

**County of San Diego, Health and Human Services Agency (HHSA)
Medi-Cal Program Guide**

Medi-Cal Estate Recovery (ER) Program

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Revised Date:

02/27/2017

Background:

Department of Health Care Services makes claims against the estate of certain Medi-Cal recipients for Medi-Cal benefits used. This section contains information regarding the Medi-Cal ER program administered by DHCS.

Purpose:

To inform staff of the ER program.

Policy:

A. Estate Recovery Policy

Death on or Before 12/31/2016	Death on or After 01/01/2017
DHCS will make a claim against the estate of a deceased Medi-Cal beneficiary, or the individual(s) who inherits the property by survival.	SB 833 limits: <ul style="list-style-type: none"> • Medi-Cal recovery to nursing facility services, home and community based services and related hospital and prescription drug services when the Medi-Cal member was receiving nursing facility services and/or community-based services. • Recovery to real property, personal property, and other assets in the decedent's probate estate against which DHCS is required by federal law to assert a claim.

The claim against the estate will be in an amount equal to the lesser of:

- The payments for the case premiums and services provided.
- The value of the property.

B. Affected Payments

Payments Subject to Estate Recovery:

Death on or Before 12/31/2016	Death on or After 01/01/2017
Payments for health care coverage services, paid after 10/1/1993 to those individuals aged 55 and over who died after 7/11/1994, are subject to estate recovery.	SB 833 limits Medi-Cal recovery to nursing facility services, home and community-based services and related hospital and prescription drug services when the Medi-Cal member was receiving nursing facility services and/or home and community-based services.

C. Exceptions

DHCS cannot make a claim in any of the following circumstances:

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Death on or Before 12/31/2016	Death on or After 01/01/2017
<ul style="list-style-type: none"> • The deceased was under age 55 when the services were provided. • There is a surviving spouse. • There is a surviving child under 21. • There is a surviving child who is blind or permanently and totally disabled based on Section 1614 of the Federal Social Security Act. 	<ul style="list-style-type: none"> • The deceased was under age 55 when the services were provided. • There is a surviving spouse. • There is a surviving Registered Domestic Partner. • There is a surviving child under 21. • There is a surviving child who is blind or permanently and totally disabled based on Section 1614 of the Federal Social Security Act.

D. Notification

- The attorney from the estate, or the person responsible for the property of the deceased, must notify the Director of DHCS within 90 days of the date of death of the deceased individual who may have received Medi-Cal benefits. A death certificate must be provided.
- DHCS will notify the estate of the basis of the claim, including a copy of an itemized list of Medi-Cal payments, and provide the right to hearing notification.

E. Hardship Waivers

Heirs can apply through DHCS for a hardship waiver as follows:

Death on or Before 12/31/2016	Death on or After 01/01/2017
<p>SB177 requires DHCS to waive recovery enforcement when it would result in substantial hardship to heirs. All claims issued by DHCS after 4/6/1990 include Hardship Waiver information.</p>	<p>SB 833 created an additional hardship waiver criterion by which DHCS shall waive its claim against the estate of the Medi-Cal member, in whole or in part, if DHCS determines that enforcement of the claim would result in substantial hardship to other dependents, heirs, or survivors of the decedent against whose estate the claim exists. In addition to the other factors currently considered by the DHCS in determining whether a substantial hardship exists, DHCS shall, subject to federal approval, waive its claim when the estate subject to recovery is a "Homestead of Modest Value."</p> <p>A "Homestead of Modest value" is defined as a home whose fair market value is 50 percent or less of the average price of homes in the county where the homestead is located as of the date of the decedent's death.</p>

F. Access to Estimated Recoverable Medi-Cal Expenses

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Upon request, DHCS must provide a Medi-Cal member who is either over the age of 55 or a permanent inpatient of a nursing or long term care facility with a copy of the amount of Medi-Cal expenses that may be recoverable upon the member's death. Medi-Cal members can request this information once per calendar year for a fee of five dollars. The process to request this information will be available on the Medi-Cal ER program's website.

G. Estate Hearing

Individuals may request an estate hearing within 60 days from the date of the estate recovery notice and may choose to either:

- Complete and submit an application and all supporting documentation explaining the claimed hardship or miscalculation, or
- Request an estate hearing before a hearing officer.

Procedure

Notify DHCS of deceased aged beneficiaries, who are discontinued due to death, by entering the death date in the individual demographics screen in CalWIN.

References

[ACWDL 02-35](#)

[MEDIL I 16-16](#)

Sunset Date:

This policy will be reviewed for continuance on or by 02/28/2020

Approval for Release:



Rick Wanne, Director
Eligibility Operations