

**PA13-218**

SB0523

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**CONNECTICUT  
GENERAL ASSEMBLY  
HOUSE**

**PROCEEDINGS  
2013**

**VOL.56  
PART 29  
9742 – 10110**

SPEAKER SHARKEY:

The bill as amended passes.

Representative Aresimowicz.

REP. ARESIMOWICZ (30th):

Good evening, Mr. Speaker.

SPEAKER SHARKEY:

Good evening, sir.

REP. ARESIMOWICZ (30th):

Mr. Speaker, I move we immediately transmit to the Senate all business acted upon here in the House this morning -- today.

SPEAKER SHARKEY:

Motion is to immediately transmit all previously passed items from the House to the Senate. Is there objection? Is there objection?

So ordered.

DEPUTY SPEAKER SAYERS:

Will the Clerk please call Calendar Number 647?

THE CLERK:

Yes, Madam Speaker. On Page 31, Calendar Number 647, favorable report of the Joint Standing Committee on Aging, Substitute Senate Bill 523, AN ACT CONCERNING THE RETURN OF A GIFT TO A PERSON IN NEED OF LONG-TERM CARE SERVICES.

DEPUTY SPEAKER SAYERS:

Representative Serra.

REP. SERRA (33RD):

Thank you, Madam Speaker.

I move for the acceptance of the Joint Committee's favorable report and passage of the bill in concurrence with the Senate.

DEPUTY SPEAKER SAYERS:

The question before the Chamber is on acceptance of the Joint Committee's favorable report and passage of the bill in concurrence with the Senate.

Representative Serra, you have the floor, sir.

REP. SERRA (33RD):

Thank you, Madam Speaker.

Madam Speaker, with this --

DEPUTY SPEAKER SAYERS:

Representative Serra, would you wait just one moment please?

Will members of the House please do their best to keep their conversations at a minimum or take them outside to the Chamber? It's difficult for the discussion to be heard.

Representative Serra, you may proceed.

REP. SERRA (33RD):

Thank you, Madam Speaker.

Madam Speaker, what this bill does is it's called the return of a gift to a person in need of long-term care. What this is, Madam Speaker, I think many of us in this Chamber are aware that Connecticut many years ago had a look back of three years in the federal government imposed on all the states a five-year look back.

And what this does, Madam Speaker, is it's making some changes to the look back in terms of what before was a full payment look back and now partial payment look back.

And what that means is as money or gifts are given the Department of Social Services has a -- the ability to look back five years to look at assets that were given to members of families and to make sure that it wasn't done to qualify for long-term care. And with that, Madam Speaker, I -- I move adoption.

DEPUTY SPEAKER SAYERS:

Will you remark further on the bill?

Representative Adinolfi.

REP. ADINOLFI (103RD):

Question for the Representative Serra, through you.

DEPUTY SPEAKER SAYERS:

Please proceed, sir.

REP. ADINOLFI (103RD):

Representative Serra, in the case where the look back let's say as an example an individual is well today and all of a sudden two years from now they fall down the steps or have a stroke and they have to go to a nursing home and they don't have the funds to pay for it, but when they go through the investigation and the look back to the five years, they find that four years ago that that individual paid their grandson's college tuition. What would happen in a case like that?

Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Serra.

REP. SERRA (33RD):

Through you, Madam Speaker.

Two things; the look back would look at all the assets of that individual and if there wasn't any and if two or three of their grandchildren had money in the bank they would have to return it. The one that was paid for college there's a condition in this it's called a fair hearing.

Those -- that individual would appear before that committee and -- and discuss exactly -- and DSS has to -- the ability to waive that if that in fact what the state -- the case you stated.

REP. ADINOLFI (103RD):

Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Adinolfi.

REP. ADINOLFI (103RD):

Through you, Madam Speaker.

Thank you very much.

I liked that answer. What this bill does now it clarifies the five-year look back and makes it fair where ordinarily if they didn't look back that way that individual would have to find some way to come up with that college tuition money. So this bill takes care of that and it's very fair and I urge everyone to support it.

Thank you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Will you remark further? Will you remark further on this bill? Will you remark further?

If not, will staff and guests please come to the Well of the House? Will members please take their seats; the machine will be open.

THE CLERK:

The House of Representatives is voting by roll.

The House of Representatives is voting by roll. Will members please report to the Chamber immediately?

DEPUTY SPEAKER SAYERS:

Have all the members voted? Have all the members voted?

Will the members please check the board to determine if your vote has been properly cast?

If all the members have voted, the machine will be locked and the Clerk will take a tally.

Will the Clerk please announce the tally?

THE CLERK:

In concurrence with the Senate, Senate Substitute Bill 523

Total Number Voting	141
Necessary for Passage	71
Those voting Yea	141
Those voting Nay	0
Absent and not voting	9

DEPUTY SPEAKER SAYERS:

Representative Maroney, for what purpose -- oh, whoa.

The bill passes in concurrence with the Senate.

Representative Maroney, for what purpose do you rise, sir?

REP. MARONEY (119TH):

For the purposes of an introduction.

DEPUTY SPEAKER SAYERS:

Please proceed.

REP. MARONEY (119TH):

Madam Speaker, today in the Well of the House I have with me my cousins Hunter and Matt. Hunter is making his first trip up to the House and my cousin Matt has been a guest of Kim -- Representative Rose in the past and has been before. My cousin Matt is -- is very active in politics himself, in fact, he likes to work for my opposition. So despite that thank you for giving him a warm welcome.

