



Rhode Island Executive Office of Health and Human Services
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May 7, 2024

Honorable Robert E. Craven, Chairman
House Committee on Judiciary
State House
Providence, Rhode Island 02903

RE: House Bill 2024- 8130

Dear Chairman Craven:

I am writing to express concerns regarding 2024- H-8130, which would negatively impact the State's Medicaid estate recovery efforts under R.I. Gen. Laws §§ 40-8-15 and 40-6-9. If enacted, the proposed bill would allow the automatic transfer of an individual's house via a transfer on death deed (TODD) without going through the probate court process.

State Medicaid programs are federally mandated to seek estate recovery reimbursement for Medicaid expenditures under the 1993 Omnibus Budget Reconciliation Act (OBRA). Rhode Island's Medicaid Estate Recovery Statute (*R.I. Gen. Laws § 40-8-15, codified in 210 RICR 10-00-4 et seq.*) empowers the Executive Office of Health and Human Services (EOHHS) to seek Medicaid estate recovery in the form of a lien that "shall attach against property of a beneficiary, which is included or includable in the decedent's probate estate." In Rhode Island, an individual can own a home that serves as their primary residence and still qualify for Medicaid because the applicant's "primary residence" is excluded when determining total assets for purposes of eligibility (210 RICR 50-00-6.5(3)(B)). However, a Medicaid applicant is advised, both in writing and during the application interview with the DHS field worker, that under Rhode Island law, an individual's estate would be subject to the Medicaid lien statute. Passage of this bill would effectively disallow this authority.

The mandatory collection of Medicaid reimbursement is essential to the state's budget. Through the efforts of the EOHHS Legal Division, \$13,010,100.00 was collected through the estate recovery and third-party subrogation process for FY 2023.

EOHHS State Medicaid Program respectfully requests your consideration of our concerns.

Sincerely,

Kristin Pono Sousa Medicaid Program Director
Executive Office of Health and Human Services



CC: Honorable Members of the House Committee on Judiciary
Honorable Lauren H. Carson
Nicole McCarty, Esq., Chief Legal Counsel to the Speaker of the House

