

HOUSE BILL NO. 765

INTRODUCED BY B. HAMLETT

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A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE MEDICAID LOOK-BACK LAW; PROVIDING LEGISLATIVE DIRECTION TO ADMINISTRATIVE RULE AMENDMENTS; AMENDING SECTION 53-6-166, MCA; AND PROVIDING AN APPROPRIATION."

WHEREAS, when a senior citizen in a nursing home applies for Medicaid, the government studies distribution of that person's resources over a period of time known as the "Medicaid look-back period"; and

WHEREAS, it is the public policy of the state of Montana that the Medicaid look-back period should be 30 months to ensure the health, liberty, and well-being of elderly Montanans; and

WHEREAS, the federal government mandated in 2006 that the Medicaid look-back period is 60 months; and

WHEREAS, it is in the public interest that Montana law and administrative rules should clearly demonstrate these facts.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 53-6-166, MCA, is amended to read:

"53-6-166. Period of ineligibility for medical assistance when assets disposed of for less than fair market value -- undue hardship exception -- department to adopt rules. (1) (a) The department shall, in accordance with 42 U.S.C. 1396p, as may be amended, and implementing federal regulations and policies, impose upon an applicant or recipient by administrative rule a period of ineligibility for medical assistance under this part when the applicant or recipient or the spouse of either directly or indirectly disposes of any assets for less than fair market value during the applicable ~~3-year, 5-year,~~ 30-month, 60-month, or other period provided by 42 U.S.C. 1396p, as may be amended, or by other federal law.

(b) If the 60-month provision in 42 U.S.C. 1396p is removed and not replaced by another mandated period of time, the department shall adopt a rule for review of disposition of assets for less than fair market value during a 30-month period.

(2) A period of ineligibility for medical assistance may not be imposed upon an applicant or recipient



1 under this section to the extent that the department determines, in accordance with procedures specified by
2 department rule, that the denial of eligibility would cause an undue hardship as defined by department rule.

3 (3) The department shall adopt rules that are consistent with 42 U.S.C. 1396p, as may be amended, and
4 that implement federal regulations and policies to implement this section. The rules adopted under this section
5 must include but are not limited to rules addressing the following:

6 (a) a description of the circumstances considered to constitute an undue hardship;

7 (b) the procedures by which an individual may seek an undue hardship exception;

8 (c) the persons entitled to an undue hardship exception; and

9 (d) notice and opportunity for a hearing regarding imposition of a period of ineligibility or denial of an
10 undue hardship exception.

11 (4) Nothing in 53-6-143, 53-6-144, 53-6-165, 53-6-167 through 53-6-169, 53-6-171 through 53-6-189,
12 or this section is intended to prohibit the department from adopting rules consistent with federal law that provide
13 for a period of ineligibility for public assistance programs other than medical assistance when an applicant or
14 recipient directly or indirectly disposes of assets for less than fair market value."

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16 NEW SECTION. **Section 2. Appropriation.** There is appropriated \$1 from the general fund to the
17 department of public health and human services for the fiscal year ending June 30, 2020, for the purpose of
18 53-6-166.

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