He enjoyed meeting with Representative Rutigliano and Representative O'Dea over and he -- he shares a mutual friend with Representative Klarides, so I ask everyone to give him a warm -- a House welcome.

Thank you.

DEPUTY SPEAKER SAYERS:

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**CONNECTICUT  
GENERAL ASSEMBLY  
SENATE**

**PROCEEDINGS  
2013**

**VOL. 56  
PART 10  
2837 - 3149**

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SENATE

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May 23, 2013

Thank you.

Will you remark? Will you remark?

Senator Coleman.

SENATOR COLEMAN:

If there are no further remarks and if there are no objections, I'd ask that this item be placed on our Consent Calendar.

THE CHAIR:

Seeing no objection, so ordered, sir.

Mr. Clerk.

Oops -- Senator Looney.

SENATOR LOONEY:

Yes, thank you, Madam President.

Madam President, if the Clerk would call as the next item from Calendar Page 2, Calendar 49, Senate Bill 523.

THE CHAIR:

Mr. Clerk.

THE CLERK:

On Page 2, Calendar 49, Substitute for Senate Bill Number 523, AN ACT CONCERNING THE RETURN OF A GIFT TO A PERSON IN NEED OF LONG-TERM CARE SERVICES, Favorable Report of the Committee on Aging. There is an amendment.

THE CHAIR:

Senator -- that's okay -- Senator Ayala.

You don't have to call it.

Good afternoon, sir.

SENATOR AYALA:

Thank you, Madam President, good afternoon to you.

I move acceptance of the Joint Committee's Favorable Report and urge passage of the bill.

THE CHAIR:

Motion is on acceptance and passage.

Will you remark, sir?

SENATOR AYALA:

Yes, Madam President.

This bill, 523, would reinstate the practice followed in Connecticut for decades until 2011. The partial return rule is applied in every state in New England and almost all states in the nation. By reinstating the partial return rule it will not cost the State of Connecticut money. It will make more private funds available to cover the cost of long-term care services.

By law DSS must impose a penalty period on institutionalized individuals who transfer or assign their assets for less than they are worth in order to shift their care and cost to the Medicaid program.

At this point, Madam President, I'd like to yield to my Ranking Chair in Aging, Senator Kelly, to go on and further express what's contained within this bill.

THE CHAIR:

Senator Kelly, will you accept the yield, sir?

SENATOR KELLY:

I do, Madam President, thank you.

THE CHAIR:

Good afternoon.

SENATOR KELLY:

And thank you, Senator Ayala, for your leadership on this issue. As you indicated there are virtually every state in New England has this rule and it's a very good rule to enable families to return money to use toward the cost of their care.

In these circumstances, under current law, we only allow individual families to transfer -- well if it -- if a penalty period occurs because of a transfer, that you're only allowed to transfer the money back if you make a full return and what the full return does is if you, for instance, transfer to your grandson \$10,000 because he graduated from college and a month or two later you transferred \$10,000 to your granddaughter because she was getting married, there would be a \$20,000 transfer.

And under current rules, unless all the money came back, a partial amount, for instance if the son kept the money but the daughter -- granddaughter spent it on her -- her wedding, you would only get \$10,000 back and under the current rules the Department would treat that as always having been available and would not allow that \$10,000 to come back to be used for the cost of care to basically reduce Medicaid exposure to the payment of long-term care.

What this will do is allow families to bring back those private funds to be used for their care and it basically has resulted in a situation where there is no fiscal impact to the State of Connecticut. So it's good from a fiscal perspective in that it doesn't cost the state any money.

It's good from a Medicaid perspective because it's not going to utilize any additional Medicaid payments and it's also good from a family perspective because they are able to give the money back to reduce a penalty period that they incurred because of a prior transfer.

So from all those perspectives I think this is a very good bill. For legislative intent I would like to ask the proponent a question, through you, Madam President.

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THE CHAIR:

Please proceed, sir.

SENATOR KELLY:

Thank you.

In the bill at line 15 it discusses if any transferred asset is returned to the transferor the Department of Social Services shall adjust the penalty period to the extent permitted by federal law provided the ending date of the penalty period, as originally determined by the Department, shall not change.

My question is when adjusting a transfer of asset penalty period, when a part of a transferred asset is returned to the transferor, is it your understanding that the Department will not change the end date of the penalty period as originally determined by the Department which will always remain the same?

For instance, if the Department originally determines a penalty period to exist during the period of January 1<sup>st</sup> as the start date and October 31<sup>st</sup> as the end date and a partial return of a transferred asset is made to reduce that ten-month penalty period to a five-month penalty period, then in that case the end date of the penalty period does not change and the new remaining penalty period would be from June 1<sup>st</sup> as the start date and October 31<sup>st</sup> as the end date.

THE CHAIR:

Senator Ayala.

SENATOR AYALA:

Thank you, Madam President.

Yes that is correct.

THE CHAIR:

Senator Kelly.

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SENATOR KELLY:

Thank you, Madam President, I have no further questions for the proponent.

Before I -- I do sit down I -- I would just like to thank not only once again Senator Ayala for his leadership on this issue but also Senator Prague for her leadership last year when we ran an amendment very similar to the bill that's before us now as well as the cooperation of the Department of Social Services and OPM in putting together this bill so that we would be able to -- to allow families to put the money back but to do so without a fiscal note.

And I'm really thankful to all those people for allowing that to go forward and I believe it's a good bill, not only for the state, but also for the families that participate in the Medicaid program.

Thank you.

THE CHAIR:

Thank you.

