

30:4D-7.2a

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2009 **CHAPTER:** 321

NJSA: 30:4D-7.2a (Provides for asset disregard for Medicaid recipients under long-term care insurance partnership)

BILL NO: A1853 (Substituted for S3109)

SPONSOR(S) Conaway and Others

DATE INTRODUCED: January 24, 2008

COMMITTEE: **ASSEMBLY:** Health and Senior Services
 SENATE: Health, Human Services and Senior Citizens

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** January 11, 2010
 SENATE: January 7, 2010

DATE OF APPROVAL: January 18, 2010

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Assembly Committee Substitute (Second reprint) enacted)

A1853

SPONSOR'S STATEMENT: (Begins on page 4 of introduced bill)	Yes
COMMITTEE STATEMENT:	ASSEMBLY: Yes
	SENATE: Yes

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, **may possibly** be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT:	Yes
LEGISLATIVE FISCAL ESTIMATE:	No

S3109

SPONSOR'S STATEMENT: (Begins on page 2 of introduced bill)	Yes
COMMITTEE STATEMENT:	ASSEMBLY: No
	SENATE: Yes
FLOOR AMENDMENT STATEMENT:	Yes
LEGISLATIVE FISCAL ESTIMATE:	No

(continued)

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

LAW/RWH

[Second Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1853

STATE OF NEW JERSEY
213th LEGISLATURE

ADOPTED FEBRUARY 25, 2008

Sponsored by:

Assemblyman HERB CONAWAY, JR.

District 7 (Burlington and Camden)

Assemblywoman LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

Co-Sponsored by:

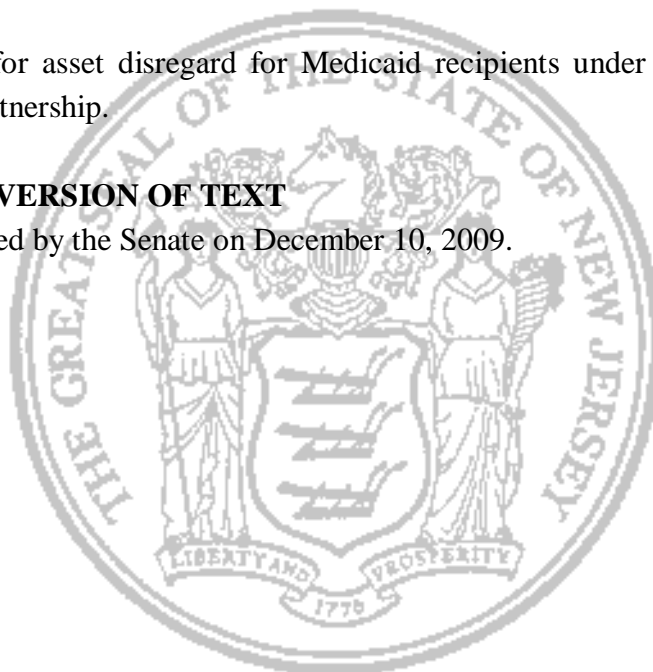
Senators Gordon and T.Kean

SYNOPSIS

Provides for asset disregard for Medicaid recipients under long-term care insurance partnership.

CURRENT VERSION OF TEXT

As amended by the Senate on December 10, 2009.



(Sponsorship Updated As Of: 1/8/2010)

1 AN ACT concerning asset protection for certain Medicaid recipients
2 and amending P.L.1981, c.217.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 1 of P.L.1981, c.217 (C.30:4D-7.2a) is amended to
8 read as follows:

9 1. No encumbrance or recovery shall be imposed against or
10 sought from the estate of a deceased recipient for assistance
11 correctly paid under:

