

# HOUSE BILL No. 4739

May 1, 1989, Introduced by Reps. DeLange, Hollister, Muxlow, Gilmer, Stacey, Middaugh, Krause, Allen, Miller, Runco, Sikkema, Ouwinga, Wartner, Stabenow, Weeks, Van Regenmorter, Munsell, Gnodtke, Bandstra, Hoekman, Oxender, Dunaskiss, Bender, Power, Fitzgerald, Sparks, Trim, Van Singel, Hillegonds, Gubow, Crandall, Mathieu, Kosteva, Dolan, Bankes, Willis Bullard, Emmons and Martin and referred to the Committee on Social Services and Youth.

A bill to amend section 107 of Act No. 280 of the Public Acts of 1939, entitled as amended "The social welfare act," being section 400.107 of the Michigan Compiled Laws; and to add sections 107a, 107b, 107c, and 107d.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 107 of Act No. 280 of the Public Acts of  
2 1939, being section 400.107 of the Michigan Compiled Laws, is  
3 amended and sections 107a, 107b, 107c, and 107d are added to read  
4 as follows:

5 Sec. 107. In establishing financial eligibility for the  
6 medically indigent as defined in section ~~106(2)~~ 106 (1)(B),  
7 income shall be disregarded in accordance with standards  
8 established for the related categorical assistance program,  
9 SUBJECT TO SECTIONS 107A AND 107B. Additional income shall be

1 applied against ~~(i)~~ the cost of medical care not authorized  
2 under this act, and ~~(ii)~~ the cost of services authorized under  
3 this act, in excess of the basic amount. For medical assistance  
4 only, income shall include the amount of contribution which an  
5 estranged spouse or parent for a minor child is making to the  
6 applicant according to the standards of the state department, or  
7 pursuant to a court determination, if there is such a  
8 determination. ~~Nothing~~ EXCEPT AS PROVIDED IN SECTION 107B,  
9 NOTHING in this section shall eliminate the responsibility of  
10 support established in section 76 for cash assistance received  
11 under this act.

12 SEC. 107A. AS USED IN THIS SECTION AND SECTIONS 107B TO  
13 107D:

14 (A) "AT RISK OF INSTITUTIONALIZATION" MEANS THAT WITHOUT THE  
15 PROVISION OF HOME OR COMMUNITY-BASED SERVICES DESCRIBED IN SEC-  
16 TION 1915(c) OF THE SOCIAL SECURITY ACT, 42 U.S.C. 1396n(c), A  
17 PERSON WOULD HAVE TO BE CARED FOR IN AN INSTITUTION.

18 (B) "DISABLED" MEANS THAT TERM AS USED IN TITLE XVI OF THE  
19 SOCIAL SECURITY ACT, 42 U.S.C. 1381 TO 1385.

20 (C) "INSTITUTION" MEANS A STATE LICENSED OR APPROVED HOSPI-  
21 TAL LONG-TERM CARE UNIT, NURSING HOME, MEDICAL CARE FACILITY,  
22 PSYCHIATRIC HOSPITAL OPERATED BY THE DEPARTMENT OF MENTAL HEALTH,  
23 OR OTHER FACILITY OR IDENTIFIABLE UNIT OF A FACILITY CERTIFIED AS  
24 MEETING ESTABLISHED STANDARDS FOR A NURSING HOME OR HOSPITAL  
25 LONG-TERM CARE UNIT IN ACCORDANCE WITH THE LAWS OF THIS STATE.

26 (D) "INSTITUTIONALIZED SPOUSE" MEANS A QUALIFIED APPLICANT  
27 WHO IS MARRIED TO A SPOUSE WHO IS NOT IN AN INSTITUTION.

1 (E) "LONG-TERM CARE" MEANS CARE THAT EXCEEDS OR IS PROJECTED  
2 TO EXCEED 30 DAYS.

