

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
150 S. Independence Mall West
Suite 216, The Public Ledger Building
Philadelphia, Pennsylvania 19106-3499



Region III/Division of Medicaid and Children's Health Operations

SWIFT# 060820124011

NOV 21 2012

Rosanne Mahaney, Director
Division of Medicaid & Medical Assistance
Delaware Health and Social Services
1901 N. DuPont Highway
New Castle, DE 19720-0906

Dear Ms. Mahaney:

The Centers for Medicare & Medicaid Services has reviewed Delaware State Plan Amendment (SPA) 12-008 to make the total the capitation payments made by the Delaware Medical Assistance Program to a managed care organization on behalf of a recipient subject to recovery upon the recipient's death. The effective date of this SPA is April 1, 2012. Enclosed are the approved SPA pages and signed CMS-179 form.

If you have further questions about this SPA, please contact Michael Cleary at 215-861-4282.

Sincerely

for Francis McCullough
Associate Regional Administrator

Enclosures

**TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL**1. TRANSMITTAL NUMBER:
SPA #12-0082. STATE
DELAWARE**FOR: HEALTH CARE FINANCING ADMINISTRATION**3. PROGRAM IDENTIFICATION: TITLE XIX OF THE
SOCIAL SECURITY ACT (MEDICAID)TO: REGIONAL ADMINISTRATOR
HEALTH CARE FINANCING ADMINISTRATION
DEPARTMENT OF HEALTH AND HUMAN SERVICES4. PROPOSED EFFECTIVE DATE
APRIL 1, 20125. TYPE OF PLAN MATERIAL (*Check One*):☐ NEW STATE PLAN☐ AMENDMENT TO BE CONSIDERED AS NEW PLAN☒ AMENDMENTCOMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (*Separate Transmittal for each amendment*)6. FEDERAL STATUTE/REGULATION CITATION:
SECTION 1917 OF THE SOCIAL SECURITY ACT
42 CFR §433.36
STATE MEDICAID MANUAL, SECTION 3810

7. FEDERAL BUDGET IMPACT:

a. FFY 2012 \$ -0-
b. FFY 2013 \$ -0-

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:

GENERAL PROGRAM ADMINISTRATION SECTION 4.17,
PAGE 53a

ATTACHMENT 4.17-A, PAGES 4 AND 5

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION
OR ATTACHMENT (*If Applicable*):GENERAL PROGRAM ADMINISTRATION SECTION
4.17, PAGE 53a

ATTACHMENT 4.17-A, PAGES 4 AND 5

10. SUBJECT OF AMENDMENT: ESTATE RECOVERY AND MANAGED CARE – TOTAL CAPITATION PAYMENT

11. GOVERNOR'S REVIEW (*Check One*):

- ☐
- GOVERNOR'S OFFICE REPORTED NO COMMENT
-
- ☐
- COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
-
- ☐
- NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

☒ OTHER, AS SPECIFIED:
Governor's comments under separate
correspondence12. SIGNATURE OF STATE AGENCY OFFICIAL:
//Rosanne Mahaney – signature//13. TYPED NAME:
Rosanne Mahaney, Director, Division of Medicaid and Medical
Assistance14. TITLE: Designee for Rita M. Landgraf, Secretary, Delaware
Health and Social Services15. DATE SUBMITTED:
June 5, 2012

16. RETURN TO:

Rosanne Mahaney
Director
Division of Medicaid and Medical Assistance
P.O. Box 906
New Castle, Delaware 19720-0906**FOR REGIONAL OFFICE USE ONLY**17. DATE RECEIVED:
June 5, 201218. DATE APPROVED: **NOV 21 2012****PLAN APPROVED – ONE COPY ATTACHED**19. EFFECTIVE DATE OF APPROVED MATERIAL:
April 1, 201221. TYPED NAME:
Francis McCullough

23. REMARKS:

22. TITLE:
Associate Regional Administrator/DMCHo

Revision: HCFA-PM-95-3 (MB)
May 1995

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

STATE/TERRITORY: DELAWARE

(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)-(l).

- (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 the 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).

- (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.

X In addition to adjustment or recovery of payments for services listed above, payments are adjusted or recovered for all services under the State Plan as listed below:

All other medical assistance paid on behalf of the individual, including the total capitation payment for the period the beneficiary was enrolled in the managed care organization (MCO); for individuals age 55 and over, except for Medicare cost sharing identified at 4.17(b)(3) (Continued).

TN No. SPA #12-008
Supersedes
TN No. SPA #11-004

Approval Date NOV 21 2012
Effective Date April 1, 2012

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: DELAWARE

Liens and Adjustments or Recoveries Continued

7. The State uses the following collection procedures (include specific elements contained in the advance action notice requirement, the method for applying for a waiver, hearing and appeals procedures, and time frames involved):

Delaware Health and Social Services (DHSS) notifies the client in advance by distributing a pamphlet to the client, guardian, and/or responsible party, outlining estate recovery procedures, at the time of application to all applicants for approved Medicaid State plan services, including long-term care services.

All persons receiving or applying for approved Medicaid State plan services, including long-term care services, are advised in writing about the estate recovery policy of DHSS at the time of application and redetermination, via the ERL1.DOC form titled, "Recovery and Lien Policy". This form outlines the following:

- Explanation of estate recovery, including citations of the federal and state authority;
- Defines long-term care;
- Describes the circumstances under which DHSS will file a claim;
- Describes the circumstances under which DHSS will file a lien;
- Defines what a lien is explains that the lien will not lead to loss of ownership;
- Describes what constitutes undue hardship. Exclusion and hardship waiver conditions are listed on page 2 of this form titled, "Request for Exclusion or Hardship Waiver";

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STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: DELAWARE

Liens and Adjustments or Recoveries Continued

- Specifies which Medicaid payments DHSS will seek to recover; and,
- Notifies the applicant, guardian, and/or responsible party of appeal procedures, specifically stating, "If you are dissatisfied with any decision made by the Division of Medicaid and Medical Assistance (DMMA), you have the right to request an appeal of the decision by requesting a fair hearing. You must submit a written request to the local DHSS office within 90 days of the action".

DHSS exempts from estate recovery all Medicare Savings Program cost sharing benefits with dates of service on or after January 1, 2010 for qualified dual eligibles age 55 and over, but otherwise DHSS shall seek estate recovery after the client's death of the maximum recoverable amount to be defined as the total of funds disbursed or incurred by DHSS (including Federal matching dollars) during the time an individual, age 55 and over, receives covered Medicaid services paid for by DHSS including the total capitation payments for the period the beneficiary was enrolled in the managed care organization (MCO). When the beneficiary enrolls in the MCO, the State provides a separate notice to the beneficiary, explaining premium payments made to the MCO are included in the claim against the estate.

Collections efforts will include written notification to the executor, guardian, and/or responsible party of the client's long-term care balance owed via a claim summary report. If a lien was placed on the client's property upon entry to the long-term care institution, DHSS will place a recovery claim against the proceeds from the sale of the property. DHSS will also pursue obtaining any residual funds remaining in a trust to offset any balance owed DHSS. Upon request, DHSS will work with heirs of the estate who voluntarily wish to satisfy the recovery claim on a case-by-case basis offering mutually agreed upon payment schedules if necessary. Additionally, when the maximum recoverable amount cannot be collected DHSS may agree to accept partial recoveries.

TN No. SPA #12-008
Supersedes
TN No. SPA #11-004

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