

## Long-Term Services & Supports Legislation

### Passed in the 2012 Regular and Special Session of the Connecticut General Assembly

As of June 13, 2012

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*An asterisk (\*) indicates legislation that addresses recommendations in the 2010 Long-Term Care Plan.*

**Public Act 12-6 (SB 139): AN ACT CONCERNING NOTIFICATION OF FINANCIAL STABILITY OF NURSING HOME FACILITIES AND MANAGED RESIDENTIAL COMMUNITIES TO PATIENTS AND RESIDENTS (Signed by Governor)**

This Act requires (1) nursing homes, residential care homes, rest homes with nursing supervision, and chronic and convalescent nursing homes and (2) managed residential communities to notify prospective and current residents about certain financial conditions the facilities are experiencing. It requires the former to provide notice if a facility is placed in receivership or files for bankruptcy. It requires the latter to provide notice if it files for bankruptcy. EFFECTIVE DATE: October 1, 2012

**Public Act 12-24 (HB 5225): AN ACT CONCERNING SECURITY DEPOSITS OF SENIOR CITIZENS AND PERSONS WITH DISABILITIES IN PUBLIC HOUSING (Signed by Governor)**

This Act lowers the annual interest rate that housing authorities, community housing authorities, and other corporations must pay on security deposits made by senior citizens and individuals with disabilities residing in public housing. Current law requires housing authorities and other corporations to pay an annual rate of 5.25%. Starting January 1, 2013, the bill requires them to pay at least the average savings deposit interest rate paid by insured commercial banks as published in the Federal Reserve Board Bulletin in November of the prior year (i.e. deposit index). By law, housing authorities and other corporations must return security deposits to these tenants after they have resided in their housing for at least one year. EFFECTIVE DATE: October 1, 2012

**\*Public Act 12-33 (HB 5312): AN ACT ESTABLISHING A TASK FORCE TO STUDY THE EFFECT OF COLLECTIVE BARGAINING FOR CERTAIN STATE EMPLOYEES (Signed by Governor)**

This Act allows certain family child care providers and personal care attendants (PCAs) to collectively bargain with the state through an employee organization (i.e. a union). It establishes a collective bargaining and arbitration process for the child care providers and PCAs and grants them many of the same collective bargaining rights and obligations given to state employees. It also specifically prohibits certain subjects from being collectively bargained and sets conditions under which the General

Assembly must affirmatively approve any contract or arbitration award. The bill creates a PCA Workforce Council to study and plan for improving PCA quality, stability, and availability. It also (1) requires DSS and the council to compile and maintain lists of covered child care providers and PCAs lists, respectively; and (2) provides liability protection for the state under certain circumstances. EFFECTIVE DATE: July 1, 2012

**\*Public Act 12-91 (HB 5476): AN ACT EXPANDING CONSUMER CHOICE FOR LIFE SUPPORT CARE AT HOME (Signed by Governor)**

This Act requires the DSS commissioner, within available appropriations, to establish and operate a two-year, state-funded pilot program for up to 10 ventilator-dependent Medicaid recipients who live in Fairfield County and receive medical care at home. Under the pilot, the participants can hire their own licensed registered nurses (RN) and respiratory therapists directly. (Medicaid rules generally require these professionals to be hired by home health care agencies, which send them out to Medicaid recipients' homes.) The DSS commissioner must report to the Appropriations and Human Services committees on the pilot, including its cost-effectiveness and care continuity, by January 1, 2015. Also, the DSS commissioner must survey Medicaid recipients who are receiving continuous skilled care at home and report by January 1, 2014 on the survey results to the Human Services Committee. EFFECTIVE DATE: October 1, 2012

**\*Public Act 12-104 (HB 5557): AN ACT MAKING ADJUSTMENTS TO STATE EXPENDITURES FOR THE FISCAL YEAR ENDING JUNE 30, 2013. (Signed by Governor)**

**Department on Aging - DOA**

- \*Provides funding of \$100,000 to establish a State Department on Aging by January 1, 2013.

