of Social Services
357 shall, within available appropriations, provide state-funded medical
358 assistance to any child twelve years of age and younger, regardless of
359 immigration status, (1) whose household income does not exceed two
360 hundred one per cent of the federal poverty level without an asset limit,
361 and (2) who does not otherwise qualify for Medicaid, the Children's
362 Health Insurance Program, or an offer of affordable, employer-
363 sponsored insurance, as defined in the Affordable Care Act, as an
364 employee or a dependent of an employee. A child eligible for such
365 assistance under this subsection shall continue to receive such assistance
366 until such child is nineteen years of age, provided the child continues to
367 meet the eligibility requirements prescribed in subdivisions (1) and (2)

368 of this subsection. The provisions of section 17b-265, as amended by this
369 act, shall apply with respect to any medical assistance provided
370 pursuant to this subsection.

371 Sec. 8. Subsection (a) of section 17b-292 of the general statutes is
372 repealed and the following is substituted in lieu thereof (*Effective from*
373 *passage*):

374 (a) A child who resides in a household with household income that
375 exceeds one hundred ninety-six per cent of the federal poverty level but
376 does not exceed three hundred eighteen per cent of the federal poverty
377 level may be eligible for benefits under HUSKY B. Not later than
378 January 1, 2023, the Commissioner of Social Services shall, within
379 available appropriations, provide state-funded medical assistance to
380 any child twelve years of age and younger, regardless of immigration
381 status, (1) with a household income that exceeds two hundred one per
382 cent of the federal poverty level but does not exceed three hundred
383 twenty-three per cent of the federal poverty level, and (2) who does not
384 otherwise qualify for Medicaid, the Children's Health Insurance
385 Program, or an offer of affordable, employer-sponsored insurance, as
386 defined in the Affordable Care Act, as an employee or a dependent of
387 an employee. A child eligible for such assistance under this subsection
388 shall continue to receive such assistance until such child is nineteen
389 years of age, provided the child continues to meet the eligibility
390 requirements prescribed in subdivisions (1) and (2) of this subsection.
391 The provisions of section 17b-265, as amended by this act, shall apply
392 with respect to any medical assistance provided pursuant to this
393 subsection.

394 Sec. 9. Sections 17b-306a, 17b-550 to 17b-554, inclusive, and 17b-807
395 of the general statutes are repealed. (*Effective from passage*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	*October 1, 2023*	17b-265

Sec. 2	*October 1, 2023*	17b-265g
Sec. 3	*from passage*	12-746(e)
Sec. 4	*July 1, 2023*	16a-41a
Sec. 5	*July 1, 2023*	New section
Sec. 6	*from passage*	53a-290
Sec. 7	*from passage*	17b-261(l)
Sec. 8	*from passage*	17b-292(a)
Sec. 9	*from passage*	Repealer section

Statement of Legislative Commissioners:

In Section 1(h), "**[**ninety**]** sixty days after the effective date of this section" was changed to "**[**ninety days after the effective date of this section**]** November 30, 2023"; in Section 1(h)(3), "one hundred twenty days after the effective date of this section" was changed to "**[**one hundred twenty days after the effective date of this section**]** January 30, 2024"; and in Section 5, "implementation. Policies" was changed to "implementation of such policies and procedures. Any policies", for clarity.

HS *Joint Favorable Subst.*