

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
San Francisco Regional Office
90 Seventh Street, Suite 5-300 (5W)
San Francisco, CA 94103-6706



DIVISION OF MEDICAID & CHILDREN'S HEALTH OPERATIONS

February 27, 2015

Mari Cantwell, Chief Deputy Director, Health Care Programs
California Department of Health Care Services
P.O. Box 997413, MS 0000
Sacramento, CA 95899-7413

Dear Ms. Cantwell:

Enclosed for your records is an approved copy of the California Department of Health Care Services' Third Party Liability State Plan Amendment (SPA) CA-14-030. This SPA was submitted to my office on December 23, 2014, and is approved effective January 1, 2015.

This SPA increases the threshold used to determine the cost-effectiveness of continued estate recovery collection efforts. Attached are copies of the following pages to be incorporated into your State Plan:

- Attachment 4.17-A, page 3
- Attachment 4.22-B, page 1

If you have any questions, please contact Tyler Sadwith at (415) 744-3563 or tyler.sadwith@cms.hhs.gov.

Sincerely,

/s/

Hye Sun Lee
Acting Associate Regional Administrator
Division of Medicaid & Children's Health Operations

cc: Jeff Blackmon, California Department of Health Care Services
Margaret Hoffeditz, California Department of Health Care Services

**TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL**

1. TRANSMITTAL NUMBER:
14-030

2. STATE
CA

FOR: HEALTH CARE FINANCING ADMINISTRATION

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE
SOCIAL SECURITY ACT (MEDICAID)

TO: REGIONAL ADMINISTRATOR
HEALTH CARE FINANCING ADMINISTRATION
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE
January 1, 2015

5. TYPE OF PLAN MATERIAL (Check One):

- NEW STATE PLAN
- AMENDMENT TO BE CONSIDERED AS NEW PLAN
- AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)

6. FEDERAL STATUTE/REGULATION CITATION:
42 CFR 433.139(f)(2), 42 CFR 433.139(f)(3)

7. FEDERAL BUDGET IMPACT:
a. FFY 15 \$0
b. FFY 16 \$0

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:
Pages 1 ~~2~~ of Attachment 4.22-B
Page 3 of Attachment 4.17-A

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION
OR ATTACHMENT (If Applicable):
Pages 1 ~~2~~ of Attachment 4.22-B
Page 3 of Attachment 4.17-A

10. SUBJECT OF AMENDMENT:
Estate Recovery – Increase Threshold Amount

11. GOVERNOR'S REVIEW (Check One):

- GOVERNOR'S OFFICE REPORTED NO COMMENT
- COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
- NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

OTHER, AS SPECIFIED:
The Governor's Office does not wish to review the State Plan Amendment.

ORIGINAL SIGNED

16. RETURN TO:

Department of Health Care Services
Attn: State Plan Coordinator
1501 Capitol Avenue, Suite 71.326
P.O. Box 997417
Sacramento, CA 95899-7417

14. TITLE:
Director

15. DATE SUBMITTED: 12/23/14

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED:

18. DATE APPROVED:

PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL:

20. SIGNATURE OF REGIONAL OFFICIAL:

21. TYPED NAME:

22. TITLE:

23. REMARKS:

Associate Regional Administrator
February 27, 2015

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: California

The Department shall provide written notification to the applicant of its decision regarding the hardship waiver application within 90 days of the applicant's submission. If an application for hardship waiver is denied, the Department shall provide the applicant with notice of the right, the address, and the timeframe to request an estate hearing, at the time it provides notice of its decision. The Department shall issue its decision on an applicant's hardship waiver application prior to and independent of its consideration of a voluntary post death lien.

If it is determined that enforcement of the State's claim would result in a substantial hardship to one or more of the dependents, heirs, or survivors of the individual against whose estate the claim exists, the Department shall waive the proportionate share of its claim against any applicant who qualifies for a waiver due to a substantial hardship, as specified in Section 50963(a). The Department shall not enforce collection of the proportionate share of an estate claim for any applicant who is awaiting the resolution of a hardship waiver request or an estate hearing. However, the Department shall enforce collection of its claim from the remaining dependent(s), heir(s), or survivor(s) for his or her proportionate share of the claim.

