

DDS Legislative Update – September Special Session (SSS) 2009

The House of Representatives and the Senate met on Wednesday, September 23rd, Friday, September 24th and Friday, October 2nd to discuss and vote on ten bills designed to implement the provisions of the state budget for fiscal years 2010 and 2011 (FY10, FY11) passed on August 31, 2009 in [Public Act \(PA\) 09-3, June Special Session \(JSS\)](#). These “implementer bills” spell out and give guidance as to how state agencies and the various branches of state government should spend the money allotted to them in the state budget. Several of the provisions in these implementer bills have an impact on the Department of Developmental Services (DDS).

The Governor vetoed two of the implementer bills. One of these two bills, [H.B. No. 7002](#) An Act Implementing The Provisions Of The Budget Concerning Revenue, was redrafted to account for the Governor’s objections and became [S.B. No. 2052 \(PA 09-8 SSS\)](#) An Act Implementing The Provisions Of The Budget Concerning Revenue. S.B. No. 2052 was then passed by both the Senate and the House and signed by the Governor. The other bill vetoed by the Governor was [H.B. No. 7006](#) An Act Implementing Certain Provisions Of The Budget Concerning General Government. It has not been determined at this time whether the General Assembly will go back into session to attempt to override the Governor’s veto of H.B No. 7006.

Below you will find the ten bills passed by the General Assembly in the September Special Session. We have included a link to the complete Office of Legislative Research (OLR) Bill Analysis for each bill along with a short description of those sections of each bill that may be of specific interest to DDS consumers and their families, DDS employees and DDS providers.

[S.B. No. 2051 \(PA 09-3 SSS\)](#) AN ACT IMPLEMENTING THE PROVISIONS OF THE BUDGET CONCERNING PUBLIC HEALTH AND MAKING CHANGES TO VARIOUS HEALTH STATUTES.

[OLR Bill Analysis of S.B. No. 2051](#)

This bill has multiple sections that impact DDS:

Section 44 increases the parent fees in the Birth to Three program by sixty percent and requires that fees be charged for the first two months of enrollment. The budget bill (PA 09-3 JSS) assumes savings of \$700,000 in FY10 and FY11 from increased parent fees.

Sections 45 and 46 increase the mandated insurance coverage for the Birth to Three program from \$3,200 per child per year to \$6,400 and increase the three-year aggregate benefit from \$9,600 to \$19,200. PA 09-3 JSS assumes savings of \$3.1 million in FY10 and \$3.3 million in FY11 from increased insurance assessments.

Section 50 makes technical changes to funding levels provided in P A 09-3 JSS to properly align DDS Personal Services, Volunteer Services Program and Community Residence accounts.

Section 57 establishes a 29 member advisory committee for reimbursements for services under DDS (fee for service study). DDS is to serve as administrative staff. All appointments are to be made within 30 days. Chairs are to be chosen by House Speaker

and Senate President Pro Tempore. The first meeting is required to be held within 60 days from passage. The committee's report is due January 1, 2011.

Section 58 exempts certain state agency peer review activities from disclosure under the Freedom of Information Act.

S.B. No. 2052 (PA 09-8 SSS) AN ACT IMPLEMENTING THE PROVISIONS OF THE BUDGET CONCERNING REVENUE.

Joint OLR and OFA Bill Analysis for S.B. No. 2052

This bill makes various statutory changes to implement the revenue provisions of the state budget and tax package for FY10 and FY11 (PA 09-3 JSS).

Sections 17-35, 37-38, and 43 make additional changes in those fees that were increased in PA 09-3 JSS, establishes new fees, and increases additional fees.

Section 20 reverses an increase in the annual license fee for a licensed practical nurse, restoring the fee to \$60 per year.

S.B. No. 2053 (PA 09-6 SSS) AN ACT IMPLEMENTING THE PROVISIONS OF THE BUDGET CONCERNING EDUCATION, AUTHORIZING STATE GRANT COMMITMENTS FOR SCHOOL BUILDING PROJECTS, AND MAKING CHANGES TO THE STATUTES CONCERNING SCHOOL BUILDING PROJECTS AND OTHER EDUCATION STATUTES.

