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: Authorizes 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.		

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CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

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, no		
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 Lega		
5	Support Fund in accordance with R.S. 49:259. No payment of attorney fees shall b		
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 may 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 39 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	(3) Any contract that the department enters into pursuant to this Subsection		
26	shall require that estate recovery functions be conducted exclusively by attorneys		
27	who are licensed by and in good standing with the Louisiana State Bar Association.		

- 1I.To the extent that there is any conflict between the provision of this2Section and the standards that are specified by the secretary of the United States
- 3 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 Engrossed	2021 Regular Session	Crews
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Abstract: Authorizes the La. Department of Health to contract for the administration of the Medicaid estate recovery program and authorizes contingency fee contracts for this function.

<u>Present law</u> 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.

<u>Proposed law</u> retains <u>present law</u> and authorizes LDH to contract for the administration of the Medicaid estate recovery program through one or more agreements with public or private entities.

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

<u>Proposed law</u> stipulates that any contract LDH enters into pursuant to <u>proposed law</u> shall require that estate recovery functions be conducted exclusively by attorneys who are licensed by and in good standing with the La. State Bar Association.

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

Summary of Amendments Adopted by House

- The Committee Amendments Proposed by <u>House Committee on Health and Welfare</u> to the <u>original</u> bill:
- 1. Delete the requirement in <u>proposed law</u> that LDH contract for the administration of the Medicaid estate recovery program and instead authorize the department to do so.
- 2. Stipulate that any contract LDH enters into pursuant to proposed law shall require that estate recovery functions be conducted exclusively by attorneys who are licensed by and in good standing with the La. State Bar Association.
- 3. Make a technical change.