12 a. The "New Jersey Medical Assistance and Health Services
13 Act," P.L.1968, c.413 (C.30:4D-1 et seq.), **[if]** under any of the
14 following circumstances: (1) the amount sought to be recovered is
15 less than \$500, the gross estate is less than \$3,000 or there is a
16 surviving spouse or a surviving child who is under the age of 21 or
17 is blind or permanently and totally disabled, except for assistance
18 incorrectly or illegally paid, or for third party liability recovery
19 sought under P.L.1968, c.413 (C.30:4D-1 et seq.); **[or]** (2)**[,]** in the
20 case of a recipient who became deceased on or after the effective
21 date of P.L.1995, c.289, if there is a surviving spouse or a surviving
22 child who is under the age of 21 or is blind or permanently and
23 totally disabled, except for assistance incorrectly or illegally paid,
24 or for third party liability recovery sought under P.L.1968, c.413
25 (C.30:4D-1 et seq.); or (3) in the case of a recipient who has been
26 afforded asset protection under a long-term care insurance
27 partnership in accordance with the provisions of the federal "Deficit
28 Reduction Act of 2005," Pub.L.109-171, up to the amount of assets
29 disregarded at the time of eligibility determination; or

30 b. The "Pharmaceutical Assistance to the Aged and Disabled"
31 program, P.L.1975, c.194 (C.30:4D-20 et seq.), except for
32 assistance incorrectly or illegally paid, or for third party liability
33 recovery sought under P.L.1968, c.413 (C.30:4D-1 et seq.).
34 (cf: P.L.1995, c.289, s.2)

35

36 2. This act shall take effect on ¹**[July 1, 2008]** ²**[July 1,**
37 **2010¹]** immediately².

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SHH committee amendments adopted December 7, 2009.

² Senate floor amendments adopted December 10, 2009.

ASSEMBLY, No. 1853

STATE OF NEW JERSEY

213th LEGISLATURE

INTRODUCED JANUARY 24, 2008

Sponsored by:

Assemblyman HERB CONAWAY, JR.

District 7 (Burlington and Camden)

Assemblywoman LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

SYNOPSIS

"Long-Term Care Partnership Program Act"; establishes Long-Term Care Partnership Program in DHS.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/26/2008)

1 AN ACT establishing the Long-Term Care Partnership Program and
2 supplementing Title 30 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. This act shall be known and may be cited as the “Long-Term
8 Care Partnership Program Act.”

9

10 2. The Legislature finds and declares that:

11 a. About half of all women and about a third of all men over 65
12 years of age will need nursing home care at some point in their
13 lives, with even more needing home and community-based care;
14 and currently, some 40% of those using long-term care services are
15 between 18 and 64 years of age;

16 b. Purchasing private long-term care insurance enables the
17 insured person to remain in control of that individual’s assets at the
18 time that the person needs long-term care and increases the person’s
19 chances of receiving the type of long-term care that the person
20 wants, whether in a nursing home or in the person’s own residence,
21 while helping that person to retain the dignity and independence
22 that comes from having the ability to choose the kind of care that
23 the person receives;

24 c. In 1988, The Robert Wood Johnson Foundation began
25 funding the Partnership for Long-Term Care, a public-private
26 alliance between state governments and insurance companies, to
27 create long-term care insurance programs in the various states; and
28 the states of California, Connecticut, Indiana, and New York have
29 since established their own partnership programs;

30 d. The partnership programs established in these four states
31 combine private long-term care insurance with special Medicaid
32 eligibility standards and provide an incentive for insurers to offer
33 high quality products and for consumers to protect themselves from
34 the high cost of long-term care;

35 e. Policy sales in these four states indicate a steadily growing
36 interest in the purchase of public-private long-term care insurance
37 and suggest that, when given the opportunity, consumers are willing
38 to protect themselves against long-term care costs;

39 f. The partnership programs in California, Connecticut,
40 Indiana, and New York were established prior to the federal
41 “Omnibus Budget Reconciliation Act of 1993,” Pub.L.103-66,
42 known as OBRA ‘93, which required that all states pursue liens and
43 recoveries from the estates of Medicaid recipients who received
44 long-term care services;

