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HOUSE BILL NO. 855

Offered January 14, 2026

Prefiled January 13, 2026

A BILL to amend and reenact § 32.1-326.1 of the Code of Virginia and to repeal § 32.1-327 of the Code of Virginia, relating to Department of Medical Assistance Services; Medicaid estate recoveries.

Patron—Cousins

Committee Referral Pending

Be it enacted by the General Assembly of Virginia:**1. That § 32.1-326.1 of the Code of Virginia is amended and reenacted as follows:****§ 32.1-326.1. Department to operate program of estate recovery.**

As used in this section, "estate" means all real and personal property and other assets includable in the decedent's estate pursuant to Title 64.2.

In accordance with applicable federal law and regulations, including those under Title XIX of the Social Security Act, the Department shall operate a program of estate recovery for all persons who receive payments or on whose behalf payments are made for Medicaid-financed nursing facility care by the Department limited to recovering only federally required costs pursuant to 42 U.S.C. § 1396p(b)(1)(A) and 42 U.S.C. § 1396p(b)(1)(B)(i). The amount recovered from the estate of a deceased recipient shall not exceed the amount of total Medicaid payments made on behalf of such recipient for recoverable services under 42 U.S.C. § 1396p(b)(1)(A) and 42 U.S.C. § 1396p(b)(1)(B)(i). The recoverable portion of managed care payments shall be limited to either the portion of the capitated rate that is attributable to recoverable services under 42 U.S.C. § 1396p(b)(1)(A) and 42 U.S.C. § 1396p(b)(1)(B)(i) or the capitated rate, whichever is lower.

The Department may waive its claim against the estate of an indigent or medically indigent person if it determines that enforcement of the claim would result in substantial hardship to the heirs or dependents of the individual against whose estate the claim exists. Any such waiver shall be a permanent waiver of recovery in accordance with federal law.

2. That § 32.1-327 of the Code of Virginia is repealed.

3. That the Department of Medical Assistance Services (the Department) shall promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment. To ensure timely publication for the citizens of the Commonwealth, any Commonwealth political subdivision, constitutional officer, or other affected entity required to assist the Department shall have 21 calendar days from receipt of a written request to review and respond. If no response is received within that period, the proposed regulation shall be deemed approved by that political subdivision, constitutional officer, or affected entity.

4. That the Department of Medical Assistance Services shall make information about estate recovery and the process for applying for an undue hardship waiver easily accessible on its website in English, Spanish, and the next four languages most commonly spoken in the Commonwealth according to the most recent American Community Survey data published by the United States Census Bureau.

5. That the Department of Medical Assistance Services (the Department) shall seek the necessary permissions from the Centers for Medicare and Medicaid Services and shall submit any state plan amendments, waivers, or other documentation necessary to implement the provisions of this act. The Department may make changes to provider manuals and regulatory guidance documents as necessary to implement the provisions of this act.

INTRODUCED

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