

AMENDED IN SENATE MARCH 28, 1995

SENATE BILL

No. 412

Introduced by Senator Marks

February 15, 1995

An act to amend Section 14009.5 of, and to repeal Section 14006.7 of, the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

SB 412, as amended, Marks. Medi-Cal: liens.

Existing law provides for the Medi-Cal program, administered by the State Department of Health Services, under which qualified low-income persons are provided with health care services.

Existing law requires that, except under specified circumstances, the department impose a lien upon the equity interest in the home or other property of an institutionalized Medi-Cal beneficiary, in order to secure his or her assets for future recovery.

This bill would repeal this requirement.

Existing law requires that, except under specified circumstances, the department shall, after the death of the surviving spouse of a Medi-Cal recipient, make a claim against the estate of that surviving spouse in an amount equal to the lesser of the payments for the Medi-Cal services received or the value of any property received by the surviving spouse from the decedent.

Existing law also requires that the department place a lien upon the decedent's interest in the real property of a

surviving spouse in the amount of the department's entitlement, with the lien becoming due and payable only upon the death of the surviving spouse or the sale, transfer, or exchange of the real property.

This bill would eliminate the requirement that a lien be placed on the decedent's interest in the real property of the surviving spouse.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 14006.7 of the Welfare and
 2 Institutions Code is repealed.
 3 SEC. 2. Section 14009.5 of the Welfare and Institutions
 4 Code is amended to read:
 5 14009.5. (a) Notwithstanding any other provision of
 6 this chapter, the department shall claim against the estate
 7 of the decedent, or against any recipient of the property
 8 of that decedent by distribution or survival an amount
 9 equal to the payments for the health care services
 10 received or the value of the property received by any
 11 recipient from the decedent by distribution or survival,
 12 whichever is less.
 13 (b) The department may not claim in any of the
 14 following circumstances:
 15 (1) The decedent was under 55 when services were
 16 received, except in the case of an individual who had
 17 been an inpatient in a nursing facility.
 18 (2) Where there is any of the following:
 19 (A) A surviving spouse during his or her lifetime.
 20 However, upon the death of a surviving spouse, the
 21 department shall make a claim against the estate of the
 22 surviving spouse, or against any recipient of property
 23 from the surviving spouse obtained by distribution or
 24 survival, for either the amount paid for the medical
 25 assistance given to the decedent or the value of any of the
 26 decedent's property received by the surviving spouse
 27 through distribution or survival, whichever is less. Any
 28 statute of limitations that purports to limit the ability to



1 recover for medical assistance granted under this chapter
2 shall not apply to any claim made for reimbursement.

3 (B) A surviving child who is under age 21.

4 (C) A surviving child who is blind or permanently and
5 totally disabled, within the meaning of Section 1614 of the
6 federal Social Security Act (42 U.S.C.A. Sec. 1382c).

7 (3) Any exemption described in paragraph (2) that
8 restricts the department from filing a claim against a
9 decedent's property shall apply only to the proportionate
10 share of the decedent's estate or property that passes to
11 those recipients, by survival or distribution, who qualify
12 for an exemption under paragraph (2).

13 ~~(c) The department shall place a lien against the~~
14 ~~decedent's interest in the real property of a surviving~~
15 ~~spouse in the amount of the department's entitlement~~
16 ~~pursuant to paragraph (2) of subdivision (b). The lien~~
17 ~~shall become due and payable upon the death of the~~
18 ~~surviving spouse or upon the sale, transfer, or exchange~~
19 ~~of the real property.~~

20 ~~(d)~~(1) The department shall waive its claim, in whole
21 or in part, if it determines that enforcement of the claim
22 would result in substantial hardship to other dependents,
23 heirs, or survivors of the individual against whose estate
24 the claim exists.

25 (2) The department shall notify individuals of the
26 waiver provision and the opportunity for a hearing to
27 establish that a waiver should be granted.

28 ~~(e)~~

29 (d) The following definitions shall govern the
30 construction of this section:

31 (1) "Decedent" means a beneficiary who has received
32 health care under this chapter or Chapter 8
33 (commencing with Section 14200) and who has died
34 leaving property to others either through distribution or
35 survival.

36 (2) "Dependents" includes, but is not limited to,
37 immediate family or blood relatives of the decedent.

