

SENATE BILL 449

J1, N2

6lr1729
CF HB 981

By: **Senators Kelley, Benson, Feldman, Jennings, Klausmeier, and Mathias**

Introduced and read first time: February 2, 2016

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 23, 2016

CHAPTER _____

1 AN ACT concerning

2 **Maryland Medical Assistance Program – Guardianship Fees – ~~Income Deduction~~**
3 **Personal Needs Allowance**

4 FOR the purpose of requiring the Department of Health and Mental Hygiene to ~~deduct as~~
5 ~~a remedial service~~ include as part of the personal needs allowance certain
6 guardianship fees when determining the portion of income certain recipients of
7 Maryland Medical Assistance Program benefits are required to contribute to the cost
8 of their care under the Program; specifying the amount of ~~deductions~~ the personal
9 needs allowance for certain guardianship fees; establishing that certain guardians
10 are not entitled to receive more than a certain amount in compensation unless a
11 certain finding is made by a certain court; defining certain terms; and generally
12 relating to the Maryland Medical Assistance Program and compensation for
13 guardianship services provided to Program recipients.

14 BY repealing and reenacting, with amendments,
15 Article – Estates and Trusts
16 Section 13–218
17 Annotated Code of Maryland
18 (2011 Replacement Volume and 2015 Supplement)

19 BY adding to
20 Article – Health – General
21 Section 15–122.3
22 Annotated Code of Maryland
23 (2015 Replacement Volume)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
2 That the Laws of Maryland read as follows:

3 **Article – Estates and Trusts**

4 13–218.

5 (A) Except in unusual circumstances **AND AS PROVIDED IN SUBSECTION (B) OF**
6 **THIS SECTION**, the guardian is entitled to the same compensation and reimbursement for
7 actual and necessary expenses as the trustee of a trust. No petition or hearing is required
8 to entitle the guardian to compensation and expenses. Upon the petition of any interested
9 person and upon a finding by the court that unusual circumstances exist, the court may
10 increase or decrease compensation.

11 (B) **IF THE GUARDIAN IS APPOINTED AS THE GUARDIAN OF A DISABLED**
12 **PERSON WHO IS A RECIPIENT OF LONG–TERM CARE SERVICES AND SUPPORTS**
13 **UNDER THE MARYLAND MEDICAL ASSISTANCE PROGRAM AND WHOSE INCOME IS**
14 **SUBJECT TO § 15–122.3 OF THE HEALTH – GENERAL ARTICLE, THE GUARDIAN IS**
15 **NOT ENTITLED TO RECEIVE MORE THAN \$50 PER MONTH IN COMPENSATION UNLESS**
16 **THE COURT MAKES A FINDING THAT UNUSUAL CIRCUMSTANCES EXIST.**

17 **Article – Health – General**

18 **15–122.3.**

19 (A) (1) **IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
20 **INDICATED.**

21 (2) **“AVAILABLE INCOME” MEANS THE PORTION OF INCOME OF A**
22 **PROGRAM RECIPIENT THAT THE PROGRAM RECIPIENT IS REQUIRED TO**
23 **CONTRIBUTE TO THE COST OF CARE FOR THE PROGRAM RECIPIENT UNDER THE**
24 **PROGRAM.**

25 (3) **“DISABLED PERSON” HAS THE MEANING STATED IN § 13–101 OF**
26 **THE ESTATES AND TRUSTS ARTICLE.**

27 (4) **“GUARDIAN” MEANS:**

28 (I) **A GUARDIAN OF THE PERSON; OR**

29 (II) **A GUARDIAN OF THE PROPERTY.**

1 (5) “GUARDIAN OF THE PERSON” MEANS A PERSON WHO HAS BEEN
2 APPOINTED BY A COURT AS A GUARDIAN OF THE PERSON OF A DISABLED PERSON
3 UNDER § 13-705 OF THE ESTATES AND TRUSTS ARTICLE.

4 (6) “GUARDIAN OF THE PROPERTY” MEANS A PERSON WHO HAS BEEN
5 APPOINTED BY A COURT AS A GUARDIAN OF THE PROPERTY OF A DISABLED PERSON
6 UNDER § 13-201 OF THE ESTATES AND TRUSTS ARTICLE.

7 (7) “GUARDIANSHIP SERVICES” MEANS SERVICES PROVIDED TO A
8 RECIPIENT WHO IS A DISABLED PERSON BY A GUARDIAN WHILE ACTING IN THE
9 CAPACITY AS A GUARDIAN.

10 (8) “RECIPIENT” MEANS A PROGRAM RECIPIENT WHO RECEIVES
11 LONG-TERM CARE SERVICES AND SUPPORTS UNDER THE PROGRAM.

12 (B) SUBJECT TO SUBSECTION (C) OF THIS SECTION, WHEN DETERMINING
13 THE AVAILABLE INCOME OF A RECIPIENT WHO IS A DISABLED PERSON AND HAS A
14 GUARDIAN, THE DEPARTMENT SHALL ~~DEDUCT AS A REMEDIAL SERVICE~~ INCLUDE AS
15 PART OF THE PERSONAL NEEDS ALLOWANCE GUARDIANSHIP FEES PAYABLE FOR
16 GUARDIANSHIP SERVICES.

17 (C) ~~DEDUCTIONS~~ THE PERSONAL NEEDS ALLOWANCE FOR GUARDIANSHIP
18 FEES SHALL BE AS FOLLOWS:

19 (1) IF ONE PERSON IS SERVING AS BOTH THE GUARDIAN OF THE
20 PERSON AND THE GUARDIAN OF THE PROPERTY OF THE RECIPIENT, THE
21 ~~DEDUCTION~~ PERSONAL NEEDS ALLOWANCE SHALL BE \$50 PER MONTH; AND

22 (2) IF ONE PERSON IS SERVING AS THE GUARDIAN OF THE PERSON OF
23 THE RECIPIENT AND A DIFFERENT PERSON IS SERVING AS THE GUARDIAN OF THE
24 PROPERTY OF THE RECIPIENT, THE ~~DEDUCTION~~ PERSONAL NEEDS ALLOWANCE
25 SHALL BE \$50 PER MONTH FOR EACH GUARDIAN.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 October 1, 2016.