

STATUTORY CHANGES TO MEDICAID INTERCEPT AND ESTATE RECOVERIES

Article 11 of the FY13 Budget law (P.L. 2012, ch 241) contains three important statutory changes of which attorneys should be aware. First, it creates a Medical Assistance (Medicaid) Insurance Intercept. Second, it contains provisions relating to estate recoveries. Third, it creates a lien on probate property.

The effective date of the regulations to implement this law is September 1, 2012.
The rules and regulations will be posted soon.

MEDICAID INTERCEPT

R.I.G.L 27-57.1 mandates the insurance intercept, Medicaid Recovery Network (MRN), will electronically match Medicaid recipients with an existing insurance claims database to intercept payments of five-hundred dollars (\$500) or more from liability and workers' compensation insurance companies for reimbursement to the State of Rhode Island Medicaid Program. The insurance intercept must relate to medical expenses from a specific accident/loss. Prior notice of the intercept is given and there are appeal rights. The intercept act provides that the insurance companies must wait until the appeal period runs out or, if an appeal is filed, wait until the appeal is decided before making payment to the state.

ESTATES

Section 40-8-15(g) mandates notice to Medicaid upon the filing of a probate petition. It is provided that upon the filing of a probate petition for the death of a person aged fifty-five (55) or over, a copy of the petition and death certificate must be mailed to:

The Executive Office of Health & Human Services (EOHHS)
57 Howard Avenue
Cranston, RI 02920

Furthermore, it provides that the affidavit, already required to attest to notice to all known creditors, include EOHHS/Medicaid. No distributions or payments, including administration fees, shall be disbursed absent compliance with the notification law. A remedy is provided making anyone who benefits from an improper distribution accountable.

LIENS ON REAL ESTATE

Section 40.8.9.1 further provides for a lien on property that is included or includable in a probate estate, allowing a lien even if no probate is filed.

This article requires ten (10) days notice to EOHHS upon the sale or transfer of any assets, real or personal, by a Medicaid recipient, and provides a remedy when notice is not provided. However, the lien will not affect the marketability of the title of the transferred property.