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# OHIO LEGISLATIVE SERVICE COMMISSION

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Office

H.B. 318  
136<sup>th</sup> General Assembly

## Bill Analysis

**Version:** As Introduced

**Primary Sponsors:** Reps. Stephens and Brennan

Jason Hoskins, Attorney

### SUMMARY

- Prohibits the Department of Medicaid from implementing an option permitting recovery under the Medicaid Estate Recovery Program against the estates of Medicaid recipients not expressly required under federal law.
- Requires the Department to adopt rules related to the Medicaid Estate Recovery Program that waive adjustment or recovery against an estate when the cost of the Medicaid services to be recovered is (1) less than \$20,000 or (2) does not exceed the administrative costs of recovery.
- Prohibits the Department from imposing a lien against the real property of a Medicaid recipient that exceeds 75% of the assessed value of the property.

### DETAILED ANALYSIS

#### Medicaid Estate Recovery Program

The Medicaid Estate Recovery Program is a mechanism states use to recoup funds spent on Medicaid services from the estates of certain deceased Medicaid recipients.<sup>1</sup> Under federal law, states must recover both of the following amounts from an estate:

- Expenses for nursing facility services, home and community-based services, and related hospital and prescription services paid on behalf of a Medicaid recipient over age 55;
- All medical assistance paid on behalf of a Medicaid recipient receiving long-term services and supports in a facility permanently (referred to as “permanently institutionalized” individuals).

<sup>1</sup> 42 United States Code (U.S.C.) 1396p(b).

Additionally, states may elect to apply estate recovery under additional circumstances, for example, by recovering all medical assistance paid on behalf of a Medicaid recipient over age 55. The bill prohibits the Department of Medicaid from seeking to recover the cost of any medical assistance from the estate of a Medicaid recipient over age 55 that is not expressly required under federal law and further prohibits the Department from seeking recovery against the estate of any Medicaid recipient if recovery is not expressly required under federal law.<sup>2</sup>

Federal law governing the Medicaid Estate Recovery Program additionally requires states to establish procedures and criteria for waiving adjustment or recovery against an estate subject to the program, when adjustment or recovery would create an undue hardship.<sup>3</sup> The bill requires the Department to adopt rules that will waive adjustment or recovery when the cost of Medicaid services is less than \$20,000 or when the costs do not exceed the administrative costs of making the adjustment or recovery. The bill also requires the Department to adjust the \$20,000 amount annually for inflation.<sup>4</sup>

When imposing a lien against the real property of a Medicaid recipient under the Medicaid Estate Recovery Program, the bill specifies that any lien imposed cannot exceed 75% of the assessed value of the property.<sup>5</sup>

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## HISTORY

Action	Date
Introduced	06-03-25

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<sup>2</sup> R.C. 5162.21(B).

<sup>3</sup> 42 U.S.C. 1396p(b)(3).

<sup>4</sup> R.C. 5162.21(G)(2).

<sup>5</sup> R.C. 5162.211(B).