

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

STATE/Territory: _____

LIENS AND ADJUSTMENTS OR RECOVERIES

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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:

N/A

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):

N/A

3. The state defines the terms below as follows

- o estate

All real and personal property and other assets included within the individual's estate as provided in PA law. (20 Pa. C.S.A. sections 101. et.seq, 72 PA C.S. Section 7301(r), 61 PA Code Section 101.1)

- o individual's home-principal place of residence

- o equity interest in the home

N/A

- o residing in the home for at least one or two years on a continuous basis, and

N/A

- o lawfully residing.

N/A

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4. The State defines undue hardship as follows:

(see attached)
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: The Department has exclusive authority to waive its claim, compromise its claim, or postpone collection, in other circumstances when undue hardship exists, or when collection is not cost-effective, as determined by the Department on an individual case-by-case basis.
6. The State defines cost-effective as follows (include methodology/thresholds used to determine cost-effectiveness): The Department does not seek to collect from estates with a gross value of \$2,400.00 or less, unless there is no heir. For estates with a gross value of \$2,400.00 or more, cost-effectiveness is determined based on the factual circumstances of each case.
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): A personal representative, transferee or family member adversely affected by a decision of the Department may appeal within 30 days of the date the affected person is notified of the decision. Waiver requests shall be submitted to the following address: Estate Recovery Program, Post Office Box 8486, Harrisburg, Pennsylvania 17105-8486. The Department will submit a statement of claim to the personal representative within the response period of 45-calendar days. If the Department fails to submit a statement of claim to the personal representative within the response period, the Department's claim is forfeited.

4. As set forth in 258.10

(a) The Department will waive its claim in cases of undue hardship.

(b) The Department will find undue hardship and will permanently waive its claim with respect to the primary residence of a decedent if the person requesting the undue hardship waiver meets all of the following conditions:

(1) The person has continuously resided in the primary residence of the decedent for at least 2 years immediately preceding the decedent's receipt of nursing facility services, or, for at least 2 years during the period of time which Medicaid-funded home and community based services were received.

(2) The person has no other alternative permanent residence.

(3) The person has provided care or support to the decedent for at least 2 years during the period of time that Medicaid-funded home and community based services were received by the decedent, or for at least 2 years prior to the decedent's receipt of nursing home services during which time the decedent needed care or support to remain at home.

(c) The Department will find undue hardship and will permanently waive its claim with respect to an income-producing asset if a spouse, child, parent, sibling or grandchild of the decedent meets both of the following:

(1) The asset is used to generate the primary source of income for the household.

(2) There would be a gross family income of less than 250% of the Federal poverty guideline without use of the asset.

(d) An income producing asset is property which is used in a trade or business such as a family farm, family business or rental property, excluding cash, stocks and bonds, mutual fund shares or other marketable financial instruments.

(e) The Department will find undue hardship and will permanently waive from the amount of the Department's recovery, an amount equal to the necessary and reasonable expenses for maintaining the decedent's home while the decedent was receiving home and community based services or maintaining the decedent's vacant home while the decedent was in a nursing facility. Necessary and reasonable expenses for maintaining the home include real estate taxes, utility bills, home repairs and home maintenance such as lawn care and snow removal necessary to keep the property in condition for the decedent to return home or to sell at fair market value. Creditors are not eligible to request a waiver under this subsection.

(f) The Department will find undue hardship and will permanently waive its claim for administered estates with a gross value of \$2,400 or less, if there is an heir.

(g) A parent, child over age 21 or sibling of the decedent who receives a postponement of collection in accordance with section 258.7 (relating to postponement of collection) is not precluded from receiving an undue hardship waiver if the criteria in section (b), (c), (e), or (f) are met.