Will you remark? Will you remark?

Senator Ayala.

SENATOR AYALA:

Thank you, Madam President.

I too would want -- want to thank Senator Kelly for his leadership on this issue. This is my first year on Aging and I am coming up to speed on a lot of the issues that are revolving around this wonderful Committee and Senator Kelly's leadership on that Committee and, to be quite honest if you caught the explanation of the bill, it's one that's a bit complicated and I think it took several times before I was able to kind of grasp the idea behind this return of a gift concept and Senator Kelly was very patient with me and took the time to walk me through it and really have me understand it in a way that we were able to present it this afternoon.

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At this point, Madam President, if there is no objection, I'd like to place this item on the Consent Calendar.

THE CHAIR:

Seeing no objection, so ordered, sir.

Senator Looney.

SENATOR LOONEY:

Thank you, Madam President.

Madam President, before calling the next bill I wanted to ask if -- if the Clerk is in possession of a -- of an amendment yet that relates to that bill. If it is in the Clerk's possession, it was just recently handed to me. I just wanted to make sure that it is available because it -- it becomes the bill and that is on Senate Bill 972, Calendar 177, LCO Number 7782. I just wanted to make sure that that amendment is in the Clerk's possession before calling the bill.

I understand it may not -- it may not -- may not -- all right if that's --if that's the case, then we will pass that item temporarily and go to the next bill which would be -- if we could move instead to Calendar Page 35, Calendar 44, Senate Bill 809.

THE CHAIR:

Mr. Clerk.

THE CLERK:

On Page 35, Calendar 44, Substitute for Senate Bill Number 809, AN ACT ALLOWING THE TRANSFERS OF TAX CREDITS TO INSURANCE COMPANY AFFILIATES, Favorable Report of the Committee on Insurance and Real Estate. There's an amendment.

THE CHAIR:

Good afternoon, Senator Crisco.

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Mr. Clerk.

THE CLERK:

On Page 2, Calendar 49, Senate Bill 523; Page 15,  
Calendar 489, Senate Bill Number 871.

On Page 35, Calendar 44, Senate Bill Number 809; on  
Page 36, Calendar 152, Senate Bill 465.

On Page 37, Calendar 177, Senate Bill 972 and on Page  
40, Calendar 293, Senate Bill 814.

Page 41, Calendar 359, Senate Bill 1099 and Calendar  
377, Senate Bill 889.

On Page 43, Calendar 400, Senate Bill 1137 and on Page  
45, Calendar 488, Senate Bill 1153.

THE CHAIR:

Thank you.

Please announce that the machine is open on the first  
Consent Calendar.

THE CLERK:

Immediate roll call has been ordered in the Senate.  
Senators please return to the Chamber. Immediate roll  
call on today's Consent Calendar ordered in the  
Senate.

THE CHAIR:

Have all members voted? If all members have voted,  
please check the board to make sure your vote is  
accurately recorded. If all members have voted, the  
machine will be closed and the Clerk will announce the  
tally.

THE CLERK:

Today's Consent Calendar.

Total Voting

36

cah/med/gbr  
SENATE

122  
May 23, 2013

Voting Yea	36
Voting Nay	0
Absent, not voting	0

THE CHAIR:

Consent Calendar 1 passes.

Senator Looney.

SENATOR LOONEY:

Thank you, Mr. President.

Mr. President, before moving to the item which will be marked for the order of the evening, I believe the Clerk is in possession of Senate Agenda Number 2 for today's session.

THE CHAIR:

Mr. Clerk.

THE CLERK:

The Clerk is in possession of Senate Agenda Number 2. It's dated Thursday, May 23, 2013. Copies have been made. They are on Senators' desks.

THE CHAIR:

Senator Looney.

SENATOR LOONEY:

Thank you, Mr. President.

Mr. President, I move all items on Senate Agenda Number 2 dated Thursday, May 23, 2013 to be acted upon as indicated and that the Agenda be incorporated by reference into the Senate Journal and the Senate Transcript.

THE CHAIR:

So ordered.

**JOINT  
STANDING  
COMMITTEE  
HEARINGS**

**AGING  
PART 1  
1 – 285**

**2013  
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I'd be more than happy to look into it and work with this Committee on it.

REP. COOK: I would appreciate it if you could do some investigating as to potential fee conversations and how we would go about that. I'd rather not leave it in the insurer's hands. I don't know if we can necessarily legislate that.

But at the same time, I think it's something that we should take a charge on if that's the direction that we're going to go, because I don't know if it will get done another way. So thank you very much, and thank you, again, for supporting this.

MARGHIE GIULIANO: Thank you. I appreciate it.

REP. SERRA: Any other questions from the Committee? Thank you.

MARGHIE GIULIANO: Thank you.

REP. SERRA: Next up is Peter Boorman, Connecticut Bar Association.

PETER BOORMAN: Good morning. My name is Peter Boorman. I'm an attorney who practices out of Newington. I'm here representing the CBA today and more specifically the other law section of the CBA in which I serve as vice chair. I want to briefly talk to you today about the CBA support for Senate Bill 523. Testimony, written testimony, has already been provided. That was provided by Whitney Lewendon of our section, so I hope that you do have that.

And I want to, really kind of by way of my emphasis today, is to recommend this legislation to you that really provides an incentive to families to return gifts that may

have been paid, gifts, return those gifts so that more payment can go towards the nursing home care or Home Care Program rather than individuals keeping those gifts.

