

SENATE BILL 449

J1, N2

6lr1729
CF 6lr2978

By: **Senators Kelley, Benson, Feldman, Jennings, Klausmeier, and Mathias**
Introduced and read first time: February 2, 2016
Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Medical Assistance Program – Guardianship Fees – Income Deduction**

3 FOR the purpose of requiring the Department of Health and Mental Hygiene to deduct as
4 a remedial service certain guardianship fees when determining the portion of income
5 certain recipients of Maryland Medical Assistance Program benefits are required to
6 contribute to the cost of their care under the Program; specifying the amount of
7 deductions for certain guardianship fees; establishing that certain guardians are not
8 entitled to receive more than a certain amount in compensation unless a certain
9 finding is made by a certain court; defining certain terms; and generally relating to
10 the Maryland Medical Assistance Program and compensation for guardianship
11 services provided to Program recipients.

12 BY repealing and reenacting, with amendments,
13 Article – Estates and Trusts
14 Section 13–218
15 Annotated Code of Maryland
16 (2011 Replacement Volume and 2015 Supplement)

17 BY adding to
18 Article – Health – General
19 Section 15–122.3
20 Annotated Code of Maryland
21 (2015 Replacement Volume)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
23 That the Laws of Maryland read as follows:

24 **Article – Estates and Trusts**

25 13–218.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



1 (A) Except in unusual circumstances AND AS PROVIDED IN SUBSECTION (B) OF
2 THIS SECTION, the guardian is entitled to the same compensation and reimbursement for
3 actual and necessary expenses as the trustee of a trust. No petition or hearing is required
4 to entitle the guardian to compensation and expenses. Upon the petition of any interested
5 person and upon a finding by the court that unusual circumstances exist, the court may
6 increase or decrease compensation.

7 (B) IF THE GUARDIAN IS APPOINTED AS THE GUARDIAN OF A DISABLED
8 PERSON WHO IS A RECIPIENT OF LONG-TERM CARE SERVICES AND SUPPORTS
9 UNDER THE MARYLAND MEDICAL ASSISTANCE PROGRAM AND WHOSE INCOME IS
10 SUBJECT TO § 15-122.3 OF THE HEALTH - GENERAL ARTICLE, THE GUARDIAN IS
11 NOT ENTITLED TO RECEIVE MORE THAN \$50 PER MONTH IN COMPENSATION UNLESS
12 THE COURT MAKES A FINDING THAT UNUSUAL CIRCUMSTANCES EXIST.

13 Article - Health - General

14 15-122.3.

15 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
16 INDICATED.

17 (2) "AVAILABLE INCOME" MEANS THE PORTION OF INCOME OF A
18 PROGRAM RECIPIENT THAT THE PROGRAM RECIPIENT IS REQUIRED TO
19 CONTRIBUTE TO THE COST OF CARE FOR THE PROGRAM RECIPIENT UNDER THE
20 PROGRAM.

21 (3) "DISABLED PERSON" HAS THE MEANING STATED IN § 13-101 OF
22 THE ESTATES AND TRUSTS ARTICLE.

23 (4) "GUARDIAN" MEANS:

24 (I) A GUARDIAN OF THE PERSON; OR

25 (II) A GUARDIAN OF THE PROPERTY.

26 (5) "GUARDIAN OF THE PERSON" MEANS A PERSON WHO HAS BEEN
27 APPOINTED BY A COURT AS A GUARDIAN OF THE PERSON OF A DISABLED PERSON
28 UNDER § 13-705 OF THE ESTATES AND TRUSTS ARTICLE.

29 (6) "GUARDIAN OF THE PROPERTY" MEANS A PERSON WHO HAS BEEN
30 APPOINTED BY A COURT AS A GUARDIAN OF THE PROPERTY OF A DISABLED PERSON
31 UNDER § 13-201 OF THE ESTATES AND TRUSTS ARTICLE.

1 **(7) “GUARDIANSHIP SERVICES” MEANS SERVICES PROVIDED TO A**
2 **RECIPIENT WHO IS A DISABLED PERSON BY A GUARDIAN WHILE ACTING IN THE**
3 **CAPACITY AS A GUARDIAN.**

4 **(8) “RECIPIENT” MEANS A PROGRAM RECIPIENT WHO RECEIVES**
5 **LONG-TERM CARE SERVICES AND SUPPORTS UNDER THE PROGRAM.**

6 **(B) SUBJECT TO SUBSECTION (C) OF THIS SECTION, WHEN DETERMINING**
7 **THE AVAILABLE INCOME OF A RECIPIENT WHO IS A DISABLED PERSON AND HAS A**
8 **GUARDIAN, THE DEPARTMENT SHALL DEDUCT AS A REMEDIAL SERVICE**
9 **GUARDIANSHIP FEES PAYABLE FOR GUARDIANSHIP SERVICES.**

10 **(C) DEDUCTIONS FOR GUARDIANSHIP FEES SHALL BE AS FOLLOWS:**

11 **(1) IF ONE PERSON IS SERVING AS BOTH THE GUARDIAN OF THE**
12 **PERSON AND THE GUARDIAN OF THE PROPERTY OF THE RECIPIENT, THE**
13 **DEDUCTION SHALL BE \$50 PER MONTH; AND**

14 **(2) IF ONE PERSON IS SERVING AS THE GUARDIAN OF THE PERSON OF**
15 **THE RECIPIENT AND A DIFFERENT PERSON IS SERVING AS THE GUARDIAN OF THE**
16 **PROPERTY OF THE RECIPIENT, THE DEDUCTION SHALL BE \$50 PER MONTH FOR**
17 **EACH GUARDIAN.**

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 October 1, 2016.