

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: District of Columbia

LIENS AND ADJUSTMENTS OR RECOVERIES

1. The State uses the following process for determining that an institutionalized individual cannot reasonably be expected to be discharged from the medical institution and return home:

N/A

2. The following criteria are used for establishing that a permanently institutionalized individual's son or daughter provided care as specified under regulations at 42 CFR §433.36(f):

N/A

3. The State defines the terms below as follows:

- estate

The property which must be included in an individual's estate as set forth in the District's Probate law (D.C. Official Code § 20-101(1)) is as follows:

"Real and personal property and any interest in such property that is owned by the decedent and that does not pass at the time of decedent's death to another person by the terms of the instrument under which it is held, or by operation of law."

- individual's home

Any dwelling unit in which an individual has an ownership interest and is used as the individual's principal place of residence; such dwelling unit may consist of a house, boat, trailer, mobile home or other habitation. It is the dwelling that the individual considers his or her fixed or permanent residence and to which, whenever absent, the person intends to return. The individual's home includes the real property on which the dwelling is located, all tangible personal property located therein, and any related outbuildings located on the property. Only one dwelling unit may be considered an individual's home. Outbuildings necessary to the operation of the home include garage, shed and other buildings for the individual's consumption. An individual's home, in most instances, is located within the District of Columbia. However, an individual's home may be located outside the District of Columbia.

- equity interest in the home

The value of an individual's home less the unpaid principal balance of any loans or other liens or encumbrance affecting the individual's home.

- residing in the home for at least one or two years on a continuous basis,  
N/A
- on a continuous basis  
N/A
- discharge from the medical institution and return home, and  
N/A
- lawfully residing.

Maintaining the domicile legitimately or without violating the law, as evidenced by the receipt of mail at the residence, and/or the payment of property taxes, property insurance and utility expenses for the Residence.

4. The State defines undue hardship as follows:

The Department of Health, Medical Assistance Administration (MAA) may waive enforcement of any estate recovery claim if it finds that enforcing the claim would result in an undue hardship to the beneficiaries, heirs, or family claiming entitlement to receive the assets of the deceased Medicaid recipient. Undue hardship exists if any one of the following criteria has been met:

- Heir/heirs would become eligible for assistance payments without receipt of the proceeds from the estate.
- Allowing heir/heirs to receive proceeds from an estate, the heir/heirs would become ineligible for assistance payments.
- Home is the sole income producing assets of a family business and recovery would result in the heir/heirs losing their means of livelihood. The following two (2) conditions must be met to qualify:
  1. The family business has been in operation at the property for at least 12 months preceding the death; and
  2. Income from the business provides 100% of the surviving heir/heirs livelihood.
- Recovery would deprive the heir or heirs to the property of shelter and the heir/heirs lacks the financial means to obtain and maintain alternative shelter.

Any exemption described in 4 above applies only to the proportionate share of the decedent's estate or property that passes to each heir.

Undue hardship does not exist when:

Recovery would merely cause the decedent's family members or heir(s) inconvenience or restrict the family's or heir(s) lifestyle.

The heir or heirs divests assets to qualify under the undue hardship provision.

Recovery will merely prevent any heir/heirs from receiving an anticipated inheritance.

5. The following standards and procedures are used by the State for waiving estate recoveries when recovery would cause an undue hardship, and when recovery is not cost-effective:

#### Procedures

- Applicants are notified at the time of application for medical assistance that recoveries against their estates may be undertaken. (There is a statement to this effect on the Government of the District of Columbia, Department of Human Services, Application for Benefits, Part D. Medical and Financial Assistance, Question 7.)
- Before asserting a recovery against the estate of a deceased Medicaid recipient, the MAA, Office of Program Integrity, Third Party Liability (TPL) Unit notifies the personal representative/attorney/survivors or heirs in writing that a procedure exists to apply for a hardship waiver. Also, the notice instructs the personal representative to contact the TPL Unit for a copy of the Request for Hardship Waiver Application.
- All disapproval notices shall include a statement informing the Personal Representative of all appeal rights.
- MAA may compromise its claim when collection of the full amount would result in an undue hardship.

#### Cost Effectiveness

- MAA has determined that recovery of a Medical Assistance claim payment of \$100.00 or less against the estate is not cost-effective because the amount of time, effort, and cost expended by staff are not equal to or greater than the net proceeds to be recovered.
6. The State defines cost-effective as follows (include methodology/thresholds used to determine cost-effectiveness):  
  
Recovery shall be considered cost-effective when MAA's claim is over \$100.00. A total medical assistance payment of \$100 or less is waived as not cost-effective since the court fee (from \$15.00 to \$50.00), standard probate fee (\$65.00), the regular probate fee (\$28.00) and staff time to process the claim exceed the net proceeds to be recovered.
  7. The State uses the following collection procedures (include specific elements contained in the advance notice requirement, the method for applying for a waiver, appeal procedures, and time frames involved):

- Applicants are notified at the time of application that recoveries

against their estates may be undertaken (see response #5).

- TPL Unit may be notified from various sources regarding the deaths of D.C. Medicaid recipients. The most common sources of estate leads are Information Exchange/DHS-886, Superior Court Listing of all petitioned estates, written notification from the nursing facilities of deceased recipients and Medicaid Management Information System Report of Deceased Recipients aged 55 and older.
- Staff conducts research to verify if the decedent was a Medicaid recipient and if so, to determine if an estate exists.
- Staff provides advance written notice to the personal representative/attorney of record of any proposed recovery and the method for applying for an undue hardship waiver, the appeal rights and all relevant time frames and due dates. The following information is sent to the personal representative/attorney of record:
  1. Itemization of the claims of medical services paid by Medicaid;
  2. The legal basis for the claim;
  3. Exemptions from recovery; and
  4. The procedures for applying for undue hardship.

The personal representative/attorney of record has 15 business days to request a copy of the Request for Undue Hardship Waiver Application. A completed undue hardship application form and supporting documents must be filed within 30 calendar days of the date that MAA sends the Application to the personal representative/attorney of record. A completed Application means that the form has been completed in its entirety, and all documents that support the household's circumstances have been provided to the TPL Unit within 30 days of the date that MAA sends the Application. When the required documents are not filed within the 30-day timeframe, the Application is incomplete and will be denied, and the full amount of the claim will remain in force. The TPL Unit will issue a denial notice, which will include the reason(s) for the denial and the appeal rights and process, and notice that the surviving heir(s) has 5 additional working days to file the required documents. If the required documents are filed within the five working days, the Application is considered complete and the undue hardship application is processed. If the required documents are not filed within the five working days, the Application is incomplete and will be denied, and the full amount of the claim will remain in force.

- When a complete and timely application is received, the MAA/OPI/TPL shall review supporting documents and makes a determination. The personal representative/attorney of record is sent a notice of the decision within 30 days, which includes information regarding all appeal rights, and the basis for the decision. Any appeal must be filed with the Office of Administrative Hearings within 30 calendar days from the date of the final denial.