SESSION OF 2012

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2697

As Amended by House Committee on Aging and Long-term Care

Brief*

HB 2697, as amended, would enact new law requiring the Department of Health and Environment (KDHE), in conjunction with the Department of Social and Rehabilitation Services, to review and update rules and regulations which establish eligibility requirements for Medicaid. The bill would require KDHE, as part of the review and update process, to establish a procedure allowing for irrevocable collateral assignment of the proceeds of life insurance policies to the Kansas Medicaid program and to seek any necessary waivers from the federal government to accomplish the purpose of the bill. The collateral assignment would be irrevocable as established by a written agreement preventing the holder of the life insurance policy from affecting or using the cash surrender value after the irrevocable assignment.

Under the bill, KDHE would be required to establish a procedure allowing the holder of a life insurance policy with cash surrender value to give the Kansas Medicaid program collateral assignment of the proceeds of such life insurance policy. The collateral assignment would be in lieu of requiring the owner to sell the insurance policy to meet the property ownership limits for Medicaid eligibility. The collateral assignment would be for an amount not to exceed the proceed of the policy to reimburse the Kansas Medicaid program for any amount paid for medical benefits provided to the insured.

---

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at http://www.kslegislature.org

KDHE would be directed to seek any necessary waivers from program requirements of the federal government needed to accomplish the collateral assignment provisions and to maximize federal matching and other funds with respect to the provisions. If KDHE determines one or more waivers are necessary to carry out the provisions of the bill, the provisions would be implemented only if the needed waivers are obtained from the federal government. The review and update would have to be completed and the adoption of revisions of rules and regulations would have to be adopted, according to the Rules and Regulations Filing Act, no later than 12 calendar months following the date of receipt of any required waivers.

If KDHE determines no waivers are required to implement the provisions of the bill, the review and update would have to be completed and the adoption of revisions of rules and regulations would have to be adopted, according to the Rules and Regulations Filing Act, no later than 12 calendar months following the effective date of the act.

Background

The bill was introduced by the House Committee on Aging and Long-term Care. Testimony in favor of the bill before the House Committee on Aging and Long-term Care was provided by Representative Sean Gatewood, the Director of the KDHE Division of Health Care Finance, and representatives of LeadingAge Kansas, and the Kansas Health Care Association. The Director testified any proceeds from the policy would be used to reimburse Medicaid for expenditures paid for the insured. An amendment was proposed by the KDHE Director to make the collateral assignment irrevocable to prevent the policy from being cashed in or reassigned after execution of the assignment. No opposing or neutral testimony was presented at the House Committee hearing.

The House Committee on Aging and Long-term Care amended the bill to make the collateral assignment irrevocable, as requested by KDHE.

The fiscal note on the original bill prepared by the Division of the Budget states KDHE indicated the bill would allow a policy holder to collaterally assign proceeds but still access the cash value of the life insurance policy, which would be a change to current policy. Under current policy, access to excess cash value results in ineligibility. If implemented just as collateral assignment, the bill could expand caseload by creating an additional exemption for eligibility and would create an estate planning incentive by enabling individuals to artificially impoverish themselves and qualify for Medicaid through a purchase and subsequent collateral assignment of a life insurance policy. However, if interpreted as an irrevocable assignment, or if the bill text was changed from “collateral assignment” to “irrevocable beneficiary,” the potential estate planning incentive would be removed, and collections would increase, as illustrated below:

Collateral assignment:

- FY 2013 expenditure increase: $465,075 all funds ($199,982 State General Fund, $265,092 Medicaid)
- FY 2013 revenue increase: $146,250 all funds ($62,887 State General Fund, $83,363 Medicaid)

Interpreted as irrevocable assignment:

- FY 2013 expenditure increase: $250,000 all funds ($107,000 State General Fund, $142,500 Medicaid)
- FY 2013 revenue increase: $250,000 all funds ($107,000 State General Fund, $142,500 Medicaid)

Any fiscal effect associated with the bill is not reflected in *The FY 2013 Governor’s Budget Report*.