General Assembly

Raised Bill No. 311

February Session, 2024

LCO No. **2153**

Referred to Committee on HUMAN SERVICES

Introduced by:
(HS)

AN ACT CONCERNING THE CONNECTICUT HOME-CARE PROGRAM FOR THE ELDERLY.

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

1 Section 1. Section 17b-342 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2024*):

3 (a) The Commissioner of Social Services shall administer the
4 Connecticut home-care program for the elderly state-wide in order to
5 prevent the institutionalization of elderly persons who (1) [who] are
6 recipients of medical assistance, (2) [who] are eligible for such
7 assistance, (3) [who] would be eligible for medical assistance if residing
8 in a nursing facility, or (4) [who] meet the criteria for the state-funded
9 portion of the program under subsection [(i)] (j) of this section. For
10 purposes of this section, [a long-term care facility is] "long-term care
11 facility" means a facility that has been federally certified as a skilled
12 nursing facility or intermediate care facility. The commissioner shall
13 make any revisions in the state Medicaid plan required by Title XIX of
14 the Social Security Act prior to implementing the program. The program
15 shall be structured so that the net cost to the state for long-term facility

16 care in combination with the services under the program shall not
17 exceed the net cost the state would have incurred without the program.
18 The commissioner shall investigate the possibility of receiving federal
19 funds for the program and shall apply for any necessary federal
20 waivers. A recipient of services under the program, and the estate and
21 legally liable relatives of the recipient, shall be responsible for
22 reimbursement to the state for such services to the same extent required
23 of a recipient of assistance under the state supplement program, medical
24 assistance program, temporary family assistance program or
25 supplemental nutrition assistance program. Only a United States citizen
26 or a noncitizen who meets the citizenship requirements for eligibility
27 under the Medicaid program shall be eligible for home-care services
28 under this section, except a qualified alien, as defined in Section 431 of
29 Public Law 104-193, admitted into the United States on or after August
30 22, 1996, or other lawfully residing immigrant alien determined eligible
31 for services under this section prior to July 1, 1997, shall remain eligible
32 for such services. Qualified aliens or other lawfully residing immigrant
33 aliens not determined eligible prior to July 1, 1997, shall be eligible for
34 services under this section subsequent to six months from establishing
35 residency. Notwithstanding the provisions of this subsection, any
36 qualified alien or other lawfully residing immigrant alien or alien who
37 formerly held the status of permanently residing under color of law who
38 is a victim of domestic violence or who has intellectual disability shall
39 be eligible for assistance pursuant to this section. Qualified aliens, as
40 defined in Section 431 of Public Law 104-193, or other lawfully residing
41 immigrant aliens or aliens who formerly held the status of permanently
42 residing under color of law shall be eligible for services under this
43 section provided other conditions of eligibility are met.

44 (b) The commissioner shall solicit bids through a competitive process
45 and shall contract with an access agency, approved by the Office of
46 Policy and Management and the Department of Social Services as
47 meeting the requirements for such agency as defined by regulations
48 adopted pursuant to subsection **[**(e)**]** <u>(n)</u> of this section, that submits
49 proposals **[**which**]** <u>that</u> meet or exceed the minimum bid requirements.

50 In addition to such contracts, the commissioner may use department
51 staff to provide screening, coordination, assessment and monitoring
52 functions for the program.

53 (c) The community-based services covered under the program shall
54 include, but not be limited to, [the following services to the extent that
55 they are not] services not otherwise available under the state Medicaid
56 plan: [, occupational] (1) Occupational therapy, (2) homemaker services,
57 (3) companion services, (4) meals on wheels, (5) adult day care, (6)
58 transportation, (7) mental health counseling, (8) care management,
59 [elderly foster care,] (9) adult family living, (10) minor home
60 modifications, and (11) assisted living services provided in state-funded
61 congregate housing and in other assisted living pilot or demonstration
62 projects established under state law. Personal care assistance services
63 shall be covered under the program to the extent that [(1)] (A) such
64 services are not available under the Medicaid state plan and are more
65 cost effective on an individual client basis than existing services covered
66 under such plan, and [(2)] (B) the provision of such services is approved
67 by the federal government. A family caregiver, including, but not
68 limited to, a spouse, may be compensated for personal care assistance
69 provided to an individual in the program to the extent such
70 compensation is permissible under federal law, provided such caregiver
71 meets training and documentation requirements prescribed by the
72 Commissioner of Social Services. Recipients of state-funded services,
73 pursuant to subsection (j) of this section, and persons who are
74 determined to be functionally eligible for community-based services
75 who have an application for medical assistance pending, or are
76 determined to be presumptively eligible for Medicaid pursuant to
77 subsection (e) of this section, shall have the cost of home health and
78 community-based services covered by the program, provided they
79 comply with all medical assistance application requirements. Access
80 agencies shall not use department funds to purchase community-based
81 services or home health services from themselves or any related parties.

