

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 1147  
Committee Substitute Favorable 6/23/93

Short Title: Medicaid Long-Term Care Eligibility.

(Public)

Sponsors:

Referred to:

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 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 January 1, 1994.

"(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

1 uncompensated value of this transfer shall be considered to be the amount of the  
2 premiums paid. This section does not apply to life insurance policies to the extent that  
3 the individual satisfies the Department that the insurance was (i) purchased to assure the  
4 payment of a debt existing at the time of the purchase, or (ii) to assure the payment of  
5 burial or funeral expenses not to exceed five thousand dollars (\$5,000).

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

13 This subsection shall not apply to policies purchased before April 1, 1994.

14 (l) Any provision in any **inter vivos** trust created for the benefit of the grantor  
15 that provides directly or indirectly for the suspension, termination, or diversion of the  
16 principal, income, or other beneficial interest of the grantor in the event that the grantor  
17 or the grantor's spouse applies for medical assistance or requires medical, hospital, or  
18 nursing care shall, upon taking effect, be deemed to result in an uncompensated transfer  
19 of the assets. The value of the uncompensated transfer shall be the value of the assets  
20 affected by the provision, and the date of the transfer shall be deemed to be the date  
21 upon which the provision takes effect. This subsection does not apply to trust  
22 provisions that are irrevocable before January 1, 1994, except that this subsection does  
23 apply to any trust assets that become subject to these provisions after January 1, 1994."

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

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