OLR Bill Analysis for S.B. No. 2053

This bill approves grant commitments for local school construction projects and makes various changes in statutes relating to school construction projects. It also adopts provisions to implement the FY10-11 state budget relating to education and education grants. It makes changes in education statutes dealing with, among other things, (1) inter-district magnet schools, (2) early childhood education and school readiness programs, (3) an education and mentoring program for beginning teachers, (4) substitute teachers, (5) school dropouts, (6) in-school suspension, and (6) the Connecticut Independent College Student grant.

Section 49 creates an Office of Early Childhood Planning, Outreach, and Coordination within the Department of Education (SDE). Among several duties, it asks the office to: 1. plan, develop, and coordinate, with other agencies, the delivery of services to children from birth to nine years old; and 2. coordinate the enhancement and implementation of the Early Childhood Information System, in consultation with the Early Childhood Education Cabinet.

Sections 50-51 reconstitute the existing Early Childhood Education Cabinet and change its membership and duties. Some of its duties under current law are given to the Early Childhood Planning Office, some are eliminated, and some remain with the cabinet.

H.B. No. 7001 (PA 09-1 SSS) AN ACT CONCERNING THE RECOMMENDATIONS OF THE PROBATE REDISTRICTING COMMISSION.

[OLR Bill Analysis for H.B. No. 7001](#)

The bill eliminates the existing 117 probate districts and replaces them with 54 probate districts.

[H.B. No. 7002](#) AN ACT IMPLEMENTING THE PROVISIONS OF THE BUDGET CONCERNING REVENUE.

[Joint OLR and OFA Bill Analysis for H.B. No. 7002](#)

The Governor vetoed the bill.

This bill would have made various statutory changes to implement the revenue provisions of the state budget and tax package for FY10 and FY11 (PA 09-3, June Special Session (JSS)). Please see **[S.B. No. 2052](#) AN ACT IMPLEMENTING THE PROVISIONS OF THE BUDGET CONCERNING REVENUE** for the revenue bill that was passed and signed by the Governor.

[H.B. No. 7003](#) (PA 09-4 SSS) AN ACT CONCERNING THE CONVEYANCE OF CERTAIN PARCELS OF STATE LAND.

[OLR Bill Analysis for H.B. No. 7003](#)

Section 17 allows the Department of Public Works (DPW), on behalf of the Department of Developmental Services, to transfer and convey to the Town of Enfield all its right and title to that certain easement dated December 28, 1984, and recorded April 3, 1985, in Volume 498 at Page 687 of the Enfield Land Records.

[H.B. No. 7004](#) (PA 09-2 SSS) AN ACT AUTHORIZING AND ADJUSTING BONDS OF THE STATE FOR CAPITAL IMPROVEMENTS, TRANSPORTATION AND OTHER PURPOSES.

[OLR Bill Analysis for H.B. No. 7004](#)

The bond bill includes no money for DDS in FY10, and \$2.5 million in FY11 for capital projects.

[H.B. No. 7005](#) (PA 09-5 SSS) AN ACT IMPLEMENTING THE PROVISIONS OF THE BUDGET CONCERNING HUMAN SERVICES AND MAKING CHANGES TO VARIOUS SOCIAL SERVICES STATUTES.

[OLR Bill Analysis for H.B. No. 7005](#)

Sections 21-29 moves the Children's Trust Fund and its council from the Department of Children and Families (DCF), where it currently exists for administrative purposes, to the Department of Social Services (DSS). It provides that any Children's Trust Fund order, regulation, or contract in force on September 1, 2009 remains in force as a DSS order, regulation, or contract until it is amended, repealed or superseded.

Sections 30, 31, 33 and 47 have to do with Medicare Part D Enrollment in Benchmark Plans, Co-Pays and enrollment period and income limit COLA.

