

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE HOUSE BILL 1116

Chapter 354, Laws of 1999

56th Legislature
1999 Regular Session

LONG-TERM CARE--DISCLOSURE OF TERMS AND COSTS

EFFECTIVE DATE: 7/25/99

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

CLYDE BALLARD
Speaker of the House of Representatives

FRANK CHOPP
Speaker of the House of Representatives

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

BRAD OWEN
President of the Senate

Approved May 17, 1999

GARY LOCKE
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.

DEAN R. FOSTER
Chief Clerk

TIMOTHY A. MARTIN
Chief Clerk

FILED

May 17, 1999 - 3:20 p.m.

**Secretary of State
State of Washington**

SECOND SUBSTITUTE HOUSE BILL 1116

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.

Passed the House April 19, 1999.

Passed the Senate April 15, 1999.

Approved by the Governor May 17, 1999.

Filed in Office of Secretary of State May 17, 1999.