3 (F) "QUALIFIED APPLICANT" MEANS A PERSON WHO IS ADMITTED TO  
4 AN INSTITUTION FOR LONG-TERM CARE OR WHO IS FOUND THROUGH A  
5 FORMAL PREADMISSION SCREENING PROCESS TO BE AT RISK OF INSTITU-  
6 TIONALIZATION FOR LONG-TERM CARE AND WHO APPLIES FOR MEDICAL  
7 ASSISTANCE UNDER THIS ACT.

8 SEC. 107B. (1) THE STATE DEPARTMENT SHALL AMEND THE STATE  
9 PLAN FOR MEDICAL ASSISTANCE REQUIRED UNDER SECTION 1902 OF TITLE  
10 XIX OF THE SOCIAL SECURITY ACT, 42 U.S.C. 1396a, TO CONFORM TO  
11 FEDERAL REQUIREMENTS FOR THE TREATMENT OF INCOME AND RESOURCES IN  
12 DETERMINING THE ELIGIBILITY OF AN INSTITUTIONALIZED SPOUSE FOR  
13 MEDICAL ASSISTANCE. THE AMENDMENTS TO THE STATE PLAN SHALL  
14 INCLUDE BOTH OF THE FOLLOWING:

15 (A) THE MINIMUM MONTHLY MAINTENANCE NEEDS ALLOWANCE, AS  
16 DEFINED IN SECTION 1924(d)(3) OF THE SOCIAL SECURITY ACT, 42  
17 U.S.C. 1396r-5(d)(3), FOR THE SPOUSE OF AN INSTITUTIONALIZED  
18 SPOUSE SHALL BE \$1,500.00, AS ADJUSTED PURSUANT TO FEDERAL LAW,  
19 UNLESS THE NEED FOR A HIGHER AMOUNT IS ESTABLISHED IN A FAIR  
20 HEARING OR BY COURT ORDER.

21 (B) THE TOTAL AMOUNT OF RESOURCES TO BE RETAINED BY OR  
22 TRANSFERRED TO THE SPOUSE OF AN INSTITUTIONALIZED SPOUSE AND  
23 TREATED AS UNAVAILABLE FOR CARE OF THE INSTITUTIONALIZED SPOUSE  
24 SHALL BE \$40,000.00, AS ADJUSTED PURSUANT TO FEDERAL LAW, UNLESS  
25 THE NEED FOR A HIGHER AMOUNT IS ESTABLISHED IN A FAIR HEARING OR  
26 BY COURT ORDER.

1           (2) THE STATE PLAN MAY PROVIDE FOR THE STATE DEPARTMENT TO  
2 CHARGE A REASONABLE FEE, NOT TO EXCEED ACTUAL COSTS, FOR  
3 PREPARING AN ASSESSMENT OF THE TOTAL VALUE OF RESOURCES OWNED BY  
4 AN INSTITUTIONALIZED SPOUSE AND HIS OR HER SPOUSE, IF THE REQUEST  
5 FOR THE ASSESSMENT IS NOT PART OF AN APPLICATION FOR MEDICAL  
6 ASSISTANCE UNDER THIS ACT.

7           SEC. 107C. (1) THE STATE DEPARTMENT SHALL ESTABLISH AN  
8 ESTATE RECOVERY PROGRAM TO RECOVER PAYMENTS PROPERLY MADE FOR  
9 MEDICAL ASSISTANCE ON BEHALF OF A QUALIFIED APPLICANT.

10          (2) SUBJECT TO SUBSECTION (5), THE STATE DEPARTMENT SHALL  
11 RECOVER FROM THE ESTATE OF A QUALIFIED APPLICANT, OR FROM THE  
12 SPOUSE OF A QUALIFIED APPLICANT, THE AMOUNT OF MEDICAL ASSISTANCE  
13 PROPERLY PAID ON BEHALF OF THE QUALIFIED APPLICANT.

