HF3729 - 1A - "Spousal Anti-Impoverishment Provisions"

Chief Author:	**Tony Albright**
Commitee:	**Health and Human Services Finance**
Date Completed:	**04/12/2016**
Agency:	Human Services Dept

State Fiscal Impact	Yes	No
Expenditures		X
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X

Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact. if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)		Biennium		Biennium	
Dollars in Thousands	FY2015	FY2016	FY2017	FY2018	FY2019
Total	-	-	-	-	-
Biennial Total			-		-

Full Time Equivalent Positions (FTE)		Biennium		Biennium	
	FY2015	FY2016	FY2017	FY2018	FY2019
Total	-	-	-	-	-

Executive Budget Officer's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with MMB's Fiscal Note policies.

EBO Signature: Travis Bunch Date: 4/12/2016 6:51:00 PM
Phone: 651 201-8038 Email travis.bunch@state.mn.us

State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.
*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2			Biennium		Biennium	
Dollars in Thousands		FY2015	FY2016	FY2017	FY2018	FY2019
	Total	-	-	-	-	-
	Biennial Total			-		-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
	Total	-	-	-	-	-
	Biennial Total			-		-
2 - Revenues, Transfers In*						
	Total	-	-	-	-	-
	Biennial Total			-		-

Bill Description

The language in this bill adds criteria under which a married person, subject to the anti-spousal impoverishment rules, can be granted a hardship waiver from being found ineligible for Medical Assistance (MA) due to excess assets. People whose MA eligibility would be denied due to having assets in excess of the MA asset limit, when counting assets owned by the persons spouse (community spouse) in designated retirement accounts or college savings accounts for the couples children under the age of 25, could be found eligible.

For purposes of this provision only, retirement assets held by the community spouse in a tax-deferred retirement account, including a defined benefit plan, defined contribution plan, employer-sponsored individual retirement arrangement, or an individually-purchased individual retirement arrangement, are protected until the community spouse is eligible to withdraw retirement funds from any or all of these accounts without penalty. Also, funds in a plan designated under section 529 of the Internal Revenue Code on behalf of a child of either or both spouses who is under the age of 25 are protected. An assignment of spousal support to the Department of Human Services or a cause of action against the individual's spouse under 256B.14 Subdivision 3 for failing to make the funds in the protected retirement and college savings accounts available does not apply in these cases.

The language is effective June 1, 2016, to coincide with the implementation of spousal impoverishment in the HCBS waiver programs serving people with disabilities.

Assumptions

Under current law, anti-spousal impoverishment rules apply to married people where one spouse is receiving services through the Elderly Waiver or in a long-term care facility. These rules divide a couples assets under a prescribed formula and those attributed to the spouse requesting MA must be reduced to the MA asset limit. Beginning January 1, 2014, federal law mandated anti-spousal impoverishment rules be applied in all of the home and community-based services (HCBS) waiver programs. Minnesota sought a waiver from this mandate but the Center for Medicare and Medicaid Services (CMS) rejected that request. The Governor has proposed legislation that would bring Minnesota into compliance with federal law for new applicants beginning June 1, 2016, and to apply these rules beginning March 1, 2017, to people enrolled in the program on May 31, 2016, in accordance with a corrective action plan required by CMS. This provision applies to all people subject to the anti-spousal impoverishment rules and may reduce the impact to people in the HCBS waiver programs who will become subject to the anti-spousal impoverishment rules beginning June 1, 2016.

This bill has no fiscal impact based on *current state law* since the proposed legislation is mostly expected to impact individuals with a disability under age 65 eligible for home and community based services (HCBS) who are not currently subject to federal anti-spousal impoverishments rules. The assets of the spouses of these individuals are not counted under current law and therefore a hardship waiver would not be needed.

CMS denied the states request for a waiver to continue Minnesotas current policy of not considering the spouses assets for the purposes of determining eligibility for HCBS waivers for people with disabilities (CAC, CADI, DD, BI). As a result of the waiver denial, Minnesota is now required to come into compliance with anti-spousal impoverishment requirements and is under a corrective action plan for current and new enrollees with disabilities eligible for the HCBS waivers. This corrective action plan will allow Minnesota to move forward with amendments to its HCBS waivers that require compliance with anti-spousal impoverishment rules, as well as the approval process for Community First Services and Supports (CFSS).

Currently the Governors budget has two components that would have an interaction with this proposal:

1. Federal compliance with anti-spousal impoverishment rules. This applies to people with disabilities eligible for the HCBS waivers (CAC, CADI, DD, BI) and individuals eligible for CFSS when that is approved and implemented.

2. Mitigation intended to reduce the loss of eligibility for persons on and eligible for the HCBS waivers due to the application of anti-spousal impoverishment rules. The mitigation would increase the amount the community or well spouse could retain in assets to the federal maximum ($119,200). This will help some people maintain enrollment in MA in combination with CADI, CAC, DD and BI, and will also help people who are already subject to the anti-impoverishment rules (in nursing facilities and on EW).

The chart below shows the fiscal impact of the Governors budget proposal by each component.

Changing the Treatment of Spousal Assets for MA LTC Eligibility (State Share in 000s)					
			FY2017	**FY2018**	**FY2019**
Savings from applying SI to HCBS > 65 Fed Compliance			($512)	($1,536)	($1,088)
Cost for applying SI protections to CFSS Fed Compliance			1,741	7,220	7,612
Cost for raising the CSAA - Mitigation			$3,404	$7,287	$7,341
Net Cost			**$4,633**	**$12,968**	**$13,865**

The proposed legislation in HF3729 only comes into effect for people with disabilities under age 65 eligible for HCBS waivers when federal anti-spousal impoverishment rules are applied which are included in the Governors budget proposal.

The proposed legislation would likely add a small cost if applied to the Governors total budget proposal (compliance and mitigation).

The proposed legislation would add cost that DHS would need to price if only included with the federal compliance components.

Expenditure and/or Revenue Formula

Not applicable

Long-Term Fiscal Considerations

None

Local Fiscal Impact

None

References/Sources

Agency Contact: Patrick Hultman 651-431-4311

Agency Fiscal Note Coordinator Signature: Don Allen **Date:** 4/12/2016 5:46:42 PM

Phone: 651 431-2932 **Email:** Don.Allen@state.mn.us