Senate Bill 523 does deal with something called full return versus partial return, and by way of my comments today, I'd like to give you an example as to how I think it makes sense to change the rule that we have now, which is full return, which is used in very few states, back to what we used to have, partial return of gifts.

And I'd like to just start by way of an example of an elderly woman widowed who has two children. One of her children is suffering financial consequences and may be having his house foreclosed, and so she may give him \$20,000 of her own monies for purposes of assisting her child.

She has a second child, a daughter, who she may want to treat equally, so she gives another \$20,000 to that daughter at that particular time. There's no indication whatsoever of any health issues. There's no indication of any Medicaid application at the time this has happened. The loop-back period for Medicaid is five years, as I think you understand.

In my example, if this woman does end up having to go into a nursing home, if this woman does have to engage in the spend-down and make application, and these two gifts are captured, the question that comes up is how do we want to treat that? So in my example, I gave you \$40,000 worth of gifts that will be captured in this determination.

Now the son that had the foreclosure problems spent his \$20,000 on securing his house and

keeping his house. However, the daughter may not have spent that \$20,000. She may still have that \$20,000. So the question is policy-wise, what do we want her to do with that \$20,000? The state is going to give her mother a penalty period because of those gifts.

So the question that comes up is wouldn't we want to incentivize that daughter to return the \$20,000 that she received for purposes of limiting the actual penalty that will be associated with that? Well, under the rules as we have today, that is not the incentive that is given.

As a matter of fact, it's a disincentive, because under the rules that we had just going back to 2011, that change, now, if the full return of the \$40,000 of my example is not returned, then the daughter has no incentive to return her \$20,000, because no credit is going to be given for that. To me, that's a significant error in judgment, error in policy, especially in these hard financial times.

In my example, if the daughter is incentivized to give the \$20,000 back for purposes of paying for the nursing home care, that benefits everyone. That benefits the state, certainly, in terms of budgetary issues. It benefits the mother. And the only person, of course, that will feel short on that perhaps is the daughter, but the incentive is there to protect her mother.

So from our position, it makes sense for us to return to what most states do in our United States and that is recognize the fact that partial return does provide that type of incentive, and that's something we should return to for purposes of making sure that we can maximize budgetary issues that the state of

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Connecticut has across the board. If you have any questions, I'd be happy to address those.

REP. SERRA: Any questions from the Committee?  
Thank you.

PETER BOORMAN: Thank you very much.

REP. SERRA: Martin Acevedo.

DAVID EVANS: Mr. Chairman, Martin Acevedo was, just got called to court, so he asked if I would just very briefly make a couple comments. He submitted legislation. My name is David Evans. I'm a legislative consultant for Companions and Homemakers.

REP. SERRA: Proceed, Dave.

DAVID EVANS: Thank you. And I'm not going to read all of this testimony. But Companions and Homemakers is the largest homemaker companion agency in Connecticut. It's 22 years old. It's an employment-based homemaker services provider and is registered with the Department of Consumer Protection. It has ten offices throughout Connecticut.

The company cares for over 2700 elderly consumers in their homes and residence and employs approximately 2300. Companions and Homemakers would like to go on record in opposition to this legislation. They don't feel that it's necessary. As you'll look at the information that's attached to Martin's testimony, the case law is very clear.

And we anticipate that, and we're told the Department of Labor in Connecticut is having a bill raised that deals with misclassification and specifically with how these individuals are treated. Proposed 518 mandates the

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SELECT COMMITTEE ON AGING

February 5, 2013  
10:00 A.M.

CATHY BRANCH STEBBINS: Thank you.

SENATOR AYALA: Mag Morelli followed by Jeffrey Arn.

MAG MORELLI: Thank you, Senator Ayala,  
Representative Serra, Members of the Committee.  
My name is Mag Morelli, and I am the President  
of LeadingAge Connecticut, a membership  
organization representing over 130 mission-  
driven and not-for-profit provider  
organizations serving older adults across the  
continuum of long-term care, including senior  
housing.

SB519  
SB523

Our members are sponsored by religious,  
fraternal, community, and governmental  
organizations that are committed to providing  
quality care and services to their residents  
and clients. Our member organizations, many of  
which who have served their communities for  
generations, are dedicated to expanding the  
world of possibilities for aging.

On behalf of LeadingAge Connecticut, I've  
submitted testimony on 13 of the bills that are  
before you today and offer the Committee our  
assistance to you as you consider these various  
issues.

We've also been in constructive conversation  
with the long-term care Ombudsman's Office and  
the Statewide Residence Council regarding their  
proposals and plan to continue that effort. I  
want to speak to just a few of the bills we've  
submitted comments on, but I'd be pleased to  
respond to questions on any of the bills.

First, I wanted to comment on Senate Bill 79  
regarding the electric power generators for  
state-assisted housing developments. We do  
represent many affordable senior housing  
organizations, and we appreciate what we

believe to be the intent of this proposal, which is to ensure that the elderly residents of these developments are sheltered and protected during electric power outages.

We agree that emergency preparedness plans must be in place for all senior housing sites and that all such plans should be established in coordination with local municipal authorities.

We too though are concerned about the fiscal impact of this proposal, which will require the purchase of the back-up generators. Just for an example, one of our members recently installed a generator in a 40-unit community at a cost of approximately \$125,000. And that generator can provide power to the building systems, common areas, and some limited power to each of the units.

So we believe that senior housing sites should work with municipal agencies to plan for long-term power outages, and it would be extremely helpful for the state to offer low-cost or no-cost loans or grants to housing providers who choose to install back-up generators as part of that plan. However, mandating the purchase of the generators would really be unachievable for many elderly housing communities.

