

CHAPTER 245

[Second Substitute House Bill No. 356]

STATE SOCIAL SERVICES—RECIPIENT REIMBURSEMENT

AN ACT Relating to reimbursement for social and health services; amending RCW 10.77.250, 10.82.080, 71.02.413, 72.23.230, 72.33.180, 72.33.670, 74.04.530, 74.04.540, and 74.04.550; adding a new section to chapter 74.04 RCW; creating a new section; repealing RCW 71.02.416; and declaring an emergency

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

Sec. 1. Section 25, chapter 117, Laws of 1973 1st ex. sess. and RCW 10.77.250 are each amended to read as follows:

~~((Notwithstanding any provision of the Revised Code of Washington to the contrary;))~~ The department shall be responsible for all costs relating to the evaluation and treatment of persons committed to it pursuant to any provisions of this chapter, and the logistical and supportive services pertaining thereto. Reimbursement may be obtained by the department pursuant to RCW ~~((71.02.380))~~ 71.02.411.

Sec. 2. Section 1, chapter 201, Laws of 1982 and RCW 10.82.080 are each amended to read as follows:

(1) When a superior court has, as a condition of the sentence for a person convicted of the unlawful receipt of public assistance, ordered restitution to the state of that overpayment or a portion thereof ~~((of it))~~;

(a) The department of social and health services shall deduct the overpayment from subsequent assistance payments as provided in chapter 74.04 RCW, when the person is receiving public assistance; or

(b) Ordered restitution payments ~~((shall))~~ may be made at the direction of the court to the clerk of the appropriate county or directly to the department of social and health services when the person is not receiving public assistance.

(2) However, if payments are received by the county clerk, each payment shall ~~((transmit those funds))~~ be transmitted to the department of social and health services within forty-five days after receipt by the county.

~~((3) The department of social and health services shall not be precluded from deducting the overpayments from subsequent assistance payments to the convicted person as provided in RCW 74.04.300 if the court has not ordered restitution under subsection (1) of this section;))~~

Sec. 3. Section 6, chapter 127, Laws of 1967 ex. sess. as last amended by section 33, chapter 67, Laws of 1981 and RCW 71.02.413 are each amended to read as follows:

In any case where determination is made that a person, or the estate of such person, is able to pay all, or any portion of the ~~((monthly))~~ charges for hospitalization, and/or charges for outpatient services, a notice ~~((of))~~ and finding of responsibility shall be served on such person or ~~((persons and the~~

~~legal~~) the court-appointed personal representative of such person. The notice shall set forth the amount the department has determined that such person, or his or her estate, is able to pay ~~((per-month))~~ not to exceed the ~~((monthly))~~ costs of hospitalization, and/or costs of outpatient services, as fixed in accordance with the provisions of RCW 71.02.410, or as otherwise limited by the provisions of RCW ~~((71.02.230,))~~ 71.02.320~~((;))~~ and 71.02.410 through 71.02.417. The responsibility for the payment to the department of social and health services shall commence thirty days after service of such notice and finding of responsibility which finding of responsibility shall cover the period from the date of admission of such mentally ill person to a state hospital, and for the costs of hospitalization, and/or the costs of outpatient services, accruing thereafter. The notice and finding of responsibility shall be served upon all persons found financially responsible ~~((either personally, or, by registered or certified mail, enclosing a form for acknowledgment of service with return postage prepaid. If service is by mailing and a form of acknowledgment of service is not executed and returned to the department, then personal service must be made for the finding of responsibility to be effective))~~ in the manner prescribed for the service of summons in a civil action or may be served by certified mail, return receipt requested. The return receipt signed by addressee only is prima facie evidence of service. An appeal may be made to the secretary of social and health services, or ~~((his))~~ the secretary's designee within thirty days from the date of ~~((posting))~~ service of such notice and finding of responsibility, upon the giving of written notice of appeal to the secretary of social and health services by registered or certified mail, or by personal service. If no appeal is taken, the notice and finding of responsibility shall become final. If an appeal is taken, the execution of notice and finding of responsibility shall be stayed pending the decision of such appeal. Appeals may be heard in any county seat most convenient to the appellant. The hearing of appeal may be presided over by an administrative law judge appointed under chapter 34.12 RCW, and the proceedings shall be recorded either manually or by a mechanical device. At the conclusion of such hearing, the administrative law judge shall make findings of fact and ~~((his))~~ conclusions and recommended determination of responsibility. Thereafter, the secretary, or ~~((his))~~ the secretary's designee, may either affirm, reject, or modify the findings, conclusions, and determination of responsibility made by the administrative law judge. Judicial review of the secretary's determination of responsibility in the superior court, the court of appeals, and the supreme court may be taken in accordance with the provisions of the Administrative Procedure Act, chapter 34.04 RCW.

