
SECOND SUBSTITUTE HOUSE BILL 1116

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

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

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

20 (2) Liens may be adjusted by foreclosure in accordance with chapter
21 61.12 RCW.

22 (3) In the case of an individual who was fifty-five years of age or
23 older when the individual received medical assistance, the department
24 shall seek adjustment or recovery from the individual's estate, and
25 from nonprobate assets of the individual as defined by RCW 11.02.005,
26 but only for medical assistance consisting of nursing facility
27 services, home and community-based services, other services that the
28 department determines to be appropriate, and related hospital and
29 prescription drug services. Recovery from the individual's estate,
30 including foreclosure of liens imposed under this section, shall be
31 undertaken as soon as practicable, consistent with 42 U.S.C. Sec.
32 1396p.

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

37 (5)(a) The department shall establish procedures consistent with
38 standards established by the federal department of health and human

1 services and pursuant to 42 U.S.C. Sec. 1396p to waive recovery when
2 such recovery would work an undue hardship.

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

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

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

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

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

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

31 (11) The department of social and health services shall develop an
32 implementation plan for notifying the client or his or her legal
33 representative at least quarterly of the types of services used,
34 charges for services, amount of copayments credited, and the difference
35 (debt) that will be charged against the estate. The estate planning
36 implementation plan shall be submitted by December 12, 1999, to the
37 appropriate standing committees of the house of representatives and the

1 senate, and to the joint legislative and executive task force on long-
2 term care.

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