45 g. The effect of OBRA ‘93 was to nullify the asset protection
46 feature of the partnership programs for other states such as New
47 Jersey that might wish to replicate these programs, since the
48 programs established prior to OBRA ‘93 were permitted to continue

1 as developed but additional states could not offer the asset
2 protection incentive;

3 h. The federal “Deficit Reduction Act of 2005,” Pub.L.109-
4 171, overturned the OBRA ‘93 restrictions on the asset protection
5 feature of long-term care partnership programs by permitting
6 additional states to establish partnership programs such as those in
7 California, Connecticut, Indiana, and New York;

8 i. The establishment by New Jersey of a long-term care
9 partnership program with asset protection features similar to those
10 in the above four states could stimulate the development of an
11 expanded private long-term care insurance market in this State,
12 which would relieve financial pressure on the Medicaid program
13 associated with funding long-term care, while also protecting many
14 elderly and disabled persons who would otherwise deplete their life
15 savings paying for long-term care in order to qualify for Medicaid
16 coverage of their long-term care costs; and

17 j. It is, therefore, in the public interest to provide statutory
18 authorization for a long-term care partnership program in New
19 Jersey.

20

21 3. a. The Commissioner of Human Services, in consultation
22 with the Commissioners of Health and Senior Services and Banking
23 and Insurance and subject to federal approval, shall establish the
24 Long-Term Care Partnership Program in the Department of Human
25 Services.

26 b. The program shall be designed to meet the requirements of a
27 qualified State long-term care insurance partnership in accordance
28 with the provisions of the federal “Deficit Reduction Act of 2005,”
29 Pub.L.109-171.

30 c. The Commissioner of Human Services, in consultation with
31 the Commissioners of Health and Senior Services and Banking and
32 Insurance, shall seek an amendment to the State Medicaid plan in
33 order to effectuate the purposes of this act.

34

35 4. The Commissioner of Human Services, in consultation with
36 the Commissioners of Health and Senior Services and Banking and
37 Insurance, shall annually report to the Governor, and to the
38 Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1),
39 on the effectiveness of the Long-Term Care Partnership Program in
40 meeting its objectives.

41

42 5. The Commissioner of Human Services shall adopt
43 regulations, in consultation with the Commissioners of Health and
44 Senior Services and Banking and Insurance and pursuant to the
45 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
46 seq.), to effectuate the purposes of this act.

1 6. This act shall take effect on the 90th day after enactment,
2 except that the Commissioners of Human Services, Health and
3 Senior Services, and Banking and Insurance may take such
4 anticipatory administrative action in advance as shall be necessary
5 for the implementation of the act.

6

7

8

STATEMENT

9

10 This bill, which is designated the “Long-Term Care Partnership
11 Program Act,” establishes the Long-Term Care Partnership Program
12 to provide disregard of certain assets with respect to Medicaid
13 eligibility for persons who purchase and receive benefits from a
14 long-term care insurance policy that meets the requirements of
15 federal law.

16 The bill provides specifically as follows:

- 17 • The Commissioner of Human Services, in consultation with the
18 Commissioners of Health and Senior Services and Banking and
19 Insurance and subject to federal approval, is to establish the
20 Long-Term Care Partnership Program in the Department of
21 Human Services.
- 22 • The program is to be designed to meet the requirements of a
23 qualified State long-term care insurance partnership in
24 accordance with the provisions of the federal “Deficit Reduction
25 Act of 2005,” Pub.L.109-171.
- 26 • The Commissioner of Human Services, in consultation with the
27 Commissioners of Health and Senior Services and Banking and
28 Insurance, is directed to seek an amendment to the State Medicaid
29 plan in order to effectuate the purposes of the bill.
- 30 • The Commissioner of Human Services, in consultation with the
31 Commissioners of Health and Senior Services and Banking and
32 Insurance, is to annually report to the Governor, and the
33 Legislature on the effectiveness of the Long-Term Care
34 Partnership Program in meeting its objectives.
- 35 • The bill takes effect on the 90th day after enactment, but
36 authorizes the Commissioners of Human Services, Health and
37 Senior Services, and Banking and Insurance to take anticipatory
38 administrative action in advance as necessary for its
39 implementation.

