

Senate Study Bill 1119 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
INSPECTIONS AND APPEALS
BILL)

A BILL FOR

1 An Act relating to the transfer of assets under the Medicaid
2 program.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 249F.1, Code 2013, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 01. *a. "Fair consideration"* means full
4 and adequate consideration which is, under all circumstances,
5 equivalent to the value of the property transferred and which
6 is honest, reasonable, and free of suspicion. A determination
7 of fair consideration is separate and distinct from and
8 independent and exclusive of any prior value determination
9 relating to the medical assistance application or ongoing
10 medical assistance participation of the transferor.

11 *b.* For the purposes of determining fair consideration
12 in transfers of a life estate or remainder interests, the
13 determination shall be made in accordance with rules adopted
14 by the department of human services pursuant to chapter 17A.
15 The rules shall specify the computation to be utilized in such
16 determination, which shall be based on the program operations
17 manual system life estate table published by the United
18 States social security administration, and shall not include
19 subjective considerations such as the health and personal
20 circumstances of the life estate holder.

21 Sec. 2. Section 249F.1, subsection 2, paragraph a, Code
22 2013, is amended to read as follows:

23 *a. "Transfer of assets"* means any transfer or assignment
24 of a legal or equitable interest in property, as defined in
25 section 702.14, from a transferor to a transferee for less
26 than fair consideration, made within five years prior to the
27 application for medical assistance by the transferor, while
28 the transferor is receiving medical assistance, or within
29 ~~five years prior to application for medical assistance by~~
30 ~~the transferor~~ after the transferor is no longer receiving
31 medical assistance but has an existing medical assistance
32 debt. Any such transfer or assignment is presumed to be made
33 with the intent, on the part of the transferee; transferor;
34 or another person acting on behalf of a transferor who is an
35 actual or implied agent, guardian, attorney-in-fact, or person

1 acting as a fiduciary, of enabling the transferor to obtain or
2 maintain eligibility for medical assistance or of impacting
3 the recovery or payment of a medical assistance debt. This
4 presumption is rebuttable only by clear and convincing evidence
5 that the transferor's eligibility or potential eligibility for
6 medical assistance or the impact on the recovery or payment
7 of a medical assistance debt was no part of the reason of
8 the transferee; transferor; or other person acting on behalf
9 of a transferor who is an actual or implied agent, guardian,
10 attorney-in-fact, or person acting as a fiduciary for making
11 or accepting the transfer or assignment. A transfer of assets
12 includes a transfer of an interest in the transferor's home,
13 domicile, or land appertaining to such home or domicile
14 while the transferor is receiving medical assistance, unless
15 otherwise exempt under paragraph "b".

16 Sec. 3. Section 249F.1, subsection 2, paragraph b,
17 subparagraph (5), Code 2013, is amended by striking the
18 subparagraph.

19 Sec. 4. Section 249F.2, Code 2013, is amended to read as
20 follows:

21 **249F.2 Creation of debt.**

22 A transfer of assets creates a debt due and owing to the
23 department of human services from the transferee in an amount
24 equal to medical assistance provided to or on behalf of the
25 transferor, on or after the date of the transfer of assets, but
26 not exceeding the fair ~~market value of~~ consideration of the
27 assets at the time of the transfer.

28 **EXPLANATION**

29 This bill relates to transfers of assets under the medical
30 assistance (Medicaid) program.

31 The bill defines "fair consideration" for the purposes of
32 determining whether an asset was transferred for less than the
33 fair consideration amount.

34 The bill amends the definition of "transfer of asset" to
35 include a transfer made after the transferor is no longer

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1 receiving Medicaid, but has an existing Medicaid debt.
2 The bill eliminates, as an exception to the definition
3 of a "transfer of asset", transfers of less than \$2,000 on
4 an aggregated basis during the five-year period prior to
5 application for medical assistance by the transferor.