**Department of Social Services - DSS**

- **\*Reduce Funding to Reflect Connecticut Home Care Program for Elders Cost and Caseload Update:** Reduce funding by \$18.4 million to reflect ongoing cost and caseload trends in the state-funded portion of the home care program. Enrollment is currently 19% below the levels assumed in the biennial budget.
- **\*Delay Implementation of the HIV/AIDS Waiver** - Reduce funding by \$1.8 million in SFY 13 to reflect delaying the implementation of the waiver until SFY 14. Under the proposal individuals who might have otherwise been served under the waiver will continue to be eligible for those services traditionally available under Medicaid.
- **Medication Administration** - Reduce funding by \$10.3 million to reflect changes to medication administration. DSS will contract with an administrative service organization (ASO), or amend a current contract, to provide oversight to the medication administration process to reduce the

instances of billing for multiple medication administration visits per day. The department shall also implement assistive technology where appropriate.

- **\*Add Adult Family Living to the Connecticut Home Care Program and the Personal Care Assistance Waiver** - Reduce funding by \$500,000 to reflect the addition of adult family living services to the Connecticut Home Care Program for Elders and the Personal Care Assistance (PCA) waiver. This allows individuals who provide adult family living (adult foster care) services to receive a stipend based on the person's activities of daily living (ADLs) and cognitive needs. This would not be available to family members who have already been providing this service.
- **\*Expand Private Pay Assisted Living Pilot** - Transfer funding of \$680,000 from Medicaid to the Connecticut Home Care Program to support the expansion of the Private Pay Assisted Living Pilot from 75 to 125 individuals.
- **\*Care Assessment** - Provide funding of \$300,000 to develop and implement a universal long-term care assessment tool.
- **Reduce Cost Sharing under the Connecticut Home Care Program for Elders** - Provide funding of \$626,400 for the CHCPE to reflect reducing the cost sharing requirement for State-funded clients from 7% to 6% of the cost of care.
- **Provide Funding for Nursing Home Services for High Need Individuals** - Provide partial year funding of \$2,299,500 to cover anticipated costs for nursing home services for individuals who are difficult to place in appropriate care settings, such as those transitioning from a correctional facility, or a higher level of DMHAS care. Funding of \$300,000 is also included under DMHAS for this initiative.
- **\*Strengthen Rebalancing Efforts under Money Follows the Person (MFP)** - Provide funding of \$3,650,000 to strengthen rebalancing efforts under MFP. These funds support several initiatives related to these balancing efforts under MFP including: (1) providing grants to nursing facilities to support right-sizing (\$3.0 million); (2) developing a marketing plan for direct care workers, and provide job assistance and retraining (\$400,000); (3) creating an automated, web-based system to transition care from hospitals to the community (\$250,000); and (4) add independent support broker to the menu of services available under the PCA waiver.
- **\*Provide Funding for 300 Rental Assistance Program (RAP) Vouchers** - Provide funding of \$750,000 for 300 additional RAP vouchers. Funding is provided for the following: 1) 150 vouchers and \$375,000 for traditional RAPs, and 2) 150 vouchers and \$375,000 for scattered site supportive housing. Funding is provided starting April 1, 2013.

#### **Department of Developmental Services – DDS**

- **\*Closure of Facilities** - Reduce funding by \$2,291,562 to reflect the closure of five public residential facilities. The closures are comprised of two residential settings at Southbury Training School (STS) and three group homes.

- **\*Southbury Training School Residents** - Provide funding of \$4,119,227 in the Community Residential Services account to fund placements for individuals choosing to leave STS. Funding of \$3,278,227 is provided to support 34 new placements for STS residents leaving STS under the Money Follows the Person (MFP) program. Funding of \$841,000 is provided for six individuals leaving STS who will be in community placements not supported by the MFP initiative. Five of the six placements which were anticipated to begin on July 1 are now expected to begin on August 15.
- **\*Provide Funding for Additional High School Graduate Placements** - Provide funding of \$470,011 to support an additional 48 graduates in day programs, employment and behavioral supports that were not budgeted.
- **Provide Funding to Support Autism Spectrum Disorder Recommendations** - Provide funding of \$500,000 to address recommendations of the feasibility study required under PA 11-6 related to the needs of persons with autism spectrum disorder which is expected to be completed in the spring.
- **Provide Funding for Waiver Management System** - Provide funding of \$555,400 for the comprehensive waiver management system required in order to receive 90% federal reimbursement of planning efforts.

