

Chapter 391

(House Bill 981)

AN ACT concerning

**Maryland Medical Assistance Program – Guardianship Fees – ~~Income Deduction~~
Personal Needs Allowance**

FOR the purpose of requiring the Department of Health and Mental Hygiene to ~~deduct as a remedial service~~ include as part of the personal needs allowance certain guardianship fees when determining the portion of income certain recipients of Maryland Medical Assistance Program benefits are required to contribute to the cost of their care under the Program; specifying the amount of ~~deductions~~ the personal needs allowance for certain guardianship fees; establishing that certain guardians are not entitled to receive more than a certain amount in compensation unless a certain finding is made by a certain court; defining certain terms; and generally relating to the Maryland Medical Assistance Program and compensation for guardianship services provided to Program recipients.

BY repealing and reenacting, with amendments,
Article – Estates and Trusts
Section 13–218
Annotated Code of Maryland
(2011 Replacement Volume and 2015 Supplement)

BY adding to
Article – Health – General
Section 15–122.3
Annotated Code of Maryland
(2015 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Estates and Trusts

13–218.

(A) Except in unusual circumstances **AND AS PROVIDED IN SUBSECTION (B) OF THIS SECTION**, the guardian is entitled to the same compensation and reimbursement for actual and necessary expenses as the trustee of a trust. No petition or hearing is required to entitle the guardian to compensation and expenses. Upon the petition of any interested person and upon a finding by the court that unusual circumstances exist, the court may increase or decrease compensation.

(B) IF THE GUARDIAN IS APPOINTED AS THE GUARDIAN OF A DISABLED PERSON WHO IS A RECIPIENT OF LONG-TERM CARE SERVICES AND SUPPORTS UNDER THE MARYLAND MEDICAL ASSISTANCE PROGRAM AND WHOSE INCOME IS SUBJECT TO § 15-122.3 OF THE HEALTH – GENERAL ARTICLE, THE GUARDIAN IS NOT ENTITLED TO RECEIVE MORE THAN \$50 PER MONTH IN COMPENSATION UNLESS THE COURT MAKES A FINDING THAT UNUSUAL CIRCUMSTANCES EXIST.

Article – Health – General

15-122.3.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “AVAILABLE INCOME” MEANS THE PORTION OF INCOME OF A PROGRAM RECIPIENT THAT THE PROGRAM RECIPIENT IS REQUIRED TO CONTRIBUTE TO THE COST OF CARE FOR THE PROGRAM RECIPIENT UNDER THE PROGRAM.

(3) “DISABLED PERSON” HAS THE MEANING STATED IN § 13-101 OF THE ESTATES AND TRUSTS ARTICLE.

(4) “GUARDIAN” MEANS:

(I) A GUARDIAN OF THE PERSON; OR

(II) A GUARDIAN OF THE PROPERTY.

(5) “GUARDIAN OF THE PERSON” MEANS A PERSON WHO HAS BEEN APPOINTED BY A COURT AS A GUARDIAN OF THE PERSON OF A DISABLED PERSON UNDER § 13-705 OF THE ESTATES AND TRUSTS ARTICLE.

(6) “GUARDIAN OF THE PROPERTY” MEANS A PERSON WHO HAS BEEN APPOINTED BY A COURT AS A GUARDIAN OF THE PROPERTY OF A DISABLED PERSON UNDER § 13-201 OF THE ESTATES AND TRUSTS ARTICLE.

(7) “GUARDIANSHIP SERVICES” MEANS SERVICES PROVIDED TO A RECIPIENT WHO IS A DISABLED PERSON BY A GUARDIAN WHILE ACTING IN THE CAPACITY AS A GUARDIAN.

(8) “RECIPIENT” MEANS A PROGRAM RECIPIENT WHO RECEIVES LONG-TERM CARE SERVICES AND SUPPORTS UNDER THE PROGRAM.

(B) SUBJECT TO SUBSECTION (C) OF THIS SECTION, WHEN DETERMINING THE AVAILABLE INCOME OF A RECIPIENT WHO IS A DISABLED PERSON AND HAS A GUARDIAN, THE DEPARTMENT SHALL ~~DEDUCT AS A REMEDIAL SERVICE~~ INCLUDE AS PART OF THE PERSONAL NEEDS ALLOWANCE GUARDIANSHIP FEES PAYABLE FOR GUARDIANSHIP SERVICES.

(C) ~~DEDUCTIONS~~ THE PERSONAL NEEDS ALLOWANCE FOR GUARDIANSHIP FEES SHALL BE AS FOLLOWS:

(1) IF ONE PERSON IS SERVING AS BOTH THE GUARDIAN OF THE PERSON AND THE GUARDIAN OF THE PROPERTY OF THE RECIPIENT, THE ~~DEDUCTION~~ PERSONAL NEEDS ALLOWANCE SHALL BE \$50 PER MONTH; AND

(2) IF ONE PERSON IS SERVING AS THE GUARDIAN OF THE PERSON OF THE RECIPIENT AND A DIFFERENT PERSON IS SERVING AS THE GUARDIAN OF THE PROPERTY OF THE RECIPIENT, THE ~~DEDUCTION~~ PERSONAL NEEDS ALLOWANCE SHALL BE \$50 PER MONTH FOR EACH GUARDIAN.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2016.

Approved by the Governor, May 10, 2016.