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HOUSE BILL 2492

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State of Washington

53rd Legislature

1994 Regular Session

By Representatives Dellwo and Dyer; by request of Department of Social and Health Services

Read first time 01/17/94. Referred to Committee on Health Care.

1 AN ACT Relating to medical assistance federal requirements;  
2 amending RCW 11.62.005; reenacting and amending RCW 74.09.520; adding  
3 a new section to chapter 43.20B RCW; creating a new section; repealing  
4 RCW 43.20B.140; and providing an effective date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 11.62.005 and 1988 c 64 s 24 are each amended to read  
7 as follows:

8 As used in this chapter, the following terms shall have the  
9 meanings indicated.

10 (1) "Personal property" shall include any tangible personal  
11 property, any instrument evidencing a debt, obligation, stock, chose in  
12 action, license or ownership, any debt or any other intangible  
13 property.

14 (2)(a) "Successor" and "successors" shall mean (subject to  
15 subsection (2)(b) of this section):

16 (i) That person or those persons who are entitled to the claimed  
17 property pursuant to the terms and provisions of the last will and  
18 testament of the decedent or by virtue of the laws of intestate  
19 succession contained in this title; and/or

1 (ii) The surviving spouse of the decedent to the extent that the  
2 surviving spouse is entitled to the property claimed as his or her  
3 undivided one-half interest in the community property of said spouse  
4 and the decedent; and/or

5 (iii) The department of social and health services, to the extent  
6 of funds expended or paid, in the case of claims provided under section  
7 3 of this act; and/or

8 (iv) This state, in the case of escheat property.

9 (b) Any person claiming to be a successor solely by reason of being  
10 a creditor of the decedent or of the decedent's estate, except for the  
11 state as set forth in (a) (iii) and (iv) of this subsection, shall be  
12 excluded from the definition of "successor".

13 (3) "Person" shall mean any individual or organization.

14 (4) "Organization" shall include a corporation, government or  
15 governmental subdivision or agency, business trust, estate, trust,  
16 partnership or association, two or more persons having a joint or  
17 common interest, or any other legal or commercial entity.

18 NEW SECTION. Sec. 2. RCW 43.20B.140 and 1993 c 272 s 2 & 1987 c  
19 283 s 13 are each repealed.

20 NEW SECTION. Sec. 3. A new section is added to chapter 43.20B RCW  
21 to read as follows:

22 (1) The department shall file liens, seek adjustment, or otherwise  
23 effect recovery for medical assistance correctly paid on behalf of an  
24 individual as required by this chapter and 42 U.S.C. Sec. 1396p.

25 (2) In the case of an individual who was fifty-five years or age or  
26 older when the individual received medical assistance, the department  
27 shall seek adjustment or recovery from the individual's estate, but  
28 only for medical assistance consisting of nursing facility services,  
29 home and community-based services, and related hospital and  
30 prescription drug services.

31 (3) The department shall establish procedures consistent with  
32 standards established by the federal department of health and human  
33 services and pursuant to 42 U.S.C. Sec. 1396p to waive recovery when  
34 such recovery would work an undue hardship.

35 (4) The department is authorized to adopt rules to effect recovery  
36 under this section. The department may adopt by rule later enactments  
37 of the federal laws referenced in this section.

1       **Sec. 4.** RCW 74.09.520 and 1993 c 149 s 10 and 1993 c 57 s 1 are  
2 each reenacted and amended to read as follows:

3       (1) The term "medical assistance" may include the following care  
4 and services: (a) Inpatient hospital services; (b) outpatient hospital  
5 services; (c) other laboratory and x-ray services; (d) nursing facility  
6 services; (e) physicians' services, which shall include prescribed  
7 medication and instruction on birth control devices; (f) medical care,  
8 or any other type of remedial care as may be established by the  
9 secretary; (g) home health care services; (h) private duty nursing  
10 services; (i) dental services; (j) physical and occupational therapy  
11 and related services; (k) prescribed drugs, dentures, and prosthetic  
12 devices; and eyeglasses prescribed by a physician skilled in diseases  
13 of the eye or by an optometrist, whichever the individual may select;  
14 (l) personal care services, as provided in this section; (m) hospice  
15 services; (n) other diagnostic, screening, preventive, and  
16 rehabilitative services; and (o) like services when furnished to a  
17 child by a school district in a manner consistent with the requirements  
18 of this chapter. For the purposes of this section, the department may  
19 not cut off any prescription medications, oxygen supplies, respiratory  
20 services, or other life-sustaining medical services or supplies.

21       "Medical assistance," notwithstanding any other provision of law,  
22 shall not include routine foot care, or dental services delivered by  
23 any health care provider, that are not mandated by Title XIX of the  
24 social security act unless there is a specific appropriation for these  
25 services.

26       (2) The department shall amend the state plan for medical  
27 assistance under Title XIX of the federal social security act to  
28 include personal care services, as defined in 42 C.F.R. 440.170(f), in  
29 the categorically needy program.

30       (3) The department shall adopt, amend, or rescind such  
31 administrative rules as are necessary to ensure that Title XIX personal  
32 care services are provided to eligible persons in conformance with  
33 federal regulations.

34       (a) These administrative rules shall include financial eligibility  
35 indexed according to the requirements of the social security act  
36 providing for medicaid eligibility.

37       (b) The rules shall require clients be assessed as having a medical  
38 condition requiring assistance with personal care tasks. Plans of care

1 must be approved (~~by a physician~~) and reviewed by a nurse (~~every~~  
2 ~~ninety days~~)).

3 (4) The department shall design and implement a means to assess the  
4 level of functional disability of persons eligible for personal care  
5 services under this section. The personal care services benefit shall  
6 be provided to the extent funding is available according to the  
7 assessed level of functional disability. Any reductions in services  
8 made necessary for funding reasons should be accomplished in a manner  
9 that assures that priority for maintaining services is given to persons  
10 with the greatest need as determined by the assessment of functional  
11 disability.

12 (5) The department shall report to the appropriate fiscal  
13 committees of the legislature on the utilization and associated costs  
14 of the personal care option under Title XIX of the federal social  
15 security act, as defined in 42 C.F.R. 440.170(f), in the categorically  
16 needy program. This report shall be submitted by January 1, 1990, and  
17 submitted on a yearly basis thereafter.

18 (6) Effective July 1, 1989, the department shall offer hospice  
19 services in accordance with available funds.

20 NEW SECTION. **Sec. 5.** If any part of this act is found to be in  
21 conflict with federal requirements that are a prescribed condition to  
22 the allocation of federal funds to the state, the conflicting part of  
23 this act is inoperative solely to the extent of the conflict and with  
24 respect to the agencies directly affected, and this finding does not  
25 affect the operation of the remainder of this act in its application to  
26 the agencies concerned. The rules under this act shall meet federal  
27 requirements that are a necessary condition to the receipt of federal  
28 funds by the state.

29 NEW SECTION. **Sec. 6.** This act shall take effect July 1, 1994.

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