

# HOUSE RESEARCH

## Bill Summary

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**Subject:** MA and Retention of Life Insurance Policies

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### Overview

This bill gives the Commissioner of Human Services the authority to allow certain MA applicants to retain life insurance policies, if they agree to share policy proceeds with the state. Under current law, the cash surrender value of the policy is considered an asset when determining eligibility for MA.

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- 1** **Life insurance policies.** Adds § 256B.0565. Gives the commissioner of human services the option to allow certain MA applicants to retain life insurance policies, if the applicant enters into an agreement to share policy proceeds with the state if MA services are provided for which a recovery could be made.

**Subd. 1. Option to retain policies.** (a) States that the commissioner may allow MA applicants applying on the basis of being aged, blind or disabled the option of retaining permanent life insurance policies and excluding these policies as assets, if:

- (1) the face value of the policy does not exceed \$50,000;
- (2) the cash value, including dividends, does not exceed \$25,000 on the date of application; and
- (3) the policy has been in force for at least five years on the date of application.

(b) Provides that the cash surrender value of life insurance policies retained is not an asset for purposes of calculating the community spouse asset allowance.

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(c) States that an individual is applying for MA on the basis of being aged, blind, or disabled if eligibility is being sought under specified eligibility categories.

**Subd. 2. Definitions.** Provides definitions of "permanent life insurance policy" and similar terms, and "insurer."

**Subd. 3. Agreement with commissioner.** (a) Requires applicants who want to retain policies to: (1) enter into an irrevocable written agreement with the commissioner to designate the commissioner as a beneficiary and to take other steps related to compliance with this section; and (2) execute and file with the insurer all forms and documents necessary to: (i) irrevocably designate the commissioner as a beneficiary to the extent provided in the bill; (ii) waive the right to cash-in, sell, assign, transfer, encumber, or borrow against the policy or use it as collateral or security; (iii) direct the insurer to provide notices that a policy will lapse to the commissioner; and (iv) direct the insurer to comply with paragraph (d).

(b) States that the agreement with the commissioner is irrevocable and remains in effect through the remainder of the applicant's life, regardless of whether the applicant remains eligible for MA.

(c) Requires the agreement to allow the applicant to designate or change beneficiaries with respect to the portion of the death benefit not payable to the commissioner.

(d) Requires the agreement to provide that the applicant must instruct the insurer to pay all future premiums and other amounts due from the cash value of the policy, or to provide notice that the cash value is not sufficient. Allows the insurer to apply payments received from the beneficiary and other persons toward premium payment and other amounts due.

(e) Requires the commissioner to prepare a form of agreement.

**Subd. 4. Procedure.** Specifies procedures that the applicants, insurers, and county agencies must follow to implement the section.

**Subd. 5. State's share of death benefit.** (a) Requires the insurer, upon the death of an applicant, to pay the applicant's beneficiaries one-half of all amounts payable under the terms of the policy, and to pay to the beneficiaries at a later date any amount owed under paragraph (c). Specifies that if a beneficiary is the applicant's estate, any proceeds received under this paragraph and paragraph (c) are not subject to estate recovery.

(b) Upon the death of an applicant, requires the insurer to request a written statement of the total amount of MA paid for the applicant that could be recovered under section 256B.15. (This section allows recovery for MA services provided to a person over age 55, or provided to a person residing in a nursing home, ICF/MR, or inpatient hospital for six-months or longer who was not expected to return home.) Requires the commissioner to provide the written statement within 30 days and provides that if this deadline is not met, all proceeds revert to beneficiaries other than the commissioner.

(c) Requires the insurer to pay the commissioner the lesser of one-half of all amounts payable under the policy or the total amount of MA which could be recovered under section 256B.15. If the amount of MA paid is less than one-half of the amount payable under the policy, requires the commissioner to pay the difference to other

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beneficiaries under the terms of the policy. Specifies that payments under this paragraph are exempt from section 72A.201, subdivision 4, clause (3) (requirement that insurers act on claims within 30 days).

(d) Specifies that recipients have an interest in policies retained under this section to the extent of amounts payable to the commissioner under this subdivision, for purposes of the recovery of MA under state and federal law.

**Subd. 6. Federal waivers and approvals.** Requires the commissioner to seek any federal waivers or approvals necessary to implement this section.

Provides an effective date of July 1, 2006, or upon receipt of any necessary federal waivers and approvals, whichever is later.