



*Written Testimony before the Aging Committee  
Submitted by the Department of Social Services  
March 8, 2018*

**S.B. 234 (RAISED) - AN ACT PERMITTING A COMMUNITY SPOUSE OF AN INSTITUTIONALIZED SPOUSE TO RETAIN THE MAXIMUM AMOUNT OF ALLOWABLE ASSETS**

This bill proposes to allow the spouse of an institutionalized person who is applying for Medicaid (referred to hereafter as the “community spouse”) to retain marital assets up to the maximum allowed under federal law. Effective January 1, 2018, this amount is \$123,600.

This proposal intends to increase the amount of assets the community spouse is allowed to keep. Under current statute, community spouses of long-term care Medicaid recipients are allowed to keep one-half of the couple’s countable assets up to the federal maximum of \$123,600. If the total of the assets are under \$24,720, the minimum allowed by federal law, the community spouse may keep all of the assets. The couple’s home and one car are excluded from the assessment of spousal assets. The federal amounts are adjusted annually based on increases in the Consumer Price Index.

The Department continues to maintain that the current policy, which has been in place since 1989 (with the exception of FY 2011), is fair and reasonable and supports the original intent of the 1988 Medicare Catastrophic Coverage Act, which sought to prevent the impoverishment of spouses of those applying for Medicaid coverage for long-term care. Furthermore, the department’s current policy is in line with most other states.

We have opposed increases in the amount of assets protected for community spouses in past years because it will result in a significant fiscal impact to the state. With the challenging budget environment that exists today, we cannot support increasing the minimum community spouse protected amount as it will have a negative fiscal impact on the Medicaid account.

**S.B. 258 (RAISED) AN ACT CONCERNING THE EXEMPTION OF PROBATE-COURT APPROVED CONSERVATOR AND FIDUCIARY FEES FROM MEDICAID INCOME ELIGIBILITY AND ASSET TRANSFER DETERMINATIONS**

This bill proposes to exempt conservator and fiduciary fees from Medicaid income eligibility and asset transfer determinations.

Specific to section 1, a state Medicaid agency is required to reduce costs to the state by using the beneficiary's income for payment of institutional services. A Medicaid beneficiary's gross income is reduced by all allowable deductions in a specific order defined by the post eligibility treatment of income rules resulting in a patient liability amount paid directly to the long-term services and supports (LTSS) provider by the recipient, reducing the amount owed each month by Medicaid. Currently, allowable deductions consist of a personal needs allowance established by state law, a community spouse allowance, a community family allowance, Medicare and other health insurance premiums, cost for medical treatment approved by a physician when incurred subsequent to the effective date of eligibility, and expenses for services provided by a licensed medical provider in the six month period immediately preceding the first month of eligibility.

This bill proposes to add conservator expenses, including conservator compensation, probate court filing fees and expenses and premiums for any probate court bonds as additional allowable deductions. The Department is unable to implement such additions without approval from the Centers for Medicare & Medicaid Services (CMS). If approved, this provision will increase the percentage of costs the state will be liable to pay for institutional services provided to a Medicaid beneficiary. In addition to an increase to the Medicaid budget, implementing a change to the Department's patient liability calculation will also require numerous system enhancements because the current eligibility system is not programmed to include conservator and fiduciary fees as an allowable patient liability deduction. System enhancements will result in an additional fiscal impact to the state.

As drafted, the intent of section 2 of S.B. 258 is unclear. The provision seems to require the Department to reduce the debt owed to the Department by any conservator or fiduciary fee approved by Probate Court, when a transfer or assignment of assets has resulted in a penalty. For example, assume a conserved individual transferred \$100,000, which resulted in the imposition of a penalty period for Medicaid, and the conservator received \$5,000 in conservator fees for services performed in connection with the transfer. If the Department subsequently collects on the debt, section 2 would exclude the conservator fees from the amount the department could collect and, in the example provided, would limit the Department to collecting \$95,000.

The Department is concerned that this provision may not be permissible under federal law. Furthermore, reducing debt owed to the state and adjusting penalty periods for improper transfers will result in a negative fiscal impact to the Department.

Section 3 seems to implement the same requirements as Section 2 for nursing homes. Specifically, the language would reduce the debt nursing homes can collect on a transfer of assets by the conservator and fiduciary fees associated with that transfer of assets.

As this bill would result in a negative fiscal impact to the state, the Department must oppose this bill.

### **S.B. 309 AN ACT ALIGNING THE OFFICE OF THE LONG-TERM CARE OMBUDSMAN WITH THE OLDER AMERICANS ACT**

The Department would like to formally request substitute language to remove sections 6 (17a-412) and 7 (17a-413) of this bill. As written, these sections essentially transfer the Department of Social Services Protective Services for the Elderly program to the Department of Rehabilitation Services. It is the Department's understanding that this is not the intention of this section and that this provision may have been the outcome of an unintentional drafting error. The Department thanks the Committee for their attention and consideration of this request.

### **H.B. 5243 AN ACT EXPANDING AGING IN PLACE INITIATIVES**

This bill requests funds for the purpose of expanding programs that provide or facilitate community and home-based care for persons who are elderly or who have Alzheimer's disease.

The Department supports Aging in Place initiatives. The Department also acknowledges the growing demographic of persons with Alzheimer's disease as well as the recommendations included in the December 2013 Report of the Task Force on Alzheimer's disease and dementia.

Aligned with the Governor's Rebalancing agenda, key programs that serve elders and persons with dementia within the Department have a no-waiting list policy. Those programs include the Money Follows the Person demonstration and the Connecticut Home Care Program for Elders. The Connecticut Home Care Program for Elders has both a Medicaid and state-funded component that provides an extensive service array to persons with Alzheimer's disease. For persons under 65, the Connecticut Home Care Program for Adults with Disabilities is available.

Additionally, the Department is demonstrating new informal caregiver's support under Money Follows the Person, developing new options of Adult Family Living and has implemented a Community First Choice program under a state plan option, which facilitates access to supports and services through self-direction.

Success of new initiatives and expansions must be evaluated over the next year to determine effectiveness. It will also require additional funding that has not been budgeted. For these reasons, the Department does not support this bill beyond what is already planned.