

Revised Code of Washington (RCW)

RCW 74.39A.160

Transfer of assets — Penalties.

(1) A person who receives an asset from an applicant for or recipient of long-term care services for less than fair market value shall be subject to a civil fine payable to the department if:

(a) The applicant for or recipient of long-term care services transferred the asset for the purpose of qualifying for state or federal coverage for long-term care services and the person who received the asset was aware, or should have been aware, of this purpose;

(b) Such transfer establishes a period of ineligibility for such service under state or federal laws or regulations; and

(c) The department provides coverage for such services during the period of ineligibility because the failure to provide such coverage would result in an undue hardship for the applicant or recipient.

(2) The civil fine imposed under this section shall be imposed in a judicial proceeding initiated by the department and shall equal (a) up to one hundred fifty percent of the amount the department expends for the care of the applicant or recipient during the period of ineligibility attributable to the amount transferred to the person subject to the civil fine plus (b) the department's court costs and legal fees.

(3) Transfers subject to a civil fine under this section shall be considered null and void and a fraudulent conveyance as to the department. The department shall have the right to petition a court to set aside such transfers and require all assets transferred returned to the applicant or recipient.

[1995 1st sp.s. c 18 § 55.]

RCW 74.39A.170

Recovery of payments — Transfer of assets rules for eligibility — Disclosure of estate recovery costs, terms, and conditions.

(1) All payments made in state-funded long-term care shall be recoverable as if they were medical assistance payments subject to recovery under 42 U.S.C. Sec. 1396p and chapter [43.20B](#) RCW, but without regard to the recipient's age.

(2) In determining eligibility for state-funded long-term care services programs, the department shall impose the same rules with respect to the transfer of assets for less than fair market value as are imposed under 42 U.S.C. 1396p with respect to nursing home and home and community services.

(3) It is the responsibility of the department to fully disclose in advance verbally and in writing, in easy to understand language, the terms and conditions of estate recovery to all persons offered long-term care services subject to recovery of payments.

(4) In disclosing estate recovery costs to potential clients, and to family members at the consent of the client, the department shall provide a written description of the community service options.

(5) The department of social and health services shall develop an implementation plan for notifying the client or his or her legal representative at least quarterly of the types of services used and the cost of those services (debt) that will be charged against the estate. The estate planning implementation plan shall be submitted by December 12, 1999, to the appropriate standing committees of the house of representatives and the senate, and to the joint legislative and executive task force on long-term care.

[1999 c 354 § 1; 1995 1st sp.s. c 18 § 56.]

RCW 74.39A.180

Authority to pay for probate actions and collection of bad debts.

Notwithstanding any other provision of law:

(1) In order to facilitate and ensure compliance with the federal social security act, Title XIX, as now existing or hereafter amended, later enactment to be adopted by reference by the director by rule, and other state laws mandating recovery of assets from estates of persons receiving long-term care services, the secretary of the department, with the approval of the office of the attorney general, may pay the reasonable and proper fees of attorneys admitted to practice before courts of this state, and associated professionals such as guardians, who are engaged in probate practice for the purpose of maintaining actions under Title [11](#) RCW, to the end that assets are not wasted, but are rather collected and preserved, and used for the care of the client or the reimbursement of the department pursuant to this chapter or chapter [43.20B](#) RCW.

(2) The department may hire such other agencies and professionals on a contingency basis or otherwise as are necessary and cost-effective to collect bad debts owed to the department for long-term care services.

[1995 1st sp.s. c 18 § 57.]