

House Research Act Summary

CHAPTER: 400

SESSION: 2000 Regular Session

TOPIC: State Health Care Program Recoveries

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Overview

This act makes changes in laws governing liens and estate recoveries for state health care programs. The act also requires state agencies to present recommendations to the legislature on changes in the funding source for day training and habilitation services.

- 1 **Sanctions; monetary recovery.** Amends § 256B.064. Clarifies provisions related to monetary recovery and sanctions against MA vendors. The section more clearly delineates grounds for imposing sanctions and seeking monetary recovery, includes failure to repay an overpayment as a ground for a sanction, and makes other changes.
- 2 **Estates subject to claims.** Amends § 256B.15, subd. 1a. Allows claims against estates to be filed in the court with jurisdiction to issue a decree of descent.
- 3 **Other survivors.** Amends § 256B.15, subd. 4. Strikes a reference to obtaining federal approval in a section specifying circumstances in which a claim against the estate is limited to the value of nonhomestead property, and makes conforming changes. (Federal approval has been obtained.)
- 4 **Time limits; claim limits.** Amends § 514.981, subd. 6. Allows MA liens against real property to be enforceable for ten years, and allows the liens to be renewed for an additional ten years. (Under current law, which is stricken in this section, liens expire between 18 and 36 months after a recipient dies, unless the agency forecloses or collects the lien.) Eliminates the requirement that a claim be filed in order for a lien to remain valid. This section also specifies items in the probate code that have priority over an MA lien, if there are insufficient assets in the estate.
- 5 **Surviving spouse receiving medical assistance.** Adds § 524.2-215.
 - (a) Specifies that the section applies to surviving spouses receiving MA or GAMC at the time the person's spouse dies.

- (b) Extends the time a surviving spouse has to exercise the right to take an elective share of the decedent's estate or to elect statutory rights in the homestead. (Under current law, some of these rights must be exercised within nine months of the death of the community spouse or six months after the estate is opened. This provision extends the period until the estate closes.)
- (c) Allows the personal representative of the estate of the surviving spouse to exercise the right of election and statutory right to the homestead.
- (d) Requires the guardian or conservator for the surviving spouse to exercise the right to an elective share amount without needing a court order, if this will result in a larger share of the estate than under the will or intestate succession.
- (e) Allows a party petitioning to establish guardianship or conservatorship for the surviving spouse to prevent the deceased spouse's estate from closing until the petition is granted or denied, and suspends time limitations related to filing for an elective share and statutory rights in the homestead. Requires distributees of the decedent's estate to turn over to the ward, conservatee, or estate of the ward or conservatee, all amounts the ward or conservatee is entitled to receive from the decedent's estate.
- (f) Allows the surviving spouse, or guardian or conservator of the surviving spouse, to exercise rights to the estate even if they had been previously waived. This does not apply if the waiver was part of a valid antenuptial agreement.

6 **Notice to creditors.** Amends § 524.3-801. Specifies that the provision of notice to the commissioner of human services that a deceased person had received payments for care at a state facility, MA, GAMC, or payments for county burial does not satisfy the requirement that an estate provide a supplementary notice of probate to its known and identified creditors.

7 **Decree of descent.** Amends § 525.312. Requires a clearance for MA claims to be on file and any MA claims to be paid or satisfied, before a decree of descent can be entered.

8 **Clearance for medical assistance claims.** Adds § 525.313. States that a court shall not enter a decree of descent until the petitioner has filed a clearance for MA claims, and until any MA claims have been paid, settled, or otherwise disposed of. Specifies procedures for the clearance of MA claims.

9 **Day services programs.** Requires the commissioners of human services, revenue, and finance, in consultation with interested groups, to present recommendations on the transfer of responsibility for funding day training and habilitation services from county funds to the general fund, including a proposal for a home and community-based waiver for day services programs, to legislative committee chairs by January 1, 2001.