

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 1147

Short Title: Medicaid Long-Term Care Eligibility.

(Public)

Sponsors: Representatives Alexander; and Easterling.

Referred to: Health and Human Services.

April 19, 1993

A BILL TO BE ENTITLED

AN ACT TO SPECIFY THE EFFECT OF CERTAIN TRANSFERS ON ELIGIBILITY
FOR STATE MEDICAL ASSISTANCE FOR LONG-TERM CARE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 108A-58(i) reads as rewritten:

"(i) ~~This~~ Subsections (a) through (h) of this section shall apply ~~applies~~ only to transfers made before July 1, 1988."

Sec. 2. G.S. 108A-58 is amended by adding new subsections to read:

"(j) For the purposes of determining an individual's eligibility for institutional or community-based care, periods of ineligibility imposed pursuant to 42 U.S.C. § 1396p(c)(1) for transfers for less than fair market value shall run sequentially beginning on the date of the first transfer that results in a period of ineligibility, except that no period of ineligibility shall begin before the date on which the transfer resulting in that ineligibility period was made. The provisions of this subsection do not apply to transfers made before July 1, 1993.

"(k) For the purposes of determining an individual's eligibility for institutional or community-based care, any purchase of qualifying term life insurance made by an institutionalized individual, or that individual's spouse during the 30-month period immediately before the date the individual, becomes an institutionalized individual, if the individual is entitled to medical assistance, or, if the individual is not so entitled, the date the individual applies for this assistance while an institutionalized individual shall be considered to be a transfer of resources for less than fair market value and the uncompensated value of this transfer shall be considered to be the amount of the premiums paid. This section does not apply to life insurance policies to the extent that

1 the individual satisfies the Department that the insurance was (i) purchased to assure the
2 payment of a debt existing at the time of the purchase, or (ii) to assure the payment of
3 burial or funeral expenses not to exceed five thousand dollars (\$5,000).

4 For the purposes of this subsection, the term 'qualifying term life insurance policy'
5 means any term life insurance policy, the premium-to-benefit ratio of which does not
6 exceed an amount determined by the Commissioner of Insurance to be below the fair
7 market value for the premium paid, and the purchase of which is funded by assets that
8 would qualify as resources for the purposes of determining the individual's eligibility
9 for medical assistance if this determination was made at the time the purchase was
10 made. The Commissioner of Insurance shall adopt rules to implement this subsection.

11 This subsection shall not apply to policies purchased before July 1, 1993.

12 (l) Any provision in any **inter vivos** trust created for the benefit of the grantor
13 that provides directly or indirectly for the suspension, termination or diversion of the
14 principal, income, or other beneficial interest of the grantor in the event that the grantor
15 or the grantor's spouse applies for medical assistance or require's medical, hospital, or
16 nursing care or long-term custodial, nursing, or medical care shall be considered
17 ineffective for the purposes of determining the grantor/beneficiary's eligibility for
18 assistance under this Part for institutional or community-based care. This subsection
19 does not apply to trust provisions that are irrevocable before July 1, 1993, except that
20 this subsection does apply to any trust assets that become subject to these provisions
21 after July 1, 1993."

22 Sec. 3. The provisions of this act are severable. If any provision of this act is
23 held invalid by a court of competent jurisdiction, the invalidity does not affect the other
24 provisions of the act that can be given effect without the invalid provision.

25 Sec. 4. This act is effective upon ratification and applies to determinations of
26 eligibility made on or after this date.