ASSEMBLY HEALTH AND SENIOR SERVICES COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 1853

STATE OF NEW JERSEY

DATED: FEBRUARY 25, 2008

The Assembly Health and Senior Services Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 1853.

This committee substitute is intended to respond to the provisions of the federal "Deficit Reduction Act of 2005," Pub.L.109-171, which permit additional states to establish long-term care partnership programs that combine private long-term care insurance with special Medicaid eligibility standards.

Specifically, the substitute amends section 1 of P.L.1981, c.217 (C.30:4D-7.2a), which sets forth those circumstances in which asset recovery is not to be sought from the estate of a deceased Medicaid recipient, by adding to those circumstances the case of a recipient who has been afforded asset protection under a long-term care insurance partnership in accordance with the provisions of Pub.L.109-171, up to the amount of assets disregarded at the time of eligibility determination.

The substitute takes effect on July 1, 2008.

MINORITY STATEMENT

Submitted by Assemblyman Munoz and Assemblywoman Angelini

The sponsor of this bill should be commended for his efforts to promote partnership programs that combine private long-term care insurance with special Medicaid eligibility standards.

At this time, the monetary impact of this bill on the State cannot be determined. The original version of this bill was certified for a fiscal note; however, a note has not been made available. Although the committee released a committee substitute for this bill, members were not provided with any official fiscal information. We are, therefore, compelled to withhold support for this particular legislation at this time.

SENATE HEALTH, HUMAN SERVICES AND SENIOR
CITIZENS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1853

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 7, 2009

The Senate Health, Human Services and Senior Citizens Committee reports favorably and with committee amendments the Assembly Committee Substitute for Assembly, No. 1853.

As amended by the committee, this substitute is intended to respond to the provisions of the federal "Deficit Reduction Act of 2005," Pub.L.109-171, which permits states to establish long-term care partnership programs that combine private long-term care insurance with special Medicaid eligibility standards and provide for some degree of asset protection.

Specifically, the substitute amends section 1 of P.L.1981, c.217 (C.30:4D-7.2a), which sets forth those circumstances under which asset recovery is not to be sought from the estate of a deceased Medicaid recipient. This substitute adds to those circumstances the case of a recipient who has been afforded asset protection under a long-term care insurance partnership in accordance with the provisions of the federal "Deficit Reduction Act of 2005," up to the amount of assets disregarded at the time of eligibility determination.

The substitute takes effect on July 1, 2010.

The committee amendments change the effective date from July 1, 2008 to July 1, 2010.

As amended, this substitute is identical to Senate Bill No. 3109 (Gordon), which the committee also reported favorably on this date.

STATEMENT TO

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1853

with Senate Floor Amendments
(Proposed by Senator GORDON)

ADOPTED: DECEMBER 10, 2009

This amendment makes the bill effective immediately, thereby enabling the State to establish, without delay, a public/private long-term care insurance program authorized by the federal "Deficit Reduction Act of 2005," Pub.L.109-171.

SENATE, No. 3109

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED DECEMBER 3, 2009

Sponsored by:

Senator ROBERT M. GORDON

District 38 (Bergen)

Senator THOMAS H. KEAN, JR.

District 21 (Essex, Morris, Somerset and Union)

SYNOPSIS

Provides for asset disregard for Medicaid recipients under long-term care insurance partnership.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/8/2009)

1 AN ACT concerning asset protection for certain Medicaid recipients
2 and amending P.L.1981, c.217.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 1 of P.L.1981, c.217 (C.30:4D-7.2a) is amended to
8 read as follows:

9 1. No encumbrance or recovery shall be imposed against or
10 sought from the estate of a deceased recipient for assistance
11 correctly paid under:

