

# HB4574



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

**HB4574**

by Rep. Sara Feigenholtz

#### SYNOPSIS AS INTRODUCED:

305 ILCS 5/5-13

from Ch. 23, par. 5-13

Amends the Illinois Public Aid Code. Provides that the Department of Healthcare and Family Services shall have a claim against a recipient's estate for medical assistance paid under the Medical Assistance Article of the Code (instead of for the amount expended under the Medical Assistance Article of the Code). Provides for such a claim for nursing facility services, home and community-based services, and related hospital and prescription drug services for a person aged 55 or more at the time the assistance is received. Eliminates a provision for a claim against a recipient's spouse's estate. Effective immediately.

LRB095 15595 DRJ 41595 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning public aid.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Public Aid Code is amended by  
5 changing Section 5-13 as follows:

6 (305 ILCS 5/5-13) (from Ch. 23, par. 5-13)

7 Sec. 5-13. Claim against estate of recipients. To the  
8 extent permitted under the federal Social Security Act, the  
9 Department shall have a claim against a recipient's estate for  
10 medical assistance paid ~~the amount expended~~ under this Article  
11 (1) for a person of any age who is an inpatient in a nursing  
12 facility, an intermediate care facility for the mentally  
13 retarded, or other medical institution, or (2) for nursing  
14 facility services, home and community-based services, and  
15 related hospital and prescription drug services for a person  
16 aged 55 or more at the time the assistance is received. No,  
17 ~~shall be a claim against the person's estate or a claim against~~  
18 ~~the estate of the person's spouse, regardless of the order of~~  
19 ~~death, but no~~ recovery may be had thereon until after the death  
20 of the surviving spouse, if any, however, and then only at such  
21 time when there is no surviving child who is under age 21, or  
22 blind, or permanently and totally disabled. This Section,  
23 however, shall not bar recovery at the death of the person of

1 amounts of medical assistance paid to or in his behalf to which  
2 he was not entitled; provided that such recovery shall not be  
3 enforced against any real estate while it is occupied as a  
4 homestead by the surviving spouse or other dependent, if no  
5 claims by other creditors have been filed against the estate,  
6 or if such claims have been filed, they remain dormant for  
7 failure of prosecution or failure of the claimant to compel  
8 administration of the estate for the purpose of payment. The  
9 term "estate", as used in this Section, with respect to a  
10 deceased person, means all real and personal property and other  
11 assets included within the person's estate, as that term is  
12 used in the Probate Act of 1975; however, in the case of a  
13 deceased person who has received (or is entitled to receive)  
14 benefits under a long-term care insurance policy in connection  
15 with which assets or resources are disregarded to the extent  
16 that payments are made or because the deceased person received  
17 (or was entitled to receive) benefits under a long-term care  
18 insurance policy, "estate" also includes any other real and  
19 personal property and other assets in which the deceased person  
20 had any legal title or interest at the time of his or her death  
21 (to the extent of that interest), including assets conveyed to  
22 a survivor, heir, or assignee of the deceased person through  
23 joint tenancy, tenancy in common, survivorship, life estate,  
24 living trust, or other arrangement. The term "homestead", as  
25 used in this Section, means the dwelling house and contiguous  
26 real estate occupied by a surviving spouse or relative, as

1 defined by the rules and regulations of the Illinois  
2 Department, regardless of the value of the property.

3 A claim arising under this Section against assets conveyed  
4 to a survivor, heir, or assignee of the deceased person through  
5 joint tenancy, tenancy in common, survivorship, life estate,  
6 living trust, or other arrangement is not effective until the  
7 claim is recorded or filed in the manner provided for a notice  
8 of lien in Section 3-10.2. The claim is subject to the same  
9 requirements and conditions to which liens on real property  
10 interests are subject under Sections 3-10.1 through 3-10.10. A  
11 claim arising under this Section attaches to interests owned or  
12 subsequently acquired by the estate of a recipient or the  
13 estate of a recipient's surviving spouse. The transfer or  
14 conveyance of any real or personal property of the estate as  
15 defined in this Section shall be subject to the fraudulent  
16 transfer conditions that apply to real property in Section 3-11  
17 of this Code.

18 The provisions of this Section shall not affect the  
19 validity of claims against estates for medical assistance  
20 provided prior to January 1, 1966 to aged, blind, or disabled  
21 persons receiving aid under Articles V, VII and VII-A of the  
22 1949 Code.

23 (Source: P.A. 88-85; 88-554, eff. 7-26-94; 89-21, eff. 7-1-95;  
24 89-437, eff. 12-15-95; 89-686, eff. 12-31-96.)

25 Section 99. Effective date. This Act takes effect upon  
26 becoming law.