

2021 Regular Session

HOUSE BILL NO. 73

BY REPRESENTATIVE CREWS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

MEDICAID: Requires the La. Department of Health to contract for the administration of the Medicaid estate recovery program

1 AN ACT

2 To amend and reenact R.S. 42:262(A) and (B) and R.S. 46:153.4(H) and to enact R.S.
3 46:153.4(I), relative to the Medicaid estate recovery program; to require the
4 Louisiana Department of Health to contract for the administration of the program;
5 to provide for requirements and specifications relative to such contracts; to authorize
6 the department to contract on a contingency fee basis for Medicaid estate recovery
7 program administration; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 42:262(A) and (B) are hereby amended and reenacted to read as
10 follows:

11 §262. Special attorney or counsel

12 A. In the event that the attorney general, or any state agency, board or
13 commission, not including any public postsecondary education institution, is
14 represented by a special attorney or counsel, the special attorney or counsel shall not
15 be compensated for such representation on a contingency fee or percentage basis in
16 the absence of express statutory authority, including R.S. 17:100.10, R.S. 23:1669,
17 R.S. 37:2153, R.S. 41:724 and 922, R.S. 42:1157.3, R.S. 46:15 and 153.4, and R.S.
18 47:1512, 1515.3, 1516, 1516.1, and 1676. In retaining a special attorney or counsel,
19 preference shall be given to private attorneys licensed to practice law in this state and
20 law firms domiciled and licensed in this state.

1 B. Any recovery or award of attorney fees, including settlement, in litigation
 2 involving the attorney general or any state agency, board, or commission, not
 3 including any public postsecondary education institution, belongs to the state and
 4 shall be deposited into the state treasury into the Department of Justice Legal
 5 Support Fund in accordance with R.S. 49:259. No payment of attorney fees shall be
 6 made out of state funds in the absence of express statutory authority, including R.S.
 7 17:100.10, R.S. 23:1669, R.S. 37:2153, R.S. 41:724 and 922, R.S. 42:1157.3, R.S.
 8 46:15 and 153.4, and R.S. 47:1512, 1515.3, 1516, 1516.1, and 1676, except such
 9 payment of attorney fees as may be approved by the Joint Legislative Committee on
 10 the Budget during the interim between legislative sessions.

11 * * *

12 Section 2. R.S. 46:153.4(H) is hereby amended and reenacted and R.S. 46:153.4(I)
 13 is hereby enacted to read as follows:

14 §153.4. Medicaid Estate Recovery;~~;~~ legislative findings; contracts for administration
 15 of estate recovery program

16 * * *

17 H.(1) The department shall contract for the administration of the estate
 18 recovery program provided for in this Section through one or more agreements with
 19 public or private entities. Any contract for estate recovery functions shall conform
 20 to the applicable requirements of Title 38 of the Louisiana Revised Statutes of 1950
 21 and to all other applicable state and federal laws.

22 (2) Notwithstanding any law to the contrary, the department, at the discretion
 23 of the secretary of the department, may contract on a contingency fee basis for any
 24 function of the estate recovery program.

25 I. To the extent that there is any conflict between the provision of this
 26 Section and the standards that are specified by the secretary of the United States
 27 Department of Health and Human Services, the federal standard shall prevail.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 73 Original

2021 Regular Session

Crews

Abstract: Requires the La. Department of Health to contract for the administration of the Medicaid estate recovery program and authorizes contingency fee contracts for this function.

Present law requires the La. Department of Health (LDH) to establish an estate recovery program in compliance with federal Medicaid law, 42 U.S.C. 1396p, for the purpose of recovering Medicaid payments made on behalf of individuals from their succession estates.

Proposed law retains present law and requires that LDH contract for the administration of the Medicaid estate recovery program through one or more agreements with public or private entities.

Proposed law authorizes LDH, at the discretion of the secretary of the department, to contract on a contingency fee basis for any Medicaid estate recovery function.

(Amends R.S. 42:262(A) and (B) and R.S. 46:153.4(H); Adds R.S. 46:153.4(I))