12 a. The "New Jersey Medical Assistance and Health Services
13 Act," P.L.1968, c.413 (C.30:4D-1 et seq.), **[if]** under any of the
14 following circumstances: (1) the amount sought to be recovered is
15 less than \$500, the gross estate is less than \$3,000 or there is a
16 surviving spouse or a surviving child who is under the age of 21 or
17 is blind or permanently and totally disabled, except for assistance
18 incorrectly or illegally paid, or for third party liability recovery
19 sought under P.L.1968, c.413 (C.30:4D-1 et seq.); **[or]** (2)**[,]** in the
20 case of a recipient who became deceased on or after the effective
21 date of P.L.1995, c.289, if there is a surviving spouse or a surviving
22 child who is under the age of 21 or is blind or permanently and
23 totally disabled, except for assistance incorrectly or illegally paid,
24 or for third party liability recovery sought under P.L.1968, c.413
25 (C.30:4D-1 et seq.); or (3) in the case of a recipient who has been
26 afforded asset protection under a long-term care insurance
27 partnership in accordance with the provisions of the federal "Deficit
28 Reduction Act of 2005," Pub.L.109-171, up to the amount of assets
29 disregarded at the time of eligibility determination; or

30 b. The "Pharmaceutical Assistance to the Aged and Disabled"
31 program, P.L.1975, c.194 (C.30:4D-20 et seq.), except for
32 assistance incorrectly or illegally paid, or for third party liability
33 recovery sought under P.L.1968, c.413 (C.30:4D-1 et seq.).

34 (cf: P.L.1995, c.289, s.2)

35

36 2. This act shall take effect on July 1, 2010.

37

38

STATEMENT

39

40 This bill is intended to respond to the provisions of the federal
41 "Deficit Reduction Act of 2005," Pub.L.109-171, which permit
42 additional states to establish long-term care partnership programs
43 that combine private long-term care insurance with special
44 Medicaid eligibility standards.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

S3109 GORDON, T. KEAN

3

1 Specifically, the bill amends section 1 of P.L.1981, c.217
2 (C.30:4D-7.2a), which sets forth those circumstances in which asset
3 recovery is not to be sought from the estate of a deceased Medicaid
4 recipient, by adding to those circumstances the case of a recipient
5 who has been afforded asset protection under a long-term care
6 insurance partnership in accordance with the provisions of
7 Pub.L.109-171, up to the amount of assets disregarded at the time
8 of eligibility determination.

9 The bill takes effect on July 1, 2010.

SENATE HEALTH, HUMAN SERVICES AND SENIOR
CITIZENS COMMITTEE

STATEMENT TO

SENATE, No. 3109

STATE OF NEW JERSEY

DATED: DECEMBER 7, 2009

The Senate Health, Human Services and Senior Citizens Committee reports favorably Senate Bill No. 3109.

This bill is intended to respond to the provisions of the federal "Deficit Reduction Act of 2005," Pub.L.109-171, which permits states to establish long-term care partnership programs that combine private long-term care insurance with special Medicaid eligibility standards and provide for some degree of asset protection.

Specifically, the bill amends section 1 of P.L.1981, c.217 (C.30:4D-7.2a), which sets forth those circumstances under which asset recovery is not to be sought from the estate of a deceased Medicaid recipient. This bill adds to those circumstances the case of a recipient who has been afforded asset protection under a long-term care insurance partnership in accordance with the provisions of the federal "Deficit Reduction Act of 2005," up to the amount of assets disregarded at the time of eligibility determination.

The bill takes effect on July 1, 2010.

This bill is identical to Assembly Committee Substitute for Assembly Bill No. 1853 (SCA) (Conaway/Greenstein), which the committee also reported favorably on this date.

STATEMENT TO

SENATE, No. 3109

with Senate Floor Amendments
(Proposed by Senator GORDON)

ADOPTED: DECEMBER 10, 2009

This amendment makes the bill effective immediately, thereby enabling the State to establish, without delay, a public/private long-term care insurance program authorized by the federal "Deficit Reduction Act of 2005," Pub.L.109-171.