82 (d) Physicians, hospitals, long-term care facilities and other licensed
83 health care facilities may disclose, and, as a condition of eligibility for

84 the program, elderly persons, their guardians, and relatives shall
85 disclose, upon request from the Department of Social Services, such
86 financial, social and medical information as may be necessary to enable
87 the department or any agency administering the program on behalf of
88 the department to provide services under the program. Long-term care
89 facilities shall supply the Department of Social Services with the names
90 and addresses of all applicants for admission. Any information
91 provided pursuant to this subsection shall be confidential and shall not
92 be disclosed by the department or administering agency.

93 [(e) The commissioner shall adopt regulations, in accordance with the
94 provisions of chapter 54, to define "access agency", to implement and
95 administer the program, to establish uniform state-wide standards for
96 the program and a uniform assessment tool for use in the screening
97 process and to specify conditions of eligibility.]

98 (e) Not later than October 1, 2024, the Commissioner of Social
99 Services shall establish a presumptive Medicaid eligibility system under
100 which the state shall fund services under the Connecticut home-care
101 program for the elderly for a period of not longer than ninety days for
102 applicants who require a skilled level of nursing care and who are
103 determined to be presumptively eligible for Medicaid coverage. The
104 system shall include, but need not be limited to: (1) The development of
105 a preliminary screening tool by the Department of Social Services to be
106 used by representatives of the access agency selected pursuant to
107 subsection (b) of this section to determine whether an applicant is
108 functionally able to live at home or in a community setting and is likely
109 to be financially eligible for Medicaid; (2) a requirement that the
110 applicant complete a Medicaid application on the date such applicant is
111 preliminarily screened for functional eligibility or not later than ten days
112 after such screening; (3) a determination of presumptive eligibility for
113 an eligible applicant by the department and initiation of home-care
114 services not later than ten days after an applicant is successfully
115 screened for eligibility; and (4) a written agreement to be signed by the
116 applicant attesting to the accuracy of financial and other information
117 such applicant provides and acknowledging that the state shall solely

118 fund services not longer than ninety days after the date on which home-
119 care services begin. The department shall make a final determination as
120 to Medicaid eligibility for an applicant determined to be presumptively
121 eligible for Medicaid coverage not later than forty-five days after the
122 date of receipt of a completed Medicaid application from such applicant,
123 provided the department may make such determination not later than
124 ninety days after receipt of the application if the applicant has
125 disabilities.

126 (f) The Commissioner of Social Services shall retroactively provide
127 Medicaid reimbursement for eligible expenses for a period not to exceed
128 ninety days prior to a Medicaid application in accordance with 42 CFR
129 435.915.

130 [(f)] (g) The commissioner may require long-term care facilities to
131 inform applicants for admission of the Connecticut home-care program
132 for the elderly established under this section and to distribute such
133 forms as the commissioner prescribes for the program. Such forms shall
134 be supplied by and be returnable to the department.

135 [(g)] (h) The commissioner shall report annually, by June first, in
136 accordance with the provisions of section 11-4a, to the joint standing
137 committee of the General Assembly having cognizance of matters
138 relating to human services on the Connecticut home-care program for
139 the elderly in such detail, depth and scope as said committee requires to
140 evaluate the effect of the program on the state and program participants.
141 Such report shall include information on (1) the number of persons
142 diverted from placement in a long-term care facility as a result of the
143 program, (2) the number of persons screened [, (3)] for the program, (3)
144 the number of persons determined presumptively eligible for Medicaid,
145 (4) savings for the state based on institutional care costs that were
146 averted for persons determined to be presumptively eligible for
147 Medicaid who later were determined to be eligible for Medicaid, (5) the
148 number of persons determined presumptively eligible for Medicaid
149 who later were determined not to be eligible for Medicaid and costs to
150 the state to provide such persons with home-care services before the

151 final Medicaid eligibility determination, (6) the average cost per person
152 in the program, [(4)] (7) the administration costs, [(5)] (8) the estimated
153 savings to provide home care versus institutional care for all persons in
154 the program, and [(6)] (9) a comparison between costs under the
155 different contracts for program services.