I just wanted to comment that one of the bills we are, we have been talking with the ombudsman with is the Senate Bill 519, the ACT CONCERNING TRAINING NURSING HOME STAFF ABOUT THE FEAR OF RETALIATION, and we are supportive of that piece of legislation and appreciate her efforts to work with us on that.

On Senate Bill 523 on the return of the gift to the person of long-term care services, you know, while we understand the concerns of the state on this issue, we do support the effort

to lessen the financial burden that the nursing home has when a resident is in a Medicaid penalty period.

Just briefly, penalty periods are imposed on individuals who are residing in nursing homes when there's an inappropriately transferred asset that's discovered during the eligibility process. And the nursing home must pay for the care of that resident during the entire time of that penalty period.

We urge the state to recognize this, recognize and alleviate this and the other financial burdens that the nursing homes currently bear regarding uncompensated care. These include not just transferred assets but also the pending Medicaid application issue and also residents who might have relatives or are withholding applied income payments.

So while the bill before you today provides some relief, we really would like to, the state to take some steps to ease the burden of all the compensated care that's required of the nursing home. Thank you, and I'd be glad to answer any questions.

SENATOR AYALA: Thank you. Any questions from Committee Members? None. Thanks for your testimony.

MAG MORELLI: Thank you.

SENATOR AYALA: Next to speak, Jeffrey Arn followed by Marie Allen.

JEFFREY ARN: Good afternoon, Senator Ayala and Representative Serra. My name is Jeffrey Arn. I'm the vice president of housing and legislation for the Connecticut Chapter of

SB79

Our home-delivered meals saw a waiting list of over 50 individuals. Those are people who are going without proper nutrition, so any attempt to increase funding for nutrition, Senate Bill 522 is much appreciated. Thank you.

SENATOR AYALA: Any questions from the Committee? Thank you for your testimony. Laurie Julian followed by Scott Bertrand.

LAURIE JULIAN: Good afternoon, Representative Serra, Senator Ayala, and Members of the Committee. My name is Laurie Julian. I'm with the Alzheimer's Association, the Connecticut Chapter. And you have my testimony, my written testimony before you in support of several bills today.

HB5765  
HB5758  
SB520  
SB522  
SB523  
HB5762

I'm just going to touch upon a little bit of background about Alzheimer's. We're, we have about 70,000 citizens in the state of Connecticut with Alzheimer's today. It's a costly disease. We expect it to grow by 2050. It's projected to triple if we don't find a cure.

And they are very high users of health care, long-term care, hospice, hospital. And the economic toll that it takes on caregivers who provide most of the care for Alzheimer's patients is at about 2.3 billion, and that is uncompensated care, often compromising their own health and having to quit their own jobs to take care of family, loved ones.

So it's really in the state's interest to keep Alzheimer patients at home where feasible. And we have, we don't know yet what projections are for the governor's budget, but we did get a five percent rescission cut during the deficit mitigation and that he has proposed cutting it.

for many of these individuals this may be the only daily contact that individuals have when they get their meals delivered. And frightfully, one in seven Alzheimer patients live alone.

Finally, AN ACT CONCERNING RETURN OF A GIFT IN SERVICE OF LONG-TERM CARE, we believe a partial return of a transferred asset should not result in a reduced penalty period. Oh, I apologize. I have one more, just a comment real quickly, is the, thank you, Senator Kelly, for the study of funding the support for home- and community-based care for elderly and Alzheimer's patients.

SB523HB5762

Approximately 60 to 70 percent of older adults reside in the community with Alzheimer's disease, and, again, it would be best to put all efforts in the front versus taking, with the Money Follows the Person, you have to be in that skilled facility for three months. This does not work with our patients.

It's best to, because of their progressive disease, to put efforts up front. Don't have them go in there as quickly. Just, you might find this helpful, because in comparison, the Alzheimer's Respite Program, the average grant is 3,500 per year. The cost now for Medicaid payment by state is 94,000 a year, so you can see the contrast, 18,000 for the home care waiver.

And finally we got, yesterday we got some statistics in the long-term care advisory council, and I think you'll get, you know that long-term care is a big driver of the budget, of the state budget. While only seven percent of the Medicaid population receives long-term care services and support, 61 percent, that's 2.8 billion of the fiscal year '12 state

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**Testimony to the Aging Committee**

**Presented by Mag Morelli, President, LeadingAge Connecticut**

**February 5, 2013**

**Regarding**

- **Senate Bill 79**, An Act Requiring Electrical Power Generators At State-Assisted Senior Housing Developments
- **Senate Bill 518**, An Act Creating A Task Force To Study Employment Issues Concerning Registries In The Homemaker And Companion Services Industry
- **Senate Bill 519**, An Act Concerning Training Nursing Home Staff About Residents' Fear Of Retaliation
- **Senate Bill 522**, An Act Increasing Funding For Elderly Nutrition
- **Senate Bill 523**, An Act Concerning The Return Of A Gift To A Person In Need Of Long-Term Care Services
- **House Bill 5757**, An Act Increasing Eligibility For The Connecticut Home-Care Program For The Elderly
- **House Bill 5758**, An Act Concerning An Income Tax Deduction For Long-Term Care Insurance Premiums
- **House Bill 5760**, An Act Increasing The Personal Needs Allowance
- **House Bill 5761**, An Act Concerning Notification To Potential And Existing Nursing Home Owners
- **House Bill 5762**, An Act Concerning A Study Of Funding And Support For Home And Community-Based Care For The Elderly And Alzheimer's Patients
- **House Bill 5763**, An Act Concerning Grievance Committees In Nursing Home Facilities
- **House Bill 5765**, An Act Expanding Eligibility For The Alzheimer's Disease Respite Care Program
- **House Bill 5766**, An Act Concerning Nursing Home Compliance With Comfortable And Safe Temperature Standards

Good morning Senator Ayala, Representative Serra, and members of the Aging Committee. My name is Mag Morelli and I am the president of LeadingAge Connecticut, a membership organization representing over 130 mission-driven and not-for-profit provider organizations serving older adults across the continuum of long term care including senior housing.