Sections 32 and 40 concern nursing home and ICF-MR rate freezes. The bill freezes at FY09 levels, the Medicaid rates the state pays in FY10 and FY11 to nursing homes and intermediate care facilities for people with mental retardation (ICF-MR). But facilities that would have received a lower rate on July 1, 2009, because of their interim rate status or agreement with DSS, will receive that lower rate. The bill also eliminates fair rent increases to nursing home rates in FY10 and FY11 except for homes that have an approved certificate of need (CON). Current law requires DSS to add a fair rent increase to nursing home rates for homes that have undergone a material change in circumstances related to fair rent. Nursing homes must apply for a CON to establish new, additional, expanded or replacement facilities, services, or functions; bed expansion, reduction, relocation, or conversion; certain capital expenditures, or to close the facility.

Sections 34 and 38 concern prior authorizations for drugs dispensed in Department of Social Services (DSS) pharmacy programs and preferred drug lists.

Section 37 freezes the need standards in the State Supplement Program (SSP) at FY09 levels for FY10 and FY11. The SSP provides supplemental cash assistance to aged, blind, and disabled people receiving Social Security or Supplemental Security Income benefits.

Sections 48 and 49 subjects all nonemergency dental services provided under DSS's dental program to prior authorization. It also requires the Commissioner of Social Services, at least quarterly, to retrospectively review payments for emergency dental services and restoration procedures for appropriateness of payment, and allows him to recoup payments for services determined not to be for an emergency condition or otherwise exceeding what is medically necessary.

Section 50 requires the Commissioner of Social Services to submit notice of any proposed amendment to the Medicaid state plan to the Human Services and Appropriations Committees before submitting it to the federal government.

Section 60 requires the Commissioner of Social Services to contract with one or more entities, either on an at-risk or non-risk basis; and to provide administrative services to elderly Medicaid recipients and those who have disabilities, including those (1) dually-eligible for Medicare and (2) enrolled in dually-eligible special needs plans. The services the entities may provide include care coordination, utilization management, disease management, provider network management, quality management, and customer service.

Sections 71 and 72 reduce, from \$3.15 to \$ 2.65, the dispensing fee DSS pays pharmacies for filling prescriptions for Medicaid, ConnPACE, and Connecticut AIDS Drug Assistance Program clients. It adds SAGA to the list of state medical assistance programs that this dispensing fee covers. (Starting February 1, 2008, DSS "carved out" pharmacy benefits from the SAGA medical assistance program. The federally qualified health centers and other providers with which DSS contracted to run these programs had previously negotiated the pharmacy dispensing fee in a separate contract.)

Section 76 permits DSS, to the extent federal law allows, to amend the state Medicaid plan to establish a voluntary pilot program for up to 500 people served by Oak Hill-The Connecticut Institute for the Blind, Inc. who are also eligible for Medicare (dually-eligible). The pilot must be designed to demonstrate the feasibility and cost effectiveness of delivering comprehensive health care coverage in a managed care setting. (Currently, these individuals receive their Medicaid services on a fee-for-service basis.) The bill

allows the commissioner to (1) include optional Medicaid services that the state is not covering on the date the bill passes and (2) make other modifications to the Medicaid program to encourage participation in the pilot.

Section 87 postpones, from January 1, 2009 to January 1, 2012 the date by which the DSS commissioner must submit a plan to implement the Money Follows the Person (MFP) II demonstration program to the Human Services and Appropriations Committees. The bill also delays the implementation date of the program from July 1, 2009 to July 1, 2012.

[H.B. No. 7006](#) AN ACT IMPLEMENTING CERTAIN PROVISIONS OF THE BUDGET CONCERNING GENERAL GOVERNMENT.

[OLR Bill Analysis for H.B. No. 7006](#)

The Governor vetoed the bill.

Section 1 would have prohibited making reductions in other expenses to FY07 levels of \$28,000,000 in FY10 and \$32,000,000 in FY11 in the Judicial Department's Other Expenses account as required by the budget act (PA 09-3, JSS).

