

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES	1. TRANSMITTAL NUMBER 1 0 - 0 9	2. STATE Oklahoma
	3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
TO: REGIONAL ADMINISTRATOR CENTERS FOR MEDICARE & MEDICAID SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES	4. PROPOSED EFFECTIVE DATE January 1, 2010	

5. TYPE OF PLAN MATERIAL (Check One)

NEW STATE PLAN AMENDMENT TO BE CONSIDERED AS A NEW PLAN AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate transmittal for each amendment)

6. FEDERAL STATUTE/REGULATION CITATION 42 CFR 433.36	7. FEDERAL BUDGET IMPACT a. FFY <u>2010</u> \$ <u>0</u> b. FFY <u>2011</u> \$ <u>0</u>
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT Page 53 Page 53a Page 53a-1 * Page 53b, 53c, 53d, + 53e	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable) Same Page, Revised 07-01-94, TN # 94-21 Same Page, Revised 07-01-94, TN # 94-21 New Page New Page

10. SUBJECT OF AMENDMENT

MIPPA Protections for Estate Recovery

11. GOVERNOR'S REVIEW (Check One)

GOVERNOR'S OFFICE REPORTED NO COMMENT OTHER, AS SPECIFIED
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED The Governor does not review state
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL plan material.

12. SIGNATURE OF STATE AGENCY OFFICIAL	16. RETURN TO Oklahoma Health Care Authority Attn: Cindy Roberts 4545 N. Lincoln Blvd., Suite 124 Oklahoma City, OK 73105
13. TYPED NAME Mike Fogarty	
14. TITLE Chief Executive Officer	
15. DATE SUBMITTED March 31, 2010	

FOR REGIONAL OFFICE USE ONLY	
17. DATE RECEIVED 31 March, 2010	18. DATE APPROVED 12 November, 2010
PLAN APPROVED - ONE COPY ATTACHED	
19. EFFECTIVE DATE OF APPROVED MATERIAL 1 January, 2010	20. SIGNATURE OF REGIONAL OFFICIAL 
21. TYPED NAME Bill Brooks	22. TITLE Associate Regional Administrator Division of Medicaid & Children's Health
23. REMARKS c. Mike Fogarty Cindy Roberts Tywanda Cox Traylor Rains Rodney Ikard * Pen + Ink Change made per state's Ltr., Dated 9/10/10 adding pages 53b to 53e.	

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: OKLAHOMA

Citation (s)

42 CFR 433.36 (c)
1902(a) (18) and
1917(a) and (b) of
The Act

4.17 Liens and Adjustments or Recoveries

(a) Liens

_____ The State imposes liens against an individual's real property on account of medical assistance paid or to be paid.

The State complies with the requirements of section 1917 (a) of the Act and regulations at 42 CFR 433.36 (c)-(g) with respect to any lien imposed against the property of any individual prior to his or her death on account of medical assistance paid or to be paid on his or her behalf.

SUPERSEDES: TN- 94-21

_____ The State imposes liens on real property on account of benefits incorrectly paid.

The State imposes TEFRA liens 1917 (a) (1) (B) on real property of an individual who is an inpatient of a nursing facility, ICF/MR, or other medical institution, where the individual is required to contribute toward the cost of institutional care all but a minimal amount of income required for personal needs.

The procedures by the State for determining that an institutionalized individual cannot reasonably be expected to be discharged are specified in Attachment 4.17-A. (NOTE: If the State indicates in its State Plan that it is imposing TEFRA liens, then the State is required to determine whether an institutionalized individual is permanently institutionalized and afford these individuals notice, hearing procedures, and due process requirements.)

_____ The State imposes liens on both real and personal property of an individual after the individual's death.

STATE <u>oklahoma</u>	A
DATE REC'D <u>3-31-10</u>	
DATE APP'VD <u>11-12-10</u>	
DATE EFF <u>1-1-10</u>	
HCFA 179 <u>10-09</u>	

Revised 01-01-10

TN No.: 10-09
Supersedes
TN No.: 94-21

Approval Date: 11-12-10 Effective Date: 1-1-10

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May 1995

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: OKLAHOMA

(b) Adjustments or Recoveries

The State complies with the requirements of section 1917(b) of the Act and regulations at 42 CFR 433.36 (h)-(i).

Adjustments or recoveries for Medicaid claims correctly paid are as follows:

(1) For permanently institutionalized individuals, adjustments or recoveries are made from the individual's estate or upon sale of the property subject to a lien imposed because of medical assistance paid on behalf of the individual for services provided in a nursing facility, ICF/MR, or other medical institution.

Adjustments or recoveries are made for all other medical assistance paid on behalf of the individual.

(2) The State determines "permanent institutional status" of individuals under the age of 55 other than those with respect to whom it imposes liens on real property under §1917 (a) (1) (B) (even if it does not impose those liens).

SUPERSEDES: TN- 94-21

(3) For any individual who received medical assistance at age 55 or older, adjustments or recoveries of payments are made from the individual's estate for nursing facility services, home and community-based services, and related hospital and prescription drug services.

In addition to adjustment or recovery of payments for services listed above, payments are adjusted or recovered for other services under the State Plan as listed below: None

STATE	<u>Oklahoma</u>
DATE REC'D	<u>3-31-10</u>
DATE APP'VD	<u>11-12-10</u>
DATE EFF	<u>1-1-10</u>
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STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

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4.17 (b) Adjustments or Recoveries

(3) (Continued)

Limitations on Estate Recovery - Medicare Cost Sharing:

(i) Medical assistance for Medicare cost sharing is protected from estate recovery for the following categories of dual eligibles: QMB, SLMB, QI, QDWI, QMB+, SLMB+. This protection extends to medical assistance for four Medicare cost sharing benefits: (Part A and B premiums, deductibles, coinsurance, co-payments) with dates of service on or after January 1, 2010. The date of service for deductibles, coinsurance, and co-payments is the date the request for payment is received by the State Medicaid Agency. The date of service for premiums is the date the State Medicaid Agency paid the premium.

