

**2013 HUMAN SERVICES**

**HB 1090**

# 2013 HOUSE STANDING COMMITTEE MINUTES

House Human Services Committee  
Fort Union Room, State Capitol

HB 1090  
January 16, 2013  
Job #17292

Conference Committee

Committee Clerk Signature



**Explanation or reason for introduction of bill/resolution:**

Relates to claims against estates of DHS benefit services recipient patients.

**Minutes:**

Testimony #1 attached

**Chairman Weisz:** Opened the hearing on HB 1090.

Tim Austin: Attorney with DHS testified in support of the bill. (See Testimony #1).

3:41 Chairman Weisz: Was the reason for the Medicaid section; did the feds require that it to be preferred? Did the state have to have a priority position in those cases or was it just something we did back then?

Austin: The federal law does require that we have state collections against the estates of Medicaid recipients. That statute was past pursuant to that requirement.

Chairman Weisz: Did the feds require that it be a preferred claim? Is that federal or state?

Austin: The federal law indicates that the estate probates can be handled in their own fashion. That is what the state did to make that claim preferred to collect state and federal money.

Chairman Weisz: It wasn't a federal requirement when we did the Medicaid whenever we did that.

Austin: Not as far as making the claim preferred.

Rep. Fehr: If someone was not receiving medical assistance what things other than medical assistance that the state would be seeking claims on?

Austin: State hospital claims or claims through regional service centers for treatment.

Rep. Fehr: Someone could be in the state hospital and on a sliding fee scale and incurred a balance and weren't on medical assistance and were deceased and now there is a balance remaining?

Austin: Exactly right. We have claims filed in the state that are just state claims and no federal component to that for Medicaid.

Chairman Weisz: I assume we have separate laws in place and Child Support would be an example of also being a preferred claim.

Austin: That is correct. Under the probate code, Child Support obligations have a preference.

Rep. Oversen: What is the reasoning behind this change? Are we behind on claims?

Austin: The reason for the bill is just to collect state funded funds ahead of general claims such as credit card companies. We have claims that are filed and paid pro-rata with other general creditors so we receive pennies on the dollar. If we were a preferred claim, then we would be ahead of those other general creditors.

Rep. Mooney: Typically people who are Medicaid don't have a lot of money. When these people pass away are we talking about a lot of money?

Austin: We aren't talking about a lot of money. Sometimes we can't collect on State Hospital claims. But the State Hospital provides services and sometimes the recipients do have assets more than a Medicaid asset. We have collected some claims down the road that have been six figure claims. It is a different scenario than the Medicaid scenario.

Chairman Weisz: Rep. Mooney, even under Medicaid as far as your house assets, you have the ability to stay in your home and collect Medicaid and then after you are deceased that asset is sold to pay the Medicaid claim.

No more support or opposition.

HEARING CLOSED.

Chairman Weisz: Opened the meeting on HB 1090

Rep. Porter: I would agree that it is a simple bill. I think it has ramifications to everybody else. Typically if you have estate while on Medicaid it isn't going to be much money wise.

Chairman Weisz: Medicaid already has a preferred priority. This would apply to the claim. This could apply to general claims like charging an account to a business, credit cards bills, medical and funeral bills. All of those are unsecured claims which are where the state is currently.

Rep. Looyzen: Please clarify other claims other than Child Support since that is a preferred claim that the state would want before these credit card bills and things would be paid.

Chairman Weisz: We do home based community services and can be on a sliding fee scale. They would owe for that level of care and maybe didn't pay that. Some child care

assistance is on a sliding fee scale. Should they go ahead of the credit card companies or a business where there is a charge or their fuel dealer?

Vice-Chair Hofstad: Who else is on that same playing field? Is it the fuel dealer?

Chairman Weisz: They are unsecured right now. If I fill my tank and I die and the state could get my estate; they are going to sit in the exact same pool as the fuel dealer will to get paid. Anybody I might owe is all unsecured.

Rep. Porter: The claim the state has will eat up all the entire portion of the amount and everyone else with get zero. Right now everyone gets pennies on the dollar, but it is equal and fair. To give the state a preferred standing in this kind of case rubs me the wrong way.

Chairman Weisz: The state can argue that this is not state dollars, but taxpayer's dollars and should the taxpayers have that priority over and above.

Rep. Porter: A bad debt is the cost of doing business for everybody. If the state doesn't want to be in the same risk pool as the private business provider, than maybe they shouldn't be providing private business services.

Vice-Chair Hofstad: I would argue that the impact to the local fuel dealer or contractor that helped shingle the roof is probably a great deal more significant than the impact of the state.

Rep. Mooney: As a taxpayer aren't you being penalized twice then as the local fuel guy? You have paid the tax and now you are going to have to absorb the loss through your business as well.

Chairman Weisz: You can make that argument.

Rep. Fehr: If the state is on equal footing it goes before probate and now a due process that is decided what bills.

Chairman Weisz: In general if the estate isn't sufficient to pay the person representative then everybody gets the same as if you go into a bankruptcy court. You would get paid so many cents on the dollar.

Rep. Fehr: I move a Do No Pass

Rep. Porter: Second

Rep. Silbernagel: Do we have any idea of the amount of dollars we are talking about?

Chairman Weisz: Mr. Austin said it was minimal.

Rep. Damschen: I plan to support the motion because as was stated, the guy that left holding the bag on Main Street is a taxpayer too.

ROLL CALL VOTE: 13 y 0 n 0 absent

DO NOT PASS MOTION CARRIED

Bill Carrier: Kiefert

Date: 1-16-13  
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1090

House Human Services Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Rep. Fehr Seconded By Rep. Porter

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN WEISZ	✓		REP. MOONEY	✓	
VICE-CHAIRMAN HOFSTAD	✓		REP. MUSCHA	✓	
REP. ANDERSON	✓		REP. OVERSEN	✓	
REP. DAMSCHEN	✓				
REP. FEHR	✓				
REP. KIEFERT	✓				
REP. LANING	✓				
REP. LOOYSEN	✓				
REP. PORTER	✓				
REP. SILBERNAGEL	✓				

Total (Yes) 13 No 0

Absent 0

Floor Assignment Rep. Kiefert

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1090: Human Services Committee (Rep. Weisz, Chairman)** recommends **DO NOT PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1090 was placed on the Eleventh order on the calendar.

**2013 TESTIMONY**

**HB 1090**

#1

**Testimony**  
**House Bill Number 1090 – Department of Human Services**  
**House Human Services Committee**  
**Representative Robin Weisz, Chairman**  
**January 16, 2013**

Chairman Weisz, members of the Human Services Committee, I am Tim Austin, an attorney with the Department of Human Services (Department). I am here today in support of House Bill 1090, which was introduced at the request of the Department.

The Department will file a claim, as required by federal law, against estates of deceased medical assistance recipients (or upon the death of a deceased medical assistance recipient's spouse against that spouse's estate) or as permitted by state law against estates of deceased recipients of other Department services, such as those provided by the North Dakota State Hospital and regional human service centers, to collect up to the amount of assistance or service, or both, paid on behalf of the recipient.

North Dakota Century Code section 50-24.1-07 treats the Department's claim against an estate as a preferred claim if the recipient received medical assistance. (A preferred claim gets paid ahead of general claims.) If the recipient did not receive medical assistance, North Dakota Century Code section 50-06.3-07 treats the Department's claim against an estate as a general claim. This bill amends North Dakota Century Code section 50-06.3-07 so the Department's claim against any estate, regardless of the types of benefits received, will always be a preferred claim against the estate.

This concludes my testimony. I would be happy to try to answer any questions the committee may have. Thank you.