



New Mexico Human Services Department

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INTERDEPARTMENTAL MEMORANDUM

MAD-GI: 08-02
DATE: April 2, 2008

TO: ISD AND MAD STAFF

FROM: Carolyn Ingram, Director, MAD
Fred Sandoval, Director, ISD

THROUGH: Roy Burt, Bureau Chief, CSB

BY: Rebecca Schwarz, Adm/Ops II, CSB

SUBJECT: **ESTATE RECOVERY**

The Medicaid Estate Recovery Act provides for reimbursement to the Medicaid program when an individual 55 years of age or older relies on Medicaid for payment of hospital, nursing facility, drug, and/or Home and Community Based Services. The HSD has recently contracted with a company, Health Management Systems (HMS), to assist in the collection of money that is owed to the NM Medicaid program.

Estate recovery information is not on current versions of application(s) for Medical Assistance; however, once language has been approved by the HSD Office of General Counsel, it will be added to all applications for Aged, Blind and Disabled services under Medicaid. Until that time, it will be necessary for the ISD field worker to alert the applicant/recipient to this provision.

Several months ago, nursing facilities were notified that demand letters would be sent out to the family of Medicaid recipients who have died within the past year. The ISD field offices were notified, but not given the start date of collection efforts. The first letters were mailed March 1, 2008 and will be mailed monthly thereafter. We have obtained certain details related to this project which may be helpful to you in answering questions from both nursing facilities and interested parties that call regarding the letters from HMS.

We recognize that the recipient of a demand letter, while maybe a personal representative of the deceased, is not necessarily the legal representative. Nursing facilities are being asked in certain cases to provide the names and last known addresses of the authorized or personal representative of the decedent. HMS will use this information only to locate the administrator of the estate. The nursing facility is under no obligation to provide this information.

HMS is relying on the information provided by personal representatives, attorneys, heirs, and family members to determine whether or not a claim against the estate will be filed. This is being determined on a case by case basis in consultation with HSD. There are provisions for the personal representatives, attorneys, heirs, and family members to request a Hardship Waiver if they feel a claim against the estate would do harm. We encourage full disclosure so that an informed decision can be made and the case closed.

There will be cases in which the decedent's assets were distributed without Medicaid reimbursement. HMS and the Department recognize this, and if properly informed of the circumstances surrounding the disbursement, may choose to disregard enforcement of the provision. This is especially true during this start-up period.

In the near future, brochures will be distributed through HSD, nursing facilities, and all other affected entities. These brochures will seek to inform so that families can make sound decisions.

The program rules that apply to Estate Recovery can be found at 8.200.420 (J) NMAC. Please do not hesitate to contact Anna Bransford in the Program Administration Bureau at (505) 827-3127 or e-mail at Anna.Bransford@state.nm.us if you have additional questions.