

LEGISLATIVE HISTORY CHECKLIST
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(Medicaid--liens--recipients estate)

NJSA: 30:4D-7.2

LAWS OF: 1995 CHAPTER: 289

BILL NO: S2347

SPONSOR(S): Bassano

DATE INTRODUCED: November 9, 1995

COMMITTEE: ASSEMBLY Insurance

SENATE: Human Services

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: ASSEMBLY: December 21, 1995

SENATE: December 11, 1995

DATE OF APPROVAL: December 22, 1995

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes

SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBP:pp

ORIGINAL COPY

P.L.1995, CHAPTER 289, *approved December 22, 1995*

1995 Senate No. 2347

1 **AN ACT** concerning liens imposed by the Medicaid program and
2 amending P.L.1979, c.365 and P.L.1981, c.217.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the
5 *State of New Jersey*:

6 1. Section 7 of P.L.1979, c.365 (C.30:4D-7.2) is amended to
7 read as follows:

8 7. a. (1) A lien may be filed against [or] and recovery sought
9 from the estate of a deceased recipient for assistance correctly
10 paid or to be paid on his behalf for all services received when he
11 was 65 years of age or older, except as provided in section 1 of
12 P.L.1981, c.217 (C.30:4D-7.2a).

13 (2) In the case of a recipient who became deceased on or after
14 April 1, 1995 for whom a Medicaid payment was made on or after
15 October 1, 1993, a lien may be filed against and recovery sought
16 from the estate of the deceased recipient for assistance correctly
17 paid or to be paid on his behalf for all services received when he
18 was 55 years of age or older, except as provided in section 1 of
19 P.L.1981, c.217 (C.30:4D-7.2a).

20 (3) As used in this section, "estate" includes all real and
21 personal property and other assets included in the recipient's
22 estate as defined in N.J.S.3B:1-1, as well as any other real and
23 personal property and other assets in which the recipient had any
24 legal title or interest at the time of death, to the extent of that
25 interest, including assets conveyed to a survivor, heir or assign of
26 the recipient through joint tenancy, tenancy in common,
27 survivorship, life estate, living trust or other arrangement.

28 b. A lien may be filed by the division against a third party's
29 property, whether real or personal, or against any interest or
30 estate in property, whether vested or contingent.

31 Subject to section 6 of P.L.1979, c.365 (C.30:4D-7.1), any third
32 party recovery obtained by the division under this subsection shall
33 not be reduced by any counsel fees, costs, or other expenses, or
34 portions thereof, incurred by the recipient or the recipient's
35 attorney.

36 c. A certificate of debt may be filed by the division against
37 such parties and in such a manner as is specified in subsection (h)
38 of section 17 of P.L.1968, c.413 (C.30:4D-17).

39 d. (1) A lien, claim or encumbrance imposed by this act shall
40 be deemed a preferred claim against the recipient's estate and
41 shall have a priority equivalent to that under subsection d. of
42 N.J.S.3B:22-2.

43 (2) In the case of a recipient who became deceased on or after
44 the effective date of P.L. _____, c. _____ (pending before the

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.

1 Legislature as this bill), a lien, claim or encumbrance imposed
2 pursuant to this section shall be deemed a preferred claim against
3 the recipient's estate and shall have a priority equivalent to that
4 under subsection c. of N.J.S.3B:22-2.

5 (cf: P.L.1992, c.115, s.1)

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

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

11 a. The "New Jersey Medical Assistance and Health Services
12 Act," P.L.1968, c.413 (C.30:4D-1 et seq.), if: (1) the amount
13 sought to be recovered is less than \$500, the gross estate is less
14 than \$3,000 or there is a surviving spouse or a surviving child who
15 is under the age of 21 or is blind or permanently and totally
16 disabled, except for assistance incorrectly or illegally paid, or for
17 third party liability recovery sought under P.L.1968, c.413
18 (C.30:4D-1 et seq.); or (2), in the case of a recipient who became
19 deceased on or after the effective date of P.L. _____, c. _____
20 (pending before the Legislature as this bill), if there is a surviving
21 spouse or a surviving child who is under the age of 21 or is blind
22 or permanently and totally disabled, except for assistance
23 incorrectly or illegally paid, or for third party liability recovery
24 sought under P.L.1968, c.413 (C.30:4D-1 et seq.); or

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

29 (cf: P.L.1992, c.115, s.2)

30 3. This act shall take effect immediately and shall be
31 retroactive to April 1, 1995.

