



EXHIBIT 5
DATE 1-19-05
HB HB 117

January 19, 2005

Representative Arlene Becker, Chair
House Human Services Committee

Re: Opposition to HB 117

Madame Chair and members of the Committee, my name is Claudia Clifford advocacy consultant for AARP Montana. AARP is a non-profit, non-partisan membership organization with more than 143,000 members in Montana and over 35 million nationwide.

In our December 2004 Membership Survey, 86% of surveyed members said their #1 Legislative Priority was "access to affordable, quality health care." Our State Director participated as a member of the Medicaid Redesign task force. Because we believe that this is a punitive proposal that will limit access to health care for well-meaning and vulnerable aging Montanans, we oppose passage of HB 117.

We do not condone actions of some people and their families in transferring assets primarily to become Medicaid eligible, but quite honestly this legislation will only hurt unsuspecting Montanans without really addressing the fraudulent activities of a few. We believe that the current look-back period set up by the federal government of three years for individual transfers and 5 years for transfers of trusts accomplishes the goal of preventing fraudulent situations.

We have the following concerns about this issue:

- On an individual and family level, we find it unreasonable to expect that seniors and their families can predict their health and care needs five years into the future. It's difficult enough to predict three years into the future. What if your aging dad who has worked hard and lived modestly, transferred some land to you or a grandchild to keep it in the family. He expects to enjoy life for the next 10 to 15 years. Then four years later unexpectedly he needs nursing home care. At this point he is without many assets, and with this bill he is without Medicaid coverage to help cover the nursing home care. You can imagine many scenarios of people trying to do the right thing to help grandchildren with college expenses, or pass along family property and get inadvertently punished by their actions.
- HHS has never approved such a waiver. Previous waiver requests of this nature were rejected by the federal government. The Connecticut proposal was submitted nearly 3 years ago and HHS has not yet taken any action.

- Even if approved the waiver is likely to be challenged in the courts. Medicaid waivers are available to states to make Medicaid better for low income individuals and not solely for the purpose of evading federal requirements. Waivers designed solely to reduce a state's Medicaid expenditures have been rejected by the courts.
- Long-term care providers and hospitals could be harmed by leaving them responsible for care of residents who have exhausted their assets and are not eligible for Medicaid because of this lengthy look-back policy.
- It may not even inhibit those who "game" the system after all; they will learn how to circumvent the policy. One of the problems with this approach is that the folks with money and lawyers who really want to take advantage of Medicaid will simply adapt to any new law, while folks who make innocent transfers will get burned.

Many people are not informed about the high cost of long-term care and their potential need for it. In fact they are in denial about the issue. You probably have older relatives who have said, "I'd rather die than go to a nursing home". National polls show that about 50% of Americans erroneously believe that Medicare pays for nursing homes. And rarely do people understand Medicaid rules. Given this you can see why most asset transfers are for legitimate purposes and not made to intentionally scam Medicaid.

Education of the Montana consumer and their families to help prepare for long-term care decisions well in advance is absolutely needed to prevent trapping well intentioned seniors.

AARP Montana strongly believes HB 117 is not the way to address the actions of some to "game" the Medicaid system.

Thank you for the opportunity to provide testimony on this issue of significant importance to AARP members and their families in Montana. We will continue to work with you and the Department to find the best ways to protect Montana's aging citizens.

A handwritten signature in black ink, appearing to read "Carol H. Hester". The signature is written in a cursive, somewhat stylized font with a large loop at the end.