Medicaid Estate Recovery

MER

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OVERVIEW

- WHO ARE WE?
  - Medicaid Estate Recovery is a Federally Mandated Program required by Section 1917 of the Social Security Code that began in Nevada in October 1993 under NRS 422.29302 to recover assets from Medicaid clients who are over 55 that are deceased.
- WHAT DO WE DO?
  - After a Medicaid recipient passes away, MER locates and recovers assets to repay benefits that had been paid out for the recipient. These funds are then used to help with future recipients and to maintain the sustainability of the program.
- WHY ARE WE IMPORTANT?
  - In the past three fiscal years MER has collected $6,953,840.00.

WHO IS AFFECTED?

- All Medicaid Recipients who are age 55 or older who received Medicaid benefits (currently, MER does not recover on recipients under the age of 55)

Exclusions:

•Surviving spouse

•Surviving child under 21 years of age;

•Surviving child who is blind or disabled at any age (as defined by Section 1614 of the Social Security Act).

•Certain income, property and resources of Native Americans or Alaska Natives

Native American/Alaska Native Exclusions (cont.)

Certain income, property and resources of Native Americans and Alaska Natives are exempt if one or more of the following criteria can be met:

- Located within or near a current or prior federally recognized reservation, pueblo or colony
- Derived from reservation land. This includes income from rents, leases, usage rights and natural resources (the origins must be able to be clearly traced to tribal land)
- Held in trust status
- Protected assets that have been passed down from an Native American to a relative or other Native American. It is not necessary for the heir to be a tribal member.
- Anything not included above with unique religious, spiritual and/or cultural significance.
- Government reparation payments

WHAT TYPE OF ASSETS DOES MER RECOVER?

There are two types of Assets MER Recovers:

- Liquid Assets
- Real Property

LIQUID ASSETS

- **Bank**
  This includes checking accounts, savings accounts, CD's, safe deposit boxes, savings bonds, stocks, etc.
- **Cash**
- **Facility**
  Patient Trust Funds and Patient Liability Refund accounts.
- **Automobile**
  To be determined on a case by case basis depending on the year, make, and model.
- **Any Personal Property of Value**
  - This includes mobile and manufactured homes not converted to real property

REAL PROPERTY

- A lien will be placed on the portion of real property owned by the decedent at date of death to protect the State's interest through the court system.
  - The intent is not to displace a resident/spouse.
  - The claim on a lien is only recovered at the time of sale or transfer.
- A surviving spouse may choose to sign a voluntary lien agreement.
  - The lien will be removed if the spouse ever decides to sell the property.
  - The lien will be temporarily lifted if the spouse wishes to refinance.
- If there is no spouse, or if the spouse refuses to sign a voluntary lien agreement, the lien will be placed through the courts.

Surviving Spouse Lien

- A surviving spouse may sell the property. No recoveries will be pursued as long as the proceeds will be spent toward care of the spouse.

HARDSHIP

A hardship waiver can be applied for at the time of recovery .

Criteria considered (any one of the following):

- The asset is the sole income producing asset of the applicant
- The recovery of the asset would result in the applicant becoming eligible for government public assistance
- There is a doctor's written verification of a medical condition that compromises the applicant's ability to repay the Medicaid claim.

A claim may be waived, deferred or reduced (on a case by case basis)

Other Hardships Considered:

- The applicant resided in the recipient's home for at least two years immediately prior to death or admission into a medical institution and/or the arrangement allowed the decedent to continue living in the home rather than in an institution.
- The applicant provided daily care to the Medicaid recipient– including assistance with daily living activities and medical needs.
- The cost of recovering an asset is more than the value of the asset.
- The financial impact of recovery against immediate family members of the applicant would place them in a position of financial hardship.

PROBATE

- A Probate is a legal process whereby a court oversees the distribution of assets remaining in a decedent's estate. MER is paid after payment of fees/expenses for Attorneys, Authorized Representatives, Estate Administration, the IRS, Expenses of Last Illness, and Funeral Expenses.

- Creditor's Claims are filed to protect the State's interest in a probate case.

- MER works with the State's Deputy Attorney General's Office to collect on all probates in court opened by a decedent's relatives or heirs in which the decedent was a Medicaid recipient.

RECENT CHANGES IN MER

- Federal changes as of January 1, 2010
  - Part A and Part B payments or any claims shared with Medicare that are incurred after 1/1/10 are not recoverable.

WHERE TO FIND INFORMATION COVERING MER:

NRS

422.29302 - Recovery of benefits paid for Medicaid

Social Security Act of 1917

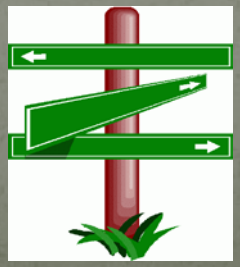
Federal Regulations

NRS

147.195 - Debts and charges of estate: Priority of Payment.

Medicaid Operations Manual

Chapter 100



FAQ's

- Can a family keep the property once the recipient has passed away?
  - Yes, MER does not force the property to be sold. A lien is simply placed to protect the State's interest
- Is the family forced out of the property?
  - No, MER only collects at which time the property is sold or refinanced, if there is not a surviving spouse, a minor child or disabled child of any age.

CONTACTING MER

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