



Senate Fiscal Agency  
P. O. Box 30036  
Lansing, Michigan 48909-7536

BILL ANALYSIS



Telephone: (517) 373-5383  
Fax: (517) 373-1986  
TDD: (517) 373-0543

Senate Bill 374 (Substitute S-1 as reported)  
Sponsor: Senator Michael Switalski  
Committee: Appropriations

### **CONTENT**

The bill would amend the Social Welfare Act to provide for the creation and implementation of the Michigan Estate Recovery Program, under which the State would collect assets from the estates of certain Medicaid recipients as required by the Social Security Act.

The bill would require the Department of Community Health (DCH) to establish and operate the Michigan Estate Recovery Program to comply with requirements of Title XIX (Medicaid) of the Social Security Act. The DCH would have to establish an estate recovery program or contract for various estate recovery activities. The activities would have to include all of the following:

- Placing and recording liens on the property of Medicaid recipients.
- Tracking the assets held by Medicaid recipients that would be subject to estate recovery.
- Collecting the amounts subject to recovery from the estates of eligible recipients.
- Performing other actions necessary to administer the program effectively.

The DCH would be required to seek necessary State plan amendments and waivers from the Federal government to implement the estate recovery program. The Department would have to obtain Federal approval for each of the following program components:

- The Medicaid services subject to estate recovery under Title XIX.
- The Medicaid recipients subject to estate recovery under Title XIX.
- The parameters under which the program could recover from the estates of spouses of Medicaid recipients.
- The period of time the DCH could "look back" for assets subject to estate recovery.
- Actions that could be taken to obtain funds from the estates of qualifying recipients.
- Exemptions for Medicaid recipients from recovery because of hardship.

The DCH could not implement the program until approval from the Federal government was obtained.

The Department would be prohibited from seeking recovery from an eligible estate if the cost of recovery would exceed the amount of revenue collected, or if recovery were not in the State's economic interest.

Revenue from the estate recovery program would have to be used to support the Medicaid program.

Proposed MCL 400.112g-400.112j

## **FISCAL IMPACT**

The Federal government (in the budget reconciliation of 1993) required states to establish estate recovery programs for Medicaid recipients who are age 55 or older and receive Medicaid long-term care services. Currently, Michigan is the only state that has not complied with this Federal requirement. Technically, Michigan's Federal Medicaid share (over \$4 billion annually) could be jeopardized if estate recovery is not implemented. It should be noted that Michigan has faced this risk since 1993 and has not as yet been penalized.

Executive Order 2007-3 includes GF/GP savings of \$1.7 million associated with the creation and implementation of estate recovery in FY 2006-07. The Governor's FY 2007-08 budget recommendation also includes estate recovery and estimated full-year savings of \$10.0 million Gross/\$4.2 million GF/GP from this effort. Passage of Senate Bill 374 (S-1) would likely create GF/GP savings in line with the Governor's estimates in FY 2006-07 and FY 2007-08. Savings in future years would likely be driven by the number and size of estates subject to recovery through the program and the deterrent effect this program could have on individuals who currently structure their assets to make Medicaid eligibility easier to obtain.

Date Completed: 4-11-07

Fiscal Analyst: David Fosdick

### Floor\sb374

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.