## 2018 Regular Session

## HOUSE CONCURRENT RESOLUTION NO. 69

## BY REPRESENTATIVES GREGORY MILLER AND BACALA

# MEDICAID: Requests a study concerning means by which to improve the Medicaid estate recovery functions of the La. Department of Health

1	A CONCURRENT RESOLUTION
2	To urge and request the Louisiana Department of Health to study means by which to
3	improve its Medicaid estate recovery functions, and to report findings of the study
4	to the House Committee on Appropriations, the Senate Committee on Finance, and
5	the legislative committees on health and welfare.
6	WHEREAS, Medicaid is the largest source of funding for institutional long-term care
7	in this state and in the nation; and
8	WHEREAS, many persons who need long-term care may qualify for Medicaid
9	assistance despite owning assets such as a home; and
10	WHEREAS, federal law specifically requires states, including Louisiana, to establish
11	estate recovery programs in compliance with 42 U.S.C. 1396p for recovering benefits paid
12	for institutional long-term care after the death of the person who received that care; and
13	WHEREAS, present Louisiana law, R.S. 46:153.4, requires the Louisiana
14	Department of Health to establish an estate recovery program in compliance with 42 U.S.C.
15	1396p for the purpose of recovering Medicaid payments made on behalf of individuals from
16	their succession estates; and
17	WHEREAS, R.S. 46:153.4 explicitly recognizes Louisiana's longstanding civil law
18	tradition of preserving the legal rights of persons to inherit immovable property, and declares
19	that a comprehensive plan should be developed to address the federal requirements for an
20	estate recovery program while at the same time protecting our citizens' rights to home
21	ownership and the state's interest in assuring the transfer of real property within families; and

# HLS 18RS-2078

1	WHEREAS, Louisiana's law providing for Medicaid estate recovery prohibits
2	recovery on the first fifteen thousand dollars or one-half the median value of the homestead
3	in each parish, whichever is higher, making our estate recovery program one of the most
4	generous in the nation; and
5	WHEREAS, in the ten state fiscal years from 2007-2008 through 2016-2017, the
6	average annual amount that Louisiana's Medicaid program collected through estate recovery
7	was less than five hundred thirty thousand dollars, with the lowest annual figure of two
8	hundred eighty-eight thousand dollars recovered occurring in fiscal year 2015-2016; and
9	WHEREAS, these figures represent a small fraction of the monies that the state is
10	authorized by law to recover for benefits paid through its Medicaid-financed institutional
11	long-term care program which now expends over one billion dollars annually for nursing
12	home care for over thirty thousand Louisiana citizens; and
13	WHEREAS, it is in the best interest of this state, as a matter of both fiscal policy and
14	public health policy, to better avail itself of existing laws authorizing and providing for
15	Medicaid estate recovery.
16	THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby
17	urge and request the Louisiana Department of Health to study means by which to improve
18	its Medicaid estate recovery functions.
19	BE IT FURTHER RESOLVED that the study called for in this Resolution shall
20	include, but not be limited to, an examination of all of the following:
21	(1) Means by which to increase recovery amounts in a cost-neutral manner utilizing
22	existing staff and departmental resources.
23	(2) Benefits of wider usage of Medicaid liens authorized through the federal Tax
24	Equity and Fiscal Responsibility Act, known commonly as "TEFRA liens".
25	(3) Administrative actions, including amendments to the Medicaid state plan
26	established in accordance with Title XIX of the Social Security Act, or legislation necessary
27	to institute greater use of TEFRA liens in Medicaid long-term care programs.
28	(4) The potential establishment of a new data system or improvements in existing
29	data systems which could facilitate easier identification of assets subject to recovery.

- (5) The potential utilization of public or private vendors to assist the department in
  recovery efforts.
- BE IT FURTHER RESOLVED that the Louisiana Department of Health shall issue findings and recommendations from the study called for in this Resolution in the form of a report to the House Committee on Appropriations, the Senate Committee on Finance, the House Committee on Health and Welfare, and the Senate Committee on Health and Welfare no later than sixty days prior to the convening of the 2019 Regular Session of the Legislature
- 8 of Louisiana.
- 9 BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the
- 10 secretary of the Louisiana Department of Health.

# 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)]

HCR 69 Engrossed

2018 Regular Session

Gregory Miller

Request the La. Department of Health to study means by which to improve its Medicaid estate recovery functions, and to report findings of the study to the House Committee on Appropriations, the Senate Committee on Finance, and the legislative committees on health and welfare.