

SENATE, No. 1632

STATE OF NEW JERSEY

INTRODUCED OCTOBER 28, 1996

By Senators CONNORS, BASSANO, Singer and Bubba

1 AN ACT concerning liens imposed by the Medicaid program and
2 amending P.L.1979, c.365.

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

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

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

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

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

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

32 Subject to section 6 of P.L.1979, c.365 (C.30:4D-7.1), any third
33 party recovery obtained by the division under this subsection shall not
34 be reduced by any counsel fees, costs, or other expenses, or portions

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 thereof, incurred by the recipient or the recipient's attorney.

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

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

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

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

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15 2. This act shall take effect immediately.

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18 STATEMENT

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20 This bill amends the law governing Medicaid estate recovery,
21 section 7 of P.L.1979, c.365 (C.30:4D-7.2). The bill is in conformity
22 with federal law and would avoid real estate title problems and other
23 contract ownership problems, such as title to jointly held bank
24 accounts or stock.

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29 Amends law governing Medicaid estate recovery.