

CHAPTER 3

[Second Substitute House Bill No. 557]

MEDICAL ASSISTANCE BENEFITS—TRANSFER OF RESOURCES AT LESS THAN MARKET VALUE—ELIGIBILITY

AN ACT Relating to medical care; amending section 4, chapter 30, Laws of 1967 ex. sess. as last amended by section 20, chapter 6, Laws of 1981 1st ex. sess. and RCW 74.09.510; amending section 22, chapter 6, Laws of 1981 1st ex. sess. and RCW 74.09.700; adding new sections to chapter 74.09 RCW; prescribing penalties; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Section 1. There is added to chapter 74.09 RCW a new section to read as follows:

A person is ineligible for medical assistance or the limited casualty program for the medically needy for a period determined under section 2 of this act if the person knowingly and wilfully assigns or transfers cash or other resources at less than fair market value after the effective date of this act for the purpose of qualifying or continuing to qualify for such medical care within two years preceding the date of application for such care: PROVIDED, That for the purpose of qualifying for such care and notwithstanding the provisions of chapter 26.16 RCW, this section shall not prohibit the voluntary transfer or assignment between spouses.

NEW SECTION. Sec. 2. There is added to chapter 74.09 RCW a new section to read as follows:

(1) If the uncompensated fair market value of the resources assigned or transferred is:

(a) Twelve thousand dollars or less, the period of ineligibility shall be prorated up to twelve months from the date of transfer;

(b) More than twelve thousand dollars but less than thirty thousand dollars, the period of ineligibility shall be prorated up to twenty-four months;

(c) More than thirty thousand dollars but less than fifty thousand dollars, the period of ineligibility shall be prorated up to thirty-six months;

(d) More than fifty thousand dollars, the period of ineligibility shall be forty-eight months.

(2) The department may waive a period of ineligibility if the department determines that the application of the period of ineligibility will cause undue hardship.

NEW SECTION. Sec. 3. There is added to chapter 74.09 RCW a new section to read as follows:

The department, by rule, shall adopt procedures to provide due process for applicants or recipients found not to qualify for medical assistance or the limited casualty program for the medically needy. At any hearing the department shall prove by a preponderance of the evidence that the person

knowingly and wilfully assigned or transferred cash or other resources at less than fair market value for the purpose of qualifying or continuing to qualify for the benefits or care. If the prevailing party in such an action is the person, the person shall be awarded reasonable attorney fees.

***NEW SECTION.** Sec. 4. There is added to chapter 74.09 RCW a new section to read as follows:

(1) Any person who knowingly and wilfully receives cash or resources transferred or assigned for less than fair market value after the effective date of this act to enable an applicant or recipient to qualify for assistance under RCW 74.09.510 or 74.09.700 is guilty of a gross misdemeanor.

(2) Any person who knowingly and wilfully receives cash or resources transferred or assigned for less than fair market value is liable for a civil penalty equal to the uncompensated value of the cash or resources transferred or assigned at less than fair market value. The civil penalty shall not exceed the cost of assistance rendered by the department to an applicant or recipient. The person may rebut the presumption that the transfer or assignment was made for the purpose of enabling the applicant or recipient to qualify or continue to qualify for assistance. The prevailing party in such an action shall be awarded reasonable attorney fees.

(3) Any moneys collected under this section shall be deposited in the revolving fund which is hereby created. This revolving fund shall consist of all fees collected under this section and any moneys appropriated to it by law. The state treasurer shall be the custodian of the revolving fund. Disbursements from the revolving fund shall be on authorization of the secretary or the secretary's designee. In order to maintain an effective expenditure and revenue control, the revolving fund shall be subject in all respects to chapter 43.88 RCW, but no appropriation is required to permit expenditures and payment of obligations from the fund.

*Sec. 4. was partially vetoed, see message at end of chapter.

