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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 3615

03/24/2016 Authored by Rarick; Dean, M.; Lueck; Daniels; Davids and others

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

03/31/2016 Adoption of Report: Re-referred to the Committee on Health and Human Services Finance

1.1 A bill for an act
1.2 relating to medical assistance; modifying estate recovery provisions; amending
1.3 Minnesota Statutes 2014, section 256B.15, subdivisions 1a, 1e, 2, by adding a
1.4 subdivision.

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

1.6 Section 1. Minnesota Statutes 2014, section 256B.15, subdivision 1a, is amended to
1.7 read:

1.8 Subd. 1a. **Estates subject to claims.** (a) If a person receives any medical assistance
1.9 hereunder, on the person's death, if single, or on the death of the survivor of a married
1.10 couple, either or both of whom received medical assistance, or as otherwise provided
1.11 for in this section, the total amount paid for medical assistance rendered for the person
1.12 and spouse shall be filed as a claim against the estate of the person or the estate of the
1.13 surviving spouse in the court having jurisdiction to probate the estate or to issue a decree
1.14 of descent according to sections 525.31 to 525.313.

1.15 (b) For the purposes of this section, the person's estate must consist of:

1.16 (1) the person's probate estate;

1.17 (2) all of the person's interests or proceeds of those interests in real property the
1.18 person owned as a life tenant or as a joint tenant with a right of survivorship at the time of
1.19 the person's death;

1.20 (3) all of the person's interests or proceeds of those interests in securities the person
1.21 owned in beneficiary form as provided under sections 524.6-301 to 524.6-311 at the time
1.22 of the person's death, to the extent the interests or proceeds of those interests become part
1.23 of the probate estate under section 524.6-307;

(4) all of the person's interests in joint accounts, multiple-party accounts, and pay-on-death accounts, brokerage accounts, investment accounts, or the proceeds of those accounts, as provided under sections 524.6-201 to 524.6-214 at the time of the person's death to the extent the interests become part of the probate estate under section 524.6-207; and

(5) assets conveyed to a survivor, heir, or assign of the person through survivorship, living trust, or other arrangements.

(c) For the purpose of this section and recovery in a surviving spouse's estate for medical assistance paid for a predeceased spouse, the estate must consist of all of the legal title and interests the deceased individual's predeceased spouse had in jointly owned or marital property at the time of the spouse's death, as defined in subdivision 2b, and the proceeds of those interests, that passed to the deceased individual or another individual, a survivor, an heir, or an assign of the predeceased spouse through a joint tenancy, tenancy in common, survivorship, life estate, living trust, or other arrangement. A deceased recipient who, at death, owned the property jointly with the surviving spouse shall have an interest in the entire property.

(d) For the purpose of recovery in a single person's estate or the estate of a survivor of a married couple, "other arrangement" includes any other means by which title to all or any part of the jointly owned or marital property or interest passed from the predeceased spouse to another including, but not limited to, transfers between spouses which are permitted, prohibited, or penalized for purposes of medical assistance.

(e) A claim shall be filed if medical assistance was rendered for either or both persons under one of the following circumstances:

~~(1) the person was over 55 years of age, and received services under this chapter;~~

~~(2)~~ the person resided in a medical institution for six months or longer, received services under this chapter, and, at the time of institutionalization or application for medical assistance, whichever is later, the person could not have reasonably been expected to be discharged and returned home, as certified in writing by the person's treating physician. For purposes of this section only, a "medical institution" means a skilled nursing facility, intermediate care facility, intermediate care facility for persons with developmental disabilities, nursing facility, or inpatient hospital; or

~~(3)~~ (2) the person received general assistance medical care services under the program formerly codified under chapter 256D.

