

2018 Regular Session

HOUSE CONCURRENT RESOLUTION NO. 69

BY REPRESENTATIVES GREGORY MILLER AND BACALA

A CONCURRENT RESOLUTION

To urge and request the Louisiana Department of Health to study means by which to improve its Medicaid estate recovery functions, and to report findings of the study to the House Committee on Appropriations, the Senate Committee on Finance, and the legislative committees on health and welfare.

WHEREAS, Medicaid is the largest source of funding for institutional long-term care in this state and in the nation; and

WHEREAS, many persons who need long-term care may qualify for Medicaid assistance despite owning assets such as a home; and

WHEREAS, federal law specifically requires states, including Louisiana, to establish estate recovery programs in compliance with 42 U.S.C. 1396p for recovering benefits paid for institutional long-term care after the death of the person who received that care; and

WHEREAS, present Louisiana law, R.S. 46:153.4, requires the Louisiana Department of Health to establish an estate recovery program in compliance with 42 U.S.C. 1396p for the purpose of recovering Medicaid payments made on behalf of individuals from their succession estates; and

WHEREAS, R.S. 46:153.4 explicitly recognizes Louisiana's longstanding civil law tradition of preserving the legal rights of persons to inherit immovable property, and declares that a comprehensive plan should be developed to address the federal requirements for an estate recovery program while at the same time protecting our citizens' rights to home ownership and the state's interest in assuring the transfer of real property within families; and

WHEREAS, Louisiana's law providing for Medicaid estate recovery prohibits recovery on the first fifteen thousand dollars or one-half the median value of the homestead

in each parish, whichever is higher, making our estate recovery program one of the most generous in the nation; and

WHEREAS, in the ten state fiscal years from 2007-2008 through 2016-2017, the average annual amount that Louisiana's Medicaid program collected through estate recovery was less than five hundred thirty thousand dollars, with the lowest annual figure of two hundred eighty-eight thousand dollars recovered occurring in fiscal year 2015-2016; and

WHEREAS, these figures represent a small fraction of the monies that the state is authorized by law to recover for benefits paid through its Medicaid-financed institutional long-term care program which now expends over one billion dollars annually for nursing home care for over thirty thousand Louisiana citizens; and

WHEREAS, it is in the best interest of this state, as a matter of both fiscal policy and public health policy, to better avail itself of existing laws authorizing and providing for Medicaid estate recovery.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby urge and request the Louisiana Department of Health to study means by which to improve its Medicaid estate recovery functions.

BE IT FURTHER RESOLVED that the study called for in this Resolution shall include, but not be limited to, an examination of all of the following:

(1) Means by which to increase recovery amounts in a cost-neutral manner utilizing existing staff and departmental resources.

(2) Benefits of wider usage of Medicaid liens authorized through the federal Tax Equity and Fiscal Responsibility Act, known commonly as "TEFRA liens".

(3) Administrative actions, including amendments to the Medicaid state plan established in accordance with Title XIX of the Social Security Act, or legislation necessary to institute greater use of TEFRA liens in Medicaid long-term care programs.

(4) The potential establishment of a new data system or improvements in existing data systems which could facilitate easier identification of assets subject to recovery.

(5) The potential utilization of public or private vendors to assist the department in recovery efforts.

BE IT FURTHER RESOLVED that the Louisiana Department of Health shall issue findings and recommendations from the study called for in this Resolution in the form of a

report to the House Committee on Appropriations, the Senate Committee on Finance, the House Committee on Health and Welfare, and the Senate Committee on Health and Welfare no later than sixty days prior to the convening of the 2019 Regular Session of the Legislature of Louisiana.

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the secretary of the Louisiana Department of Health.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE