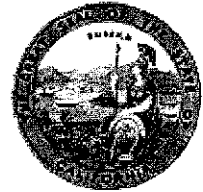


DIANA M. BONTÁ, R.N., Dr. P.H.  
Director

State of California—Health and Human Services Agency  
**Department of Health Services**



GRAY DAVIS  
Governor

June 18, 2002

TO: All County Welfare Directors  
All County Administrative Officers  
All County Medi-Cal Program Specialists/Liaisons  
All County Health Executives  
All County Mental Health Directors

Letter No.: 02-35

**MEDI-CAL ESTATE RECOVERY (ER) PROGRAM**

In October 1993, federal law was enacted mandating all states to establish ER programs. The purpose of this letter is to provide counties with current information regarding the Department of Health Services' (Department) ER Program.

**Estate Recovery Claims**

The Department makes claims against the estate of a deceased Medi-Cal beneficiary for the amount of Medi-Cal paid services received on or after the beneficiary's 55<sup>th</sup> birthday. The State's claim is limited to the fair market value of the decedent's assets at the time of death less any encumbrances, or the amount of the medical services paid by Medi-Cal, whichever is less. The State of California (State) cannot make any claim for reimbursement of benefits properly paid until the death of the Medi-Cal beneficiary. The State's claim includes all health care services paid on behalf of the deceased Medi-Cal beneficiary including, but not limited to, nursing facility services, home and community-based services, related hospital and prescription drug services, and health insurance premiums, including Medicare Part A and B, and Delta Dental premiums. If the Medi-Cal recipient died after September 1, 2000, In-Home Supportive Services (IHSS) is not included in the State's claim. In addition, the State does not make a claim for the cost of Medicare premiums, co-payments, and deductibles paid on behalf of either Qualified Medicare or Specified Low-Income Medicare Beneficiaries (QMB/SLMB), since they are not entitled to, or receiving, any Medi-Cal mandatory services which are subject to recovery.



Do your part to help California save energy. To learn more about saving energy, visit the following web site:  
[www.consumerenergycenter.org/flex/index.html](http://www.consumerenergycenter.org/flex/index.html)

**THIRD PARTY LIABILITY, P.O. BOX 942732, SACRAMENTO, CA 94234-7321  
(916) 654-6821**

Internet Address: [www.dhs.ca.gov](http://www.dhs.ca.gov)

When a Medi-Cal beneficiary dies (or the surviving spouse of the Medi-Cal beneficiary dies), the person handling the assets of the deceased beneficiary must provide written notice of the death within 90 days. The notice and a photocopy of the death certificate must be sent to the Director of the Department of Health Services, c/o ER Unit, P.O. Box 2471, Sacramento, CA 95812-2471. **A telephone call or written notice to the county, Social Security Administration, or the Office of Vital Statistics, does not satisfy this requirement.** Once notice of death is received, the Department makes its claim against probated and non-probated estates within four months.

The Department may not make a claim:

- during the lifetime of a surviving spouse (however, upon the death of a surviving spouse, Medi-Cal may make a claim for either the value of the assets received by the surviving spouse from the predeceased spouse at the time of his or her death, or the amount paid by Medi-Cal for medical assistance to the predeceased spouse, whichever is less);
- for services provided before the Medi-Cal beneficiary's 55<sup>th</sup> birthday;
- if there is a surviving child who is under the age of 21; or
- if there is a surviving child of any age who, as of the date of the Department's claim, is blind or disabled, within the meaning of Section 1614 of the Federal Social Security Act. To prove disability, a disability award letter from the Social Security Administration or a disability or blind aid code on the Medi-Cal Eligibility Data System (MEDS) is required. If neither is available, the Department will pay for a disability evaluation to be conducted by the State Department of Social Services to determine if the child is disabled within the meaning of Section 1614 of the Social Security Act.

An estate is defined as those assets owned by the Medi-Cal beneficiary at the time of death, including assets distributed through joint tenancy, tenancy in common, survivorship, life estate, living trust, or other arrangement. Regulations are being drafted to specify what "other arrangement" includes, which, at a minimum, will include annuities.

