

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

STATE/TERRITORY: WYOMING

LIENS AND ADJUSTMENTS OR RECOVERIES

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:

When it has been determined that an institutionalized individual owns or has an equity interest in a home that individual's nursing home records, including all LT101s and screenings, are reviewed by a qualified medical professional and a determination is made as to whether the recipient is reasonably expected to return home. Once it has been determined that the individual is reasonably expected not to return home, notices will be sent to the recipient and the institution. The notices include the definition of a lien and that a lien does not mean that the individual will lose ownership of the home. The notice also includes the steps a recipient must take if they wish to have a fair hearing on the matter and the procedures as specified in Chapter One of Wyoming Administrative Procedures Act.

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):

The Department shall make an estate recovery if the deceased recipient has no son or daughter who has been:

- a) Residing in the home continuously for two years or more immediately before the date of the individual's admission to the institution; and
- b) Providing care which permitted the individual to reside at home rather than in an institution.

3. The State defines the terms below as follows:

- (1) Estate - As defined by W.S. 42-4-206(g)(ii). Any or all real and personal property and other assets in which the individual has any legal title or interest at the time of death, including assets conveyed to surviving individuals.
- (2) Individual's home - Any residential property owned solely or jointly by a medicaid recipient.
- (3) Equity interest in the home - A recipient's financial interest in any residential property
- (4) A sibling of the individual, who has an equity interest in the home and who was residing in the home for a period of at least one (1) year immediately before the death of the individual's admission to the medical institution.
- (5) Lawfully residing - A recipient's primary residence. A permanent address or any place of abode that is more than for a limited time, within a township, prior to the recipient's admission to the institution.

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4. The State defines undue hardship as follows:

An undue hardship exists if the decedent's home is part of the estate and that home is part of a business, including a working farm or ranch, and recovery of the home would result in the heirs or beneficiaries losing their means of making a living. "Undue hardship" includes any additional definition promulgated by The United States Department of Health and Human Services (HHS) as an administrative regulation. Any part of this definition that is inconsistent with HHS's definition shall become inoperative.

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:

- Standards and procedures used for undue hardship waiver when it is not cost effective:

(a) If the Department determines that an estate recovery would be an undue hardship, and when recovery is not cost effective, the Department may waive part or all of the Department's share of the amount which is recoverable pursuant to this Chapter.

(b) Notice of right to request undue hardship waiver. At the time the Department files an estate claim pursuant to the procedures for recovery from probate and non-probate estate in accordance with Wyoming Administrative Rules, Chapter I, Wyoming State Administrative Procedural Act, and Chapter 35 Medicaid Benefit Recovery, Section 10.

6. The State defines cost-effective as follows: (include methodology/thresholds used to determine cost-effectiveness):

- The determination by the Department that the expected expenses of a recovery, including, but not limited to, administrative costs, attorneys' fees, court costs, costs of litigation, travel costs, expert witness fees and deposition expenses, are less than the expected amount of the recovery.

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):

- The Department may seek Medicaid benefit recovery pursuant to the procedures and standards of W.S. 42-4-201 et seq., Wyoming Administrative Rules, Chapter 35, Medicaid Benefit Recovery, Section 8, and applicable federal law.

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