14          (3) THE AMOUNT OF MEDICAL ASSISTANCE PROPERLY PAID ON BEHALF  
15 OF A QUALIFIED APPLICANT IS A CLAIM AGAINST THE ESTATE OF A QUAL-  
16 IFIED APPLICANT WHO IS DECEASED OR AGAINST THE ESTATE OF A  
17 DECEASED SPOUSE WHO SURVIVED THE QUALIFIED APPLICANT. SUCH CLAIM  
18 IS A PRIORITY CLAIM UNDER SECTION 715(1)(E) OR, TO THE EXTENT THE  
19 PAYMENTS WERE MADE FOR THE LAST ILLNESS OF THE QUALIFIED APPLI-  
20 CANT, UNDER SECTION 715(1)(D) OF THE REVISED PROBATE CODE, ACT  
21 NO. 642 OF THE PUBLIC ACTS OF 1978, BEING SECTION 700.715 OF THE  
22 MICHIGAN COMPILED LAWS.

23          (4) THE AMOUNT OF MEDICAL ASSISTANCE PROPERLY PAID ON BEHALF  
24 OF A QUALIFIED APPLICANT IS A CLAIM AGAINST THE ESTATE OF THE  
25 QUALIFIED APPLICANT IN A CONSERVATORSHIP PROCEEDING. SUCH CLAIM  
26 IS A PRIORITY CLAIM UNDER SECTION 488(4)(B) OF THE REVISED

1 PROBATE CODE, ACT NO. 642 OF THE PUBLIC ACTS OF 1978, BEING  
2 SECTION 700.488 OF THE MICHIGAN COMPILED LAWS.

3 (5) AN ADJUSTMENT OR RECOVERY OF MEDICAL ASSISTANCE PROPERLY  
4 PAID ON BEHALF OF A QUALIFIED APPLICANT SHALL BE MADE ONLY AT THE  
5 TIME THE QUALIFIED APPLICANT HAS NO SURVIVING SPOUSE AND NO SUR-  
6 VIVING CHILD WHO IS UNDER THE AGE OF 21 YEARS, BLIND, OR  
7 DISABLED.

8 SEC. 107D. (1) THE STATE DEPARTMENT SHALL IMPOSE A LIEN ON  
9 THE REAL PROPERTY OF A QUALIFIED APPLICANT PRIOR TO HIS OR HER  
10 DEATH TO SECURE AMOUNTS PROPERLY PAID OR TO BE PAID FOR MEDICAL  
11 ASSISTANCE ON BEHALF OF THE QUALIFIED APPLICANT IF ALL OF THE  
12 FOLLOWING ARE TRUE:

13 (A) THE QUALIFIED APPLICANT IS IN AN INSTITUTION, AND THE  
14 STATE DEPARTMENT DETERMINES, AFTER NOTICE AND THE OPPORTUNITY FOR  
15 A HEARING, THAT THE QUALIFIED APPLICANT CANNOT REASONABLY BE  
16 EXPECTED TO BE DISCHARGED FROM THE INSTITUTION AND TO RETURN  
17 HOME.

18 (B) NONE OF THE FOLLOWING PERSONS ARE LAWFULLY RESIDING IN  
19 THE HOME:

20 (i) THE SPOUSE OF THE QUALIFIED APPLICANT.

21 (ii) A CHILD OF THE QUALIFIED APPLICANT WHO IS UNDER THE AGE  
22 OF 21 YEARS, BLIND, OR DISABLED.

23 (iii) A SIBLING OF THE QUALIFIED APPLICANT WHO HAS AN EQUITY  
24 INTEREST IN THE HOME AND WAS RESIDING IN THE HOME FOR AT LEAST 1  
25 YEAR BEFORE THE DATE THE QUALIFIED APPLICANT WAS ADMITTED TO THE  
26 INSTITUTION OR BEGAN RECEIVING HOME OR COMMUNITY-BASED CARE.

1           (2) A LIEN IMPOSED UNDER THIS SECTION SHALL DISSOLVE IF THE  
2 QUALIFIED APPLICANT IS DISCHARGED FROM THE INSTITUTION AND  
3 RETURNS HOME.

4           Section 2. This amendatory act shall take effect October 1,  
5 1989.