(ii) In addition to being a qualified dual eligible the individual must also be age 55 or over. The above protection from estate recovery for Medicare cost sharing benefits (premiums, deductibles, coinsurance, co-payments) applies to approved mandatory (i.e., nursing facility, home and community-based services, and related prescription drugs and hospital services) as well as optional Medicaid services identified in the State plan, which are applicable to the categories of duals referenced above.

STATE	<u>Oklahoma</u>	A
DATE REC'D	<u>3-31-10</u>	
DATE APP'VD	<u>11-12-10</u>	
DATE EFF	<u>1-1-10</u>	
HCFA 179	<u>10-09</u>	

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Approval Date: 11-12-10

Effective Date: 1-1-10

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: OKLAHOMA

Citation (s)

_____ The State disregards assets or resources for individuals who receive or are entitled to receive benefits under a long term care insurance policy as provided for in Attachment 2.6-A, Supplement 8b.

_____ The State adjusts or recovers from the individual's estate on account of all medical assistance paid for nursing facility and other long term care services provided on behalf of the individual. (States other than California, Connecticut, Indiana, Iowa, and New York which provide long term care insurance policy-based asset and resource disregard must select this entry. These five States may either check this entry or one of the following entries.)

_____ The State does not adjust or recover from the individual's estate on account of any medical assistance paid for nursing facility or other long term care services provided on behalf of the individual.

_____ The State adjusts or recovers from the assets or resources on account of medical assistance paid for nursing facility or other long term care services provided on behalf of the individual to the extent described below:

X If an individual covered under a long-care insurance policy received benefits for which assets or resources were disregarded as provided for in Attachment 2.6-A, Supplement 8c (State Long-Term Care Insurance Partnership), the State does not seek adjustment or recovery from the individual's estate for the amount of assets or resources disregarded.

SUPERSEDES: TN- 07-16

STATE	<u>Oklahoma</u>
DATE REC'D	<u>3-31-10</u>
DATE APP'VD	<u>11-12-10</u>
DATE EFF	<u>1-1-10</u>
HCFA 179	<u>10-09</u>

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TN No.: 10-09
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May 1995

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: OKLAHOMA

Citation (s)

(c) Adjustments or Recoveries: Limitations

The State complies with the requirements of section 1917(b) (2) of the Act and regulations at 42 CFR §433.36(h)-(i).

- (1) Adjustments or recovery of medical assistance correctly paid will be made only after the death of the individual's surviving spouse, and only when the individual has no surviving child who is either under age 21, blind, or disabled.

- (2) With respect to liens on the home of any individual who the State determines is permanently institutionalized and who must as a condition of receiving services in the institution apply their income to the cost of care, the State will not seek adjustments or recovery of medical assistance correctly paid on behalf of the individual until such time as none of the following individuals are residing in the individual's home:
 - (a) a sibling of the individual (who was residing in the individual's home for at least one year immediately before the date that the individual was institutionalized), or
 - (b) a child of the individual (who was residing in the individual's home for at least two years immediately before the date that the individual was institutionalized) who establishes to the satisfaction of the State that the care the child provided permitted the individual to reside at home rather than become institutionalized.

- (3) No money payments under another program are reduced as a means of adjusting or recovering Medicaid claims incorrectly paid.

STATE	<u>oklahoma</u>
DATE REC'D	<u>3-31-10</u>
DATE APPV'D	<u>11-12-10</u>
DATE EFF	<u>1-1-10</u>
HCFA 179	<u>10-09</u>

A

New 01-01-10

TN No.: 10-09
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 TN No.: SUPERSEDES: NONE - NEW PAGE

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(d) ATTACHMENT 4.17-A

- (1) Specifies the procedures for determining that an institutionalized individual cannot reasonably be expected to be discharged from the medical institution and return home. The description of the procedure meets the requirements of 42 CFR 433.36 (d).
- (2) Specifies the criteria by which a son or a daughter can establish that he or she has been providing care, as specified under 42 CFR 433.36(f).
- (3) Defines the following terms:
 - estate (at a minimum, estate as defined under State probate law). Except for the grandfathered States listed in section 4.17(b)(3), if the State provides a disregard for assets or resources for any individual who received or is entitled to receive benefits under a long term care insurance policy, the definition of estate must include all real, personal property, and assets of an individual (including any property or assets in which the individual had any legal title or interest at the time of death to the extent of the interest and also including the assets conveyed through devices such as joint tenancy, life estate, living trust, or other arrangements).
 - individual's home,
 - equity interest in the home.
 - Residing in the home for at least 1 or 2 years,
 - on a continuous basis,
 - discharge from the medical institution and return home, and
 - lawfully residing.

STATE	<u>OKlahoma</u>
DATE REC'D	<u>3-31-10</u>
DATE APP'VD	<u>11-12-10</u>
DATE EFF	<u>1-1-10</u>
HCFA 179	<u>10-09</u>

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STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: OKLAHOMA

- (4) Describes the standards and procedures for waiving estate recovery when it would cause undue hardship.
- (5) Defines when adjustment or recovery is not cost-effective. Defines cost-effective and includes methodology or thresholds used to determine cost effectiveness.
- (6) Describes collection procedures. Includes advance notice requirements, specifies the method for applying for a waiver, hearing and appeals procedures, and the time frames involved.

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DATE APP'D	<u>11-12-10</u>	
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