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March 6, 2025

Senate Committee on Human Services

Re: SB 1029, Caregiving Child Exemption

Dear Chair Gelser Blouin, Vice Chair Linthicum, and Members of the Committee,

Oregon NAELA writes in strong support of SB 1029 and the request to amend ORS 411.620, 411.708, and 416.350 to create more protection for caregiving children. Oregon NAELA is the Oregon Chapter of the National Academy of Elder Law Attorneys, which is dedicated to improving the quality of legal services provided to older adults and people with disabilities. NAELA envisions a day when all older adults, people with disabilities, and their families have the legal, health, social and financial care they need to live their best lives.

Caregiving children who move in with their parents and who provide a level of care that prevents their parents from relying on Medicaid benefits are providing services for their parents, their family members, and for Oregonians at large.

Caregiving children keep their parents off Medicaid services for a period of at least two years, and some continue to provide care even after Medicaid eligibility that keeps their parents out of care facilities for the duration of their lives. In doing so, caregiving children miss out on employment opportunities and promotions in their own lives and miss out on opportunities to contribute to their own retirement.

As you may know, Oregonians who require long-term care (at home and/or in a care facility) and who do not have enough money to pay for their own long-term care may qualify for Medicaid services to help cover their monthly care expenses. Medicaid services help pay for long term care for individuals who meet certain income and resource eligibility requirements.

Many have heard about the “spenddown” process that takes place before qualifying for Medicaid services. It is the process in which an individual or married couple must spend or “spenddown” their countable resources to be within Medicaid countable resource limits to qualify for Medicaid services. Elder law attorneys help their clients to identify the most strategic and appropriate ways to spenddown because some spenddown methods are not allowed and/or carry penalties that result in periods of disqualification for the individual seeking Medicaid services. For example, if gifts

of cash, real property, vehicles, etc. are made within the 5-year period prior to applying for Medicaid services, a disqualification penalty will be assessed. The length of the disqualification for Medicaid services is calculated based on total amount/s gifted within the that 5-year period.

Nonetheless, there are some exceptions, and one such exception permits a parent to transfer their interest in their primary residence to a caregiving child without penalty when certain requirements are met.

However, the caregiving child exception is a “use it or lose it” exception and, currently in Oregon, requires that the primary residence be transferred before the individual’s death. If a parent or their caregiving child is not aware of this option prior to the parent’s death, the home becomes subject to estate recovery. Estate recovery is a process in which the State of Oregon seeks recovery against assets that remain in the expanded probate estate of the Medicaid recipient. Estate recovery seeks to recover the amount that the State of Oregon paid for care on behalf of the Medicaid recipient during their life. This means that caregiving children who could have otherwise qualified for a caregiving child transfer of the primary residence prior to their parent’s death miss out on the opportunity to receive title to that primary residence – and instead, they are forced to sell the residence after their parent’s death to pay the estate recovery claim. This adversely impacts caregiving children who are unaware that they qualify for this exemption prior to their parent’s death.

SB1029 seeks to equalize the treatment of all of those who qualify as Caregiving children by removing the requirement that the primary residence transfer must take place prior to the death of the Medicaid recipient. Instead, while it permits traditional Caregiving child transfers to continue to take place, it also provides for the transfer to take place after the Medicaid recipient’s death. SB 1029 prevents estate recovery against a primary residence of a Medicaid recipient when the Medicaid recipient is survived by their caregiving child.

SB 1029 also supports housing security in Oregon, as Caregiving children are often living in, investing in, contributing to mortgages, property taxes, etc. for their parent’s home – while they are there caring for their parents.

Therefore, Oregon NAELA urges you to support SB 1029!

Sincerely,



Kay Hyde Patton, President
Oregon NAELA

For questions, contact:

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