

SENATE FILE NO. _____

Medicaid federal compliance.

Sponsored by: Joint Labor, Health and Social Services
Interim Committee

A BILL

for

1 AN ACT relating to the Wyoming Medical Assistance and
2 Services Act; providing that individuals with substantial
3 home equity are ineligible for Medicaid long-term care as
4 specified; incorporating annuities in the definition of
5 assets for purposes of Medicaid eligibility; extending the
6 look back period for transfers of assets by Medicaid
7 applicants; requiring disclosure of annuities by applicants
8 for Medicaid long-term care services; amending the
9 disqualification period for Medicaid long-term care
10 services following transfer of assets as specified;
11 amending a definition; and providing for an effective date.

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13 *Be It Enacted by the Legislature of the State of Wyoming:*

14

15 **Section 1.** W.S. 42-2-405 is created to read:

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1 **42-2-405. Individuals with substantial home equity;**
2 **disqualification.**

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4 (a) An applicant shall not be eligible for long-term
5 care services under this article if the applicant's equity
6 interest in the applicant's home exceeds five hundred
7 thousand dollars (\$500,000.00).

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9 (b) Beginning on July 1, 2011 and annually
10 thereafter, the dollar amount in subsection (a) of this
11 section shall be adjusted based on the consumer price index
12 for urban consumers published by the United States
13 department of labor, bureau of labor statistics, for the
14 preceding calendar year.

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16 (c) Subsection (a) of this section shall not apply to
17 an individual whose spouse, or child under age twenty-one
18 (21), is lawfully residing in the individual's home and is
19 blind or disabled as defined in 42 U.S.C. 1382c.

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21 (d) Nothing in this section shall be construed as
22 preventing an applicant from using a reverse mortgage or
23 home equity loan to reduce the applicant's total equity
24 interest in the applicant's home.

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Section 2. W.S. 42-2-401(a)(i) and 42-2-402(a), (b) and by creating a new subsection (g) are amended to read:

42-2-401. Definitions.

(a) For purposes of this article:

(i) "Asset", with respect to an individual, means:

(A) All income and resources of the individual and of the individual's spouse, including any income or resources to which the individual or his spouse is entitled but does not receive because of action:

~~(A)~~ (I) By the individual or his spouse;

~~(B)~~ (II) By a person, including a court or administrative body, with legal authority to act in place of or on behalf of the individual or his spouse; or

1 ~~(C)~~ (III) By any person, including a
2 court or administrative body, acting at the direction or
3 upon the request of the individual or his spouse.

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5 (B) An annuity purchased by or on behalf of
6 an annuitant who has applied for medical assistance with
7 respect to long-term care services unless the annuity is an
8 annuity as described in 42 U.S.C. 1396p(c)(1)(G)(i) or
9 (ii).

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11 **42-2-402. Transfers of assets affecting eligibility;**
12 **exceptions; disclosures by applicants.**

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14 (a) If an institutionalized individual or the
15 individual's spouse has disposed of, for less than fair
16 market value, any asset or interest therein within ~~thirty-~~
17 ~~six~~ ~~(36)~~ sixty (60) months before or any time after the
18 first date the individual has both applied for medical
19 assistance and been institutionalized, the individual is
20 ineligible for medical assistance for long-term care
21 services for the period of time determined under subsection
22 (b) of this section. ~~The thirty-six (36) month period~~

23 ~~provided in this section shall be a sixty (60) month period~~
24 ~~in cases of payments from a trust or portions of a trust~~

1 ~~that are treated as assets disposed of by the individual~~
2 ~~under W.S. 42-2-403(d)(iii) or (e)(ii).~~

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4 (b) For a transfer within the provisions of
5 subsection (a) of this section, the number of months of
6 ineligibility for long-term care services shall be the
7 total, cumulative uncompensated value of all assets
8 transferred within the ~~thirty-six (36)~~ sixty (60) month
9 period, ~~or sixty (60) month period in the case of a trust,~~
10 divided by the average monthly cost to a private patient
11 for nursing facility services on the date of application.
12 The period of ineligibility begins with the later of:

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14 (i) The first day of the first month in which
15 the assets were transferred and which does not occur in any
16 other period of ineligibility;:-

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18 (ii) The date on which the individual is
19 eligible for medical assistance under the state plan and
20 would otherwise be receiving institutional level care, but
21 for the application of the penalty period, and which does
22 not occur during any other period of ineligibility under
23 this section.

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1 (g) An applicant for long-term care services shall
2 disclose any interest the applicant, or the applicant's
3 spouse who is not residing in long-term care, has in an
4 annuity or similar financial instrument, regardless of
5 whether the annuity or instrument is irrevocable or is
6 treated as an asset. For purposes of subsection (a) of
7 this section, the purchase of an annuity shall be treated
8 as the disposal of an asset for less than fair market value
9 unless:

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11 (i) The state is named as the remainder
12 beneficiary in the first position for at least the total
13 amount of medical assistance paid on behalf of the
14 annuitant under this article; or

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16 (ii) The state is named as the remainder
17 beneficiary in the second position after the spouse or
18 minor or disabled child and is named in the first position
19 if the spouse or a representative of the child disposes of
20 any the remainder for less than fair market value.

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22 **Section 3.** This act is effective July 1, 2007.

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(END)