156 [(h)] (i) An individual who is otherwise eligible for services pursuant
157 to this section shall, as a condition of participation in the program, apply
158 for medical assistance benefits [pursuant to section 17b-260] when
159 requested to do so by the department and shall accept such benefits if
160 determined eligible.

161 [(i)] (j) (1) The Commissioner of Social Services shall, within available
162 appropriations, administer a state-funded portion of the Connecticut
163 home-care program for the elderly for persons (A) who are sixty-five
164 years of age and older and are not eligible for Medicaid; (B) who are
165 inappropriately institutionalized or at risk of inappropriate
166 institutionalization; (C) whose income is less than or equal to the
167 amount allowed [under subdivision (3) of subsection (a) of this section]
168 for a person who would be eligible for medical assistance if residing in
169 a nursing facility; and (D) whose assets, if single, do not exceed [one
170 hundred fifty per cent of the federal minimum community spouse
171 protected amount pursuant to 42 USC 1396r-5(f)(2)] fifty-five thousand
172 dollars or, if married, the couple's assets do not exceed [two hundred
173 per cent of said community spouse protected amount] seventy thousand
174 dollars. For program applications received by the Department of Social
175 Services for the fiscal years ending June 30, 2016, and June 30, 2017, only
176 persons who require the level of care provided in a nursing home shall
177 be eligible for the state-funded portion of the program, except for
178 persons residing in affordable housing under the assisted living
179 demonstration project established pursuant to section 17b-347e who are
180 otherwise eligible in accordance with this section. For program
181 applications received by the department on and after July 1, 2024, the
182 following categories shall also be eligible: (i) Persons at risk of
183 hospitalization or nursing facility placement if preventive home-care
184 services are not provided and who need assistance with not more than

185 two critical needs, and (ii) persons with three or more critical needs who
186 would require nursing facility care but are either not actively
187 considering it or have resources which would prohibit them from
188 qualifying for Medicaid upon admission to a nursing facility. For
189 purposes of this subdivision, "critical needs" means activities of daily
190 living that are hands-on activities or tasks that are essential for a
191 person's health and safety, including, but not limited to, bathing,
192 dressing, transferring from a seated position to an upright position or
193 from an upright position to a seated position, toileting, feeding, meal
194 preparation, administration of medication or ambulation.

195 (2) Except for persons residing in affordable housing under the
196 assisted living demonstration project established pursuant to section
197 17b-347e, as provided in subdivision (3) of this subsection, any person
198 whose income is at or below two hundred per cent of the federal poverty
199 level and who is ineligible for Medicaid shall contribute **[**three**]** two per
200 cent of the cost of his or her care. Any person whose income exceeds two
201 hundred per cent of the federal poverty level shall contribute **[**three**]** two
202 per cent of the cost of his or her care in addition to the amount of applied
203 income determined in accordance with the methodology established by
204 the Department of Social Services for recipients of medical assistance.
205 Any person who does not contribute to the cost of care in accordance
206 with this subdivision shall be ineligible to receive services under this
207 subsection. Notwithstanding any provision of sections 17b-60 and 17b-
208 61, the department shall not be required to provide an administrative
209 hearing to a person found ineligible for services under this subsection
210 because of a failure to contribute to the cost of care.

211 (3) Any person who resides in affordable housing under the assisted
212 living demonstration project established pursuant to section 17b-347e
213 and whose income is at or below two hundred per cent of the federal
214 poverty level, shall not be required to contribute to the cost of care. Any
215 person who resides in affordable housing under the assisted living
216 demonstration project established pursuant to section 17b-347e and
217 whose income exceeds two hundred per cent of the federal poverty
218 level, shall contribute to the applied income amount determined in

219 accordance with the methodology established by the Department of
220 Social Services for recipients of medical assistance. Any person whose
221 income exceeds two hundred per cent of the federal poverty level and
222 who does not contribute to the cost of care in accordance with this
223 subdivision shall be ineligible to receive services under this subsection.
224 Notwithstanding any provision of sections 17b-60 and 17b-61, the
225 department shall not be required to provide an administrative hearing
226 to a person found ineligible for services under this subsection because
227 of a failure to contribute to the cost of care.

