

HOUSE BILL No 1351 Session of 2009

Section 1412. Repayment from [Probate] Estates.—

(a) Notwithstanding any other provision of this act or any other law, the department shall establish and implement an estate recovery program to recover medical assistance paid with respect to individuals who were fifty-five years of age or older at the time that assistance was received. Under this program, the department shall recover from the estate of an individual the amount of medical assistance paid for all services provided to the individual. For purposes of this section, an individual's estate shall include all of the following:

(1) All real and personal property and other assets subject to inclusion within the deceased individual's estate under 20 Pa.C.S. (relating to decedents, estates and fiduciaries).

(2) Any other real and personal property and other assets in which the deceased individual had any legal title or interest at the time of death, to the extent of such interest, including such assets conveyed to a survivor, heir, or assign, of the deceased individual through joint tenancy, tenancy by the entireties, tenancy in common, survivorship, life estate, living trust or other arrangement.

(a.1) Liability for debt shall be as follows:

(1) If property subject to the department's claim is transferred without the department's claim being satisfied, then the executor or administrator transferring such property, if there is one, shall become liable to pay the department's claim.

(2) If property subject to the department's claim is transferred to the extent that the transfer is made without valuable and adequate consideration in money or something worth money at the time of the transfer and without the department's claim being satisfied, then the executor or administrator transferring such property, if there is one, and the person receiving such property shall become liable to pay the department's claim.

(3) If property subject to the department's claim is held by a person, including a cotenant, remainderman, or trustee, then the person holding such property is liable to pay the department's claim.

(b) The executor or administrator of the estate of a decedent who attained fifty-five years of age shall ascertain whether the decedent received medical assistance during the five years preceding death and, if so, shall give notice to the department to secure from the department a statement of the department's claim for medical assistance consistent with 20 Pa.C.S. § 3392(3) and (6) (relating to classification and order of

payment). The department must submit its claim to the executor or administrator within forty-five days of receipt of notice or the claim shall be forfeited.

(c) This section shall apply notwithstanding the provisions of section 447.

(d) The department may administratively assess liability under this section. Any final order of the department determining liability under this section:

(1) Shall be a lien on the real and personal property of the individual in the manner provided by section 1401 of the act of April 9, 1929 (P.L.343, No.176), known as "The Fiscal Code."

(2) May be entered by the department in the manner provided by section 1404 of "The Fiscal Code."

(3) Shall continue and retain priority in the manner provided in section 1404.1 of "The Fiscal Code."