

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 1640*

Short Title: Medicaid Est. Rec./Funds.

(Public)

Sponsors: Senator Marshall.

Referred to: Appropriations.

June 1, 1994

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE MEDICAID ESTATE RECOVERY PLAN AS
REQUIRED BY THE FEDERAL OMNIBUS BUDGET RECONCILIATION ACT
OF 1993 AND TO APPROPRIATE FUNDS.

The General Assembly of North Carolina enacts:

Section 1. Article 2 of Chapter 108A of the General Statutes is amended by
adding a new section to read:

"§ 108A-70.5. Medicaid Estate Recovery Plan.

(a) There is established in the Department of Human Resources, the Medicaid Estate Recovery Plan, as required by the Omnibus Budget Reconciliation Act of 1993, to recover from the estates of recipients of medical assistance an equitable amount of the State and federal shares of the cost paid the recipient. The Department shall administer the program in accordance with applicable federal law and regulations, including those under Title XIX of the Social Security Act, 42 USC 1396(p).

(b) As used in this section:

(1) 'Medical assistance' means medical care services paid for by the North Carolina Medicaid Program on behalf of the recipient:

a. If the recipient is receiving these medical care services as an inpatient in a nursing facility, intermediate care facility for the mentally retarded, or other medical institution and cannot reasonably be expected to be discharged to return home; or

b. If a recipient is 55 years of age or older and is receiving these medical care services, including related hospital care and

1 prescription drugs, for nursing facility services or home- and
2 community-based services.

3 (2) 'Estate' means all the real and personal property considered assets of
4 the estate available for the discharge of debt pursuant to G.S. 28A-15-
5 1.

6 (c) The amount the Department recovers from the estate of any recipient shall not
7 exceed the amount of medical assistance made on behalf of the recipient and shall be
8 recoverable only for medical care services prescribed in subsection (b) of this section.
9 The Department is a fourth-class creditor, as prescribed in G.S. 28A-19-6, for purposes
10 of determining the order of claims against an estate.

11 (d) The Department of Human Resources shall adopt rules pursuant to Chapter
12 150B of the General Statutes to implement the Plan, including rules to waive whole or
13 partial recovery when this recovery would be inequitable because it would work an
14 undue hardship or because it would not be administratively cost-effective and rules to
15 ensure that all recipients are notified that their estates are subject to recovery at the time
16 they become eligible to receive medical assistance."

17 Sec. 2. There is appropriated from the General Fund to the Department of
18 Human Resources, Division of Medical Assistance, the sum of one hundred four
19 thousand seven hundred fifty dollars (\$104,750) for the 1994-95 fiscal year, of which
20 fifty thousand dollars (\$50,000) is nonrecurring, to implement this act.

21 Sec. 3. This act becomes effective October 1, 1994, and applies to
22 individuals who apply for medical assistance on or after that date.