

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

## **An Act To Eliminate the Estate Recovery Delayed Claims Exemption**

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 22 MRSA §14, sub-§2-I, ¶C-1,** as enacted by PL 2005, c. 12, Pt. DDD, §9 and affected by §17, is amended to read:

C-1. If a claim under this subsection is delayed pursuant to paragraph C, the provisions of this paragraph apply to any recovery under paragraph C.

~~(1) The following assets are exempt from recovery:~~

~~(a) The first \$100,000 in value of the estate; and~~

~~(b) The value of any asset of the recipient, including the value of the primary residence, that passed to the surviving spouse and was later transferred by the spouse for the sole benefit of a child who is blind or permanently and totally disabled as defined in 42 United States Code, Section 1382c.~~

(2) The amount of MaineCare benefits paid and recoverable under this subsection is a claim against the estate of the spouse or the estate of the child if that person received any asset for less than fair market value from the recipient while the recipient was receiving MaineCare benefits or from the estate of the recipient.

(3) A claim under this paragraph is enforceable as to the value of the asset on the date the asset was received by the spouse or child, less any value actually transferred to the recipient. The amount of the claim is not decreased by the fact that the asset has been lost, diminished, sold, encumbered, transferred or the title otherwise adversely affected after the date of receipt by the spouse or child.

### **SUMMARY**

This bill eliminates the current exemption for estate recovery of MaineCare expenditures for the surviving spouses, children or disabled children over the age of 21. The federal Department of Health and Human Services, Centers for Medicare and Medicaid Services has informed the Department of Health and Human Services, Office of MaineCare Services that this provision is in violation of the Deficit Reduction Act of 2005.