Most assets (i.e., home, real property, or bank accounts), considered exempt during the eligibility process, are not exempt from ER once the Medi-Cal beneficiary dies, if the property is still held in the beneficiary's name.

The Department sends a notice twice a year to all Medi-Cal recipients describing the ER program and informing them that Medi-Cal may make a claim against any assets owned by the Medi-Cal beneficiary at the time of his/her death (copy of notice enclosed).

### **Hardship Waivers**

If a dependent, heir, or survivor of the decedent can establish that an undue hardship would exist if the claim is enforced, the Department may waive or reduce its claim, in whole or in part. For consideration of a waiver or reduction, an applicant must submit an Application for Hardship Waiver (Application) within 60 days of the date of the Department's claim. The Department includes an Application with information regarding how to apply for a waiver when a claim is first presented. If the application for waiver is denied, the applicant then has appeal rights through an estate hearing.

The procedure for obtaining a hardship waiver and the criteria for the Department to grant a waiver are outlined in Medi-Cal regulations (Title 22, California Code of Regulations (CCR), Section 50960, et seq.).

### **Liens**

The Department may record a lien against a beneficiary's principal residence and request that the property be sold when a Medi-Cal beneficiary enters a long-term care (LTC) facility unless the beneficiary indicates an intent to return to the principal residence. The Department records a lien for the cost of the Medi-Cal claims paid, or to be paid, on the beneficiary's behalf, beginning with the Notice of Action (NOA) date. If at any time prior to the sale of the property, the Medi-Cal beneficiary is discharged from the medical institution and returns to the principal residence, the lien will be removed, but the State may still make a claim after the Medi-Cal beneficiary's death. The Department may not record a lien against the principal residence of an institutionalized beneficiary:

- if the Medi-Cal beneficiary or the beneficiary's personal representative declares an intent to return home, even if the return is not likely;
- if there is a surviving spouse, dependent relative, or co-owner residing in the home;
- if there is a surviving child of any age who is blind or disabled within the meaning of Section 1614 of the Federal Social Security Act;
- if there is a surviving child under the age of 21; or
- if a sibling with equity interest in the home resided in the home for one year immediately prior to the date of the beneficiary's admission to the medical institution and continues to lawfully reside there.

The Department cannot accept voluntary repayments from a Medi-Cal beneficiary prior to his/her death for medical assistance paid or to be paid on his/her behalf.

The sale of a deceased beneficiary's home in order to pay the estate claim is usually not necessary. If one or more of the dependents, heirs, or survivors (distributee), is unable to pay the State's claim in full, and can demonstrate he/she is unable to obtain financing to satisfy the claim, the Department may offer to accept a post-death lien against the home. A post-death lien is used as a means to secure the Department's claim and is voluntary in nature. Based on the distributee's financial ability to pay, the Department may accept monthly payments from the distributee, in addition to the placement of a lien against the estate property. The lien will accrue interest and become due and payable upon the death of the distributee; the sale, refinance, transfer, or change in title to the estate property; escrow funding; or a default in payments.

If a request for hardship waiver has been received, the State must render its decision regarding hardship, independent of any discussion of a voluntary post-death lien. While the hardship waiver is pending, no interest accrues on the Department's claim.

### **California Partnership for Long-Term Care**

The California Partnership for Long-Term Care is a program whereby the State, through the Department, has entered into a Partnership with California residents and a select number of private insurance companies to offer long-term care insurance policies that include, at no additional cost to the purchaser, a special asset protection feature. Asset protection provides an exemption for any asset subject to an estate recovery claim equal to one dollar of assets for every dollar of benefits paid by an approved Partnership policy. For example, if a person has a Partnership policy that pays \$100,000 in benefits and the person subsequently qualifies for and receives Medi-Cal benefits, the individual's assets, up to \$100,000, are exempt from an ER claim.