Sec. 4. Section 72.23.230, chapter 28, Laws of 1959 as last amended by section 1, chapter 82, Laws of 1971 and RCW 72.23.230 are each amended to read as follows:

The superintendent of a state hospital shall be the custodian without compensation of such personal property of a patient involuntarily hospitalized therein as may come into the superintendent's possession while the patient is under the jurisdiction of the hospital. As such custodian, the superintendent shall have authority to disburse moneys from the patients' funds for the following purposes only and subject to the following limitations:

(1) The superintendent may disburse any of the funds in his possession belonging to a patient for such personal needs of that patient as may be deemed necessary by the superintendent; and

(2) Whenever the funds belonging to any one patient exceed the sum of ~~((three hundred))~~ one thousand dollars or a greater sum as established by rules and regulations of the department, the superintendent may apply the excess to ~~((the payment of the))~~ reimbursement for state hospitalization and/or outpatient charges of such patient ~~((except, reduction of such funds to a lesser amount may be made where necessary to qualify such patient for eligibility in any public or private program for the care, treatment, hospitalization, support, training, or rehabilitation of such patient, and to qualify such patient for the payment from any public or private program providing benefits for the payment of all or a portion of the costs of care, treatment hospitalization, support, training, or rehabilitation or for the discharge of the liabilities imposed by the provisions of RCW 71.02.411))~~ to the extent of a notice and finding of responsibility issued under RCW 71.02.413; and

(3) When a patient is paroled, the superintendent shall deliver unto the said patient all or such portion of the funds or other property belonging to the patient as the superintendent may deem necessary and proper in the interests of the patient's welfare, and the superintendent may during the parole period deliver to the patient such additional property or funds belonging to the patient as the superintendent may from time to time determine necessary and proper. When a patient is discharged from the jurisdiction of the hospital, the superintendent shall deliver to such patient all funds or other property belonging to the patient, subject to the conditions of subsection (2) of this section.

All funds held by the superintendent as custodian may be deposited in a single fund. Annual reports of receipts and expenditures shall be forwarded to the department, and shall be open to inspection by interested parties: PROVIDED, That all interest accruing from, or as a result of the deposit of such moneys in a single fund shall be used by the superintendent for the general welfare of all the patients of such institution: PROVIDED, FURTHER, That when the personal accounts of patients exceed three hundred dollars, the interest accruing from such excess shall be credited to the personal accounts of such patients. All such expenditures shall be accounted for by the superintendent.

The appointment of a guardian for the estate of such patient shall terminate the superintendent's authority to pay state hospitalization charges from funds subject to the control of the guardianship upon the superintendent's receipt of a certified copy of letters of guardianship. Upon the guardian's request, the superintendent shall forward to such guardian any funds subject to the control of the guardianship or other property of the patient remaining in the superintendent's possession, together with a final accounting of receipts and expenditures.

Sec. 5. Section 72.33.180, chapter 28, Laws of 1959 as last amended by section 1, chapter 118, Laws of 1971 ex. sess. and RCW 72.33.180 are each amended to read as follows:

The superintendent of a state school shall serve as custodian without compensation of such personal property of a resident as may be located at the school, including moneys deposited with the superintendent for the benefit of such resident. As such custodian, the superintendent shall have authority to disburse moneys from the resident's fund for the following purposes and subject to the following limitations:

(1) Subject to specific instructions by a donor of money to the superintendent for the benefit of a resident, the superintendent may disburse any of the funds belonging to a resident for such personal needs of such resident as the superintendent may deem proper and necessary.

(2) The superintendent may pay to the department (~~(of social and health services)~~) as reimbursement for the costs of care, support, maintenance, treatment, hospitalization, medical care and rehabilitation of a resident from the resident's fund when such fund exceeds (~~(two hundred)~~) one thousand dollars or a greater sum as established by rules and regulations of the department, to the extent of any notice and finding of financial responsibility served upon the superintendent after such findings shall have become final (~~(except, reduction of such funds to another amount may be made where necessary to qualify such person for eligibility in any public or private program for the care, treatment, hospitalization, support, training, or rehabilitation of such person, and to qualify such person for the payment of the liabilities from any public or private program providing benefits for the payment of all or a portion of the costs of care, treatment, hospitalization, support, training, or rehabilitation)~~): PROVIDED, That if such resident does not have a guardian, parent, spouse, or other person acting in a representative capacity, upon whom notice and findings of financial responsibility have been served then the superintendent shall not make payments to the department (~~(of social and health services)~~) as above provided, until a guardian has been appointed by the court, and the time for the appeal of findings of financial responsibility as provided in RCW 72.33.670 shall not commence to run until the appointment of such guardian and the service upon (~~(him)~~) the guardian of notice and findings of financial responsibility.