Our members are sponsored by religious, fraternal, community, and governmental organizations that are committed to providing quality care and services to their residents

and a strong elderly nutrition program is central to the success of that goal. We urge the Committee to support the elderly nutrition program and to increase the funding for this vital community support for our elderly.

**Senate Bill 523, An Act Concerning the Return of a Gift to a Person in Need of Long-Term Care Services**

LeadingAge Connecticut supports the intent of this proposal which is to lessen the financial burden that a nursing home resident's Medicaid penalty period places on the nursing home by allowing the partial return of a transfer asset to reduce the imposed time of the penalty period.

Medicaid penalty periods are imposed on individuals residing in nursing homes when there is an inappropriately transferred asset discovered during the eligibility process. The penalty period creates a length of time when Medicaid will not pay and the resident therefore has no payer source. This creates a tremendous financial strain on the nursing home as they are required to provide the resident with care that they are not compensated for throughout the entire penalty period.

We urge the state to recognize and alleviate this and other financial burdens that nursing homes currently bear regarding uncompensated care. The nursing home is the only segment of the long term care continuum that is required to provide unlimited periods of uncompensated care to residents who are in Medicaid penalty periods, residents with pending Medicaid applications and residents who are withholding applied income payments. While the bill before you today would provide some relief, we would also propose that the state take steps to ease the burden of uncompensated care by improving the eligibility process and strengthening the nursing home's ability to recover assets and collect applied income payments.

**House Bill 5757, An Act Increasing Eligibility for the Connecticut Home-Care Program for the Elderly**

**House Bill 5765, An Act Expanding Eligibility for the Alzheimer's Disease Respite Care Program**

LeadingAge Connecticut believes in the principle of ensuring choice for persons seeking long term services and supports and we know that a strong and balanced continuum of care that provides the right care, in the place, at the right time will lead to a more efficient and effective care delivery system. It is for these reasons that we strongly support both the Connecticut Home Care Program for the Elderly and the Alzheimer's Respite Care Program.

While we would always support expansion of these programs, we are right now very concerned about the ability to serve those currently enrolled in the programs. Unfortunately, the funding for both programs was affected by the 2012 budget rescissions and many elderly clients have seen their services reduced as a result. We encourage the Committee to place a priority on restoring the funding to these programs so that the elderly that are currently eligible and enrolled can receive the services and supports they need to remain in the community.



*Written Testimony before the Aging Committee*

*Roderick L. Bremby, Commissioner*

*February 5, 2013*

Good morning, Senator Ayala, Representative Serra and distinguished members of the Aging Committee. My name is Roderick Bremby and I am the Commissioner of the Department of Social Services. I offer the following testimony on a number of bills that impact the department.

**S. B. No. 520 AN ACT CONCERNING MEDICAID LONG-TERM CARE COVERAGE FOR MARRIED COUPLES**

This bill proposes allowing 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<sup>st</sup>, 2013, this amount is \$115,920. Under current statute, community spouses of long-term care Medicaid recipients are allowed to keep one-half of the couple's liquid assets up to the federal maximum. If the total of the assets are under the minimum allowed by federal law (\$23,184) the community spouse may keep all of the assets. The couple's home and one car are excluded from the assessment of spousal assets.

*SB523*  
*HB5757*  
*HB5760*  
*HB5764*

Allowing community spouses to keep up to the maximum allowed would have a significant, negative fiscal impact. In 2010, the legislature passed Public Act 10-73, which did exactly what this bill proposes, to allow the community spouse to retain up to the federal maximum. It was reversed in the 2011 legislative session due to the projected additional costs of over \$31 million for the 2012-2013 state budget.

To demonstrate the potential fiscal impact of this change, we offer the following two examples.

1. Mr. S entered a nursing home on January 1, 2013. The spousal assets as of that date were \$80,000. They applied for Medicaid on January 1, 2013.

Under the current rules, Mrs. S is allowed to keep one-half of the spousal assets (\$40,000), plus the home and one car. The couple reduces their assets of \$80,000 to \$40,000 for Mrs. S and \$1,600 (the Medicaid asset limit) for Mr. S in February 2013 and DSS grants Medicaid eligibility for Mr. S. They spend \$11,000 of their money on Mr. S's nursing home care – approximately one month's worth of care. The rest of the money is spent on funeral contracts and home repairs.

Under the proposed legislation, Mrs. S would automatically be allowed to retain assets up to \$115,920 – the maximum amount allowed under federal law. Since their assets were below this

amount when Mr. S was admitted to the nursing facility, Mr. S would have been immediately eligible for Medicaid, shifting cost of nursing home care for one month to the state's Medicaid program.

2. Mr. H entered a nursing home on January 1, 2013. The spousal assets as of that date were \$150,000. They applied for Medicaid on January 7, 2013.