Sec. 5. Section 4, chapter 30, Laws of 1967 ex. sess. as last amended by section 20, chapter 6, Laws of 1981 1st ex. sess. and RCW 74.09.510 are each amended to read as follows:

Medical assistance may be provided in accordance with eligibility requirements established by the department of social and health services, including the prohibition under sections 1 through 3 of this 1981-'82 act against the ~~((voluntary))~~ knowing and wilful assignment of property or cash for the purpose of qualifying for ~~((an))~~ such assistance ~~((grant))~~, as defined in the social security Title XIX state plan for mandatory categorically needy persons and: (1) Individuals who would be eligible for cash assistance except for their institutional status; (2) individuals who are under twenty-one years of age, who would be eligible for aid to families with dependent children, but do not qualify as dependent children and who are in (a) foster care, (b) subsidized adoption, (c) an intermediate care facility or an intermediate care facility for the mentally retarded, or (d) inpatient psychiatric

facilities; ~~((and))~~ (3) the aged, blind, and disabled who: (a) Receive only a state supplement, or (b) would not be eligible for cash assistance if they were not institutionalized; (4) individuals who would be eligible for but choose not to receive cash assistance; and (5) pregnant women who would be eligible for aid to families with dependent children if the child had been born and was living with the mother during the month of the payment, and the pregnancy has been medically verified.

Sec. 6. Section 22, chapter 6, Laws of 1981 1st ex. sess. and RCW 74.09.700 are each amended to read as follows:

(1) To the extent of available funds, medical care may be provided under the limited casualty program to persons not otherwise eligible for medical assistance or medical care services who are medically needy as defined in the social security Title XIX state plan and medical indigents in accordance with medical eligibility requirements established by the department. This includes residents of skilled nursing homes, intermediate care facilities, and intermediate care facilities for the mentally retarded who are aged, blind, or disabled as defined in Title XVI of the federal social security act and whose income exceeds three hundred percent of the federal supplement security income benefit level.

(2) Determination of the amount, scope, and duration of medical coverage under the limited casualty program shall be the responsibility of the department, subject to the following:

(a) Only inpatient hospital services; outpatient hospital and rural health clinic services; physicians' and clinic services; prescribed drugs, dentures, prosthetic devices, and eyeglasses; skilled nursing home services, intermediate care facility services, and intermediate care facility services for the mentally retarded; home health services; other laboratory and x-ray services; and medically necessary transportation shall be covered;

(b) A patient deductible not to exceed one-half the payment the department makes for the first day's stay for inpatient hospital care, shall be included for the medically needy component of the program;

(c) Persons who are medically indigent and are not eligible for a federal aid program shall satisfy a deductible of not less than one thousand five hundred dollars in any twelve-month period;

(d) Medical care services provided to the medically indigent and received no more than seven days prior to the date of application shall be retroactively certified and approved for payment on behalf of a person who was otherwise eligible at the time the medical services were furnished: PROVIDED, That eligible persons who fail to apply within the seven-day time period for medical reasons or other good cause may be retroactively certified and approved for payment.

(3) The department shall establish standards of assistance and resource and income exemptions. All nonexempt income and resources of limited casualty program recipients shall be applied against the cost of their medical

care services. In addition, the department ((may)) shall include a prohibition against the ((voluntary)) knowing and wilful assignment of property or cash for the purpose of qualifying for assistance under sections 1 through 3 of this 1981-'82 act.

~~((4) The department shall, to the maximum extent possible, recover the cost of medical care provided under this section from future income and resources. Future income and resources shall be limited to those available up to twenty-four months following the provision of care.))~~

NEW SECTION. Sec. 7. There is added to chapter 74.09 RCW a new section to read as follows:

If any part of this chapter is found to conflict with federal requirements which are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this chapter is hereby declared to be inoperative solely to the extent of the conflict, and such finding or determination shall not affect the operation of the remainder of this chapter.

NEW SECTION. Sec. 8. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 9. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House November 24, 1981.

Passed the Senate November 22, 1981.

Approved by the Governor December 1, 1981, with the exception of subsection 3 of Section 4 which is vetoed.

Filed in Office of Secretary of State December 1, 1981.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith without my approval as to subsection 3 of section 4 of Second Substitute House Bill No. 557 entitled:

"AN ACT Relating to Medical Care."

Subsection 3 of section 4 would have established a new revolving fund under the control of the Department of Social and Health Services. Since the bill states no purpose for the new fund and since we are currently trying to reduce the number of separate funds, I have vetoed this provision.

With the exception of subsection 3 of section 4, Second Substitute House Bill No. 557 is approved."