

HOUSE JOINT RESOLUTION NO. 97

Requesting the Department of Medical Assistance Services and the Joint Legislative Audit and Review Commission to monitor changes in federal restrictions on sheltering assets to qualify for Medicaid long-term care services. Report.

Agreed to by the House of Delegates, February 10, 2006

Agreed to by the Senate, February 28, 2006

WHEREAS, House Bill No. 2601 (2005) was introduced to allow the Department of Medical Assistance Services to seek a waiver of the Social Security Act, 42 U.S.C. 1315, § 1115, to create more restrictive asset transfer limits than those currently allowed under federal law or regulations; and

WHEREAS, the introduction of HB No. 2601 raised a variety of issues related to individuals disposing of assets to gain access to Medicaid long-term care services; and

WHEREAS, the Joint Legislative Audit and Review Commission completed a study over a decade ago entitled *Medicaid Asset Transfers and Estate Recovery* Senate Document 10 (1993) that addressed the impact of Medicaid asset transfers in Virginia; and

WHEREAS, the federal Omnibus Budget Reconciliation Act of 1993 imposed additional restrictions on Medicaid asset transfers after the conclusion of the Joint Legislative Audit and Review Commission study; and

WHEREAS, the Joint Commission on Health Care, in response to Commission member requests, conducted a review of Medicaid asset transfer issues and found that other than anecdotal evidence, current data is not available on the extent of Medicaid asset transfer abuses in Virginia; and

WHEREAS, federal legislation has been proposed to reform Medicaid asset transfer rules; and
WHEREAS, states have primary responsibility for enforcement of Medicaid asset transfer limitations; and

WHEREAS, the Department of Medical Assistance Services is the state agency charged with the administration of Medicaid funds and determining eligibility; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Department of Medical Assistance Services and the Joint Legislative Audit and Review Commission be requested to monitor changes in federal restrictions on sheltering assets to qualify for Medicaid long-term care services.

For the purpose of advising the General Assembly and the Governor, the Department of Medical Assistance Services and the Joint Legislative Audit and Review Commission shall monitor pending federal legislation concerning Medicaid asset transfers to (i) evaluate the potential impact of proposed changes in federal law and their correlation to Virginia law; (ii) ascertain reports and analyses prepared in connection with the proposed federal legislation; (iii) review the practice by which persons transfer, convert, give away, or otherwise shelter assets to become eligible for Medicaid long-term care services; (iv) recommend options available to limit the financial impact of sheltering assets for Medicaid qualification on the Commonwealth upon the passage of any such federal legislation; and (v) apprise the General Assembly concerning any changes in state law regarding asset sheltering that may be necessary.

Technical assistance shall be provided to the Department of Medical Assistance Services and the Joint Legislative Audit and Review Commission, to accomplish the objectives of this resolution, by the Departments of Social Services and Taxation. All agencies of the Commonwealth shall provide assistance to the Department of Medical Assistance Services and the Joint Legislative Audit and Review Commission, upon request.

The Director of the Department of Medical Assistance Services and the Chairman of the Joint Legislative Audit and Review Commission shall jointly submit to the Division of Legislative Automated Systems an executive summary and report of their progress in meeting the requests of this resolution no later than the first day of 2007 Regular Session of the General Assembly. The executive summary and report shall be submitted for publication as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.