

ASSEMBLY, No. 2908

STATE OF NEW JERSEY

INTRODUCED MAY 5, 1997

By Assemblywoman MURPHY

1 AN ACT concerning liens imposed by the Medicaid program, amending
2 P.L.1979, c. 365 and supplementing chapter 22 of Title 3B of the
3 New Jersey Statutes.

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5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

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8 1. Section 7 of P.L.1979, c.365 (C.30:4D-7.2) is amended to read
9 as follows:

10 7. a. (1) A lien may be filed against and recovery sought from the
11 estate of a deceased recipient for assistance correctly paid or to be
12 paid on his behalf for all services received when he was 65 years of
13 age or older, except as provided in section 1 of P.L.1981, c.217
14 (C.30:4D-7.2a).

15 (2) In the case of a recipient who became deceased on or after
16 April 1, 1995 for whom a Medicaid payment was made on or after
17 October 1, 1993, a lien may be filed against and recovery sought from
18 the estate of the deceased recipient for assistance correctly paid or to
19 be paid on his behalf for all services received when he was 55 years of
20 age or older, except as provided in section 1 of P.L.1981, c.217
21 (C.30:4D-7.2a).

22 (3) As used in this section, "estate" includes all real and personal
23 property and other assets included in the recipient's estate as defined
24 in N.J.S.3B:1-1, as well as any other real and personal property and
25 other assets in which the recipient had any legal title or interest at the
26 time of death, to the extent of that interest, including assets conveyed
27 to a survivor, heir or assign of the recipient through joint tenancy,
28 tenancy in common, survivorship, life estate, living trust or other
29 arrangement.

30 b. A lien may be filed by the division against a third party's
31 property, whether real or personal, or against any interest or estate in
32 property, whether vested or contingent.

33 Subject to section 6 of P.L.1979, c.365 (C.30:4D-7.1), any third
34 party recovery obtained by the division under this subsection shall not

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 be reduced by any counsel fees, costs, or other expenses, or portions
2 thereof, incurred by the recipient or the recipient's attorney.

3 c. A certificate of debt may be filed by the division against such
4 parties and in such a manner as is specified in subsection (h) of section
5 17 of P.L.1968, c.413 (C.30:4D-17).

6 d. (1) A lien, claim or encumbrance imposed by this act shall be
7 deemed a preferred claim against the recipient's estate and shall have
8 a priority equivalent to that under subsection d. of N.J.S.3B:22-2.

9 (2) In the case of a recipient who became deceased on or after the
10 effective date of P.L.1995, c.289, a lien, claim or encumbrance
11 imposed pursuant to this section shall be deemed a preferred claim
12 against the recipient's estate and shall have a priority equivalent to that
13 under subsection c. of N.J.S.3B:22-2.

14 e. A person representing the interests of an estate in this State shall
15 give notice of the representation to the Bureau of Administrative
16 Control in the Division of Medical Assistance and Health Services in
17 the Department of Human Services. Notice shall include the
18 decedent's full name, social security number, dates of birth and death,
19 the name of a surviving spouse, and whether there is a surviving child
20 who is under the age of 21 or is blind or permanently and totally
21 disabled . Notice shall be postmarked or hand-delivered to the bureau
22 no later than 30 days following the date of death of the decedent. No
23 distribution from the estate may be made until 90 days following the
24 date of receipt of notice of representation by the division. If the
25 division fails to file a claim to share in the proceeds of the estate
26 within 90 days of receipt of the notice of representation, the estate
27 may distribute the proceeds as if the division had no claim against the
28 estate.

29 (cf: P.L.1995,c.289,s.1)

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31 2. (New section) A personal representative of an estate in this
32 State, whether the estate is solvent or not, shall give notice of
33 representation to the Bureau of Administrative Control in the Division
34 of Medical Assistance and Health Services in the Department of
35 Human Services. Notice shall include the decedent's full name, social
36 security number, dates of birth and death, the name of a surviving
37 spouse, and whether there is a surviving child who is under the age of
38 21 or is blind or permanently and totally disabled. Notice shall be
39 postmarked or hand-delivered to the bureau no later than 30 days
40 following the date of death of the decedent. No distribution from the
41 estate may be made until 90 days following the date of receipt of
42 notice of representation by the division. If the division fails to file a
43 claim to share in the proceeds of the estate within 90 days of receipt
44 of the notice of representation, the estate may distribute the proceeds
45 as if the division had no claim against the estate.

1 3. This act shall take effect immediately.

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STATEMENT

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6 This bill amends N.J.S.A. 30:4D-7.2, which concerns liens imposed
7 by the Medicaid program, by requiring that a person representing the
8 interests of an estate in this State give notice of representation to the
9 Bureau of Administrative Control in the Division of Medical
10 Assistance and Health Services in the Department of Human Services
11 no later than 30 days following the date of death of the decedent. The
12 bill also supplements chapter 22 of Title 3B of the New Jersey Statutes
13 to include this 30-day notification requirement.

14 Notice shall include the decedent's full name, social security
15 number, dates of birth and death, the name of a surviving spouse, and
16 whether there is a surviving child who is under the age of 21 or is blind
17 or permanently and totally disabled. In addition, distributions from
18 the estate may not be made until 90 days following the division's date
19 of receipt of notice of representation. If the division fails to file a
20 claim to share in the proceeds of the estate within 90 days of receipt
21 of the notice of representation, the estate may distribute the proceeds
22 as if the division had no claim against the estate.

23 The notice requirement of this bill will assist the Division of
24 Medical Assistance and Health Services in imposing liens on estates of
25 decedents who at some point in their lives were recipients of Medicaid
26 benefits. Currently, the State registrar receives notification of deaths
27 in the State, but that information may not be available to the Medicaid
28 program in a timely manner. This bill would provide the division with
29 30 days notice by the personal representative of the estate and
30 necessary identifying information about the decedent so that prompt
31 and appropriate action to recover Medicaid payments can be taken
32 prior to distribution of the estate proceeds.

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37 Requires personal representatives of estates to notify Medicaid
38 program of deaths.