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BILL ANALYSIS

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Senate Bills 203 and 204 (as introduced 2-15-07)
Senate Bill 374 (as introduced 3-27-07)
Sponsor: Senator Michael Switalski
Committee: Appropriations

Date Completed: 3-27-07

CONTENT

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

The bills are tie-barred to each other.

Senate Bill 203

The bill would amend the Public Health Code to require a licensed funeral director to file a death record with the Department of Community Health or the Michigan Estate Recovery Program within 72 hours after an individual's death.

Senate Bill 204

The Estates and Protected Individuals Code establishes an order of priority for payment of claims and allowances from an individual's estate, if the estate property is insufficient to pay all claims and allowances in full. The bill would modify the reference to debts and taxes with priority under Federal law to include Medicaid payments subject to adjustment or recovery under the Social Security Act.

Senate Bill 374

The bill would amend the Social Welfare Act to 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 for 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.

MCL 333.2843 (S.B. 203)
700.3805 (S.B. 204)
Proposed MCL 400.112g-400.112j (S.B. 374)

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 this package 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.

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