Bulletin

Minnesota Department of Human Services

DHS Explains Changes to MA Estate Recovery in 2016 Legislation

TOPIC

Changes to Medical Assistance estate recovery resulting from the 2016 state legislative session

PURPOSE

Inform collection workers about legislative changes to estate recovery and how to recover Medical Assistance payments in compliance with these changes

CONTACT

Health Care Eligibility Operations and county and tribal agencies should submit questions via HealthQuest.

For estate recovery questions, contact Geneva Finn:

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    PO Box 64995
    St. Paul, MN 55164
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SIGNED

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Assistant Commissioner
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TERMINOLOGY NOTICE

The terminology used to describe people we serve has changed over time. The Minnesota Department of Human Services (DHS) supports the use of "People First" language.

I. Notes about This Bulletin

This bulletin uses the following abbreviations:
- "DHS" for "Minnesota Department of Human Services"
- "MA" for "Medical Assistance"

"We" refers to DHS.

II. Background

In certain circumstances, federal and state law require DHS and county agencies to recover costs that the MA program paid for its enrollees. One of these required recovery processes is called MA estate recovery.

When performing estate recovery, county agencies assert MA claims against the estate of a deceased MA enrollee, or the estate of a deceased enrollee's surviving spouse, to recover the costs MA paid for the enrollee's health care when the enrollee was 55 years old or older. Since Minnesota's MA estate recovery program began in 1967, estate claims have attempted to recover the costs paid for all MA services an enrollee received during the applicable recovery period.

In May 2016, the Minnesota Legislature amended Minnesota Statutes, section 256B.15, to change the law about MA estate recovery. On June 1, 2016, Governor Dayton signed this legislation, which limits the number of MA services for which county agencies can recover costs when asserting an MA estate claim.

III. Legislative Change to MA Estate Recovery

The law change limits the number of MA services for which county agencies can recover costs in an estate claim if the deceased enrollee received MA services on or after January 1, 2014. Specifically, county agencies may recover only the costs of long-term-care (LTC) services that an enrollee received for the timespan of January 1, 2014, to the present.

LTC services are the following:
- nursing facility services (NFS)
- home and community-based services (HCBS)
- hospital and pharmacy services received during the period the enrollee was provided NFS or HCBS

This reduction in the number of recoverable services applies to all outstanding MA claims that have not been paid by July 1, 2016.

If an MA claim has not been paid or filed by July 1, 2016, it must recover only the costs of the following services received by enrollees who were 55 years old or older:

- all MA services received before January 1, 2014
- MA LTC services for the timespan of January 1, 2014, to the present

This law change is not effective until DHS receives federal approval. We have not received federal approval as of the date of this bulletin. When we receive federal approval, however, the law change will apply retroactively to MA services provided on or after January 1, 2014, and to estate claims that have not been paid by July 1, 2016. Consequently, you must adjust your county's MA estate recovery procedures according to this bulletin's instructions by July 1, 2016, to ensure compliance with the change when it becomes effective.

IV. Action Required

Review all unpaid MA estate claims. Request a new claims history for each estate claim in which the MA enrollee received services on or after January 1, 2014. Wait for DHS to return the new claims history before recovering on the estate claim. For any MA estate claim that was not paid by July 1, 2016, do not recover on the claim using claims histories that DHS provided to you before July 1, 2016 (unless the enrollee stopped receiving MA services before January 1, 2014).

A. Review All Unpaid MA Claims

Review all MA claims that were not paid by July 1, 2016, to see whether the deceased enrollee received MA services on or after January 1, 2014. If the enrollee received services on or after that date, request a new claims history from DHS. Any claims history from a period beginning on or after January 1, 2014, that you received before July 1, 2016, is no longer valid. Disregard it.

If the enrollee stopped receiving MA services before January 1, 2014, and you already have a claims history, then you do not need to order a new one. The claims history you have is still valid.

Note: Members of the public may ask you to reimburse estates that paid an MA claim before July 1, 2016, if the enrollee received only non-LTC services on or after January 1, 2014. Do not reopen probate or reimburse an estate for which the MA estate claim was paid before July 1, 2016, even if the enrollee did not receive LTC services on or after January 1, 2014.

B. Request a New Claims History

For each unpaid claim in which the enrollee received MA services on or after January 1, 2014, send DHS a completed Request for an MHCP Member's Claims History (DHS-2133).

We recently updated this form to make the request process simpler. Before, we asked you to provide a begin date, major program(s), and a profile type:

Old form

REQUESTED BEGIN DATE (required)	MAJOR PROGRAM (optional)				PROFILE TYPE
	☐ All	☐ MA Only	☐ AC Only	☐ GAMC Only	☐ Condensed
	☐ Other _____				☐ Detailed

Now the form only requires you to check a box for MA estate recovery and enter the date of death if the enrollee is deceased:

New form

☒ Request for Medical Assistance (MA) estate recovery. Has member died?

◯ Yes – date of death: _____   ◯ No. Go to Step 4.

An enrollee may ask you for a claims history despite there being no claim yet because the enrollee is not deceased. When this happens, request a claims history, check the box for MA estate recovery, and check "No" to indicate the enrollee is still alive. After we provide you with a claims history, make a copy for your county's records and then send the enrollee the claims history.

C. Understand and Use the New Claims History

For each request you send, we will send you a new claims history. The claims history will consist of multiple reports. You will receive the same reports we have always provided (2073, 2073A, and the pre-6/1/94 report) to calculate recoverable services an enrollee received before January 1, 2014.

Also, you will receive a new report that lists claim types, costs, and a total claim amount for MA services received on or after January 1, 2014. This report will list only MA LTC services and their costs. The new report will include the same data as the 2073 and 2073A. Add the total claim amount from the new report to the total claim amount(s) from any other included report(s) to calculate the final MA estate claim amount. Proceed with MA estate recovery.

V. Legal Authority

Laws of Minnesota 2016, Chapter 189, Article 19, Sections 14–16

Minnesota Statutes, section 256B.15

VI. Americans with Disabilities Act (ADA) Advisory

For accessible formats of this publication or assistance with additional equal access to human services, write to DHS.info@state.mn.us, call 800-657-3739, or use your preferred relay service. (ADA1 [9-15])