228 (4) The annualized cost of services provided to an individual under
229 the state-funded portion of the program shall not exceed fifty per cent
230 of the weighted average cost of care in nursing homes in the state, except
231 an individual who received services costing in excess of such amount
232 under the Department of Social Services in the fiscal year ending June
233 30, 1992, may continue to receive such services, provided the annualized
234 cost of such services does not exceed eighty per cent of the weighted
235 average cost of such nursing home care. The commissioner may allow
236 the cost of services provided to an individual to exceed the maximum
237 cost established pursuant to this subdivision in a case of extreme
238 hardship, as determined by the commissioner, provided in no case shall
239 such cost exceed that of the weighted cost of such nursing home care.

240 (5) A family caregiver, including, but not limited to, a spouse, may be
241 compensated for personal care assistance provided to an individual in
242 the program provided such caregiver meets training and
243 documentation requirements prescribed by the Commissioner of Social
244 Services.

245 **[**(j)**]** (k) The Commissioner of Social Services shall collect data on
246 services provided under the program, including, but not limited to, the:
247 (1) Number of participants before and after copayments are reduced
248 pursuant to subsection **[**(i)**]** (j) of this section, (2) average hours of care
249 provided under the program per participant, and (3) estimated cost
250 savings to the state by providing home care to participants who may
251 otherwise receive care in a nursing home facility. The commissioner

252 shall, in accordance with the provisions of section 11-4a, report on the
253 results of the data collection to the joint standing committees of the
254 General Assembly having cognizance of matters relating to aging,
255 appropriations and the budgets of state agencies and human services
256 not later than July 1, 2022. The commissioner may implement revised
257 criteria for the operation of the program while in the process of adopting
258 such criteria in regulation form, provided the commissioner publishes
259 notice of intention to adopt the regulations in accordance with section
260 17b-10. Such criteria shall be valid until the time final regulations are
261 effective.

262 **[**(k)**]** <u>(l)</u> The commissioner shall notify any access agency or area
263 agency on aging that administers the program when the department
264 sends a redetermination of eligibility form to an individual who is a
265 client of such agency.

266 **[**(l)**]** <u>(m)</u> In determining eligibility for the program described in this
267 section, the commissioner shall not consider as income (1) Aid and
268 Attendance pension benefits granted to a veteran, as defined in section
269 27-103, or the surviving spouse of such veteran, and (2) any tax refund
270 or advance payment with respect to a refundable credit to the same
271 extent such refund or advance payment would be disregarded under 26
272 USC 6409 in any federal program or state or local program financed in
273 whole or in part with federal funds.

274 <u>(n) The commissioner shall adopt regulations, in accordance with the</u>
275 <u>provisions of chapter 54, to (1) define "access agency", (2) implement and</u>
276 <u>administer the Connecticut home-care program for the elderly, (3)</u>
277 <u>implement and administer the presumptive Medicaid eligibility system</u>
278 <u>described in subsection (e) of this section, (4) establish uniform state-</u>
279 <u>wide standards for the program and uniform assessment tools for use</u>
280 <u>in the screening process for the program and the prescreening for</u>
281 <u>presumptive Medicaid eligibility, and (5) specify conditions of</u>
282 <u>eligibility.</u>

283 Sec. 2. Subsection (a) of section 17b-253 of the general statutes is

284 repealed and the following is substituted in lieu thereof (*Effective July 1,*
285 *2024*):

286 (a) The Department of Social Services shall seek appropriate
287 amendments to its Medicaid regulations and state plan to allow
288 protection of resources and income pursuant to section 17b-252. Such
289 protection shall be provided, to the extent approved by the federal
290 Centers for Medicare and Medicaid Services, for any purchaser of a
291 precertified long-term care policy and shall last for the life of the
292 purchaser. Such protection shall be provided under the Medicaid
293 program or its successor program. Any purchaser of a precertified long-
294 term care policy shall be guaranteed coverage under the Medicaid
295 program or its successor program, to the extent the individual meets all
296 applicable eligibility requirements for the Medicaid program or its
297 successor program. Until such time as eligibility requirements are
298 prescribed for Medicaid's successor program, for the purposes of this
299 subsection, the applicable eligibility requirements shall be the Medicaid
300 program's requirements as of the date its successor program was
301 enacted. The Department of Social Services shall count insurance benefit
302 payments toward resource exclusion to the extent such payments (1) are
303 for services paid for by a precertified long-term care policy; (2) are for
304 the lower of the actual charge and the amount paid by the insurance
305 company; (3) are for nursing home care, or formal services delivered to
306 insureds in the community as part of a care plan approved by an access
307 agency approved by the Office of Policy and Management and the
308 Department of Social Services as meeting the requirements for such
309 agency as defined in regulations adopted pursuant to **[**subsection (e) of**]**
310 section 17b-342, as amended by this act; and (4) are for services provided
311 after the individual meets the coverage requirements for long-term care
312 benefits established by the Department of Social Services for this
313 program. The Commissioner of Social Services shall adopt regulations,
314 in accordance with chapter 54, to implement the provisions of this
315 subsection and sections 17b-252, 17b-254 and 38a-475, as amended by
316 this act, relating to determining eligibility of applicants for Medicaid, or
317 its successor program, and the coverage requirements for long-term care

318 benefits.

