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1 **HOUSE BILL NO. 855**

2 Offered January 14, 2026

3 Prefiled January 13, 2026

4 *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*  
5 *Virginia, relating to Department of Medical Assistance Services; Medicaid estate recoveries.*

6 Patron—Cousins

7 Committee Referral Pending

8 **Be it enacted by the General Assembly of Virginia:**9 **1. That § 32.1-326.1 of the Code of Virginia is amended and reenacted as follows:**10 **§ 32.1-326.1. Department to operate program of estate recovery.**11 *As used in this section, "estate" means all real and personal property and other assets includable in the*  
12 *decedent's estate pursuant to Title 64.2.*13 In accordance with applicable federal law and regulations, including those under Title XIX of the Social  
14 Security Act, the Department shall operate a program of estate recovery ~~for all persons who receive payments~~  
15 ~~or on whose behalf payments are made for Medicaid-financed nursing facility care by the Department~~ limited  
16 ~~to recovering only federally required costs pursuant to 42 U.S.C. § 1396p(b)(1)(A) and 42 U.S.C. §~~  
17 ~~1396p(b)(1)(B)(i).~~ The amount recovered from the estate of a deceased recipient shall not exceed the amount  
18 ~~of total Medicaid payments made on behalf of such recipient for recoverable services under 42 U.S.C. §~~  
19 ~~1396p(b)(1)(A) and 42 U.S.C. § 1396p(b)(1)(B)(i). The recoverable portion of managed care payments shall~~  
20 ~~be limited to either the portion of the capitated rate that is attributable to recoverable services under 42~~  
21 ~~U.S.C. § 1396p(b)(1)(A) and 42 U.S.C. § 1396p(b)(1)(B)(i) or the capitated rate, whichever is lower.~~22 *The Department may waive its claim against the estate of an indigent or medically indigent person if it*  
23 *determines that enforcement of the claim would result in substantial hardship to the heirs or dependents of*  
24 *the individual against whose estate the claim exists. Any such waiver shall be a permanent waiver of recovery*  
25 *in accordance with federal law.*26 **2. That § 32.1-327 of the Code of Virginia is repealed.**27 **3. That the Department of Medical Assistance Services (the Department) shall promulgate regulations**  
28 **to implement the provisions of this act to be effective within 280 days of its enactment. To ensure timely**  
29 **publication for the citizens of the Commonwealth, any Commonwealth political subdivision,**  
30 **constitutional officer, or other affected entity required to assist the Department shall have 21 calendar**  
31 **days from receipt of a written request to review and respond. If no response is received within that**  
32 **period, the proposed regulation shall be deemed approved by that political subdivision, constitutional**  
33 **officer, or affected entity.**34 **4. That the Department of Medical Assistance Services shall make information about estate recovery**  
35 **and the process for applying for an undue hardship waiver easily accessible on its website in English,**  
36 **Spanish, and the next four languages most commonly spoken in the Commonwealth according to the**  
37 **most recent American Community Survey data published by the United States Census Bureau.**38 **5. That the Department of Medical Assistance Services (the Department) shall seek the necessary**  
39 **permissions from the Centers for Medicare and Medicaid Services and shall submit any state plan**  
40 **amendments, waivers, or other documentation necessary to implement the provisions of this act. The**  
41 **Department may make changes to provider manuals and regulatory guidance documents as necessary**  
42 **to implement the provisions of this act.**

INTRODUCED

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