

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: Colorado

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:

The State hires a contractor to do medical reviews of institutionalized recipients as requested. Once determination is made that a recipient is not likely to return home, notice is sent to the recipient, the personal representative or guardian, and the Estate Recovery Program contractor. The notice is in letter form and contains the following information; a) reason for the medical determination, b) resulting potential of lien placement, lien definition, explanation that lien placement does not require sale of home, explanation that eligibility is not lost due to lien placement, c) list of exemptions from lien, d) instructions on who to contact if one of the exemptions applies, e) instructions for appealing medical determination (appeal form & envelope are included).

If no appeal is filed within 30 days, the Estate Recovery contractor will place a lien on the property. If an appeal is filed, a Statewide reconsideration panel hearing date is set. A letter is sent to the recipient and/or representative or guardian notifying them of the hearing date and the option to appear or send representation and/or additional information for consideration by the panel. Following the panel hearing, a letter is sent to the recipient and/or representative or guardian explaining the panel's decision and their reason for the decision. Letter notice is also sent to the Estate Recovery contractor regarding the panel decision.

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):
Written statements from physicians and/or other health care providers or signed statements by another family member or neighbor describing the type and amount of care provided by the son/daughter and the effect such care may have had on the parent's ability to reside at home; written correspondence between the son/daughter and health care providers regarding the medical condition of the parent, and/or the care provided by the son/daughter; copies of cancelled checks, bank statements, credit card statements, income tax forms or other documents or correspondence showing that the son/daughter provided care and/or financial support to the parent.
3. The State defines the terms below as follows:

- o estate As defined in Colorado probate code CRS 15-10-201(17), estate includes the property of the decedent, trust, or other person whose affairs are subject to this code as originally constituted and as it exists from time to time during administration.
- o individual's home Real property owned by the recipient and used as their principal place of residence; for institutionalized individuals, used as a principal place of residence immediately preceding admission to the medical institution.
- o equity interest in the home The individual client's interest in a property that is held in joint tenancy or tenancy in common.
- o residing in the home for at least one or two years on a continuous basis, and Using the home as a principal place of residence.
- o lawfully residing. Residing in the home with the permission of the owner or, if under guardianship, the owner's legal guardian.

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4. The State defines undue hardship as follows:

1. The heir/heirs would become eligible for assistance payments without receipt of the proceeds from the estate.
2. By allowing heir/heirs to receive proceeds from an estate, the heir/heirs would discontinue eligibility for assistance payments.
3. If a home is part of a family business and recovery would result in the heir/heirs losing their means of livelihood.

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:

1. State staff review requests for hardship and if one of the above conditions exist, hardship is acknowledged accordingly. In some cases, the home property may not be recovered on, but other assets in an estate may be recoverable.
2. Cases for recovery under \$500 are not pursued, but if public administrator, personal representative, or executor identifies the State as a creditor and makes notification of probate filing, a claim may be placed even if under \$500.

6. The State defines cost-effective as follows (include methodology/thresholds used to determine cost-effectiveness):

A \$500 threshold for liens and estate claims was established in the original operating procedures due to costs in maintaining low dollar cases on active systems and the costs associated with recovery activities due to lack of automation in Colorado's probate and tax assessment systems.

7. The State uses the following collection procedures (include specific elements contained in the advance notice requirement, the method for applying for a waiver, hearing and appeals procedures, and time frames involved):

ESTATES CLAIMS

1. File claim with probate court and determine personal representative for the estate.
2. Send notice to personal representative with explanation of hardship, potential exemptions from recovery, and the address to send request for hardship or exemption review.
3. Any requests for hardship or exemption are forwarded to the State for final determination within 30 days.
4. If a disallowance of claim is filed by representative of the estate, an allowance of claim is filed by the contractor. Legal proceedings follow to determine the viability of the State's claim on the estate.

TEFRA LIENS

1. Once property ownership has been identified, a medical determination is requested from the peer review organization (PRO) contractor.
2. Once recipient has been determined unable to return home, a letter is sent to the recipient and/or their personal representative or guardian giving information on appeal procedures and the time frame for appeal of the medical determination (30 days). Notice is also sent to the Estate Recovery contractor.
3. If no appeal is requested within 33 days, a lien is filed by the Estate Recovery program contractor with letters to the same individuals listed above.
4. If no request for exclusion is received and approved, the lien is updated annually. Liens remain in place until property is sold or death occurs and estate

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