

**MEDICAID OPERATIONS MANUAL
TRANSMITTAL LETTER**

July 30, 2019

TO: CUSTODIANS OF MEDICAID SERVICES MANUAL
FROM: TAMMY MOFFITT, CHIEF OF OPERATIONS
SUBJECT: MEDICAID OPERATIONS MANUAL CHANGES
 CHAPTER 800 – COST SAVINGS PROGRAM

BACKGROUND AND EXPLANATION

The Division of Health Care Financing and Policy (DHCFP) proposes to add the definition of Permanent Institutional Status. This change is being made to clarify this status.

Throughout the chapter, grammar, punctuation and capitalization changes were made, duplications removed, acronyms used and standardized, and language reworded for clarity. Renumbering and re-arranging of sections was necessary.

Entities Financially Affected: None.

Financial Impact on Local Government: None.

These changes are effective July 31, 2019.

MATERIAL TRANSMITTED	MATERIAL SUPERSEDED
CL N/A MOM Ch 800 – Cost Savings Program	MTL 02/19 MOM Ch 800 – Cost Savings Program

Manual Section	Section Title	Background and Explanation of Policy Changes, Clarifications and Updates
802.3	PERMANENT INSTITUTIONAL STATUS	New definition added.

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802 DEFINITIONS

802.1 AFFECTED INDIVIDUALS

MER actions are imposed against Medicaid recipients who are:

- Fifty-five years of age or older when they receive Medicaid assistance; or
- An inpatient in a nursing facility, intermediate care facility for individuals with intellectual disabilities (ICF/IID) or other medical institution, where they are required to spend for costs of medical care all but a minimal amount of income which is permitted for the recipient’s personal needs.

802.2 ESTATE

For the purposes of MER, “Estate” means assets included in the estate of the deceased recipient of assistance to the medically indigent and any other assets in or to which the recipient had an interest or legal title immediately before or at the time of death, to the extent of that interest or title (NRS 422.054). The term includes assets passing by reason of joint tenancy, reserved life estate, survivorship, trust, annuity, homestead or other arrangement.

802.3 PERMANENT INSTITUTIONAL STATUS

1. A Medicaid recipient with Permanent Institutional Status is defined by the Department in accordance with 42 United States Code (USC) 1396p(a)(1)(B) as an individual who is an inpatient in a nursing facility, intermediate care facility for individuals with intellectual disabilities or other medical institution, if such individual is required, as a condition of receiving services in such institution under the State plan, to spend for the costs of medical care all but the minimal amount of his/her income required for personal needs, and with respect to whom the State determines, subject to notice and opportunity for a hearing (in accordance with procedures established by the State), that he/she cannot reasonably be expected to be discharged from the medical institution and to return home.
2. A recipient cannot reasonably be expected to be discharged from the medical institution and to return home if:
 - a. the individual declares that he or she does not intend to return home; or
 - b. the individual has continually resided in a nursing facility, intermediate care facility for individuals with intellectual disabilities or other medical institution for 90 or more consecutive days; or

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- c. the individual dies in a nursing facility, intermediate care facility for individuals with intellectual disabilities or other medical institution prior to 90 days residence.
- 3. “Return home” is defined as the recipient leaving the nursing or medical facility and residing in a residential property for a continuous period of at least 90 days without being readmitted as an inpatient to a nursing or medical facility.
- 4. Upon determination by the Department that a recipient has Permanent Institutional Status, the Department must provide to the recipient or his or her legal guardian or representative, each executor, administrator or trustee of the recipient’s estate, and/or any heirs of the recipient known to the Department written notice of its decision and the right to request a hearing within 90 days.
- 5. Any person who objects to the Department’s determination and alleges that there is a reasonable expectation of discharge from the facility and a return home, has the burden of demonstrating the reasonable expectation and/or return home. The reasonable expectation must be established based upon medical evidence and medical opinion. In addition, a declaration by the recipient or a recipient’s representative that the recipient intends to be discharged from the facility and to return home is not alone sufficient to establish that there is a reasonable expectation of discharge from the facility and return home.

802.34 PROBATE

The legal process by which the assets of a decedent are properly distributed (if he or she made a will) to the beneficiaries or heirs through an executor named in the will, or (if he or she died without a will) according to the local law by a court-appointed administrator. The court's objective is to ensure that the deceased's debts, taxes and other valid claims are paid out of his or her estate (probate assets) before any distribution is made to the estate's beneficiaries, in accordance with the will (if it exists) or on the orders of the court (if it doesn't exist).

802.45 DEPUTY ATTORNEY GENERAL (DAG)

The DHCFP works directly with the Deputy Attorney General(s) (DAG) for complex case decisions and guidance.

802.56 CASUALTY LIEN REDUCTION

For the purpose of TPL, casualty is the result of an accident, mishap or disaster. The result of casualty may lead to entering a lien; a right to keep possession of property or a form of cash settlement, belonging to another person until a debt owed is negotiated, paid at the level of cost accrued or discharged.

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802.67 SUBROGATION

Subrogation refers to an insurer’s right to recover the amount it has paid for a loss from the party that caused the loss.

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