

Department of Legislative Services  
Maryland General Assembly  
2020 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 393  
Judiciary

(Delegate Malone)

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Estates and Trusts - Estate Recoveries - Presentation of Claims Against Medicaid Recipients

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This bill alters the date by which the Maryland Department of Health (MDH) must present a claim against the estate of a deceased Medicaid recipient before the claim is barred.

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Fiscal Summary

**State Effect:** Potential decrease in MDH special fund revenues beginning in FY 2021 due to a reduction in the amount of time during which MDH may present a claim against an estate. Expenditures are not likely affected.

**Local Effect:** None.

**Small Business Effect:** None.

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Analysis

**Bill Summary/Current Law:** Under current law, MDH may make a claim against the estate of a deceased Medicaid recipient for the amount of any Medicaid payments. The claim must be waived if, in the judgment of MDH, the claim would cause substantial hardship to the surviving dependents of the deceased.

Section 7-103 of the Estates and Trusts Article specifies that, after the appointment of a personal representative of an estate, the register must have a notice of the appointment published in a newspaper of general circulation in the county of appointment once a week *in three successive weeks*, announcing the appointment and address of the personal representative, and notifying creditors of the estate to present their claims. The personal

representative must file with the register a certification that a notice (in specified form) has been published.

A claim is forever barred against the estate of a Medicaid recipient, the personal representative, and the heirs and legatees, unless the claim is presented within the earlier of (1) six months after publication of notice of the first appointment of a personal representative or (2) two months after the personal representative mails or delivers to MDH specified notice that the claim must be barred unless presented within two months of receipt of the notice.

The bill specifies that the first timeframe is within six months after *the first* publication of the first appointment of a personal representative, rather than within six months after the *third* publication.

**State Revenues:** MDH advises that the Medicaid Division of Recoveries and Financial Services currently has six months from the *third* publication of the first appointment of a personal representative to present a claim to recover resources from an estate. Under the bill, the amount of time during which the division can present a claim is reduced by two weeks, which may in turn reduce the amount of special fund revenues collected. However, the amount of any such reduction cannot be reliably estimated.

MDH advises that the total amount of Medicaid payments recovered from estates in calendar 2019 was \$8.6 million, with an average claim of \$30,000.

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### **Additional Information**

**Prior Introductions:** None.

**Designated Cross File:** SB 150 (Senator West) - Judicial Proceedings.

**Information Source(s):** Judiciary (Administrative Office of the Courts); Maryland Department of Health; Department of Legislative Services

**Fiscal Note History:** First Reader - January 21, 2020  
md/ljm

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