For additional information about this exemption, please refer to the All County Welfare Directors' Letter (ACWDL) 94-26, dated March 8, 1994, Title 22, California Code of Regulations, Sections 50961 and 50453.7, and/or the Medi-Cal Eligibility Procedures, Article 9, Section F; contact the Partnership office at (916) 323-4253; or visit the website at [www.dhs.ca.gov/cpltc](http://www.dhs.ca.gov/cpltc).

**Other Information**

The Department has prepared a brochure (enclosed), that will be made available to counties and other entities to provide information and answer the most frequently asked questions about the ER Program.

Additionally, current regulations are being amended to further clarify ER activities and enhance the efficiency, effectiveness, and equity of the ER Program. You will be notified as soon as the proposed regulations are available for public input.

This information is provided in an effort to update county eligibility staff with current ER practices so questions from beneficiaries can be answered appropriately.

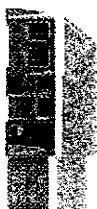
If there are additional questions, county welfare departments should contact the ER Specialist, Ms. Terilyn Cobb, at (916) 322-0647, and Medi-Cal beneficiaries should call (916) 322-0521.

Sincerely,

ORIGINAL SIGNED BY

Richard Brantingham  
Acting Chief  
Medi-Cal Eligibility Branch

Enclosures



**Q:** Is an allowance made for estate debts and expenses?

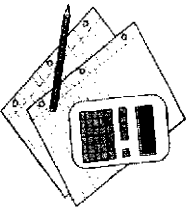
**A:** The value of the estate is reduced by the amount of outstanding debts and certain expenses, including burial expenses.

**Q:** I am currently receiving Medi-Cal benefits. I'd like to start paying off my debt now so that my spouse and family are not burdened later.

**A:** The Department does not have a claim until after your death and the death of your spouse. Nothing is owed during a beneficiary's or surviving spouse's lifetime.

**Q:** I believe that there is an error in the amount of services reflected on the bill. What should I do?

**A:** If you believe there is an error on the bill related to the claim amount or the services provided, you should contact the Collection Representative indicated on the claim letter.



**Q:** I want to pay the claim, but the only estate asset is a home. I would like to keep the home but a lump sum payment is not possible. What can I do?

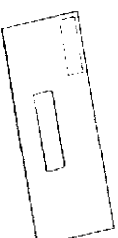
**A:** Whether the estate consists of a home, bank account or other asset, payment options are available. You may contact the collection representative indicated on the claim letter for assistance.

**Q:** Will the State take my house?

**A:** If your estate does not have sufficient other resources to repay Medi-Cal, the State may allow a voluntary lien to be placed on the house to ensure payment of its claim.

#### **CONTACT INFORMATION**

Department of Health Services  
Estate Recovery Unit  
P.O. Box 2471  
Sacramento, CA 95812-2471  
Phone: (916) 323-4836  
Fax: (916) 322-8778



## CALIFORNIA DEPARTMENT OF HEALTH SERVICES

# MEDI-CAL ESTATE RECOVERY PROGRAM

## INFORMATION PAMPHLET

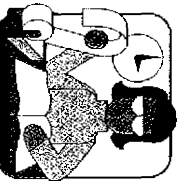
*This pamphlet offers an overview of the  
Estate Recovery Program.  
For additional information,  
please contact the  
Department of Health Services.*

## **MEDI-CAL ESTATE RECOVERY PROGRAM**

**T**he Medi-Cal Program pays for medical care for some people whose savings and income are too low for them to be able to pay for their own care. Those people, in turn, may be required to pay the medical care costs back to Medi-Cal from what they owned when they died. The amount repaid can then be used to pay for care for others who need it.

### **ACCOMPLISHING THE MISSION**

**A**fter receiving notification regarding the death of a person who received Medi-Cal benefits, the Department of Health Services will decide whether or not the cost of services must be paid back. In making this decision, the Department will consider how much was paid by Medi-Cal and what is left in the estate of the deceased Medi-Cal beneficiary. Regardless of what is owed, the Department will never collect more than the value of the assets owned by the person who received Medi-Cal at the time of his/her death.



