

Senate Bill 661

By: Senators Powell of the 23rd and Tarver of the 22nd

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 7 of Chapter 4 of Title 49 of the Official Code of Georgia Annotated,
2 relating to medical assistance generally, so as to provide that estate recovery under Medicaid
3 shall not apply to estates valued at \$100,000.00 or less; to provide for hardship waivers to
4 estate recovery for certain circumstances; to specify when claim may be made against the
5 estate of a Medicaid recipient; to specify when a claim may not be made against the estate
6 of a Medicaid recipient; to provide for submission of an amendment to the state plan; to
7 provide for automatic repeal under certain conditions; to provide for other related matters;
8 to provide for an effective date; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

11 Article 7 of Chapter 4 of Title 49 of the Official Code of Georgia Annotated, relating to
12 medical assistance generally, is amended by striking Code Section 49-4-147.1, relating to
13 claims by the department against the estate of Medicaid recipients, and inserting in lieu
14 thereof the following:

15 "49-4-147.1.

16 (a) In accordance with applicable federal law and regulations, including those under Title
17 XIX of the federal Social Security Act, the department may make claim against the estate
18 of a Medicaid recipient for the amount of any medical assistance payments made on such
19 person's behalf by the department. The commissioner shall waive such claim if he or she
20 determines enforcement of the claim would result in substantial and unreasonable hardship
21 to dependents of the individual against whose estate the claim exists.

22 (b)(1) This Code section shall not apply to the estates of Medicaid recipients that are
23 valued at \$100,000.00 or less. The value of the estate shall not include year's support;
24 funeral expenses not to exceed \$5,000.00; necessary expenses of administration;
25 reasonable expenses of the recipient's last illness; an amount for a homestead of the
26 decedent equal to 50 percent of the average price of homes in the county in which the

1 homestead is located as of the date of the Medicaid recipient's death; insurance policy
 2 proceeds; retirement accounts, such as IRA's; pension plans; financial institution payable
 3 on death accounts, joint accounts, or credit union accounts; mutual funds; or deferred
 4 compensation plans.

5 (2) A claim shall be waived as a substantial and unreasonable hardship when the estate
 6 of the Medicaid recipient includes property which is used to generate the primary source
 7 of income of survivors, such as a family farm.

8 (3) The department may only make claim against the estate of a deceased Medicaid
 9 recipient who was 55 years old or older and where medical assistance payments were
 10 made pursuant to this article on behalf of such recipient for:

11 (A) Services in a nursing home or skilled nursing facility;

12 (B) Services in a home and community based program;

13 (C) Services in an intermediate care facility; or

14 (D) Related hospital care and prescription drug services provided while the recipient
 15 received care in a nursing home, skilled nursing facility, home and community based
 16 program, or intermediate care facility.

17 (4) The department shall not make claim against the estate of a deceased Medicaid
 18 recipient if the recipient is survived by:

19 (A) A spouse;

20 (B) A child or children under 21 years of age;

21 (C) A child or children who are blind or permanently and totally disabled pursuant to
 22 the eligibility requirements of Title XIX of the federal Social Security Act; or

23 (D) An unmarried adult child living with the family.

24 (5) No later than July 1, 2006, the department shall submit an amendment to the state
 25 plan with the United States Department of Health and Human Services Centers for
 26 Medicare and Medicaid Services reflecting the provisions of this subsection. In the event
 27 that such amended state plan is not approved, this subsection shall stand repealed in its
 28 entirety.

29 (6) This subsection shall become effective July 1, 2007, unless otherwise repealed in
 30 accordance with paragraph (5) of this subsection."

31 SECTION 2.

32 All laws and parts of laws in conflict with this Act are repealed.