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Pataki's veto may hit elderly in wallets

Spouses wouldn't be allowed to not pay health care bills anymore

Jay Gallagher
Albany bureau chief

(April 17, 2006) — ALBANY — Spouses of nursing home patients and of those receiving care at home will no longer be able to refuse to help pay the cost, under the provisions of one of Gov. George Pataki's budget vetoes.

And the governor claims the Legislature can't do anything about it.

Pataki last week removed from the budget a long-standing provision that allows spouses of ill people to refuse to pay health care bills, which stuck taxpayers with the tab under the Medicaid program that pays the health care expenses of poor people.

The change would save taxpayers \$34.2 million this year and \$68.5 million next year, said state Budget Division spokesman John Sweeney.

The move "minimizes the potential waste and abuse in the Medicaid system," Sweeney said.

An average of 630 spouses of nursing home residents a year refuse to help pay for their mates' care, and more than 8,400 spouses of those receiving home care make the same decision, Sweeney said.

There are about 110,000 people in nursing homes in the state. Taxpayers, through the Medicaid program, pay the bills for 78 percent of them, said Carl Young, president of the Association of Homes and Services for the Aging. Medicaid pays about \$62,000 a year for each nursing patient, or a total of more than \$5 billion a year.

But ending the ability of spouses to refuse to pay those bills could mean that thousands of elderly people face impoverishment trying to keep up with Medicaid bills for home care and a loss of a large portion of spouses of Medicaid patients, advocates said.

"You just can't pull the rug out from people without alternatives," said William Ferris of the state chap

"What are people's choices?" Ferris asked. "Get divorced before you send your spouse to a nursing home has to be some middle ground."

There are some protections for the spouses of nursing home patients. They can keep their homes, c

Background

- ▶ The state's \$48 billion Medicaid by far the nation's largest.
- ▶ The federal government pays half and the state and counties share the other half.
- ▶ Long-term care is one of the pr expensive features.

What's at stake

Gov. Pataki wants to eliminate was to save money, but opponents say citizens will suffer financially.

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\$100,000 in assets and still have Medicaid pay the bill. But for those in home care, their spouses can about \$5,000, in addition to their homes and cars.

Young said that the protections for the relatives of home-care patients should be improved but that it for the state to have more spouses help pay for the care of their partners.

"Spousal refusal is terrible public policy," he said. "It seems to say that we should change the words marriage vows from 'death do us part' to 'until you're an inconvenience to me.'"

Pataki has proposed for years that the state do away with spousal refusal, but it has always been res Legislature.

But this year Pataki claimed that the Legislature violated the state constitution by changing the langu Medicaid bill to keep spousal refusal.

Thus lawmakers can't override the veto, Sweeney said.

The spousal-refusal issue is one of many on which lawmakers and Pataki read the constitution differ matter could end up in court if lawmakers and the governor don't strike a deal.

Pataki's veto also throws into doubt the effective date of a new federal law meant to prevent people f transferring their money before going into a nursing home.

Longstanding law required that any gift made within three years could be counted as income for Med purposes. The federal government in February extended that so-called "look-back period" to five yea

But New York has first to pass a law enabling the new rules to take place, explained Bernard Krooks attorney with Littman Krooks LLP, which has offices in White Plains and Manhattan.

The bill Pataki vetoed implemented the new five-year standard, but now that it's vetoed, it's unclear v rules might take effect, he said.

"We're in uncharted waters here," Krooks said.

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