LRB-2252/1
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2011 ASSEMBLY BILL 282

September 29, 2011 – Introduced by Representatives THIESFELDT, SEVERSON, JACQUE, SPANBAUER, BROOKS, ENDSLEY and A. OTT, cosponsored by Senator WANGGAARD. Referred to Committee on Health. Referred to Joint Survey Committee on Tax Exemptions.

AN ACT ***to amend*** 49.475 (1) (f) (intro.); and ***to create*** 49.45 (17m), 71.05 (6) (a) 25., 71.05 (6) (a) 26., 71.05 (6) (b) 48., 71.07 (5) (a) 9., 71.10 (4) (k), 71.10 (10) and 71.83 (1) (ch) of the statutes; **relating to:** tax-exempt accounts for health care expenditures for an individual's parents.

Analysis by the Legislative Reference Bureau

Under this bill, a sponsor (the adult child of a parent) may establish an account for his or her parent (beneficiary) to pay for health care expenses of the parent. "Health care expenses" is defined to mean medical and dental care expenses, prescription drugs, and care that is provided to the parent in his or her home or in institutional or community-based settings and that is convalescent or custodial care or care for a chronic condition or terminal illness. The account may be established at a financial institution, such as a bank, savings and loan, or credit union, and consists of deposits and any interest or other gain on the deposits.

In determining Wisconsin taxable income each year, the bill authorizes a sponsor to deduct from his or her federal adjusted gross income an amount of up to $2,000 per beneficiary, and up to a total of $4,000 annually, for deposits to the account. All gains that accrue to such an account are also tax-exempt if the gains are redeposited into the account.

If a beneficiary incurs costs for health care expenses, the bill, or the receipt if the bill has been paid, may be submitted to the financial institution, and the financial institution must pay the bill or reimburse the payee if sufficient funds are in the account.

If any amount is withdrawn from the account by, or at the direction of, a sponsor or beneficiary and is used for any purpose other than the allowed purposes, the sponsor or beneficiary must pay a penalty equal to 10 percent of any accumulated interest, dividends, or other gain that has accrued to the account from the time that the account was opened. In addition, the sponsor or beneficiary must pay taxes on any interest, dividends, or other gain that accrues to the account in the year in which an improper withdrawal occurs. Upon the death of all beneficiaries, the account terminates and any amount left in the account becomes taxable and passes to the sponsor, if he or she is alive, or to the estate of the beneficiary if the sponsor is not alive.

The bill also requires that the Department of Health Services request and implement any waiver of federal Medicaid laws or state plan amendment necessary to exempt the account from liability as a third party for payments under the Medical Assistance program.

Because this bill relates to an exemption from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the bill.

For further information see the ***state*** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 49.45 (17m) of the statutes is created to read:

49.45 **(17m)** EXEMPTION FROM THIRD–PARTY LIABILITY. The department shall request and implement any waiver of federal Medicaid laws or state Medical Assistance plan amendment necessary to exempt from third–party liability for payments under Medical Assistance the accounts under s. 71.10 (10).

SECTION 2. 49.475 (1) (f) (intro.) of the statutes is amended to read:

49.475 **(1)** (f) (intro.) "Third party" means an entity that by statute, rule, or contract is responsible for payment of a claim for a health care item or service<u>, except an account under s. 71.10 (10)</u>. "Third party" includes all of the following:

SECTION 3. 71.05 (6) (a) 25. of the statutes is created to read:

71.05 **(6)** (a) 25. Except as provided in subd. 26., any accumulated interest, dividends, or other gain that accrues from an account described under s. 71.10 (10) during the taxable year in which a withdrawal occurs from such an account if any amount of the money or other assets in the account is withdrawn by, or at the direction of, a sponsor or beneficiary for any reason other than the payment of health care expenses, as defined in s. 71.10 (10) (a) 3., for the account beneficiary.

SECTION 4. 71.05 (6) (a) 26. of the statutes is created to read:

71.05 **(6)** (a) 26. Upon the termination of an account under s. 71.10 (10) (d), any amount in the account that is returned to a sponsor, as defined in s. 71.10 (10) (a) 4., or that passes to the estate of a beneficiary, as defined in s. 71.10 (10) (a) 1.