Section 5 would have extended for two years, through June 30, 2011, the moratorium on the sale, lease, or transfer of state-owned residential facilities housing people with mental retardation. Under current law, the prior moratorium ended on June 30, 2009. It would have applied the moratorium to state-operated, community-based residential facilities, boarding houses, group homes, and halfway houses occupied by people with mental retardation, psychiatric disabilities, or alcohol or drug dependency. The bill would have exempted from the moratorium any state-operated residential property the Department of Developmental Services (DDS) transferred to private providers before the bill's passage. It would have continued to exempt state-owned property that was sold, leased, or transferred under an agreement entered into before June 2, 2005.

Section 7 would have required the public works commissioner to sell the former Seaside Regional Center in Waterford, regardless of any other law. The bill would have required sale proceeds to be deposited into the General Fund, notwithstanding the law requiring such proceeds be deposited into a special non-lapsing fund for site acquisition, capital development, and infrastructure costs needed to provide services to persons with mental retardation or psychiatric disabilities.

[H.B. No. 7007](#) (PA 09-7 SSS) AN ACT IMPLEMENTING THE PROVISIONS OF THE BUDGET CONCERNING GENERAL GOVERNMENT AND MAKING CHANGES TO VARIOUS PROGRAMS.

[OLR Bill Analysis for H.B. No. 7007](#)

This bill appropriates funds for state agencies and programs to the General Fund and Special Transportation Fund for FY10 and FY11 notwithstanding the budget act (PA 09-3 JSS).

Section 49 expands the membership of the Commission on Enhancing Agency Outcomes created by PA 09-2 by adding the chairpersons of the Legislative Program Review and

Investigations Committee, or their designees. The bill (1) eliminates references to specific agencies in the commission's charge to consider merging state agencies and (2) adds consideration of streamlining state operations to its charge. The bill also (1) requires the Legislative Program Review and Investigations Committee to assist the commission and (2) extends and revises the commission's reporting requirements. The bill extends the deadline until February 1, 2010 for the commission to submit an initial report identifying subjects for further study and until December 31, 2010 to submit a full report on its findings and recommendations. It allows the commission to continue in existence until December 31, 2011.

Sections 69-93, 104 and 113 raises the maximum age for juvenile court jurisdiction from age 15 to age 16 starting January 1, 2010; and on July 1, 2012, raises the age from 16 to 17.

Section 107 requires the Department of Social Services (DSS), by July 1, 2010, to amend the definition of “medically necessary” services in its Medicaid regulations to reflect savings in the current biennial budget by reducing program administration inefficiencies while maintaining the quality of care provided to Medicaid beneficiaries. (PA 09-3 JSS already requires DSS to do this.) The bill allows the Commissioner of Social Services to implement policies and procedures using this amended definition to achieve the purposes of this section while in the process of adopting the definition in regulation.

Section 137 removes the four-year term of members appointed to the Department of Developmental Services' Family Support Council. It instead limits appointees' terms to the term of the appointing authority or until the member's successor is appointed and qualified, whichever is longer. It also makes it clear that appointing authorities may remove members at any time. The bill applies these changes to currently serving, as well as future, appointees. It continues to limit appointed members to serving a maximum of eight consecutive years.

Sections 142-152 make several changes affecting the six legislative commissions: the Latino and Puerto Rican Affairs Commission (LPRAC), African-American Affairs Commission (AAAC), Asian Pacific American Affairs Commission (APAAC), Commission on Aging (Aging), Permanent Commission on the Status of Women (PCSW), and Commission on Children (Children). It (1) eliminates their independence over staffing and personnel matters as well as (2) changes several of their duties, and membership and reporting requirements, making them uniform. Under the bill, the commissions generally have the same structure and must meet the same requirements.

Section 171 expands the definition of “health insurance policy” to include (a) travel health coverage and (b) single service ancillary health coverage, including dental, vision, or prescription drug coverage. By doing this, the bill subjects such insurance coverage to state insurance laws and regulations.