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STATEMENT

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36 This bill expands the authority of the Division of Medical
37 Assistance and Health Services in the Department of Human
38 Services to impose a lien and seek recovery against a Medicaid
39 recipient's estate after death.

40 This bill is designed to meet a requirement for legislative
41 enactment by all states under the federal "Omnibus Budget
42 Reconciliation Act of 1993," Pub.L.103-66, and also includes
43 optional provisions for the states to enact under that law.

44 Specifically, the bill:

45 • permits the State to recover Medicaid payments for all
46 health care services if medical assistance was provided to a
47 recipient who was 55 years of age or older (rather than 65 years
48 or older as currently provided in the law);

49 • increases the priority given to Medicaid probate claims from
50 the fourth to the third highest priority classification under
51 N.J.S.3B:22-2 (after funeral expenses and costs and expenses of
52 administration, and equivalent to debts and taxes with preference
53 under federal law); and

54 • eliminates the dollar threshold requirements provided in the

1 law for Medicaid recovery from the estate of a deceased
2 recipient (currently, the claim must be for at least \$500 and the
3 gross estate must be at least \$3,000).

4 The bill defines an estate to include all real and personal
5 property and other assets included in the Medicaid recipient's
6 estate as defined in N.J.S.3B:1-1, as well as any other real and
7 personal property and other assets in which the recipient had any
8 legal title or interest at the time of death, to the extent of that
9 interest, including assets conveyed to a survivor, heir or assign of
10 the recipient through joint tenancy, tenancy in common,
11 survivorship, life estate, living trust or other arrangement.

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13 sought to be recovered is less than \$500, the gross estate is less
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18 (C.30:4D-1 et seq.); or (2), in the case of a recipient who became
19 deceased on or after the effective date of P.L. _____, c. _____
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52 administration, and equivalent to debts and taxes with preference
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11 survivorship, life estate, living trust or other arrangement.

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16 Expands authority of Medicaid program to impose liens against a
17 recipient's estate after death.

ASSEMBLY INSURANCE COMMITTEE

STATEMENT TO

SENATE, No. 2347

STATE OF NEW JERSEY

DATED: DECEMBER 14, 1995

The Assembly Insurance Committee reports favorably Senate, No. 2347.

This bill expands the authority of the Division of Medical Assistance and Health Services in the Department of Human Services to impose a lien and seek recovery against a Medicaid recipient's estate after death.

This bill is designed to meet a requirement for legislative enactment by all states under the federal "Omnibus Budget Reconciliation Act of 1993," Pub.L.103-66, and also includes optional provisions for the states to enact under that law.

Specifically, the bill:

- permits the State to recover Medicaid payments for all health care services if medical assistance was provided to a recipient who was 55 years of age or older (rather than 65 years or older as currently provided in the law);
- increases the priority given to Medicaid probate claims from the fourth to the third highest priority classification under N.J.S.3B:22-2 (after funeral expenses and costs and expenses of administration, and equivalent to debts and taxes with preference under federal law); and
- eliminates the dollar threshold requirements provided in the law for Medicaid recovery from the estate of a deceased recipient (currently, the claim must be for at least \$500 and the gross estate must be at least \$3,000).

The bill defines an estate to include all real and personal property and other assets included in the Medicaid recipient's estate as defined in N.J.S.3B:1-1, as well as any other real and personal property and other assets in which the recipient had any legal title or interest at the time of death, to the extent of that interest, including assets conveyed to a survivor, heir or assign of the recipient through joint tenancy, tenancy in common, survivorship, life estate, living trust or other arrangement.

SENATE HUMAN SERVICES COMMITTEE

STATEMENT TO

SENATE, No. 2347

STATE OF NEW JERSEY

DATED: NOVEMBER 27, 1995

The Senate Human Services Committee favorably reports Senate Bill No. 2347.

This bill expands the authority of the Division of Medical Assistance and Health Services in the Department of Human Services to impose a lien and seek recovery against a Medicaid recipient's estate after death.

This bill is designed to meet a requirement for legislative enactment by all states under the federal "Omnibus Budget Reconciliation Act of 1993," Pub.L.103-66, and also includes optional provisions for the states to enact under that law.

Specifically, the bill:

- permits the State to recover Medicaid payments for all health care services if medical assistance was provided to a recipient who was 55 years of age or older (rather than 65 years or older as currently provided in the law);
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