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Governor

STATE OF NEVADA
DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF WELFARE AND SUPPORTIVE SERVICES
Medicaid Estate Recovery - (775) 687-8414

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**MEDICAID ESTATE RECOVERY
NOTIFICATION OF PROGRAM OPERATION**

If you are applying for or receiving benefits from the Medicaid Program, this document contains important information which may affect your decision about using the Medicaid Program. Recovery is not pursued until after the death of the Medicaid recipient and only after the death of the individual's surviving spouse and only at a time when there is no surviving child under age 21; or, no surviving child who is blind and/or disabled of any age. With court approval the State may place a lien against the property of a deceased Medicaid recipient for recovery when none of the exemptions are present.

Pursuant to state and federal law, the Nevada State Department of Health and Human Services administers a Medicaid Estate Recovery Program whereby Medicaid assistance is recovered from the estate of the person who received benefits after October 1, 1993. Medicaid recipients aged 55 or older (OR an inpatient of a medical facility) are affected by this program and may be required to pay, from their estate, all Medicaid benefits paid on their behalf. Medicaid payments subject to recovery include: medical assistance of home and community-based services, nursing facility services, related hospital, doctor, prescription drug services, Medicare Part A and B premiums, fees paid for Medicaid co-insurance and deductibles prior to 01/01/2010 and any other payments made by the Medicaid Program.

Federal Law (42 U.S.C. 1396p) and State law (NRS 422.054) defines undivided estate. The state defines undivided estate as all real and personal property and other assets included in the estate of a deceased recipient of Medicaid and any other real and personal property and other assets in or to which the individual had any legal title or interest at the time of death (to the extent of such interest), including such assets conveyed to a survivor, heir, or assign of the deceased individual through joint tenancy, tenancy in common, survivorship, life estate, living trust, annuity, homestead or other arrangement. **Claims brought by the state for the recovery of correctly paid Medicaid benefits shall not be defeated by a claim of homestead exemption or by the operation of bankruptcy or insolvency law.**

Medicaid Estate Recovery may initiate property liens against the real property of Medicaid recipients if:

1. With the approval of the court, any individual prior to his death received incorrectly paid benefits.
2. A deceased Medicaid recipient aged 55 or older held an interest or legal title to real property prior to or at the time of death, action may be taken to initiate a property lien. No lien may be placed without the judgment of the court. Recovery will be delayed until the death of the surviving spouse, and only at the time, there are no children under the age of 21, or children who may be blind and/or disabled.

The following income, resources, and property are exempt from Medicaid estate recovery:

1. Certain income and resources of American Indians and Alaska Natives. Income and resources (such as interests in and income derived from Tribal land and other resources currently held in trust status and judgment funds from the Indian Claims Commission and the U.S. Claims Court) that are exempt from Medicaid estate recovery by other laws and regulations;
2. Ownership interest in trust or non-trust property, including real property and improvements:
 - a. Located on a reservation (any federally recognized Indian Tribe's reservation, Pueblo, or Colony, including former reservations in Oklahoma, Alaska Native regions established by Alaska Native Claims Settlement Act and Indian allotments) or near a reservation as designated and approved by the Bureau of Indian Affairs of the U.S. Department of the Interior; or
 - b. For any federally-recognized Tribe not described in (a), located within the most recent boundaries of a prior Federal reservation.



- c. Protection of non-trust property described above is limited to circumstances when it passes from an Indian (as defined in section 4 of the Indian Health Care Improvement Act) to one or more relatives (by blood, adoption, or marriage), including Indians not enrolled as members of a Tribe and non-Indians, such as spouses and step-children, that their culture would nevertheless protect as family members; to a Tribe or Tribal organization; and/or to one or more Indians;
- 3. Income left as a remainder in an estate derived from property protected in 2 above, that was either collected by an Indian, or by a Tribe or Tribal organization and distributed to Indian(s), as long as the individual can clearly trace it as coming from the protected property;
- 4. Ownership interests left as a remainder in an estate in rents, leases, royalties, or usage rights related to natural resources (including extraction of natural resources or harvesting of timber, other plants and plant products, animals, fish, and shellfish) resulting from the exercise of federally-protected rights, and income to Indian(s) derived from these sources as long as the individual can clearly trace it as coming from protected sources;
- 5. Ownership interest in or usage rights to items not covered by 1 - 4 above that have unique religious, spiritual, traditional, and/or cultural significance or rights that support subsistence or a traditional life style according to applicable Tribal law or custom; and
- 6. Government reparation payments to special populations.

Income, Resources and Property of American Indians and Alaska Natives which are not exempt from Medicaid estate recovery:

- 1. Ownership interests in assets and property, both real and personal, that are not described in the above items.
- 2. Any income and assets left as a remainder in an estate that do not derive from protected property or sources listed above.

Recovery could be waived, compromised or delayed if it would cause undue hardship for the heirs. At the time recovery is initiated, the recovery specialist will discuss hardship waivers, compromises or adjustments to the State's claim. Hardship requests will be submitted to the Administrator of the Division of Health Care Finance and Policy (or appointed representative) for review and decision.

If you have questions or need additional clarification, please contact the Medicaid Estate Recovery Program at the telephone number at the top of this form.

I have read and been provided a copy of this information.

Signature or Mark of Applicant/Recipient or their Representative

Date

Refusal to sign by the applicant, recipient or their representative does not negate the State's legal ability to pursue Medicaid Estate Recovery action.

Signature of Division of Welfare and Supportive Services Employee

Date

