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HOUSE OF REPRESENTATIVES

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RONALD RYCKMAN  
115TH DISTRICT

### House Bill 2742

I am a proponent of House Bill 2742

Thank you, Chairman Lance Kinzer, for allowing this bill on the Kansas Medicaid Estate Recovery Statue to be heard in the Judicial Committee. I became aware of the problem in the collection of the Estates and started contacting attorneys to receive more information.

I ran for Representative to be a good steward of Kansas's people money, and I found that the State is losing close to a million dollars a year, which got my attention. I wanted the bill to be in this committee because with the changes in the law, I wanted the attorneys to make sure it is written well. The fiscal note for HB 2742: 2013 \$564,000 to Kansas and \$846,543 to Federal. FY 2014 \$1.8 million (72million to Kansas).

**What is Medicaid Estate Recovery?** By federal and state law, Medicaid must recover medical costs from deceased Medicaid recipient's estates to the extent possible. In the past fiscal year, Kansas Medicaid recovered \$9.4 million from Estate Recovery efforts. The state keeps a portion of the recoveries and returns the rest to Federal government in line with the Federal/State Medicaid funding match. Now the split is 40/60 with the State/Federal and it could be 50/50 if the Federal government makes the change to help cut their spending problems. This will run up the cost for the state.

**What types of services are included in the medical assistance claim?**

1. Nursing facility care
2. Home and Community based services
3. Any related hospital care and prescription drug services provided while receiving nursing facility care or care at home or in a community setting.

**What does the future hold?**

According to Kaiser, recent growth in expenditures (nursing home care) is approximately 5% a year. According to AARP, 13% of Kansas's population is 65 or older, with about 63,000 residents over 85. The over 85 population could increase 45 % by year 2030. The trend seems to be older individuals enter nursing facilities later in life and stay shorter length of time. Bur the average cost of providing the services are increasing.

**How can Kansas recover more money?** This bill will change the following:

- 1) Extend the time deadline for Estate Recovery to open probate or file a claim from 6 months to 2 years. Kansas has the shortest creditor probate time limits in the nation,  
*Estimated Total Impact: \$750k-\$1M/year*

*Estimated Impact to Kansas: \$300k-\$430k/year*

**(2) Provide the State authority to use the Small Estates Affidavit**

Currently, the State is not able to successfully recover many small bank accounts and other financial deposits post death when the amounts in question are not large enough to justify opening a probate estate

*Estimated Total Impact: \$100k-\$300k/year*

*Estimated Impact to Kansas: \$40k-\$130k/year*

**(3) Require mandatory notice of all probates to the State**

Current law requires notice to be forwarded to the State Medicaid agency when the decedent or their spouse received medical assistance; however, this law is frequently ignored in practice.

*Estimated Total Impact: \$750k-\$1.5M/year*

*Estimated Impact to Kansas: \$300k-\$650k/year*

**(4) Adopt a method to calculate the value of a Life Estate**

Kansas law states that a Medicaid recipients' interest in a life estate is subject to recovery, but gives no method on how to value that interest. Maintaining no legal guidance has compromised the State's ability to collect. We need in the statute such as a life estate valuation table will result in more certainty and fewer contested cases.

*Estimated Total Impact: \$100K-\$400k/year*

*Estimated Impact to Kansas: \$40k-\$170k/year*

**(5) Authority to recover Lost Property held at the State Treasurer's office**

Deceased Medicaid recipients, like other persons, may have unclaimed property held at the State Treasurer's office. Current law does not allow these funds to be recovered unless a probate estate is opened.

*Estimated Total Impact \$100k-\$300k/year*

*Estimated Impact to Kansas: \$40k-\$130k/year*

**(6) Require notification upon death/termination of certain Trusts**

State law already gives Estate Recovery authority to pursue certain Trusts in which the Medicaid recipient held an interest; however, a large percentage of these Trusts are not disclosed after death. Adding Provisions in the statutes that a medical assistance claim is a claim against the Trust and that notice must be provided to the State within 90 days after death would lead to more Trust recoveries.

*Estimated Total impact including Fed Share: \$300k-\$500K/year*

*Estimated Impact to Kansas: \$130k-\$215k/year*

Total estimated annual impact of all legislative changes: \$2.1M to \$4.0M/year

Estimated annual Kansas share\*: \$903k to \$1.7M/year

Estimated amount to state after contractor fees\*\*: \$780k to \$1.5M/year

Estimated first year net impact to Kansas\*\*\*: \$585k to \$1.1M

Thank you for your time and I will stand for questions.

Rep. Ronald Ryckman

\* All estimated financial impacts assumes the 57%/43% FMAP ratio scheduled to go into place as of September 30, 2012. 57% of recovered funds will go back to the Federal government as their share. The estimated Fiscal impact to the State assumes the first fiscal year is July 1, 2012 through June 30 2012:

\*\* Contractor is compensated on contingency fee basis. Contractor fees are shared 50/50 by State and Federal government.

\*\*\* First year numbers are based on July 1, 2012 through June 30, 2013 recoveries. The first year impact numbers were reduced by 25% to account for 3 months of time with a larger federal FMAP share of 68%/31% and to allow a short period of time to fully integrate the changes. It is anticipated that revenue will increase quickly after changes are enacted.

This information was from Kari Buffett of KDHE