

CERTIFICATION OF ENROLLMENT  
SECOND SUBSTITUTE HOUSE BILL 1116

56th Legislature  
1999 Regular Session

Passed by the House April 19, 1999  
Yeas 97 Nays 0

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**Speaker of the House of Representatives**

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**Speaker of the House of Representatives**

Passed by the Senate April 15, 1999  
Yeas 46 Nays 0

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**President of the Senate**

Approved

\_\_\_\_\_  
**Governor of the State of Washington**

CERTIFICATE

We, Dean R. Foster and Timothy A. Martin, Co-Chief Clerks of the House of Representatives of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE HOUSE BILL 1116** as passed by the House of Representatives and the Senate on the dates hereon set forth.

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**Chief Clerk**

\_\_\_\_\_  
**Chief Clerk**

FILED

**Secretary of State  
State of Washington**

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SECOND SUBSTITUTE HOUSE BILL 1116

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AS AMENDED BY THE SENATE

Passed Legislature - 1999 Regular Session

State of Washington                      56th Legislature                      1999 Regular Session

By House Committee on Appropriations (originally sponsored by Representative Clements)

Read first time 03/08/1999.

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 to all persons offered  
18 long-term care services subject to recovery of payments.

1       (4) In disclosing estate recovery costs to potential clients, and  
2 to family members at the consent of the client, the department shall  
3 provide a written description of the community service options.

4       (5) The department of social and health services shall develop an  
5 implementation plan for notifying the client or his or her legal  
6 representative at least quarterly of the types of services used and the  
7 cost of those services (debt) that will be charged against the estate.  
8 The estate planning implementation plan shall be submitted by December  
9 12, 1999, to the appropriate standing committees of the house of  
10 representatives and the senate, and to the joint legislative and  
11 executive task force on long-term care.

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

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

17       (2) Liens may be adjusted by foreclosure in accordance with chapter  
18 61.12 RCW.

19       (3) In the case of an individual who was fifty-five years of age or  
20 older when the individual received medical assistance, the department  
21 shall seek adjustment or recovery from the individual's estate, and  
22 from nonprobate assets of the individual as defined by RCW 11.02.005,  
23 but only for medical assistance consisting of nursing facility  
24 services, home and community-based services, other services that the  
25 department determines to be appropriate, and related hospital and  
26 prescription drug services. Recovery from the individual's estate,  
27 including foreclosure of liens imposed under this section, shall be  
28 undertaken as soon as practicable, consistent with 42 U.S.C. Sec.  
29 1396p.

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

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

1 (b) Recovery of medical assistance from a recipient's estate shall  
2 not include property made exempt from claims by federal law or treaty,  
3 including exemption for tribal artifacts that may be held by individual  
4 Native Americans.

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

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

12 ~~(8) ((The office of financial management shall review the cost and~~  
13 ~~feasibility of the department of social and health services collecting~~  
14 ~~the client copayment for long term care consistent with the terms and~~  
15 ~~conditions of RCW 74.39A.120, and the cost impact to community~~  
16 ~~providers under the current system for collecting the client's~~  
17 ~~copayment in addition to the amount charged to the client for estate~~  
18 ~~recovery, and report to the legislature by December 12, 1997.))~~ It is  
19 the responsibility of the department to fully disclose in advance  
20 verbally and in writing, in easy to understand language, the terms and  
21 conditions of estate recovery to all persons offered long-term care  
22 services subject to recovery of payments.

23 (9) In disclosing estate recovery costs to potential clients, and  
24 to family members at the consent of the client, the department shall  
25 provide a written description of the community service options.

26 (10) The department of social and health services shall develop an  
27 implementation plan for notifying the client or his or her legal  
28 representative at least quarterly of the types of services used and the  
29 cost of those services (debt) that will be charged against the estate.  
30 The estate planning implementation plan shall be submitted by December  
31 12, 1999, to the appropriate standing committees of the house of  
32 representatives and the senate, and to the joint legislative and  
33 executive task force on long-term care.

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