319 Sec. 3. Subdivision (1) of subsection (e) of section 17b-354 of the
320 general statutes is repealed and the following is substituted in lieu
321 thereof (*Effective July 1, 2024*):

322 (e) (1) A continuing care facility, as described in section 17b-520, (A)
323 shall arrange for a medical assessment to be conducted by an
324 independent physician or an access agency approved by the Office of
325 Policy and Management and the Department of Social Services as
326 meeting the requirements for such agency as defined by regulations
327 adopted pursuant to **[**subsection (e) of**]** section 17b-342, as amended by
328 this act, prior to the admission of any resident to the nursing facility and
329 shall document such assessment in the resident's medical file and (B)
330 may transfer or discharge a resident who has intentionally transferred
331 assets in a sum which will render the resident unable to pay the cost of
332 nursing facility care in accordance with the contract between the
333 resident and the facility.

334 Sec. 4. Subsection (a) of section 17b-617 of the general statutes is
335 repealed and the following is substituted in lieu thereof (*Effective July 1,
336 2024*):

337 (a) The Commissioner of Social Services shall, within available
338 appropriations, establish and operate a state-funded pilot program to
339 allow not more than one hundred persons with disabilities (1) who are
340 age eighteen to sixty-four, inclusive, (2) who are inappropriately
341 institutionalized or at risk of inappropriate institutionalization, (3)
342 whose assets do not exceed the asset limits of the state-funded home
343 care program for the elderly, established pursuant to subsection **[**(i)**]** (j)
344 of section 17b-342, as amended by this act, and (4) who are not eligible
345 for medical assistance under section 17b-261 or a Medicaid waiver
346 pursuant to 42 USC 1396n, to be eligible to receive the same services that
347 are provided under the state-funded home care program for the elderly.
348 At the discretion of the Commissioner of Social Services, such persons
349 may also be eligible to receive services that are necessary to meet needs

350 attributable to disabilities in order to allow such persons to avoid
351 institutionalization.

352 Sec. 5. Section 38a-475 of the general statutes is repealed and the
353 following is substituted in lieu thereof (*Effective July 1, 2024*):

354 The Insurance Department shall only precertify long-term care
355 insurance policies that (1) alert the purchaser to the availability of
356 consumer information and public education provided by the
357 Department of Aging and Disability Services pursuant to section 17a-
358 861; (2) offer the option of home and community-based services in
359 addition to nursing home care; (3) in all home care plans, include case
360 management services delivered by an access agency approved by the
361 Office of Policy and Management and the Department of Social Services
362 as meeting the requirements for such agency as defined in regulations
363 adopted pursuant to **[**subsection (e) of**]** section 17b-342, as amended by
364 this act, which services shall include, but need not be limited to, the
365 development of a comprehensive individualized assessment and care
366 plan and, as needed, the coordination of appropriate services and the
367 monitoring of the delivery of such services; (4) provide inflation
368 protection; (5) provide for the keeping of records and an explanation of
369 benefit reports on insurance payments which count toward Medicaid
370 resource exclusion; and (6) provide the management information and
371 reports necessary to document the extent of Medicaid resource
372 protection offered and to evaluate the Connecticut Partnership for
373 Long-Term Care. No policy shall be precertified if it requires prior
374 hospitalization or a prior stay in a nursing home as a condition of
375 providing benefits. The commissioner may adopt regulations, in
376 accordance with chapter 54, to carry out the precertification provisions
377 of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*July 1, 2024*	17b-342
Sec. 2	*July 1, 2024*	17b-253(a)
Sec. 3	*July 1, 2024*	17b-354(e)(1)

Sec. 4	*July 1, 2024*	17b-617(a)
Sec. 5	*July 1, 2024*	38a-475

Statement of Purpose:

To expand access to the Connecticut home-care program for the elderly by establishing presumptive eligibility for Medicaid-funded services, reducing copayments, increasing asset limits, and expanding categories of persons who may be covered under the state-funded program and to authorize compensation for family caregivers.

[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.]