Governor’s FY 2015 Budget: Articles

Staff Presentation to the House Finance Committee
February 12, 2014

Introduction

- Articles in Governor’s FY 2015 Budget
- Five articles today
- Office of Health and Human Services
- Department of Children, Youth and Families
Introduction

2:30 pm
- Article 26 – 19 to 21 year olds to BHDDH
- Article 27 – Medical Assistance Recoveries

At the Rise:
- Article 23 – Hospital License Fee
- Article 24 – Hospital Payments
- Article 25 – Medical Assistance Programs

Article 26 – DCYF

- Article would authorize Director of DCYF to transfer eligible developmentally disabled 19-21 year olds to BHDDH for $0.5 million from general revenue savings
- DCYF: 29 youth eligible for transfer
- Governor: Assumes 12 will be transferred to BHDDH
  - Still must meet eligibility requirements
Article 26 – DCYF

- RIGL 42-72-5 (b) - DCYF provides residential and education services if emotionally disturbed or developmentally delayed from ages 18 to 21
- RIGL 42-21-4.3 - Defines a developmentally disabled adult as a person 18 or older and not under the jurisdiction of DCYF

Article 26 – DCYF

- Budget Assumes:
  - DCYF: $362 per day residential services
  - Residential and day programs
  - BHDDH: $192 per day residential services
  - Assumes youth could benefit from adult learning and vocational training
Article 26 – DCYF

- Savings reflect lower per diem costs

<table>
<thead>
<tr>
<th>Agency</th>
<th>Gen. Rev.</th>
<th>Federal</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>DCYF</td>
<td>($1.1)</td>
<td>($0.5)</td>
<td>($1.5)</td>
</tr>
<tr>
<td>BHDDH</td>
<td>0.6</td>
<td>0.2</td>
<td>0.8</td>
</tr>
<tr>
<td>Total (millions)</td>
<td>($0.5)</td>
<td>($0.2)</td>
<td>($0.7)</td>
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</table>

Article 27 – Medical Assistance Recoveries

- Addresses the state’s ability to make certain recoveries in its medical benefits program
- Federal government requires states to recover costs made on behalf of Medicaid recipients
  - estates and third party payors
Article 27 – Medical Assistance Recoveries

- Estate Recoveries
  - RI General Law 40-8-15
- Medical Assistance Intercept Act
  - RI General Law 27-57.1-1
  - Intercept 3rd party payors
  - Including insurance payments & workers' compensation settlements

- Article preserves recovery efforts & includes new Medicaid eligibility requirement for long term care recipients relating to assets
- Governor does not include any savings in FY 2015
Article 27 – Estate Recoveries

- Federal government requires that at a minimum states recover long term care & other costs for those 55 and older
- May use the narrow federal definition
  - Estate is only those assets that pass through “probate” – Rhode Island
  - Broader definition includes life insurance payouts, life estates and living trusts

Article 27 – Medicaid Estate Recoveries

- Probate – is process by which a will is proved valid
- Includes all property owned by a person at the time of death which does not pass directly to others through right of survivorship, or a trust established prior to death, or life insurance payable to a named beneficiary
Does not pass through probate

- **Trusts** – an arrangement in which a grantor transfers property to a trustee with the intention that it be held, managed or administered for the benefit of the grantor or certain designated beneficiaries
- **Life Estates** – an asset a person has the right to possess & use only for as long as the person lives

Rhode Island does not include trust or life estate for purposes of recovery

- Passes to the beneficiary/no probate
- Does include them for purposes of determining if property was transferred before applying for Medicaid
- Potential to offset state costs
## Long Term Care

### Costs

- **FY 2013 totaled $434.4 million**
  - $211.8 million from general revenues
  - About 20,000 long term care recipients
- **Nursing & hospice care - $354.2 million**
  - $172.9 million from general revenues
- **Nursing homes - Medicaid rate of $200/day - state paying $167/day**

### Eligibility

- Institutional Level of Care & Financial Need
- May keep primary residence but subject to examination for transfer to others
- Federal 5 year look back period for asset transfers to determine Medicaid eligibility
- Those age 55 and older
- FY 2013 - state recovered $3.0 million
## Long Term Care

<table>
<thead>
<tr>
<th>Property</th>
<th>State Recovery</th>
</tr>
</thead>
<tbody>
<tr>
<td>(#1) Person did not transfer own home</td>
<td>Eligible/Subject to recovery - lien on home</td>
</tr>
<tr>
<td>(#2) Person transferred 5 years prior to application</td>
<td>Eligible for Medicaid/No recovery</td>
</tr>
<tr>
<td>(#3) Person transferred w/in 5 years of applying</td>
<td>Penalty Period/Not eligible for Medicaid/No Recovery</td>
</tr>
</tbody>
</table>

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### Long Term Care

- **Purposes of probate** – life estate is not considered property but is subject to recovery if there is transfer
- **Example #3** applies to someone with a life estate
- **Example #3** does not apply to someone with a life estate with powers or “Lady Bird” deed
**Application for Long Term Care**

<table>
<thead>
<tr>
<th>Life Estate</th>
<th>Life Estate w/ Powers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Property is not a countable asset</td>
<td>Property is not a countable asset</td>
</tr>
<tr>
<td>If transfer property - penalty applies/then Medicaid eligible</td>
<td>Eligible for Medicaid/ No recovery</td>
</tr>
<tr>
<td>Upon death - no probate/no recovery</td>
<td>Upon death - immediate transfer – no probate</td>
</tr>
</tbody>
</table>

**Example – Life Estate**

- Person has $150,000 in equity & transfers property from a life estate
- Based on life expectancy & $30,000 of equity interest in property, person pays 3 months
  - $30,000 in equity/$8,643 (private pay nursing home cost)
  - Savings to the state
Example – Life Estate with Powers – “Lady Bird” deed

- Person has $150,000 in equity & transfers property from a life estate with powers deed
- Not counted as recovery and does not affect eligibility
- No offsetting state costs

Article 27 – Estate Recoveries

- Section 1 – establishes life estate with enhanced powers in real estate section of the RI General Laws
- Section 3 – mandates that an individual with a “Lady Bird” deed will not be eligible for Medicaid unless convey interest back to themselves
- If have one – not eligible for Medicaid
Section 2 conforms to new federal requirements allowing states to recover certain resources for medical assistance recipients from 3rd party settlements.

Currently state recoveries limited to judgment.

FY 2013 state realized about $10.0 million from all available recoveries.

Individual is involved in a car accident and state incurs costs for hospital stay and rehabilitation = $6,000.

If receive a settlement for $8,000 with $5,000 for medical.

- State can only recover up to $5,000.
- Federal change allows $6,000 recovery.
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