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HOUSE JOINT RESOLUTION NO. 5

Offered January 9, 2002

Prefiled November 27, 2001

Directing the Department of Medical Assistance Services to examine and revise its transfer of assets rule as such rule relates to land-use assessments and eligibility for Medicaid.

Patron—Orrock

Referred to Committee on Health, Welfare and Institutions

WHEREAS, in Virginia and across the nation, transfers of assets within three years of applying for Medicaid eligibility for long-term care services, such as nursing home and community-based care, must be reviewed to determine if property has been transferred for less than fair market value or meets a federal exception; and

WHEREAS, at this time, if a Medicaid applicant has sold or otherwise transferred property for less than its fair market value, a penalty period is calculated by dividing the uncompensated value of the property by the average monthly cost of nursing home care to a private patient at the time the application was filed; and

WHEREAS, for example, if property with a fair market value of \$150,000 is transferred for \$50,000 at a time when the private patient was paying an average monthly fee of \$5,000, then the applicant would not be eligible for Medicaid long-term care services for 20 months after being placed in a nursing home or a community-based long-term care program; and

WHEREAS, this rule is understandably focused on preventing applicants from transferring their land and other valuables to their relatives for less than fair market value and then becoming eligible for nursing home or other long-term care at public expense; and

WHEREAS, however, when land taxed under land-use assessment must be transferred at the full assessed value rather than the land-use valuation upon which it has been taxed, the sale of the property to maintain its current land use becomes infeasible because the price is beyond the means of land-use purchasers, such as farmers; and

WHEREAS, therefore, this rule has the unfortunate result of impacting rural property owners in localities that use land-use assessments for farming areas if these property owners wish to preserve the use of their land and do not wish to make large sums of money from development or to contribute to urban sprawl; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Department of Medical Assistance Services be directed to examine and revise its transfer of assets rule as such rule relates to land-use assessments and eligibility for Medicaid.

In conducting this examination and revision, the Department shall identify various designs for allowing land-use assessments to be substituted for the full-assessed value in the transfer of assets rule under specific circumstances that will require current owners to preserve, as a condition of Medicaid eligibility, the land-use of their property for at least a period of 10 years beyond the transfer, will restrain urban sprawl, and will sustain rural family land-use businesses. Upon completing such analysis, the Department shall develop, within the parameters of federal requirements, a revised methodology for determining the fair market value of property in areas applying land-use assessments in relationship to transfer of assets and eligibility for Medicaid long-term care.

The Department (i) may submit a set of proposed regulations to be processed in accordance with the Administrative Process Act by July 1, 2003, and (ii) shall complete its work in time to submit its findings and recommendations to the Governor and the 2003 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

If revised regulations to accomplish the goal of this resolution cannot be implemented without additional funding, the Department shall also file its final report by January 1, 2003, with the Governor, the House Committees on Appropriations and Health, Welfare and Institutions and the Senate Committees on Finance and Education and Health, including draft regulations that do not force private citizens to change the current use of their land to be eligible for Medicaid and the data and calculations of the costs of these policy changes.

All agencies of the Commonwealth shall provide assistance to the Department of Medical Assistance for this study, upon request.

INTRODUCED

HJS