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S.B. 33
135th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsor: Sen. Schaffer

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SUMMARY

- Requires the Department of Medicaid to ensure that each applicant for a Medicaid component subject to the Medicaid Estate Recovery Program certifies that the applicant was notified about the program.
- Requires the Medicaid Director to adopt rules establishing the form and manner of certification.

DETAILED ANALYSIS

Medicaid Estate Recovery Program notification

The bill requires the Ohio Department of Medicaid (ODM) to ensure that every applicant for a Medicaid program component subject to the Medicaid Estate Recovery Program certifies that the applicant has been notified regarding the program before enrollment. Additionally, the bill requires the Medicaid Director to adopt rules establishing the form and manner of the certification, which must include a signature of understanding from the applicant or a person authorized to sign on the applicant's behalf.¹ The bill exempts those rules from limitations in existing law related to the adoption of regulatory restrictions in rules.²

Background – Medicaid Estate Recovery Program

Federal law requires ODM to implement an estate recovery program to recover the costs spent on Medicaid services for certain categories of recipients after death. ODM, with certain exceptions, must seek a repayment or recovery from the estates of deceased Medicaid

¹ R.C. 5162.213.

² R.C. 121.95 to 121.953, not in the bill.

recipients.³ Upon death, the Ohio Attorney General, on behalf of ODM, generally must seek to obtain repayment of the cost of Medicaid benefits provided to a Medicaid-eligible individual who was either permanently institutionalized (regardless of the individual's age) or age 55 or older.⁴

Existing Ohio law details the various components of the program, including the role of the Attorney General's Office in estate recovery, when estate recovery is prohibited, and procedures for claiming a hardship waiver from estate recovery.⁵ ODM has created a form that includes additional information about the Medicaid Estate Recovery Program. The form includes a note for county departments of job and family services that requires them to make note when it is distributed to a consumer.⁶

HISTORY

Action	Date
Introduced	01-26-23

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³ R.C. 5162.21, not in the bill.

⁴ Ohio Administrative Code (O.A.C.) 5160:1-2-07(C).

⁵ See R.C. 5162.21, 5162.211, and 5162.212, all not in the bill; O.A.C. 5160:1-2-07.

⁶ See Ohio Department of Medicaid's [Ohio Medicaid Estate Recovery \(PDF\)](#), which is available on ODM's website: medicaid.ohio.gov.