

ORIGINAL SENATE
FILE NO. 0044

ENROLLED ACT NO. 50, SENATE

FIFTY-NINTH LEGISLATURE OF THE STATE OF WYOMING
2007 GENERAL SESSION

AN ACT relating to the Wyoming Medical Assistance and Services Act; providing that individuals with substantial home equity are ineligible for Medicaid long-term care as specified; incorporating annuities in the definition of assets for purposes of Medicaid eligibility; extending the look back period for transfers of assets by Medicaid applicants; requiring disclosure of annuities by applicants for Medicaid long-term care services; amending the disqualification period for Medicaid long-term care services following transfer of assets as specified; amending a definition; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 42-2-405 is created to read:

42-2-405. Individuals with substantial home equity; disqualification.

(a) An applicant shall not be eligible for long-term care services under this article if the applicant's equity interest in the applicant's home exceeds five hundred thousand dollars (\$500,000.00).

(b) Beginning on July 1, 2011 and annually thereafter, the dollar amount in subsection (a) of this section shall be adjusted based on the consumer price index for urban consumers published by the United States department of labor, bureau of labor statistics, for the preceding calendar year.

(c) Subsection (a) of this section shall not apply to an individual whose spouse, or child under age twenty-one (21), is lawfully residing in the individual's home and is blind or disabled as defined in 42 U.S.C. 1382c.

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(d) Nothing in this section shall be construed as preventing an applicant from using a reverse mortgage or home equity loan to reduce the applicant's total equity interest in the applicant's home.

Section 2. W.S. 42-2-401(a)(i) and 42-2-402(a), (b), (e)(iii) and by creating a new subsection (g) are amended to read:

42-2-401. Definitions.

(a) For purposes of this article:

(i) "Asset", with respect to an individual, means:

(A) All income and resources of the individual and of the individual's spouse, including any income or resources to which the individual or his spouse is entitled but does not receive because of action:

~~(A)(I)~~ By the individual or his spouse;

~~(B)(II)~~ By a person, including a court or administrative body, with legal authority to act in place of or on behalf of the individual or his spouse; or

~~(C)(III)~~ By any person, including a court or administrative body, acting at the direction or upon the request of the individual or his spouse.

(B) An annuity purchased by or on behalf of an annuitant who has applied for medical assistance with respect to long-term care services unless the annuity is an

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annuity as described in 42 U.S.C. 1396p(c)(1)(G)(i) or (ii).

42-2-402. Transfers of assets affecting eligibility; exceptions; disclosures by applicants.

(a) If an institutionalized individual or the individual's spouse has disposed of, for less than fair market value, any asset or interest therein within ~~thirty-six (36)~~ sixty (60) months before or any time after the first date the individual has both applied for medical assistance and been institutionalized, the individual is ineligible for medical assistance for long-term care services for the period of time determined under subsection (b) of this section. ~~The thirty-six (36) month period provided in this section shall be a sixty (60) month period in cases of payments from a trust or portions of a trust that are treated as assets disposed of by the individual under W.S. 42-2-403(d)(iii) or (c)(ii).~~

(b) For a transfer within the provisions of subsection (a) of this section, the number of months of ineligibility for long-term care services shall be the total, cumulative uncompensated value of all assets transferred within the ~~thirty-six (36)~~ sixty (60) month period, ~~or sixty (60) month period in the case of a trust,~~ divided by the average monthly cost to a private patient for nursing facility services on the date of application. The period of ineligibility begins with the later of:

(i) The first day of the first month in which the assets were transferred and which does not occur in any other period of ineligibility;

(ii) The date on which the individual is eligible for medical assistance under the state plan and

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ENROLLED ACT NO. 50, SENATE

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2007 GENERAL SESSION

would otherwise be receiving institutional level care, but for the application of the penalty period, and which does not occur during any other period of ineligibility under this section.

(e) An institutionalized individual is not rendered ineligible for long-term care services due to a transfer within the provisions of subsection (a) of this section if the department determines:

(iii) All—That to the extent assets were transferred for less than fair market value, that the assets or their fair market equivalent have been returned to the individual; or

(g) An applicant for long-term care services shall disclose any interest the applicant, or the applicant's spouse who is not residing in long-term care, has in an annuity or similar financial instrument, regardless of whether the annuity or instrument is irrevocable or is treated as an asset. For purposes of subsection (a) of this section, the purchase of an annuity shall be treated as the disposal of an asset for less than fair market value unless:

(i) The state is named as the remainder beneficiary in the first position for at least the total amount of medical assistance paid on behalf of the annuitant under this article; or

(ii) The state is named as the remainder beneficiary in the second position after the spouse or minor or disabled child and is named in the first position if the spouse or a representative of the child disposes of any of the remainder for less than fair market value.

ORIGINAL SENATE
FILE NO. 0044

ENROLLED ACT NO. 50, SENATE

FIFTY-NINTH LEGISLATURE OF THE STATE OF WYOMING
2007 GENERAL SESSION

Section 3. This act is effective July 1, 2007.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the Senate.

Chief Clerk