Document: O.C.G.A. § 49-4-147.1

O.C.G.A. § 49-4-147.1

Copy Citation

Current through the 2026 Special Session of the General Assembly.

Official Code of Georgia Annotated TITLE 49 Social Services (Chs. 1 — 10) CHAPTER 4 Public Assistance (Arts. 1 — 9) Article 7 Medical Assistance Generally (§§ 49-4-140 — 49-4-159.6)

49-4-147.1. Claims by department against estate of Medicaid recipients.

(a) In accordance with applicable federal law and regulations, including those under Title XIX of the federal Social Security Act, the department may make claim against the estate of a Medicaid recipient for the amount of any medical assistance payments made on such person's behalf by the department. A claim shall be made against the estate of a deceased Medicaid recipient only if at the time of application for medical assistance the applicant received written notice that the medical assistance costs could be recovered from the applicant's estate and the applicant signed a written acknowledgment of receipt of such notice, the estate is otherwise subject to recovery, and if no hardship or other exemption exists. The commissioner shall waive such claim if he or she determines enforcement of the claim would result in substantial and unreasonable hardship to dependents of the individual against whose estate the claim exists.

(b) The estate recovery program established pursuant to this Code section shall not be effective any earlier than May 3, 2006. In no event shall the department make claims against the estate of a Medicaid recipient for the amount of any medical assistance payments made on such person's behalf prior to May 3, 2006.

(c) The commissioner shall delay execution of a claim against the estate where the dependents or heirs agree to pay the full amount of the claim in reasonable installments.

(d) To prevent substantial and unreasonable hardship, the commissioner shall waive any claim against the first $25,000.00 of any estate. No later than July 1, 2018, the department shall submit to the United States Department of Health and Human Services Centers for Medicare and Medicaid Services an amendment to the state plan reflecting the provisions of this subsection. In the event that such amendment to the state plan is not approved, this subsection shall stand repealed in its entirety.

History

Ga. L. 1981, p. 917, § 1; Ga. L. 2006, p. 775, § 3/SB 572; Ga. L. 2018, p. 244, § 1/SB 370.

Annotations

Notes

Amendments.

The 2018 amendment, effective July 1, 2018, added subsection (d).

Code Commission notes.

Pursuant to Code Section 28-9-5, in 1986, "federal Social Security Act" was substituted for "Social Security Amendments of 1965".

Pursuant to Code Section 28-9-5, in 2006, "and" was inserted near the end of the second sentence of current subsection (a), and "May 3, 2006" was substituted for "the effective date of this subsection" in two places in subsection (b).

Editor's notes.

Pursuant to the terms of subsection (d) of this Code section, the amendment was submitted and approved effective July 1, 2018.

JUDICIAL DECISIONS

Recovery of Medicaid payments. —

Seeking to avoid the recovery of Medicaid payments from their mother's estate, when the daughters opted their mother out of Medicaid and planned to sell some of the mother's property, those decisions were properly held to not be in the mother's best interest and supported the appointment of the county conservator in that capacity. Cruver v. Mitchell, 289 Ga. App. 145, 656 S.E.2d 269, 2008 Ga. App. LEXIS 24 (2008).

Georgia Department of Community Health (DCH) erred by deeming recovery from a Medicaid claimant's estate appropriate under O.C.G.A. § **49**-**4**-**147**.**1**(a) since the claimant was still alive. But nothing in O.C.G.A. § 50-13-19(h) authorized the trial court to bar DCH from ever pursuing the claimant's estate to recover Medicaid payments. Ga. Dep't of Cmty. Health v. Medders, 292 Ga. App. 439, 664 S.E.2d 832, 2008 Ga. App. LEXIS 804 (2008), cert. denied, No. S08C1824, 2008 Ga. LEXIS 906 (Ga. Oct. 6, 2008).

Research References & Practice Aids

U.S. Code.

Title XIX of the federal Social Security Act, referred to in this Code section, is codified at 42 U.S.C. § 1396 et seq.

Administrative rules and regulations.

Estate recovery, Official Compilation of the Rules and Regulations of the State of Georgia, Department of Community Health, Medical Assistance, § 111-3-8-.01 et seq.

RESEARCH REFERENCES

Am. Jur. 2d.

79 Am. Jur. 2d, Welfare Laws, § 33 et seq.

C.J.S.

8l C.J.S., Social Security, § 137.

Hierarchy Notes:

O.C.G.A. Title 49

O.C.G.A. Title 49, Ch. 4

O.C.G.A. Title 49, Ch. 4, Art. 7

Official Code of Georgia Annotated

Content Type: Statutes and Legislation

Terms: 49-4-147.1

Narrow By: custom: custom Sources: Official Code of Georgia Annotated

Date and Time: Sep 18, 2026 10:16:38 a.m. EDT



Print

Cookie Policy

Terms & Conditions