## **ESTATE RECOVERY CASES**

**T**he Department of Health Services cannot require reimbursement under the following circumstances:

- During the lifetime of a surviving spouse.
- For Medi-Cal services provided before the beneficiary's 55<sup>th</sup> birthday (unless the beneficiary is institutionalized).
- If the Medi-Cal beneficiary is survived by a child under 21 years old.
- If the Medi-Cal beneficiary is survived by a child who is blind or disabled (as defined by the Federal Social Security Act).

### **FREQUENTLY ASKED QUESTIONS**

**Q:** What laws govern the Estate Recovery Program?

**A:** The rights and responsibilities of the Department of Health Services, Health Care Providers, Medi-Cal Beneficiaries and their representatives are outlined in the California Code of Regulations, Title 22, §50960-50964; California Medical Assistance Program, Division 3, Subdivision 1, Article 19; Welfare and Institutions Code (W&IC) §14009.5; Probate Code § 215, 9202 and 9203; and the United States Code (USC) Sec. 1396.

**Q:** How is the obligation to repay Medi-Cal for health care services established?

**A:** California law requires that the estate attorney, executor, administrator, heir(s), or anyone who receives assets from a deceased Medi-Cal beneficiary, must provide written notice and a copy of the death certificate to the Department of Health Services within 90 days of the beneficiary's death. Notice of death should be forwarded to the Director, c/o the Department's Estate Recovery Unit, at PO Box 2471, Sacramento, CA 95812-2471. Notice to the County or Social Security Administration does not satisfy this requirement. The Department of Health Services can present a claim within four months of receiving the notice of death.

**Q:** What if I cannot afford to pay the Estate Recovery claim?

**A:** The Department may waive or reduce its claim if payment of the claim would cause an undue hardship. A Hardship Waiver application is included with each claim. You may contact the Department of Health Services for further information.

P: ¿Se hace una concesión para las deudas y gastos del patrimonio sucesorio?

R: El valor del patrimonio sucesorio se reduce por la cantidad de deudas pendientes sin pagar y ciertos gastos, incluyendo gastos de entierro.

P: Actualmente recibo beneficios de Medi-Cal. Me gustaría comenzar a pagar mi deuda ahora, a fin de que mi cónyuge y familia no se preocupen de hacerlo posteriormente.

R: El Departamento no tiene un reclamo, hasta después de su muerte y la muerte de su cónyuge. No se debe nada durante la vida de un beneficiario o del cónyuge que le sobrevive.

P: Creo que hay un error en la cantidad de servicios reflejada en la factura. ¿Qué debo hacer?

R: Si usted cree que hay un error en la factura, relacionado con la cantidad del reclamo o los servicios proporcionados, debe comunicarse con el Representante de Cobros que se indica en la carta del reclamo.



P: Quiero pagar el reclamo, pero la única propiedad del patrimonio sucesorio es una casa. Me gustaría conservar la casa, pero el pago de una suma global no es posible. ¿Qué puedo hacer?

R: Independientemente de que el patrimonio sucesorio consista de una casa, cuenta bancaria u otro bien, hay opciones de pago a su disposición. Usted puede comunicarse con el representante de cobros que se indica en la carta del reclamo para que le ayude.

P: ¿Me quitará el Estado mi casa?

A: Si su patrimonio sucesorio no tiene otros recursos suficientes para pagar a Medi-Cal, es posible que el Estado permita la imposición de un gravamen voluntario sobre la casa, para asegurar el pago de su reclamo.

#### INFORMACIÓN DE CONTACTOS

Department of Health Services  
Estate Recovery Unit  
P.O. Box 2471  
Sacramento, CA 95812-2471  
Teléfono: (916) 323-4836  
Fax: (916) 322-8778



DEPARTAMENTO DE SERVICIOS DE SALUD DE  
CALIFORNIA

## PROGRAMA DE MEDI-CAL SOBRE LA RECUPERACIÓN DE PATRIMONIO SUCESORIO

### FOLLETO DE INFORMACIÓN

*Este folleto ofrece una vista general del Programa sobre la Recuperación de Patrimonio Sucesorio. Para obtener información adicional, por favor comuníquese al Departamento de Servicios de Salud.*