**Department of Mental Health and Addiction Services - DMHAS**

- **\*Increase Funding for Traumatic Brain Injury (TBI) Community Services Placements** - Provide funding of \$1.5 million to reflect six additional placements.
- **\*Increase Funding for Discharge and Diversion Placements** - Provide funding of \$1,517,366 to facilitate the discharge of approximately 25 difficult-to-place hospitalized clients into appropriate community settings.
- **Provide Funding for Nursing Home Services for High Need Individuals** - Provide partial year funding of \$300,000 to cover anticipated costs for nursing home services for individuals who are difficult to place in appropriate care settings, such as those transitioning from a correctional facility, or a higher level of DMHAS care. Funding of \$2,299,500 is also included under DSS for this initiative.

**Department of Economic and Community Development – DECD**

- **Adjust Funding for Subsidized Assisted Living Demonstration Based on Current Need** - Reduce funding for the Subsidized Assisted Living Demonstration by \$392,000 to reflect the current need of the program.
- **\*Expand Congregate Housing Program** - Provide funding of \$202,500 for rental assistance to low income tenants and supportive services at 50 units of new congregate housing (to be built with \$12.5 million in capital funding in SFY 13). The supportive services include: one main meal per day, housekeeping services, a twenty four hour emergency service, a resident services coordinator, emergency transportation services, and a wellness program.

## **Department of Transportation – DOT**

- **\*Reduce Subsidy for ADA Para-Transit Program Due to Fare Increase** - The Americans with Disabilities Act (ADA) Para-Transit Program provides transportation services for disabled persons in all areas with local fixed route bus services. ADA fares increased 4% on 1/1/12 and are scheduled to increase another 4% on 1/1/13. ADA fares have not increased since January 2005. This Act reduces the subsidy by \$59,150 due to the 4% fare increase on 1/1/12 and eliminates the 4% fare increase scheduled for 1/1/13. However, sufficient funding is provided in the account to suspend the 4% fare increase planned to take effect 1/1/13.

### **\*Public Act 12-118 (SB 232): AN ACT EXTENDING A MORATORIUM ON CERTAIN LONG-TERM CARE BEDS (Not yet signed by Governor)**

By law, most health care facilities need a certificate of need (CON) from the state if they wish to, among other things, (1) establish such a facility, (2) transfer ownership or control, (3) add beds to it, or (4) purchase equipment. This Act extends, from June 30, 2012 until June 30, 2016, the DSS moratorium on CONs for new nursing home beds. The law exempts certain nursing home beds from the moratorium, including those used by AIDS patients. The bill also imposes a moratorium on long term acute care hospital beds in certain chronic disease hospitals. This moratorium begins when the bill passes and expires on June 30, 2017. EFFECTIVE DATE: Upon passage

### **\*Public Act 12-119 (SB 234): AN ACT CONCERNING CERTAIN SOCIAL SERVICES PROGRAMS (Not yet signed by Governor)**

**\*Section 1: Community Choices.** Directs DSS to develop and administer a statewide Community Choices program. It is intended to provide a single, coordinated information and access program for individuals seeking long-term support, such as in-home, community-based, and institutional services. The program must serve consumers including (1) elders at least age 60, (2) those over age 18 with disabilities, and (3) caretakers. The bill designates the state's Aging and Disability Resource Centers under the federal Older Americans Act (PL 109-365) as the Community Choices program. Three regions of the state (Western, South Central, and North Central) currently operate such programs.

