

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

September 5, 2018

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 is an approved copy of California State Plan Amendment (SPA) 18-016, which was submitted to the Centers for Medicare & Medicaid Services (CMS) on June 14, 2018. SPA 18-016 will update estate hearing procedures for the Department of Health Care Services Estate Recovery Program. This SPA modifies the state plan to provide that an estate hearing officer may conduct a hearing by telephone rather than in person to promote fairness and expediency.

The effective date of this SPA is April 1, 2018. Enclosed is the following approved SPA page that should be incorporated into your approved state plan:

- Attachment 4.17, page 7

If you have any questions, please contact Cheryl Young at 415-744-3598 or via email at Cheryl.Young@cms.hhs.gov.

Sincerely,

/s/

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

Enclosures

cc: Rene Mollow, California Department of Health Care Services (DHCS)
Margaret Hoffeditz, DHCS
Lindsey Wilson, DHCS
Nathaniel Emery, DHCS
Angeli Lee, DHCS

**TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL
FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES**

1. TRANSMITTAL NUMBER
1 8 — 0 1 6

2. STATE
CA

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

TO: REGIONAL ADMINISTRATOR
CENTERS FOR MEDICARE & MEDICAID SERVICES
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE
April 1, 2018

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
Sec. 1902(a)(3) of the Social Security Act & 42 CFR 431, Subpart E
42 USC Section 1396p(b)(3)

7. FEDERAL BUDGET IMPACT
a. FFY 2017-2018 \$ 0
b. FFY 2018-2019 \$ 0

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT
Attachment 4.17-A, Page 7

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (*If Applicable*)
Attachment 4.17-A, Page 7

10. SUBJECT OF AMENDMENT
Estate Recovery: Estate Hearings

11. GOVERNOR'S REVIEW (*Check One*)

OTHER, AS SPECIFIED

State Medicaid Director

15. DATE SUBMITTED
June 14, 2018

16. RETURN TO
1501 Capitol Avenue, MS 0000
Sacramento, CA 95814

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED
June 14, 2018

18. DATE APPROVED
September 5, 2018

PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL
April 1, 2018

20. SIGNATURE OF REGIONAL OFFICIAL
/s/

21. TYPED NAME
Hye Sun Lee

22. TITLE
Acting Associate Regional Administrator, Division of Medicaid & Children's Health Operations

23. REMARKS

For Box 11 "OTHER, As Specified" : Please note: The Governor's Office does not wish to review the State Plan Amendment.

Box 6: Pen & ink change to add the federal and regulatory citations for fair hearings made by CMS per email from state dated 8/27/18.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: California

as specified at the top of the Department's notice. The Department shall provide the applicant at least 30 days notice of the date, time, and place of the hearing. The hearing shall be conducted within 60 days from the date of the request, and may be continued for good cause, such as illness, injury, or incarceration of the applicant.

For an applicant who lives in the State, the Department shall conduct the hearing within the California Court of Appeal district where the applicant resides. In the case of an applicant who lives out of the State, the hearing shall be conducted in Sacramento, California. Upon the motion of either party, the hearing officer may determine in the interests of fairness and expediency that a hearing authorized by this section be conducted telephonically. If an applicant requests that the hearing be conducted in person, the state will provide the opportunity for an in person hearing. The Department is in compliance with provisions of 42 CFR Part 431, Subpart E that are applicable to estate hearings.

At the estate hearing, the applicant and/or applicant's representative shall have the opportunity to be heard, offer evidence, and present witnesses in support of the request for a waiver. All testimony shall be submitted under oath, affirmation, or penalty of perjury. The proceedings at the estate hearing shall be electronically recorded. The applicant and/or the applicant's representative shall submit, on, before, or after the date of the hearing, until the record is closed, copies of all documents which support the applicant's request for a waiver to the hearing officer.

The hearing shall be conducted in an impartial manner by a hearing officer appointed by the Department's Director. A proposed decision, stating the applicable law, evidence, and reasoning upon which the decision is based, shall be submitted to the Director no more than 30 days after the hearing record is closed. Any errors or omissions in the information provided by the applicant that would affect the Department's decision may be a basis for denial of the request for a hardship waiver.

Within 30 days after the proposed decision is received by the Director, the Director may adopt the proposed decision, reject the proposed decision and have a decision prepared based upon the record, or refer the matter to the hearing officer to take additional evidence. If the Director takes no action within 30 days after receipt of the proposed decision, the decision shall be deemed adopted. The decision shall be final upon adoption by the Director and no further administrative appeal shall occur. Copies of this decision shall be mailed by certified mail to the applicant or his or her designated representative.

Judicial review of the final decision of the Department may be made by filing a petition for a writ of administrative mandate in accordance with the provisions of Section 1094.5, et seq., Code of Civil Procedure.