
SUBSTITUTE HOUSE BILL 1116

State of Washington

56th Legislature

1999 Regular Session

By House Committee on Health Care (originally sponsored by Representative Clements)

Read first time 02/25/1999. Referred to Committee on .

1 AN ACT Relating to long-term care; and amending RCW 74.39A.170 and
2 43.20B.080.

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

4 **Sec. 1.** RCW 74.39A.170 and 1995 1st sp.s. c 18 s 56 are each
5 amended to read as follows:

6 (1) All payments made in state-funded long-term care shall be
7 recoverable as if they were medical assistance payments subject to
8 recovery under 42 U.S.C. Sec. 1396p and chapter 43.20B RCW, but without
9 regard to the recipient's age.

10 (2) In determining eligibility for state-funded long-term care
11 services programs, the department shall impose the same rules with
12 respect to the transfer of assets for less than fair market value as
13 are imposed under 42 U.S.C. 1396p with respect to nursing home and home
14 and community services.

15 (3) It is the responsibility of the department to fully disclose in
16 advance verbally and in writing, in easy to understand language, the
17 terms and conditions of estate recovery. The disclosure must include
18 billing and recovery and copayment procedures to all persons offered
19 long-term care services subject to recovery of payments.

1 (4) In disclosing estate recovery costs to potential clients and
2 their family members, the department shall provide a written
3 description of the community service options. The description must
4 include supervision, wages, and the costs associated with each care
5 option offered.

6 (5) To the extent funds are available and in compliance with
7 federal law, the department is responsible for also notifying the
8 client, or his or her advocate, quarterly of the types of services
9 used, charges for services, credit amount of copayment, and the
10 difference (debt) that will be charged against the estate.

11 **Sec. 2.** RCW 43.20B.080 and 1997 c 392 s 302 are each amended to
12 read as follows:

13 (1) The department shall file liens, seek adjustment, or otherwise
14 effect recovery for medical assistance correctly paid on behalf of an
15 individual consistent with 42 U.S.C. Sec. 1396p.

16 (2) Liens may be adjusted by foreclosure in accordance with chapter
17 61.12 RCW.

18 (3) In the case of an individual who was fifty-five years of age or
19 older when the individual received medical assistance, the department
20 shall seek adjustment or recovery from the individual's estate, and
21 from nonprobate assets of the individual as defined by RCW 11.02.005,
22 but only for medical assistance consisting of nursing facility
23 services, home and community-based services, other services that the
24 department determines to be appropriate, and related hospital and
25 prescription drug services. Recovery from the individual's estate,
26 including foreclosure of liens imposed under this section, shall be
27 undertaken as soon as practicable, consistent with 42 U.S.C. Sec.
28 1396p.

29 (4) The department shall apply the medical assistance estate
30 recovery law as it existed on the date that benefits were received when
31 calculating an estate's liability to reimburse the department for those
32 benefits.

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

37 (b) Recovery of medical assistance from a recipient's estate shall
38 not include property made exempt from claims by federal law or treaty,

1 including exemption for tribal artifacts that may be held by individual
2 Native Americans.

3 (6) A lien authorized under subsections (1) through (5) of this
4 section relates back to attach to any real property that the decedent
5 had an ownership interest in immediately before death and is effective
6 as of that date.

7 (7) The department is authorized to adopt rules to effect recovery
8 under this section. The department may adopt by rule later enactments
9 of the federal laws referenced in this section.

10 (8) The office of financial management shall review the cost and
11 feasibility of the department of social and health services collecting
12 the client copayment for long-term care consistent with the terms and
13 conditions of RCW 74.39A.120, and the cost impact to community
14 providers under the current system for collecting the client's
15 copayment in addition to the amount charged to the client for estate
16 recovery, and report to the legislature by December 12, 1997.

17 (9) It is the responsibility of the department to fully disclose in
18 advance verbally and in writing, in easy to understand language, the
19 terms and conditions of estate recovery. The disclosure must include
20 billing and recovery and copayment procedures to all persons offered
21 long-term care services subject to recovery of payments.

22 (10) In disclosing estate recovery costs to potential clients and
23 their family members, the department shall provide a written
24 description of the community service options. The description must
25 include supervision, wages, and the costs associated with each care
26 option offered.

27 (11) To the extent funds are available and in compliance with
28 federal law, the department is responsible for also notifying the
29 client, or his or her advocate, quarterly of the types of services
30 used, charges for services, credit amount of copayment, and the
31 difference (debt) that will be charged against the estate.

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