**Section 2: Katie Beckett Waiver.** Changes eligibility requirements, funding, and participation levels for the DSS Katie Beckett waiver. It makes the entire Katie Beckett program subject to available appropriations and eliminates the ceiling on the number of participants. It also restricts eligibility to those under age 22 but expressly opens the program up to those of any age who (1) are currently institutionalized but want to be cared for at home or (2) have co-occurring developmental disabilities.

**Section 3: Municipal Agents.** Changes who a municipality may appoint as a municipal agent for the elderly and gives the agents discretion regarding their duties.

**\*Section 10: Personal Care Assistance Home Care Pilot.** Repeals the DSS personal care assistance home care pilot program for the elderly that has been made unnecessary by the department's implementation of a statewide waiver.

EFFECTIVE DATE: Upon passage, except the provision concerning the Katie Beckett waiver, which is effective July 1, 2012.

**Public Act 12-130 (HB 5283): AN ACT WAIVING ADVANCE PAYMENT RESTRICTIONS FOR CERTAIN NURSING FACILITIES (Not yet signed by Governor)**

By law, DSS can make Medicaid payments (reimbursements) to nursing homes in advance of normal payment processing. The Act allows DSS to advance nursing homes that are in receivership more than the amount the nursing homes estimate they are owed for the most recent two months of care they provided to their Medicaid-eligible residents. It also allows DSS to waive the requirement that it recover these payments within 90 days of issuing them by reducing any future amounts it reimburses the home. By law, the homes must request these payments. By law, the DSS commissioner must take prudent measures to assure that the department is not making such payments to a nursing home that is at risk of bankruptcy or insolvency, and may execute agreements appropriate for seeking the repayments.

EFFECTIVE DATE: Upon passage

**\*Public Act 12-189 (SB 25): AN ACT AUTHORIZING AND ADJUSTING BONDS OF THE STATE FOR CAPITAL IMPROVIEMENTS, TRANSPORTAION AND OTHER PURPOSES (Not yet signed by Governor)**

**Section 9(c) (1): DECD Grants-in-aid.** Bond funds are provided for the DECD grants-in-aid to nursing homes for alterations, renovations and improvements for conversion to other uses in support of right-sizing, not exceeding \$10 million.

**\*Section 30: Grants-in-aid for Accessibility Modifications.** Amends section 28 of Public Act 11-57 by adding that not more than \$1 million must be used for grants-in-aid for accessibility modifications for persons transitioning from institutions to homes under the Money Follows the Person program.

**\*Special Act 12-9 (SB 41): AN ACT CONCERNING WORKFORCE DEVELOPMENT (Not yet signed by Governor)**

This Special Act requires the Office of Workforce Competitiveness, in collaboration with the Department of Education and the Board of Regents for Higher Education, to study model programs concerning the pre-employment training and employment of young adults with autism spectrum disorder and other developmental disabilities. The Office of Workforce Competitiveness must report on the study to the General Assembly no later than January 1, 2013. EFFECTIVE DATE: July 1, 2012

**\*Special Act 12-6 (SB 138): AN ACT ESTABLISHING A TASK FORCE TO STUDY "AGING IN PLACE" (Not yet signed by Governor)**

This Special Act establishes a task force to study how the state can encourage "aging in place" that must include an examination of (1) infrastructure and transportation improvements, (2) zoning changes to facilitate home care, (3) enhanced nutrition programs and delivery options, (4) improved fraud and abuse protections, (5) expansion of home medical care options, (6) tax incentives, and (7) incentives for private insurance. The task force must consist of the following members: (1) The chairpersons and ranking members of the joint standing committee of the General Assembly having cognizance of matters relating to aging, or their designees; (2) Two members appointed by the speaker of the House of Representatives; (3) Two members appointed by the president pro tempore of the Senate; (4) One member appointed by the majority leader of the House of Representatives; (5) One member appointed by the majority leader of the Senate; (6) One member appointed by the minority leader of the House of Representatives; (7) One member appointed by the minority leader of the Senate; (8) The Commissioner of Social Services, or the commissioner's designee; (9) Two members appointed by the Governor; (10) The chairperson of the Long-Term Care Planning Committee, or the chairperson's designee; and (11) The chairperson of the Commission on Aging, or the chairperson's designee. The Chairperson must be selected by the speaker of the House of Representatives and the president pro tempore of the Senate from among the members of the task force. The administrative staff of the Commission on Aging must serve as administrative staff of the task force. Not later than January 1, 2013, the task force must submit a report on its findings and recommendations to the General Assembly and the task force will terminate on the date that it submits such report or January 1, 2013, whichever is later. EFFECTIVE DATE: Upon passage

