State of New Jersey
DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES
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MEDICAID COMMUNICATION NO. 02-14 **DATE:** May 24, 2002

TO: Directors of County Boards of Social Services

SUBJECT: "Estate Recovery—What You Should Know" Publication

The Department of Human Services, Division of Medical Assistance and Health Services, has distributed the above-entitled publication to the County Boards of Social Services (CBOSS). This publication should be distributed to applicants both **at the time of application AND at the time of any redetermination of eligibility.** The handouts can also be given to individuals who have questions about estate recovery, but are not applying for services.

This publication is intended to provide clients/applicants with information concerning the requirements embodied in federal and State statutes that govern the Medicaid program's authority to recover monies from the estates of deceased Medicaid beneficiaries. It is important that clients have proper notice and an understanding of the Division's ability to recovery monies from estates in certain circumstances. These circumstances are explained as clearly as possible in the above-captioned publication.

Please distribute this publication in accord with these instructions. Your cooperation, as always, is appreciated.

If you have any questions regarding the Medicaid estate recovery program, please contact the Division's Bureau of Administrative Control at (609) 588-2900.

Sincerely,

Kathryn A. Plant
Acting Director

KAP:C
c: Clifton R. Lacy, M.D., Commissioner
William Conroy, Deputy Commissioner
Department of Health and Senior Services

David Heins, Director
Division of Family Development

Charles Venti, Director
Division of Youth and Family Services

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DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES

THE NEW JERSEY MEDICAID PROGRAM AND ESTATE RECOVERY – WHAT YOU SHOULD KNOW

What is Estate Recovery?

Under Federal and New Jersey law, the Division of Medical Assistance and Health Services (DMAHS) is required to recover funds from the estates of certain deceased medical assistance beneficiaries for all payments provided through the Medicaid program.

Why Estate Recovery?

The State pursues recovery from estates to supplement funds available for medical assistance programs and limit the burden upon taxpayers caused by rising medical costs. Funds recovered help provide assistance to others in need.

Who is affected?

The estates of beneficiaries who were 55 years of age or older at the time they received services may be affected.

When will the State seek recovery immediately upon death?

The state will seek recovery if the deceased has no surviving spouse and no surviving child under age 21 and no surviving child who is blind or permanently and totally disabled. In that case, the only time that recovery will not be pursued is:

1. If it would not be cost-effective to do so; or
2. If property in the estate is the sole source of income for one or more of the survivors and pursuit of recovery is likely to result in one or more of those survivors becoming eligible for public assistance and/or Medicaid benefits; or
3. If a family member of a deceased medical beneficiary has, prior to the beneficiary's death, continuously resided in a home owned by the beneficiary at the time of the beneficiary's death, and that home was the beneficiary's primary residence, and was, and remains, the family member's primary residence, the Division may record a lien against the property, but will not enforce the lien until the property is voluntary sold, or the resident family member either dies or vacates the property.

When will the State *not* seek recovery immediately upon death?

The State will not seek recovery if there is a surviving spouse or a surviving child who is under the age of 21, or is blind or permanently and totally disabled. In that case, repayment would be postponed until:

1. The child reached the age of 21, or
2. The time of the spouse or child's death.

When recovery is sought, it is sought to the extent that the spouse or child had inherited from the medical assistance beneficiary.

What is an estate?

An estate includes any property that belonged to the deceased at the time of death. By law, estates include property such as the following, whether solely or jointly held: the decedent's home, bank accounts, trusts and annuities, stocks and bonds, and any other real or personal property. It is important to understand that such property, even though it may otherwise pass to the survivor(s), continues to be considered part of the estate for New Jersey Medicaid recovery purposes.

What about life insurance policies?

Proceeds from life insurance policies are considered the assets of the named beneficiaries. Proceeds will be considered recoverable only when the estate is the named beneficiary.

What about Burial Trusts?

Under New Jersey law, P.L. 1999 Chapter 193, funeral directors and insurers issuing policies covering funeral expenses are required to forward to DMAHS any dollars remaining in an irrevocable funeral trust fund or burial insurance policy after reasonable funeral expenses have been paid, but only if the deceased was receiving Medicaid or public assistance benefits at the time of death.

Will the Medicaid program file a lien against my home and property?

When you apply for Medicaid, a lien is not filed against your property. **A lien is placed on property after the death of a Medicaid beneficiary, age 55 and older, if there is no surviving spouse, no surviving child under 21 years old, and no surviving child who is blind or permanently and totally disabled.** The amount claimed as a lien will be equal to the amount of all assistance DMAHS provided to a Medicaid beneficiary for services received on or after age 55, including any premium payments made to an HMO on the beneficiary's behalf by the Medicaid program.

What expenses can be paid with assets of the deceased before paying the Medicaid program?

Reasonable funeral expenses and reasonable costs and reasonable expenses related to the administration of the estate can be paid with the assets of the deceased. DMAHS's claim is next in line, together with debts and taxes with preference under federal or New Jersey law. The claim filed by DMAHS is to be paid before other creditors and before the heirs.

How will those involved in handling the estate know money is owed?

Those involved in handling the estate must contact DMAHS in writing upon the death of the Medicaid beneficiary. It is their responsibility to notify DMAHS in order to find out if DMAHS has a claim against the estate before any funds from the estate are spent (exception: reasonable funeral expenses and reasonable costs and expenses related to the administration of the estate may be paid). They should write to:

DMAHS
Bureau of Administrative Control
Attn: Estates
PO Box 712 - Mail Code #6
Trenton NJ 08625

By law, DMAHS has 90 days from the date of receipt of the estate representative's letter to advise if it will be seeking recovery.

If you have any questions or need more information, please call (609)-588- 2900.