SECTION 5. 71.05 (6) (b) 48. of the statutes is created to read:

71.05 **(6)** (b) 48. An amount of up to $2,000 each year for each beneficiary, up to a total deposit of $4,000 each year, that is deposited by a sponsor into an account described under s. 71.10 (10), and any interest, dividends, or other gain that accrues in the account if the interest, dividends, or other gain is redeposited into the account.

SECTION 6. 71.07 (5) (a) 9. of the statutes is created to read:

71.07 **(5)** (a) 9. The amount claimed as a deduction for unreimbursed medical expenses under section 213 (a) of the Internal Revenue Code to the extent that the funds used to pay for the unreimbursed expenses for which the deduction was claimed were withdrawn from an account described under s. 71.10 (10).

SECTION 7. 71.10 (4) (k) of the statutes is created to read:

71.10 **(4)** (k) Any amount of money or other assets computed under s. 71.83 (1) (ch).

SECTION 8. 71.10 (10) of the statutes is created to read:

71.10 **(10)** PARENTAL ASSISTANCE HEALTH CARE EXPENSES. (a) *Definitions.* In this subsection:

1. "Beneficiary" means a parent of a sponsor for whom an account is established under this section.

2. "Financial institution" means any bank, savings bank, savings and loan association, or credit union that is authorized to do business under state or federal laws relating to financial institutions.

3. "Health care expenses" means expenses incurred by a beneficiary for any of the following:

a. Medical or dental care expenses.

b. Prescription drugs.

c. Care that is provided to a beneficiary in the beneficiary's home or in institutional or community–based settings and that is convalescent or custodial care or care for a chronic condition or terminal illness.

4. "Sponsor" means an adult child who establishes an account under this subsection.

(b) *Establishment of account.* A sponsor may establish an account for health care expenses, for his or her parent, in a financial institution. Except as provided in par. (d), amounts deposited into such an account and any interest, dividends, or other gain that accrues on amounts deposited into the account may be used only to pay health care expenses of a beneficiary.

(c) *Payment of claims.* If a beneficiary incurs costs for health care expenses, the beneficiary, the sponsor, or the entity providing the goods or services to the beneficiary may submit a form, created by the department of revenue, that summarizes the costs incurred and payment and beneficiary information, along with a copy of the bill, or a copy of the receipt if the beneficiary or sponsor has paid for the health care expenses, to the financial institution at which the account created under this subsection is established. The financial institution shall pay the bill, or reimburse the beneficiary or sponsor, if sufficient funds to do so are in the account.

(d) *Termination of account.* 1. Upon the death of all beneficiaries of an account, the account shall terminate and any amount remaining in the account shall be returned to the sponsor if he or she is still alive.

2. Upon the death of all beneficiaries of an account, the account shall terminate and any amount remaining in the account shall pass to the beneficiary's estate if no sponsor of the account is alive.

SECTION 9. 71.83 (1) (ch) of the statutes is created to read:

71.83 **(1)** (ch) *Parental assistance health care expenses account withdrawals.* If a sponsor, as defined under s. 71.10 (10) (a) 4., or beneficiary, as defined under s. 71.10 (10) (a) 1., is required to add any amount to federal adjusted gross income under s. 71.05 (6) (a) 25., the sponser or beneficiary shall also pay an amount equal to 10 percent of any accumulated interest, dividends, or other gain that has accrued beginning on the date on which the account was opened and ending on the date on which the withdrawal from the account occurs that results in the sponsor or beneficiary adding an amount under s. 71.05 (6) (a) 25. The department of revenue shall assess, levy, and collect the penalty under this paragraph as it assesses, levies, and collects taxes under this chapter.

SECTION 10. Initial applicability.

(1) This act first applies to taxable years beginning on January 1 of the year in which this subsection takes effect, except that if this subsection takes effect after July 31 this act first applies to taxable years beginning on January 1 of the year following the year in which this subsection takes effect.

(END)