**\*HB 6001: AN ACT IMPLEMENTING PROVISIONS OF THE STATE BUDGET FOR THE FISCAL YEAR BEGINNING JULY 1, 2012 (Not yet signed by the Governor)**

**\*Sections 9 & 10: Assisted Living Pilots.** Increases, from 75 to 125, the total number of people who can participate in two private assisted living pilot programs (one Medicaid- and one state-funded, administered by DSS). The programs help pay for assisted living services, but not room and board, for people living in private assisted living facilities who have used up their own resources.

**\*Section 11: Medication Administration by Unlicensed Personnel.** Permits a registered nurse to delegate the administration of medications that are not injected into patients to homemaker-home health aides who obtain certification for medication administration. Administration may not be delegated when the prescribing physician specifies that a nurse must administer it. The law already allows residential care homes (RCHs) that admit residents requiring medication administration assistance to employ a sufficient number of certified, unlicensed personnel to perform this function in accordance with DPH regulations (CGS § 19a-495a).

The Act requires the Department of Public Health commissioner to adopt regulations to carry out the medication administration delegation provisions. The regulations must require that each home health care agency that serves clients requiring help with medication administration to: 1) adopt practices that

increase and encourage client choice, dignity, and independence; 2) establish policies and procedures to ensure that an RN may delegate allowed nursing care tasks, including medication administration to a homemaker-home health aide when the RN determines that it is in the patient's best interest and the homemaker-home health aide is deemed competent to perform the task; 3) designate homemaker-home health aides to obtain certification for medication administration; and 4) ensure that the aides receive the certification.

**\*Section 12: PCAs Permitted to Administer Medication.** Provides that nothing in the Nurse Practice Act can be construed to prohibit a PCA employed by a registered homemaker-companion agency from administering medications to a competent adult who directs his or her own care and makes his or her own decisions pertaining to assessment, planning, and evaluation.

**\*Section 14: Medicaid PCA Waiver.** Requires program participants, once turning 65, to be transitioned to the Connecticut Home Care Program for Elders (CHCPE) to receive these services. CHCPE is a Medicaid- and state-funded program that provides home- and community-based services to frail individuals age 65 and older. In 2006, the legislature removed the PCA Waiver program's upper age limit and directed DSS to amend the waiver to allow individuals to continue receiving benefits once they turned 65. The state's current waiver allows individuals to either stay on the PCA waiver program or transition to the CHCPE.

**\*Section 19: Department on Aging.** Moves the start-date for the re-established Department on Aging from July 1, 2013 to January 1, 2013.

**\*Sections 28-95: Bureau of Rehabilitative Services.** (1) Makes the Bureau of Rehabilitative Services, created by PA 11-44, a stand-alone entity rather than a bureau within DSS for administrative purposes, (2) renames it the Department of Rehabilitation Services, (3) makes the department head a commissioner instead of an executive director, and (4) makes the newly named bureau a successor authority to the previously named bureau. Under PA 11-44, the bureau was authorized to perform all of the administrative and programmatic functions of the Board of Education and Services for the Blind, the Commission on Deaf and Hearing Impaired, and other state rehabilitation services. The bill requires DSS to provide the department administrative support services until (1) the department requests that DSS no longer do so or (2) June 30, 2013, whichever is earlier.

**Section 104: Inmates Released to Nursing Homes.** Generally gives the Department of Correction (DOC) commissioner the discretion to release certain inmates from custody for nursing home placement for palliative and end-of-life care, under certain conditions. DOC must supervise in the community any inmate released in this manner.

EFFECTIVE DATE: July 1, 2012