(3) When a resident is granted placement, the superintendent shall deliver to said resident, or the parent, guardian, or agency legally responsible for the resident, all or such portion of the funds of which the superintendent is custodian as above defined, or other property belonging to the resident, as the superintendent may deem necessary to the resident's welfare, and the superintendent may during such placement deliver to the former resident such additional property or funds belonging to the resident as the superintendent may from time to time deem proper. When the conditions of placement have been fully satisfied and the resident is discharged, the superintendent shall deliver to such resident, or the parent, person, or agency legally responsible for the resident, all funds or other property belonging to the resident remaining in his possession as custodian.

(4) All funds held by the superintendent as custodian may be deposited in a single fund, the receipts and expenditures therefrom to be accurately accounted for by ~~((him))~~ the superintendent: PROVIDED, That all interest accruing from, or as a result of the deposit of such moneys in a single fund shall be ~~((used by the superintendent for the general welfare of all the residents of such institution. PROVIDED, FURTHER, That when the personal accounts of residents exceed three hundred dollars, the interest accruing therefrom shall be))~~ credited to the personal accounts of such residents. All such expenditures shall be subject to the duty of accounting provided for in this section.

(5) The appointment of a guardian for the estate of such resident shall terminate the superintendent's authority as custodian of ~~((a resident's))~~ any funds of the resident which may be subject to the control of the guardianship upon receipt by the superintendent of a certified copy of letters of guardianship. Upon the guardian's request, the superintendent shall immediately forward to such guardian any funds subject to the control of the guardianship or other property of the resident remaining in the superintendent's possession together with a full and final accounting of all receipts and expenditures made therefrom.

(6) Upon receipt of a written request from the superintendent stating that a designated individual is a resident of the state school for which he has administrative responsibility and that such resident has no legally appointed guardian of his estate, any person, bank, corporation, or agency having possession of any money, bank accounts, or choses in action owned by such resident, shall, if the amount does not exceed two hundred dollars, deliver the same to the superintendent as custodian and mail written notice thereof to such resident at the state school. The receipt of the superintendent shall constitute full and complete acquittance for such payment and the person, bank, corporation, or agency making such payment shall not be liable to the resident or his legal representatives. All funds so received by the superintendent shall be duly deposited by him as custodian in the resident's fund to the personal account of such resident.

If any proceeding is brought in any court to recover property so delivered, the attorney general shall defend the same without cost to the person, bank, corporation, or agency effecting such delivery to the superintendent, and the state shall indemnify such person, bank, corporation, or agency against any judgment rendered as a result of such proceeding.

Sec. 6. Section 5, chapter 141, Laws of 1967 as last amended by section 7, chapter 189, Laws of 1982 and RCW 72.33.670 are each amended to read as follows:

In all cases where a determination is made that the estate of a (~~mentally or physically deficient person who resides at~~) resident of a state (~~(residential)~~) school is able to pay all or any portion of the (~~(monthly)~~) charges, a notice and finding of (~~(financial)~~) responsibility shall be (~~(personally)~~) served on the guardian of the resident's estate, or if no guardian has been appointed then to (~~(his)~~) the resident, the resident's spouse (~~(or parents)~~), or other person acting in a representative capacity and having property in his or her possession belonging to a resident of a state (~~(residential)~~) school and the superintendent of the state (~~(residential)~~) school. The notice shall set forth the amount the department has determined that such estate is able to pay (~~(per month)~~), not to exceed the (~~(monthly)~~) charge as fixed in accordance with RCW 72.33.660, and the responsibility for payment to the department (~~(of social and health services)~~) shall commence thirty days after personal service of such notice and finding of responsibility. Service shall be in the manner prescribed for the service of a summons in a civil action or may be served by certified mail, return receipt requested. The return receipt signed by addressee only is prima facie evidence of service. An appeal from the determination of responsibility may be made to the secretary by the guardian of the resident's estate, or if no guardian has been appointed then by (~~(his)~~) the resident, the resident's spouse, (~~(parent or parents)~~) or other person acting in a representative capacity and having property in his or her possession belonging to a resident of a state (~~(residential)~~) school, within such thirty day period upon written notice of appeal being served upon the secretary by registered or certified mail. If no appeal is taken, the notice and finding of responsibility shall become final. If an appeal is taken, the execution of notice and finding of responsibility shall be stayed pending the decision of such appeal. Appeals may be heard in any county seat most convenient to the appellant. The hearing of appeals may be presided over by an administrative law judge appointed under chapter 34.12 RCW and the proceedings shall be recorded either manually or by a mechanical device. Any such appeal shall be a "contested case" as defined in RCW 34.04.010, and practice and procedure shall be governed by the provisions of RCW 72.33.650 through 72.33.700, the rules and regulations of the department (~~(of social and health services)~~), and the Administrative Procedure Act, chapter 34.04 RCW.