## PROGRAMA DE MEDI-CAL SOBRE LA RECUPERACIÓN DE PATRIMONIO SUCESORIO

**E**l Programa de Medi-Cal paga por la atención médica de algunas personas, cuyos ahorros e ingresos son demasiado bajos para que ellas puedan pagar por su propia atención. En cambio, es posible que a esas personas se les requiera pagar los costos de atención médica a Medi-Cal, de lo que les pertenecía al morir. Entonces, la cantidad que se pague puede utilizarse para pagar por la atención de otras personas que lo necesitan.

### CUMPLIENDO CON LA MISIÓN

**D**espués de recibir la notificación con respecto a la muerte de una persona que recibía beneficios de Medi-Cal, el Departamento de Servicios de Salud decidirá si el costo de los servicios tiene que pagarse o no. Al tomar esta decisión, el Departamento considerará cuánto pagó Medi-Cal, y qué queda del patrimonio sucesorio del beneficiario difunto de Medi-Cal. Independientemente de lo que se tiene, el Departamento nunca cobrará más del valor de los bienes que eran propiedad de la persona que recibió Medi-Cal al momento de su muerte.



## CASOS DE RECUPERACIÓN DE PATRIMONIO SUCESORIO

**E**l Departamento de Servicios de Salud no puede exigir un reembolso bajo las siguientes circunstancias:

- Durante la vida de uno de los cónyuges sobrevivientes.
- Por servicios de Medi-Cal que se proporcionaron antes del cumpleaños 55 del beneficiario (a menos que el beneficiario esté institucionalizado).
- Si al beneficiario de Medi-Cal le sobrevive un hijo menor de 21 años de edad.
- Si al beneficiario de Medi-Cal le sobrevive un hijo ciego o incapacitado (según lo define la Ley Federal del Seguro Social).

### ► PREGUNTAS QUE SE HACEN CON FRECUENCIA

**P:** ¿Qué leyes gobiernan al Programa de Recuperación de Patrimonio Sucesorio?

**R:** Los derechos y responsabilidades del Departamento de Servicios de Salud, los Proveedores de Atención Médica, los Beneficiarios de Medi-Cal y sus representantes se delinean en las §50960-50964 del Título 22 del Código de Regulaciones de California; el Artículo 19, Subdivisión 1, División 3, del Programa de Asistencia Médica de California; la §14009.5, del Código de Bienestar Social e Instituciones (W&IC); las § 215, 9202 y 9203 del Código Testamentario; y la Sec. 1396 del Código de los Estados Unidos (USC).

**P:** ¿Cómo se establece la obligación de pagar a Medi-Cal por los servicios de atención médica?

**R:** La ley de California exige que el abogado, ejecutor, administrador, heredero(s) o cualquier persona que reciba bienes de un beneficiario difunto de Medi-Cal, tiene que proporcionar al Departamento de Servicios de Salud una notificación por escrito, así como una copia del certificado de defunción, en un plazo de 90 días a partir de la muerte del beneficiario. La notificación de la muerte debe dirigirse al Director, c/o the Department's Estate Recovery Unit, al PO Box 2471, Sacramento, CA 95812-2471. La notificación al Condado o a la Administración del Seguro Social no satisface este requisito. El Departamento de Servicios de Salud puede presentar un reclamo en un plazo de cuatro meses, a partir de que reciba la notificación de defunción.

**P:** ¿Qué sucede si no puedo pagar el reclamo de Recuperación de Patrimonio Sucesorio?

**R:** El Departamento podría renunciar a su reclamo, o reducir el mismo, si el pago de este causaría dificultades excesivas. Se incluye una solicitud para una Renuncia por Dificultades c cada reclamo. Usted puede comunicarse al Departamento de Servicios de Salud para obtener más información.

## IMPORTANT NOTICE REGARDING THE MEDI-CAL ESTATE RECOVERY PROGRAM

The State of California may seek repayment from the estate of a deceased Medi-Cal beneficiary who was age 55 or older at the time of death.

