

**TRANSMITTAL AND NOTICE OF APPROVAL OF  
STATE PLAN MATERIAL  
FOR: HEALTH CARE FINANCING ADMINISTRATION**

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| 1. TRANSMITTAL NUMBER:<br><u>07 - 21</u>                                   | 2. STATE:<br>Michigan |
| 3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID) |                       |
| 4. PROPOSED EFFECTIVE DATE<br>October 1, 2007                              |                       |

TO: REGIONAL ADMINISTRATOR  
HEALTH FINANCING ADMINISTRATION  
DEPARTMENT OF HUMAN SERVICES

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:  
Section 1902(a) and 1917(a) & (b)

7. FEDERAL BUDGET IMPACT:  
a. FFY 08 \_\_\_\_\_ \$ (560,000) \_\_\_\_\_  
b. FFY 09 \_\_\_\_\_ \$ (952,000) \_\_\_\_\_

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:  
preprint pages 53 thru 53c, and Attachment 4.17-A, pages 1 and 2

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (*If Applicable*):  
pre-print pages 53 and 53a and Attachment 4.17-A, pages 1 and 2

10. SUBJECT OF AMENDMENT:  
Estate Recovery

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

GOVERNOR'S OFFICE REPORTED NO COMMENT       OTHER, AS SPECIFIED:  
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED      Paul Reinhart, Director  
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL      Medical Services Administration

12. SIGNATURE OF STATE AGENCY OFFICIAL:  


13. TYPED NAME:  
Paul Reinhart

14. TITLE:  
Director, Medical Services Administration

15. DATE SUBMITTED:  
December 21, 2007

16. RETURN TO:  
Medical Services Administration  
Program/Eligibility Policy Division - Federal Liaison Unit  
Capitol Commons Center - 7<sup>th</sup> Floor  
400 South Pine  
Lansing, Michigan 48933  
Attn: Nancy Bishop

**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. TYPE NAME:

22. TITLE:

23. REMARKS:

**STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT**

State of MICHIGAN

***General Program Administration***

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Citation

42 CFR 433.36(c)  
1902(a)(18) and  
1917(a) and (b) of  
the Act

4.17 Liens and Adjustments or Recoveries

(a) Liens

\_\_\_ The State imposes liens against an individual's real property on account of medical assistance paid or to be paid.

The State complies with the requirements of section 1917(a) of the Act and regulations at 42 CFR 433.36(c) – (g) with respect to any lien imposed against the property of any individual prior to his or her death on account of medical assistance paid or to be paid on his or her behalf.

\_\_\_ The State imposes liens on real property on account of benefits incorrectly paid.

\_\_\_ The State imposes TEFRA liens 1917(a)(1)(B) on real property of an individual who is an inpatient of a nursing facility, ICF/MR, or other medical institution, where the individual is required to contribute toward the cost of institutional care all but a minimal amount of income required for personal needs.

The procedures by the State for determining that an institutionalized individual cannot reasonable be expected to be discharged are specified in Attachment 4.17-A.

X The State imposes liens on both real and personal property of an individual after the individual's death.

(b) Adjustments or Recoveries

The State complies with the requirements of section 1917(b) of the Act and regulations at 42 CFR 433.36(h) – (i).

Adjustments or recoveries for Medicaid claims correctly paid are as follows:

(1) For permanently institutionalized individuals, adjustments or recoveries are made from the individual's estate or upon sale of the property subject to a lien imposed because of medical assistance paid on behalf of the individual for services provided in a nursing facility, ICF/ME or other medical institution.

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Adjustments or recoveries are made for all other medical assistance paid on behalf of the individual.

- (2)  The State determines "permanent institutional status" of individuals under the age of 55 other than those with respect to whom it imposes liens on real property under §1917(a)(1)(B).
- (3) For any individual who received medical assistance at age 55 or older, adjustments or recoveries of payments are made from the individual's estate for nursing facility services, home and community-based services and related hospital and prescription drug services.

In addition to adjustment or recovery of payments for services listed above, payments are adjusted or recovered for other services under the State plan as listed below:

All services covered by the Michigan Medicaid Program.

- (4)  The State disregards assets or resources for individuals who receive or are entitled to receive benefits under a long term care insurance policy as provided for in Attachment 2.6-A, Supplement 8b.

The State adjusts or recovers from the individual's estate on account of all medical assistance paid for nursing facility and other long term care services provided on behalf of the individual.

The State does not adjust or recover from the individual's estate on account of any medical assistance paid for nursing facility or other long term care services provided on behalf of the individual.

