

# TRANSMITTAL LETTER FOR MANUAL RELEASES

STATE OF MARYLAND  
DEPARTMENT OF HEALTH AND MENTAL HYGIENE  
BENEFICIARY SERVICES ADMINISTRATION  
DIVISION OF ELIGIBILITY SERVICES  
300 WEST PRESTON STREET  
BALTIMORE, MARYLAND 21201

MANUAL: **Medical Assistance**      EFFECTIVE DATE: November 12, 2002

RELEASE NO: **MR-107**      APPLICABILITY: **Recoveries of Medical Assistance  
Payments of Medicare Premiums, Copayments, and  
Deductibles**

ISSUED: **January, 2003**

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<u>Item</u>	<u>Remove Pages</u>	<u>Insert Pages</u>
Chapter 15 Recoveries policy	pages 1500-1 – 1500-2	pages 1500-1 – 1500-2
Recoveries COMAR 10.09.24.15	pages 135-136	pages 135-136

## COMMENTS

A proposed amendment to COMAR 10.09.24.15A-3(4) took effect on an emergency basis retroactively to November 12, 2002. This amendment states: "The Department may not seek recovery from the estate of a deceased individual for Medical Assistance payments of Medicare premiums, copayments, or deductibles. The change affects recipients dually eligible for Medical Assistance and Medicare, who benefit from the Medicare Buy-In Program's payment of their Medicare premiums, copayments, and deductibles. The change also affects Qualified Medicare Beneficiaries (QMBs) and Specified Low-Income Medicare Beneficiaries (SLMBs). When Medicare eligibles apply for Medical Assistance, the MA case manager should inform them that Medical Assistance payments of Medicare premiums, copayments, and deductibles will not be subject to recovery from their estate.

The QMB/SLMB application will include this information when the form is reprinted in the near future. There are still many applications in surrogates' offices, which contain language that the State may recover from the estates of QMBs and SLMBs. To use the applications currently on-hand and comply with the regulatory amendment to delete the requirement for estate recoveries from the QMB/SLMB population, the following procedure has been developed. Surrogates **should mark through** following language from the "Rights and Responsibilities" sections on pages 2 and 6 of the Department of Health and Mental Hygiene Application for Medicare Beneficiaries Only:

"I also understand that the State may recover from the estate of any person over 55 years old an amount not to exceed the amount of benefits paid out on behalf of that person. There will be no recovery from the estate of a deceased individual with a surviving spouse."

Then, initial and date the marked-through language. Surrogates will be notified when the new applications are available.

**Introduction**

The Department has the right to make a claim against a recipient's income and/or resources under several circumstances. These circumstances are:

1. A court order exists which permits the Department to take such action.
2. MA benefits have been paid pending an appeal hearing.
3. A third party may be responsible for medical expenses as a result of a lawsuit or other legal action.
4. The recipient is deceased and received MA benefits at 55 or over.
5. A recipient voluntarily reimburses the Program for expenditures.
6. Health insurance coverage is available to cover expenses paid by the Department.
7. An institutionalized person owns real property against which a lien may be placed.

The Department may not seek recovery from the estate of the deceased individual for Medical Assistance payments of Medicare premiums, co-payments, or deductibles.

Claims against a recipient's income and/or resources are made by the Division of Recoveries and Financial Services (Recoveries). This unit is responsible for carrying out all activities to make claims

A-1(1)  
A-2(1)

D

A-1(2)

A-3(1)  
(a), (2)

B

A-1(3)

A-2(2)

A-3(4)

Corrected 1/03



Effective  
11/12/02



and recoveries on behalf of the Department; however, the activities of Recoveries must be coordinated with those of the LDSS. The LDSS is responsible for reporting complete information to Recoveries to enable that unit to pursue claims and recoveries. The extent to which claims and recoveries are made and the appropriateness of certain legal actions are the responsibility of Recoveries.

### Court Order

A court order permitting recovery may exist because of a determination that the Program has paid benefits on behalf of a person that should not have been paid or would have been paid in a lesser amount had the applicant/recipient or representative accurately provided required information and reported changes in a timely manner.

A(3)  
A-2(1)

It is the responsibility of the LDSS to report any incident in which income, resources or other factors that could affect eligibility have been:

E

- unreported,
- reported in an untimely manner, or
- erroneously reported.

The LDSS must report such incidents on the DHMH 4243, Referral for Investigation. Division of Field Investigations (DFI) will decide what action is appropriate based on its findings. Criminal or Civil action may be indicated, or an agreement may be reached

F

**LIENS, ADJUSTMENTS, AND RECOVERIES**

(3) The Department may not seek recovery from the estate of a deceased individual under §A-3(1) and (2) of this regulation if, in the Department's judgment, substantial hardship exists.

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(4) The Department may not seek recovery from the estate of a deceased individual for Medical Assistance payments of Medicare premiums, co-payments, or deductibles.

B. The Department shall accept reimbursement when voluntarily offered by a current or former recipient or someone acting on his behalf.

C. (Repealed).

D. Extended Benefits Pending a Hearing Decision.

(1) The local department of social services shall refer to DHMH Recoveries for reimbursement consideration all cases in which:

(a) A recipient received extended benefits pending a hearing and decision by the hearing officer; and

(b) The hearing officer affirmed the decision of the local department of social services.

(2) DHMH Recoveries shall institute procedures to recover the cost of any expenditures made on behalf of a recipient in cases identified in §D(1) of this regulation. This provision may not apply to a person who requested a hearing and extended benefits resulting from a bona fide belief that the local department of social services has taken an adverse action erroneously.

E. The local department of social services shall refer to the Department for investigation and other appropriate action all cases in which a recipient has received coverage erroneously as a result of the action or inaction of the recipient, representative, or person acting responsibly for the recipient.

F. The Department shall investigate and take appropriate action in all cases in which eligibility has been incorrectly established as a result of the action or inaction of a recipient, representative, or person acting responsibly for the recipient.