Under the current rules, Mrs. H is allowed to keep one-half of the spousal assets (\$75,000) plus the home and one car. The couple reduces their assets of \$150,000 to \$75,000 for Mrs. H and \$1,600 (the Medicaid asset limit) for Mr. H by May 2013, and DSS grants Medicaid eligibility for Mr. H. They spend \$35,000 on home repairs for Mrs. H and \$40,000 on Mr. H's nursing home care – approximately 3½ months of care.

Under the proposed legislation, Mrs. H would automatically be allowed to retain assets up to \$115,920 – the maximum protection amount allowed under federal law. They would only need to spend \$32,480 to be eligible (\$150,000 - \$115,920 for Mrs. H - \$1,600 for Mr. H), which they can accomplish through the home repairs. They would not need to spend any money on Mr. H's care and would therefore shift the cost of care for 3 ½ months of care to the state's Medicaid program.

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 seeks to prevent the impoverishment of spouses of those applying for Medicaid coverage for long-term care. Our current policy is also in line with most other states – there are only 13 states that allow the community spouse to retain assets up to the maximum allowed. We do not support this bill as it would require funding of over \$31 million.

#### **H.B. No. 523 AN ACT CONCERNING THE RETURN OF A GIFT TO A PERSON IN NEED OF LONG TERM CARE SERVICES**

SB 523 makes several changes to C.G.S. 17b-261a. This statute pertains to transfers of assets made by individuals to qualify for Medicaid payment of their long term-care services. Under federal Medicaid law, transfers made at least in part for purposes of qualifying for Medicaid payment of long-term care services result in a penalty period, during which Medicaid will not pay for long-term care services.

C.G.S. 17b-261a describes how the department views the return of previously transferred assets to the transferor. Presently, the statute requires the return of all transferred assets before the department adjusts the penalty period. Only full returns, and not partial returns, are currently recognized as recognition of partial returns could be used in estate planning to shift long-term care costs to the Medicaid program.

SB 523 introduces language recognizing partial asset returns. Corresponding adjustments to penalty periods are described in such a way as to discourage estate planning that shifts long-term

care costs to Medicaid. SB 523 also adds language specifying that partial returns are only counted as assets from the point of their return forward, which is consistent with advice from the federal Centers for Medicare and Medicaid Services, and specifies that transfers that are not full returns are regarded as partial returns.

SB 523 deletes subdivision (2), which counts assets fully returned as available from the time of their transfer when done as part of an estate planning strategy to shift costs to Medicaid. The removal of this subdivision should not result in any new estate planning strategies.

Finally, SB 523 adds language specifying that the conveyance of a return of assets done exclusively for purposes other than to qualify for Medicaid payment of long-term care services are not regarded as trust-like devices. The new language is consistent with the existing language and should not diminish the department's ability to discourage these estate planning strategies.

**H.B. No. 5757 (RAISED) AN ACT INCREASING ELIGIBILITY FOR THE CONNECTICUT HOME-CARE PROGRAM FOR THE ELDERLY.**

This proposed bill would increase the asset limit for an individual applying for the Home Care Program by 47 percent and would increase the asset limit for couples by 71 percent. This change would also set a fixed asset limit in statute, where currently the statute ties the asset limit to the community spouse protected amount, determined by the federal government, so that each year the amount changes accordingly.

Raising the asset limit would open the program to a much larger pool of applicants, which could reduce the amount of funds available to applicants with more limited resources. If the demand were to exceed the state appropriation, which is likely, then this bill would result in (1) a waiting list; (2) a reduction of services to those currently being served; or (3) additional costs to the program.

Any expansion of the eligibility pool is not recommended as it will require additional appropriations to ensure that services to those most in need are not compromised; the state's limited resources should be targeted to those most in need.

**H.B. No. 5760 AN ACT INCREASING THE PERSONAL NEEDS ALLOWANCE**

This proposal would increase the monthly personal needs allowance (PNA) for Medicaid clients residing in nursing facilities from \$60 to \$72.75. Current federal Medicaid law requires that a state provide a minimum PNA of \$30, one-half Connecticut's current personal needs allowance of \$60.

The department is sensitive to the needs of this population and appreciates the difference that even five dollars can make in their lives. However, increasing the amount that these individuals can keep each month for their personal needs would result in additional costs of approximately \$2.8 million annually. This department cannot support this increase in funding.



30 Bank Street  
PO Box 350  
New Britain  
CT 06050-0350  
06051 for 30 Bank Street  
P: (860) 223-4400  
F: (860) 223-4488

Aging Committee  
Public Hearing: 2/5/13

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**Testimony in Support of Raised Bill 523**

**An Act Concerning the Return of a Gift to a  
Person in Need of Long Term Care Services**

Prepared by Whitney M. Lewendon, Esq.

I am writing on behalf of the Connecticut Bar Association in support of Raised Bill No. 523. This bill concerns the length of a penalty in the Medicaid program resulting from a gift of an asset. Raised Bill 523 allows the reduction in the length of a penalty when some of the gift is returned. This is commonly referred to as "partial return."

Raised Bill 523 would reinstate the practice followed in Connecticut for decades until 2011. The partial return rule is applied in every state in New England, all of the Northeast and in fact in almost all of the states in the nation.

The partial return rule was changed to a "full return" rule by Public Act 11-44, now codified at C.G.S. 17b-261a. As a result of that act, there is no reduction in the penalty unless all of the gift is returned.

In many cases, people who have received gifts may still have some but not all of the gift. This is because in most cases, the gift was made initially to help a family member in distress who may very well have spent it. The recipient of the gift was commonly out of work or sick, facing foreclosure and mounting medical bills.

