

Testimony
House Bill Number 1170 – Department Of Human Services
House Natural Resources Committee
Representative Todd Porter, Chairman
January 16, 2007

Chairman Porter, members of the House Natural Resources Committee, I am Jonathan Alm, an attorney with the Department of Human Services. While the Department is neutral on House Bill 1170 as introduced, I request your favorable consideration of the proposed amendment which is attached.

The amendment is designed to accomplish goals in two areas. First, it could eliminate the possibility of a Medicaid recipient having a disqualifying transfer of assets and becoming ineligible from receiving Medicaid for a calculated period. Second, it would assist the Department in identifying and collecting assets subject to Medicaid estate recovery as required by federal Medicaid law.

1. Medicaid Eligibility

This amendment is to assist Medicaid applicants or recipients from potentially incurring a disqualifying transfer impacting their eligibility for Medicaid. A disqualifying transfer would occur if action, or inaction, causes the individual to not receive the mineral interest to which he or she is entitled. In some situations, the Medicaid recipient or the recipient's family is unaware of the mineral interests or is unaware that the surface owner has commenced an action under chapter 38-18.1. The Department, by receiving a notice, would be able to try and locate the Medicaid recipient to inform the recipient of the potential disqualifying transfer that may occur if no action is taken on the recipient's behalf to ensure that they remain the mineral interest owner.

2. Medicaid Estate Recovery

State Medicaid programs are required to engage in estate recovery. The state seeks to recover Medicaid benefits paid from the estate of the recipient or the estate of the recipient's spouse. This amendment will not increase the total estate recovery in the vast majority of cases in which there is a Medicaid claim. A portion of all Medicaid estate recoveries must be paid back to the federal government in proportion to the amount paid by the federal government into that State's Medicaid program. The remaining portion of all Medicaid estate recoveries is returned to the state.

The proposed amendment will merely ensure that the Department is notified that assets, against which the Department might have a claim, are available for recovery purposes. This amendment also could possibly reduce the potential personal liability for a personal representative of an estate who failed to dispose of all of the estate's property.

This concludes my testimony. I would be happy to try to answer any questions the committee may have. Thank you.