
By: **Chairman, Health and Government Operations Committee (By Request
- Departmental - Health and Mental Hygiene)**

Introduced and read first time: February 19, 2004

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Medical Assistance Program - Estate Recoveries**

3 FOR the purpose of authorizing the Department of Health and Mental Hygiene to file
4 a claim against the estate of a deceased Maryland Medical Assistance Program
5 recipient if the claim is presented within a certain time; authorizing the
6 Department to recover certain Program payments from the estate of the
7 surviving spouse of a deceased Program recipient under certain circumstances;
8 and generally relating to Medical Assistance Program estate recoveries.

9 BY repealing and reenacting, with amendments,
10 Article - Estates and Trusts
11 Section 8-103
12 Annotated Code of Maryland
13 (2001 Replacement Volume and 2003 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article - Health - General
16 Section 15-121
17 Annotated Code of Maryland
18 (2000 Replacement Volume and 2003 Supplement)

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

21 **Article - Estates and Trusts**

22 8-103.

23 (a) Except as otherwise expressly provided by statute with respect to claims of
24 the United States and the State, all claims against an estate of a decedent, whether
25 due or to become due, absolute or contingent, liquidated or unliquidated, founded on
26 contract, tort, or other legal basis, are forever barred against the estate, the personal

1 representative, and the heirs and legatees, unless presented within the earlier of the
2 following dates:

3 (1) 6 months after the date of the decedent's death; or

4 (2) 2 months after the personal representative mails or otherwise
5 delivers to the creditor a copy of a notice in the form required by § 7-103 of this article
6 or other written notice, notifying the creditor that his claim will be barred unless he
7 presents the claim within 2 months from the mailing or other delivery of the notice.

8 (b) A claim for slander against an estate of a decedent which arose before the
9 death of the decedent is barred even if an action was commenced against and service
10 of process was effected on the decedent before his death.

11 (c) A claim against the estate based on the conduct of or a contract with a
12 personal representative is barred unless an action is commenced against the estate
13 within six months of the date the claim arose.

14 (d) Nothing in this section shall affect or prevent an action or proceeding to
15 enforce a mortgage, pledge, judgment or other lien, or security interest upon property
16 of the estate.

17 (e) If the decedent had been duly served with process before his death, nothing
18 in this section shall affect an action for injuries to the person and/or damage to
19 property which was commenced against the decedent.

20 (f) A claim filed by the Department of Health and Mental Hygiene against the
21 estate of a deceased Maryland Medical Assistance Program recipient, as authorized
22 under § 15-121(a) of the Health - General Article, is forever barred against the
23 estate, the personal representative, and the heirs and legatees, unless the claim is
24 presented within the earlier of the following dates:

25 (1) 6 months after PUBLICATION OF NOTICE OF the first appointment of
26 a personal representative; or

27 (2) 2 months after the personal representative mails or otherwise
28 delivers to the Department's Division of Medical Assistance Recoveries a copy of a
29 notice in the form required under § 7-103 of this article or other written notice,
30 notifying the Department that the claim shall be barred unless the Department
31 presents its claim within 2 months from the receipt of the notice.

32 **Article - Health - General**

33 15-121.

34 (a) (1) In accordance with applicable federal law and rules and regulations,
35 including those under Title XIX of the Social Security Act, the Department may make
36 claim against the estate of [a]:

1 (I) A deceased Program recipient for the amount of any medical
2 assistance payments under this title; OR

3 (II) THE SURVIVING SPOUSE OF A DECEASED PROGRAM RECIPIENT
4 FOR THE AMOUNT OF MEDICAL ASSISTANCE PAYMENTS MADE ON BEHALF OF THE
5 DECEASED PROGRAM RECIPIENT UNDER THIS TITLE, UNLESS THE SURVIVING
6 SPOUSE AT THE TIME OF THE SURVIVING SPOUSE'S DEATH IS SURVIVED BY A CHILD
7 WHO IS:

- 8 1. LESS THAN 21 YEARS OF AGE;
- 9 2. BLIND; OR
- 10 3. PERMANENTLY AND TOTALLY DISABLED.

11 (2) THE ASSETS OF THE ESTATE OF THE SURVIVING SPOUSE SUBJECT
12 TO THE DEPARTMENT'S CLAIM UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION
13 SHALL BE RESTRICTED TO:

14 (I) THOSE ASSETS THAT PASSED TO THE SURVIVING SPOUSE
15 FROM THE DECEASED PROGRAM RECIPIENT UPON THE DEATH OF THE DECEASED
16 PROGRAM RECIPIENT BY:

- 17 1. TESTAMENTARY DISPOSITION;
- 18 2. DISTRIBUTION UNDER THE LAWS OF INTESTATE
19 SUCCESSION;
- 20 3. RIGHT OF SURVIVORSHIP FROM PROPERTY HELD IN
21 TENANCY BY THE ENTIRETY OR IN JOINT TENANCY; OR
- 22 4. A REMAINDER INTEREST FROM A LIFE TENANCY; OR

23 (II) RECEIPT BY INTER VIVOS GIFT FROM THE DECEASED
24 PROGRAM RECIPIENT.

25 (3) THE DEPARTMENT'S CLAIM AGAINST THE ESTATE OF A SURVIVING
26 SPOUSE MAY NOT BE FILED LATER THAN 5 YEARS FROM THE DATE OF DEATH OF THE
27 PROGRAM RECIPIENT.

28 (b) The claim shall be waived by the Department if, in its judgment,
29 enforcement of the claim will cause substantial hardship to the surviving dependents
30 of the deceased.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
32 effect July 1, 2004.