In the past, when people realized that the gift they received from a family member may result in a denial of Medicaid, they considered returning whatever they had left of it.

Now, the full return rule is a disincentive for family members to return those portions of the gift. Because of the full return rule, giving back only a portion of the gift will not reduce the penalty at all. If there is no reduction in the penalty, what is the purpose of returning just a portion of the gift?

As a result of this new full return rule, my colleagues and I believe that there will be less private funds to pay for long term care services available. If only a part of a gift is still available, it will not be returned. And if that is the case, ultimately, then we believe the State of Connecticut will wind up paying more money to cover those services. This is a result no one should desire since it essentially means state funds will pay for long term care services because individuals were discouraged from returning private funds.

The change to a full return rule in 2011 was part of a significant two part change in the Medicaid transfer of asset rules.

The second part of the change from last year allows the State of Connecticut to deny Medicaid to individuals who make gifts with the expectation of receiving a significant portion of the gift back right away in order to obtain Medicaid benefits immediately.

The second part of the change from 2011 is still the law and it is not affected by the change proposed in Raised Bill 523.

There is a positive effect to Raised Bill 523, in that we believe it will encourage people to contribute private funds into the long term care system.

We do not believe that the full return proposal itself standing alone saves the State of Connecticut money.

By the same token, we believe reinstating the partial return rule will not cost the State of Connecticut money. Indeed, we believe this change will make more private funds available to cover the cost of long term care services and thereby decrease the amount ultimately the State of Connecticut will pay for those services.

T24

# alzheimer's association®

the compassion to care, the leadership to conquer

Committee on Aging  
Public Hearing  
Tuesday, February 5, 2013

Written Testimony of Laurie Julian, Director of Public Policy, Alzheimer's Association, CT Chapter (The Association).

Senator Ayala, Representative Serra and distinguished members of the Committee on Aging, thank you for allowing me to submit testimony on several bills that are before you today on behalf of the Alzheimer's Association, CT Chapter.

The Alzheimer's Association is a donor supported, non-profit organization serving the needs of families, health care professionals and those individuals who are affected with Alzheimer's disease and related dementias. The Association provides information and resources, support groups, education and training, and a 24 hour, 7 day a week Helpline.

The Chapter is in support of the following bills:

**HB 5765 An Act Expanding Eligibility for the Alzheimer's Respite Program**

In Connecticut, there are over 70,000 citizens with Alzheimer's or other related dementia.<sup>i</sup> This is projected to escalate rapidly in coming years as the baby boomer generation ages.

There are more than 174,000 caregivers, usually family members who provide unpaid care for someone with the disease, often compromising their own health. Alzheimer's and Dementia caregivers provide over \$2.4 billion in uncompensated services and endure significant emotional, physical and mental stress, multiplying the overall cost of the disease.<sup>ii</sup> Sixty-one percent of caregivers for people with Alzheimer's or other dementia rate the emotional stress of caregiving as high or very high, and are more than twice as likely as caregivers of people without these conditions to say the greatest difficulty associated with caregiving is that it creates or aggravates health problems.<sup>iii</sup>

HB5757  
HB5758  
SB520  
SB522  
SB523  
HB5762

The available sources of information consistently indicate that at least 15 percent of Americans (or one out of seven) who have Alzheimer's disease and other dementias live alone in the community. <sup>vi</sup> For many of the elderly, meal delivery is the only source daily check-up and contact.

**SB. 523 An Act Concerning the Return of a Gift to A Person in Need of Long-Term Care Services**

The Association supports the intent of this bill to reduce the penalty period for the transfer of an asset if part of a gift has been returned. P.A. 11-44, Section 104, amending Conn. Gen. Stat. Section 17b-261a, states that only a full return of transferred assets will affect the penalty period. In other words, an institutionalized individual shall not be penalized for the transfer of an asset if the entire amount of the transferred asset is returned to the institutionalized individual. Conversely, the partial return of a transferred asset shall not result in a reduced penalty period.

The full return rule in the transfer of asset penalty replaces the long-standing partial return rule and eliminates the reduction in the waiting period caused by transfer of assets even though some of the gifts are returned. The result is that the waiting period is only modified when there is a full return of all the gifts, from each person who received them. The Association believes this will actually have the effect of reducing private funds available to pay for long term care services. In other words, it appears to be a disincentive to return part of a gift if the length of the penalty is not shortened.

Furthermore, certain provisions of the "full return" rule are inconsistent with federal law and guidance from Centers for Medicare and Medicaid Services in eliminating private funds from meeting part of the cost of long term services. We understand the full return concept on return of assets was reviewed by the Regulations Review Committee of the Legislature on June 9, 2009, and referenced an internal LCO memo that DSS did not have apparent authority under federal law for the regulation and was out of compliance with the Centers for Medicare and Medicaid Services.

The Alzheimer's Association, Connecticut Chapter, believes the unintentional transfer of gifts can occur, and partial return lessens the harshness of the rule.

**HB 5762 An Act Concerning a Study of Funding and Support for Home and Community-Based Care for the Elderly and Alzheimer's Patients**

We thank the committee for recognizing the Alzheimer's crisis. An estimated 60 to 70 percent of older adults with Alzheimer's disease and other dementias live in the community compared with 98 percent of older adults without Alzheimer's disease and other dementias. <sup>viii</sup> Most people with Alzheimer's disease and other dementias that live at home receive unpaid help from family members and friends, but some also receive paid home and community-based services, such as personal care and adult day center care.