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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 3467

03/23/2016 Authored by Dean, M.; Ecklund; Albright; Moran; Murphy, E., 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 human services; modifying certain medical assistance estate recovery
1.3 requirements; amending Minnesota Statutes 2014, section 256B.15, subdivisions
1.4 1a, 2.

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;

2.1 (4) all of the person's interests in joint accounts, multiple-party accounts, and
2.2 pay-on-death accounts, brokerage accounts, investment accounts, or the proceeds of
2.3 those accounts, as provided under sections 524.6-201 to 524.6-214 at the time of the
2.4 person's death to the extent the interests become part of the probate estate under section
2.5 524.6-207; and

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

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

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

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

2.24 (1) the person was over 55 years of age, and received services under this chapter
2.25 prior to January 1, 2014;

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

2.33 (3) the person received general assistance medical care services under chapter
2.34 256D; or

3.1 (4) the person was 55 years of age or older and received medical assistance
 3.2 services on or after January 1, 2014, that consisted of nursing facility services, home and
 3.3 community-based services, or related hospital and prescription drug benefits.

3.4 (f) The claim shall be considered an expense of the last illness of the decedent for
 3.5 the purpose of section 524.3-805. Notwithstanding any law or rule to the contrary, a
 3.6 state or county agency with a claim under this section must be a creditor under section
 3.7 524.6-307. Any statute of limitations that purports to limit any county agency or the state
 3.8 agency, or both, to recover for medical assistance granted hereunder shall not apply to any
 3.9 claim made hereunder for reimbursement for any medical assistance granted hereunder.
 3.10 Notice of the claim shall be given to all heirs and devisees of the decedent, and to other
 3.11 persons with an ownership interest in the real property owned by the decedent at the time
 3.12 of the decedent's death, whose identity can be ascertained with reasonable diligence. The
 3.13 notice must include procedures and instructions for making an application for a hardship
 3.14 waiver under subdivision 5; time frames for submitting an application and determination;
 3.15 and information regarding appeal rights and procedures. Counties are entitled to one-half
 3.16 of the nonfederal share of medical assistance collections from estates that are directly
 3.17 attributable to county effort. Counties are entitled to ten percent of the collections for
 3.18 alternative care directly attributable to county effort.

3.19 **EFFECTIVE DATE.** This section is effective upon federal approval and applies to
 3.20 services rendered on or after January 1, 2014.

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

3.22 Subd. 2. **Limitations on claims.** (a) For services rendered prior to January 1, 2014,
 3.23 the claim shall include only the total amount of medical assistance rendered after age 55 or
 3.24 during a period of institutionalization described in subdivision 1a, paragraph (e), and the
 3.25 total amount of general assistance medical care rendered, and shall not include interest.

3.26 (b) For services rendered on or after January 1, 2014, the claim shall include only:

3.27 (1) the amount of medical assistance rendered to recipients 55 years of age or older
 3.28 and that consisted of nursing facility services, home and community-based services, and
 3.29 related hospital and prescription drug services; and

3.30 (2) the total amount of medical assistance rendered during a period of
 3.31 institutionalization described in subdivision 1a, paragraph (e).

3.32 The claim shall not include interest. For the purposes of this section, "home and
 3.33 community-based services" has the same meaning it has when used in United States Code,
 3.34 title 42, section 1396p, subsection (b), paragraph (1), subparagraph (B), clause (i).

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

4.17 **EFFECTIVE DATE.** This section is effective upon federal approval and applies to
4.18 services rendered on or after January 1, 2014.

4.19 Sec. 3. **AMENDING NOTICES OR LIENS ARISING OUT OF NOTICE.**

4.20 (a) State agencies must amend notices of potential claims and liens arising from
4.21 the notices, if the notice was filed after January 1, 2014, for medical assistance services
4.22 rendered on or after January 1, 2014, to a recipient who at the time services were rendered
4.23 was 55 years of age or older and who was not institutionalized as described in Minnesota
4.24 Statutes, section 256B.15, subdivision 1a, paragraph (e).

4.25 (b) The notices identified in paragraph (a) must be amended by removing the amount
4.26 of medical assistance rendered that did not consist of nursing facility services, home and
4.27 community-based services, as defined in Minnesota Statutes, section 256B.15, subdivision
4.28 1a, and related hospital and prescription drug services.

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