The State adjusts or recovers from the assets or resources on account of medical assistance paid for nursing facility or other long term care services provided on behalf of the individual to the extent described below:

All assets and resources not otherwise excluded under this provision of the Michigan Medicaid Program.

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- (c) Adjustments or Recoveries: Limitations  
The State complies with the requirements of section 1917(b)(2) of the Act and regulations at 42 CFR 433.36 (h) – (i)
- (1) Adjustment or recovery of medical assistance correctly paid will be made only after the death of the individual's surviving spouse, and only when the individual has no surviving child who is either under age 21, blind or disabled.
- (2) With respect to liens on the home of any individual who the State determines is permanently institutionalized and who must as a condition of receiving services in the institution apply their income to the cost of care, the State will not seek adjustment or recovery of medical assistance correctly paid on behalf of the individual until such time as none of the following individuals are residing in the individual's home:
- (a) a sibling of the individual (who was residing in the individual's home for at least one year immediately before the date that the individual was institutionalized), or
- (b) a child of the individual (who was residing in the individual's home for at least two years immediately before the date that the individual was institutionalized) who establishes to the satisfaction of the State that the care the child provided permitted the individual to reside at home rather than become institutionalized.
- (c) a care-taker relative who was residing in the medical assistance recipient's home for a period of at least 2 years immediately before the date of the medical assistance recipient's admission to a medical institution and who establishes that he or she provided care that permitted the medical assistance recipient to reside at home rather than in an institution.
- (3) No money payments under another program are reduced as a means of adjusting or recovering Medicaid claims incorrectly paid.

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- (d) Attachment 4.17-A
- (1) Specifies the procedures for determining that an institutionalized individual cannot reasonably be expected to be discharged from the medical institution and return home. The description of the procedure meets the requirements of 42 CFR 433.36(d).
  - (2) Specifies the criteria by which a son or a daughter can establish that he or she has been providing care, as specified under 42 CFR 433.36(f).
  - (3) Defines the following terms:
    - estate
    - individual's home,
    - equity interest in the home,
    - residing in the home for at least 1 or 2 years,
    - on a continuous basis,
    - discharge from the medical institution and return home, and
    - lawfully residing.
  - (4) Describes the standards and procedures for waiving estate recovery when it would cause undue hardship.
  - (5) Defines when adjustment or recovery is not cost-effective. Defines cost-effective and includes methodology or thresholds used to determine cost-effectiveness.
  - (6) Describes collection procedures. Includes advance notice requirements, specifies the method for applying for a waiver, hearing and appeals procedures, and the time frames involved.

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## STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of MICHIGAN

### *Liens and Adjustments or Recoveries*

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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:

The State requests verification from the attending physician of the institutionalized individual's status immediately preceding giving notice of the State's intent to exercise Estate Recovery.

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):

A written statement from the son, daughter or other care-taker relative describing the type and amount of care provided to the parent by the son, daughter or other care-taker relative and the effect such care may have had on the parent's ability to remain at home. The statement should include appropriate documentation to substantiate that the care was necessary and provided.

3. The State defines the terms below as follows:

- estate – all real and personal property within an individual's estate as provided in Michigan probate law
- individual's home – any shelter used by an individual or spouse as a place of residence in which the individual has a home-ownership interest
- equity interest in the home – any equitable right, title or interest in real property
- residing in the home for a at least one or two years on a continuous basis – occupancy of an individual's home by a sibling, child or other care-taker relative using the home as the principal place of residence
- discharge from the medical institution and return home – the attending physician has signed an order for discharge from the nursing home, following which the individual has returned to reside in his or her own home, and
- lawfully residing – use of the home of an individual residing in a nursing home as a primary place of residence by a spouse, a minor, blind or disabled child, a sibling or other caretaker relative. Such property must be the spouse's, child's, sibling's or other care-taker relative's mailing address or legal address for driver's licensure and/or voter registration.

4. The State defines undue hardship as follows:

Undue hardship exists when the State's recovery from a decedent's estate would cause a surviving spouse, sibling, child or caretaker relative to become or remain eligible for a public benefit program.

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State of MICHIGAN

***Liens and Adjustments or Recoveries***

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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.

Applications for undue hardship waivers are filed with the Medicaid agency. The Medicaid agency reviews and rules on an application for waiver of the State's claim upon receipt of a properly completed waiver application. The agency may not grant an undue hardship waiver if the granting of such waiver results in the payment of claims to other creditors with a lower priority standing.

6. The State defines cost-effective as follows:

Recovery is considered cost-effective when the potential recovery amount of the estate exceeds the cost of filing the claim and any legal work dealing with the claim.

7. The State uses the following collection procedures:

Upon notice of the death of a client, the case is reviewed to determine the value of the estate and whether there are any eligible heirs.

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