Sec. 7. Section 1, chapter 102, Laws of 1973 1st ex. sess. as amended by section 17, chapter 201, Laws of 1982 and RCW 74.04.530 are each amended to read as follows:

~~((Notwithstanding any provisions in Title 51 RCW to the contrary,))~~
By accepting public assistance from the department of social and health services, the recipient thereof shall be deemed to have subrogated said department to the recipient's right to recover ~~((net))~~ time loss compensation due to such recipient and his or her dependents pursuant to the provisions of Title 51 RCW ~~((of up to eighty percent of))~~ to the extent of such assistance or compensation, whichever is less, furnished to the recipient and his or her dependents for or during the period for which time loss compensation is payable: PROVIDED, That the amount to be repaid to the department of social and health services shall bear its proportionate share of attorney's fees and costs, if any, incurred by the injured ~~((workman))~~ worker or ~~((his))~~ the worker's dependents. The department of social and health services may assert and enforce a lien and notice to withhold and deliver as hereinafter provided to secure reimbursement of any public assistance paid for or during the period and for the purposes expressed in this section~~((: PROVIDED, FURTHER, That no claim for payment under chapter 73.34 RCW shall be subject to garnishment, attachment, levy, or execution))~~.

Sec. 8. Section 2, chapter 102, Laws of 1973 1st ex. sess. and RCW 74.04.540 are each amended to read as follows:

The ~~((form of))~~ lien and notice to withhold and deliver in RCW 74.04.530 shall be signed by the secretary or ~~((his))~~ the secretary's authorized representative and shall ~~((be substantially as follows:~~

~~STATEMENT OF LIEN AND NOTICE
TO WITHHOLD AND DELIVER~~

~~TO: State of Washington, Department of Labor and Industries~~

~~NOTICE IS HEREBY GIVEN THAT DURING THE PERIOD commencing and ending, the department of social and health services furnished public assistance to in the amount of \$....., and therefore it claims a lien in the amount of \$....., upon time loss compensation payable to said recipient for or during said period in the amount above stated. You are therefore commanded to withhold and deliver to the department of social and health services, to the extent of the amount claimed due, any funds you now hold or which may come into your possession on account of time loss compensation payable to said recipient for or during the period mentioned.~~

~~_____ STATE OF WASHINGTON;
_____ DEPARTMENT OF SOCIAL
_____ AND HEALTH SERVICES
_____ BY
_____ (Title))~~

identify the recipient of public assistance and time loss compensation, the amount claimed by the department, and the demand to withhold and deliver the sum claimed by the department.

Sec. 9. Section 3, chapter 102, Laws of 1973 1st ex. sess. and RCW 74.04.550 are each amended to read as follows:

The effective date of the statement of lien and notice to withhold and deliver provided in RCW 74.04.540, shall be the day that it is received by the director of the department of labor and industries ((or)), an employee of ((his)) the director's office of suitable discretion, or a self-insurer as defined in chapter 51.08 RCW: PROVIDED, That service of such statement of lien and notice to withhold and deliver may be made personally or by regular mail, postage prepaid: PROVIDED, FURTHER, That a copy of the statement of lien and notice to withhold and deliver shall be mailed to the recipient at ((his)) the recipient's last known address by certified mail, return receipt requested, no later than ((three days)) the next business day after such statement of lien and notice to withhold and deliver has been mailed or delivered to the department of labor and industries or to a self-insurer as defined in chapter 51.08 RCW.

NEW SECTION. Sec. 10. A new section is added to chapter 74.04 RCW to read as follows:

When the department provides grant assistance to persons who possess excess real property under RCW 74.04.005(10)(f), the department may file a lien against, or otherwise perfect its interest in such real property as a condition of granting such assistance, and the department shall have the status of a secured creditor.

NEW SECTION. Sec. 11. Sections 3 and 6 of this act shall not have the effect of terminating or in any way modifying any liability, civil or criminal, that is already in existence on the effective date of this act.

NEW SECTION. Sec. 12. 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.

NEW SECTION. Sec. 13. Section 9, chapter 127, Laws of 1967 ex. sess., section 128, chapter 141, Laws of 1979 and RCW 71.02.416 are each repealed.

Passed the House March 19, 1985.

Passed the Senate April 19, 1985.

Approved by the Governor May 10, 1985.

Filed in Office of Secretary of State May 10, 1985.