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State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. **2241**

02/25/2014 Authored by Savick; Murphy, M.; Ward, J.A.; Yarusso; Masin and others

The bill was read for the first time and referred to the Committee on Health and Human Services Policy

03/19/2014 Adoption of Report: Amended and re-referred to the Committee on Health and Human Services Finance

1.1 A bill for an act
1.2 relating to human services; modifying medical assistance asset availability
1.3 requirements; amending Minnesota Statutes 2012, section 256B.059, subdivision
1.4 5.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2012, section 256B.059, subdivision 5, is amended to
1.7 read:

1.8 Subd. 5. **Asset availability.** (a) At the time of initial determination of eligibility for
1.9 medical assistance benefits following the first continuous period of institutionalization on
1.10 or after October 1, 1989, assets considered available to the institutionalized spouse shall
1.11 be the total value of all assets in which either spouse has an ownership interest, reduced by
1.12 the following amount for the community spouse:

1.13 (1) prior to July 1, 1994, the greater of:

1.14 (i) \$14,148;

1.15 (ii) the lesser of the spousal share or \$70,740; or

1.16 (iii) the amount required by court order to be paid to the community spouse;

1.17 (2) for persons whose date of initial determination of eligibility for medical

1.18 assistance following their first continuous period of institutionalization occurs on or after
1.19 July 1, 1994, the greater of:

1.20 (i) \$20,000;

1.21 (ii) the lesser of the spousal share or \$70,740; or

1.22 (iii) the amount required by court order to be paid to the community spouse.

1.23 The value of assets transferred for the sole benefit of the community spouse under section
1.24 256B.0595, subdivision 4, in combination with other assets available to the community

2.1 spouse under this section, cannot exceed the limit for the community spouse asset
2.2 allowance determined under subdivision 3 or 4. Assets in any retirement accounts,
2.3 including individual accounts, 401(k) plans, 403(b) plans, Keogh plans, and pension plans
2.4 that exceed this allowance shall be considered available to the institutionalized community
2.5 spouse ~~whether or not~~ if converted and annuitized to income. If the community spouse
2.6 asset allowance has been increased under subdivision 4, then the assets considered
2.7 available to the institutionalized spouse under this subdivision shall be further reduced by
2.8 the value of additional amounts allowed under subdivision 4.

2.9 (b) An institutionalized spouse may be found eligible for medical assistance even
2.10 though assets in excess of the allowable amount are found to be available under paragraph
2.11 (a) if the assets are owned jointly or individually by the community spouse, and the
2.12 institutionalized spouse cannot use those assets to pay for the cost of care without the
2.13 consent of the community spouse, and if: (i) the institutionalized spouse assigns to the
2.14 commissioner the right to support from the community spouse under section 256B.14,
2.15 subdivision 3; (ii) the institutionalized spouse lacks the ability to execute an assignment
2.16 due to a physical or mental impairment; or (iii) the denial of eligibility would cause an
2.17 imminent threat to the institutionalized spouse's health and well-being.

2.18 (c) After the month in which the institutionalized spouse is determined eligible for
2.19 medical assistance, during the continuous period of institutionalization, no assets of the
2.20 community spouse are considered available to the institutionalized spouse, unless the
2.21 institutionalized spouse has been found eligible under paragraph (b).

2.22 (d) Assets determined to be available to the institutionalized spouse under this
2.23 section must be used for the health care or personal needs of the institutionalized spouse.

2.24 (e) For purposes of this section, assets do not include assets excluded under the
2.25 supplemental security income program.

2.26 **EFFECTIVE DATE.** This section is effective upon approval of the state plan
2.27 amendment or January 1, 2015, whichever is later.

2.28 **Sec. 2. INSTRUCTIONS TO THE COMMISSIONER; FEDERAL APPROVAL.**

2.29 No later than July 1, 2014, the commissioner of human services shall submit a state
2.30 plan amendment and seek the approval necessary to implement section 1.

2.31 **EFFECTIVE DATE.** This section is effective the day following final enactment.