If the asset is an income producing business, the State will not recover from any heir if collection from one heir would cause a substantial hardship to another heir.

5. The State defines cost-effective as follows (include methodology/thresholds used to determine cost-effectiveness):

Because of the volume of cases and limited availability of resources, the Department has determined that it is not cost-effective to pursue continued collection or litigation after a claim/lien is filed if the potential net collection amount is under \$5,000. However, when the administrative costs to process a case and continue recovery are very low, usually with cases handled by public administrators/guardians and formal probates, the Department may file and pursue continued collection or litigation for any amount. Additionally, in certain circumstances when the debtor has excessive allowable expenses or obligations or when the heir(s) lives out of state and is not responsive to collection efforts, etc., the Department may determine that it is not cost-effective to litigate or otherwise pursue recoveries, even though the net assets are over the normal \$5,000 threshold.

6. The State uses the following collection procedures (include specific elements contained in the advance notice requirement, the method for applying for a waiver, hearing and appeals procedures, and time frames involved):

- A. Advance Notice Procedure

Beneficiaries are notified of the Medi-Cal Estate Recovery program, during their initial application process and during annual redetermination, via the Rights and Responsibilities form (MC219) and Statement of Facts (MC210), which they read and sign. Our program also sends beneficiaries notices twice a year, informing them of any updates or changes in laws/procedures affecting estate recoveries. In addition, the Department publishes a Medi-Cal Pamphlet and

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: California

Third Party Liability

- (1) The State Medicaid agency will use the pay and chase method for the purpose of recovering Third Party Liability when services covered under the plan are furnished to an individual on whose behalf child support enforcement is being carried out by the State IV-D agency. Pay and chase activities are initiated in accordance with the established threshold for seeking reimbursement of medical benefits from a liable third party.

Non-emergency wheelchair van and litter/medi-van transportation (medical services codes 0015-0029) and Adult Day Health Care (ADHC) services (medical services codes Z8500-Z8506) are not benefits covered by the health insurance industry. Therefore, the Department of Health Care Services (Department) is exempting these services from cost avoidance and post-payment billings because the cost to the State to edit the claims to cost avoid such services and to create post-payment billings on a recovery basis is not justified.

- (2) The threshold amounts used in determining whether to seek reimbursement from a liable third party are as follows:
 - a) Payments for care to eligibles with health insurance are computer billed monthly when \$100 in accumulated health care services have been paid by Medi-Cal. If the \$100 threshold is not reached within three (3) years, no claim is generated.
 - b) Potential Casualty Insurance and Workers' Compensation cases are established when Medi-Cal payments of \$2,000 or more have been made. Potential Casualty Insurance and Workers' Compensation cases may be established when Medi-Cal payments of less than \$2,000 have been made when the amount the State expects to recover would be greater than the cost of recovery.
 - c) When unsolicited money of any value is received, it is retained, researched to identify why it was received and credited to the proper account or returned to sender.
 - d) Estate Recovery claims are filed in the probate or distribution of assets of deceased Medi-Cal beneficiaries regardless of the amount of claim or value of assets. For cases where the potential net collection amount is less than \$5000 or where additional factors may apply as further described in Attachment 4.17-A(5), the Department may not pursue continued collection or litigation.
- (3) The dollar amount or timeframe, used by the State Medicaid Agency for accumulating health care services payments to determine whether to bill a particular third party, are defined in #2 above.
- (4) For third-party recoveries, the Department shall comply with 42 U.S.C. Section 1396a(a)(25)(B) and use the following factors and guidelines in determining whether or to what extent to pursue recovery, after deduction of the Department's share of attorney's fees and costs, from a liable party.
 - a) Ascertain the amount of Medicaid expenditures related to the injury and the amount of the potential gross settlement, judgment, and/or award.