Estate is defined as any assets owned by the Medi-Cal beneficiary, including assets distributed through joint tenancy, tenancy in common, survivorship, life estate, living trust, or other arrangement.

The Department will never collect more than the value of the assets owned by the person who received Medi-Cal.

The State is not allowed to pursue repayment if:

- a spouse survives the deceased Medi-Cal beneficiary. The Department can, however, seek reimbursement upon the death of the spouse but only for assets received from the deceased Medi-Cal beneficiary;
- a child under the age of 21 survives the Medi-Cal beneficiary; or
- a child of any age who is blind or disabled (as defined by the federal Social Security Act) survives the Medi-Cal beneficiary.

When a Medi-Cal beneficiary dies (and when the surviving spouse of the Medi-Cal beneficiary dies), the person handling the assets of the deceased beneficiary (or spouse) must give written notice of the death within 90 days of the date of death. The notice and a photocopy of the death certificate must be sent to the Director of the Department of Health Services, c/o Estate Recovery Unit, P. O. Box 2471, Sacramento, CA 95812-2471. A telephone call or written notice to the county Medi-Cal office or Social Security Administration will not meet this requirement. The Department can present a claim within 4 months of receiving notice of death.

**\*\* Please share this notice with family members and heirs.**

For further information regarding the Estate Recovery program **only**, call (916) 323-4836, or seek legal advice.

3/2002

## NOTIFICACIÓN IMPORTANTE CON RESPECTO AL PROGRAMA DE MEDI-CAL SOBRE LA RECUPERACIÓN DE PATRIMONIO SUCESORIO

Es posible que el Estado de California busque pago del patrimonio sucesorio de un beneficiario difunto de Medi-Cal que tenía 55 años de edad o más al momento de su muerte.

El patrimonio sucesorio se define como cualesquier bienes que pertenecían al beneficiario de Medi-Cal, incluyendo bienes distribuidos a través de copropiedad sobre un inmueble, que al morir uno de los copropietarios, sus derechos pasan a los restantes, copropiedad sobre un inmueble, que al morir uno de los copropietarios, sus derechos pasan a los herederos, supervivencia, derecho de un inmueble durante la vida del derechohabiente, fideicomiso cuyos efectos tienen lugar durante la vida del fideicomitente u otro arreglo.

El Departamento nunca cobrará más del valor de los bienes que eran propiedad de la persona que recibió Medi-Cal.

Al Estado no se le permite buscar pago si:

- uno de los cónyuges sobrevive al beneficiario difunto de Medi-Cal. Sin embargo, el Departamento puede buscar reembolso una vez que muera el cónyuge, pero solamente de los bienes recibidos del beneficiario difunto de Medi-Cal;
- un niño menor de 21 años le sobrevive al beneficiario de Medi-Cal; o
- un niño ciego o incapacitado de cualquier edad (según lo define la Ley federal del Seguro Social) sobrevive al beneficiario de Medi-Cal.

Cuando un beneficiario de Medi-Cal muere (y cuando el cónyuge sobreviviente del beneficiario de Medi-Cal muere), la persona encargada de manejar los bienes del beneficiario difunto (o su cónyuge) tiene que dar notificación por escrito sobre la muerte, en un plazo de 90 días a partir de la fecha de la muerte. La notificación y una fotocopia del certificado de defunción tiene que enviarse al Director of the Department of Health Services, c/o Estate Recovery Unit, P. O. Box 2471, Sacramento, CA 95812-2471. Una llamada telefónica o una notificación por escrito a la oficina de Medi-Cal del condado o a la Administración del Seguro Social no satisface este requisito. El Departamento puede presentar un reclamo en un plazo de 4 meses, a partir de que reciba la notificación de defunción.

**\*\* Por favor, comparta esta notificación con miembros de su familia y herederos.**

Para obtener más información con respecto al programa sobre la Recuperación de Patrimonio Sucesorio **solamente**, llame al (916) 323-4836, ó busque asesoría legal.

3/2002 (Spanish)