(f) The claim shall be considered an expense of the last illness of the decedent for the purpose of section 524.3-805. Notwithstanding any law or rule to the contrary, a state or county agency with a claim under this section must be a creditor under section

524.6-307. Any statute of limitations that purports to limit any county agency or the state agency, or both, to recover for medical assistance granted hereunder shall not apply to any claim made hereunder for reimbursement for any medical assistance granted hereunder. Notice of the claim shall be given to all heirs and devisees of the decedent, and to other persons with an ownership interest in the real property owned by the decedent at the time of the decedent's death, whose identity can be ascertained with reasonable diligence. The notice must include procedures and instructions for making an application for a hardship waiver under subdivision 5; time frames for submitting an application and determination; and information regarding appeal rights and procedures. Counties are entitled to one-half of the nonfederal share of medical assistance collections from estates that are directly attributable to county effort. Counties are entitled to ten percent of the collections for alternative care directly attributable to county effort.

EFFECTIVE DATE. This section is effective retroactive from January 1, 2014.

Sec. 2. Minnesota Statutes 2014, section 256B.15, subdivision 1e, is amended to read:

Subd. 1e. **Full or partial release of notice.** (a) The claimant may fully or partially release the notice and the lien arising out of the notice of record in the real estate records where the notice is filed or recorded at any time. The claimant may give a full or partial release to extinguish any life estates or joint tenancy interests which are or may be continued under this section or whose existence or nonexistence may create a cloud on the title to real property at any time whether or not a notice has been filed. The recorder or registrar of titles shall accept the release for recording or filing. If the release is a partial release, it must include a legal description of the property being released.

(b) At any time, the claimant may, at the claimant's discretion, wholly or partially release, subordinate, modify, or amend the recorded notice and the lien arising out of the notice.

(c) The claimant must fully release each notice of potential claim and the lien arising out of the notice for each individual age 55 to 64 who receives services, other than institutional services, and who is eligible for medical assistance based on the eligibility category established by section 256B.056, subdivision 1a, paragraph (b), clause (1), item (v).

EFFECTIVE DATE. This section is effective retroactive from January 1, 2014.

Sec. 3. Minnesota Statutes 2014, section 256B.15, subdivision 2, is amended to read:

4.1 Subd. 2. **Limitations on claims.** The claim shall include only the total amount of
4.2 medical assistance rendered ~~after age 55 or~~ during a period of institutionalization described
4.3 in subdivision 1a, paragraph (e), and the total amount of general assistance medical care
4.4 rendered under the program formerly codified under chapter 256D, and shall not include
4.5 interest. Claims that have been allowed but not paid shall bear interest according to section
4.6 524.3-806, paragraph (d). A claim against the estate of a surviving spouse who did not
4.7 receive medical assistance, for medical assistance rendered for the predeceased spouse,
4.8 shall be payable from the full value of all of the predeceased spouse's assets and interests
4.9 which are part of the surviving spouse's estate under subdivisions 1a and 2b. Recovery of
4.10 medical assistance expenses in the nonrecipient surviving spouse's estate is limited to the
4.11 value of the assets of the estate that were marital property or jointly owned property at any
4.12 time during the marriage. The claim is not payable from the value of assets or proceeds of
4.13 assets in the estate attributable to a predeceased spouse whom the individual married after
4.14 the death of the predeceased recipient spouse for whom the claim is filed or from assets
4.15 and the proceeds of assets in the estate which the nonrecipient decedent spouse acquired
4.16 with assets which were not marital property or jointly owned property after the death of
4.17 the predeceased recipient spouse. Claims for alternative care shall be net of all premiums
4.18 paid under section 256B.0913, subdivision 12, on or after July 1, 2003, and shall be
4.19 limited to services provided on or after July 1, 2003. Claims against marital property shall
4.20 be limited to claims against recipients who died on or after July 1, 2009.

4.21 **EFFECTIVE DATE.** This section is effective retroactive from January 1, 2014.

4.22 Sec. 4. Minnesota Statutes 2014, section 256B.15, is amended by adding a subdivision
4.23 to read:

4.24 Subd. 2c. **Reimbursement required.** The commissioner must reimburse the estate
4.25 of a medical assistance recipient the amount of any recovery made from the estate of an
4.26 individual who was age 55 to 64, received medical assistance for services other than
4.27 institutional services, and was eligible for medical assistance based on the eligibility
4.28 category established by section 256B.056, subdivision 1a, paragraph (b), clause (1),
4.29 item (v).

4.30 **EFFECTIVE DATE.** This section is effective retroactive from January 1, 2014.