STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: UTAH

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:

   N/A

2. The following criteria are used for establishing that a permanently institutionalized individual's son or daughter provided care as specified under the regulations of 42 CFR § 433.36(f):

   A son or daughter of an institutionalized person must provide proof that he/she:

   a. Lived in the home, and
   b. Provided care to the recipient which permitted the individual to remain at home rather than be institutionalized, and
   c. Did so for at least 2 years prior to the individual's entry into the medical institution.

3. The State defines the terms below as follows:

   - "Estate" means, regarding a deceased recipient, all real and personal property or other assets included within a decedent's estate as defined in Utah Code Annotated, Section 75-1-201 (Utah Uniform Probate Code) and a decedent's augmented estate as defined in Utah Code Annotated, Section 75-2-202 (Utah Uniform Probate Code).

   - "Individual's home" means the home in which the individual lives or lived just prior to the institutionalization, the individual's address of records, his/her permanent address or a property in which the individual has or had an equity interest.

   - "Equity interest in the home" means the money value of any property to which an individual has legal title or right beyond any mortgage or liabilities existing upon it.

   - "Residing in the home for at least one or two years on a continuous basis" means maintaining and living in the domicile as the place of primary residence without interruption for the designated period of time, evidenced such as by the receipt of mail at the address, the payment of utility bills, property tax and/or property insurance.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: UTAH

LIENS AND ADJUSTMENTS OR RECOVERIES (Continued)

- "Lawfully residing" means maintaining the domicile legitimately or without violating the law, as evidenced by the receipt of mail at the residence, and/or the payment of property taxes, property insurance and utility expenses for the residence.

4. The State defines "undue hardship" as the presence of any of the following conditions:

   a. The survivor is the spouse of the deceased recipient.
   b. The survivor is a minor child of the deceased recipient.
   c. The survivor is a blind or disabled child of the deceased recipient.
   d. Income is limited, and the property is the sole income-producing asset and source of support for the survivors (such as a family farm or other family business, which produces a limited amount of income).
   e. An individual who has an equity interest in the decedent's home and who resides in the home as his or her primary residence.

   Any exemption described in 4 above applies only to the proportionate share of the decedent's estate or property that passes to those individuals.

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:

   a. The State employs the following procedures to waive estate recovery when recovery would cause an undue hardship:

      i. The State notifies the person handling the decedent's estate by letter of the right to apply for an estate recovery hearing. The person handling the decedent's estate must request a hearing in writing within 30 days of the date recorded on the State's notice.
      ii. The applicant may submit the written request and all supporting documentation, or the applicant may request an estate hearing before the Hearing Officer. The Associate Director serves as the Hearing Officer.
      iii. If a hearing is requested, the State provides at least 30 days notice of the date, time, and place of the hearing.
      iv. The Hearing Officer hears all of the evidence and reviews all of the documentation. The Hearing Officer renders a written decision within 30 days of the closing of the hearing. A copy of the decision is mailed by certified mail to the person handling the decedent's estate.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: UTAH

LIENS AND ADJUSTMENTS OR RECOVERIES (Continued)

5. a. v. The person handling the decedent's estate may request a review by a higher authority if he/she does not agree with the Hearing Officer's decision. The request must be in writing and must be received within 30 days of the date stated in the written decision.

vi. If the person handling the decedent's estate requests an appeal, the Office Director serves as the authority for appeal. The same procedures apply as listed in 5.a.ii-v.

vii. The State courts provide the ultimate avenue for appeal.

b. The State may compromise its lien only with the approval of the Associate Director or the Director as follows:

i. When the assets in the estate are less than the Medicaid lien amount.

ii. When claims having priority to the State's lien reduce the estate to less than the lien amount.

iii. When the cost of recovery would exceed the reimbursement amount.

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

The State employs the following procedures to waive estate recovery when recovery is not cost-effective: Expenses and claims having priority to the State's claim are subtracted from the assets in the estate to determine if enough recoverable assets remain in the estate to make recovery cost-effective. Where expenses having priority leaves less than $500.00 in recoverable assets, the investigator waives estate recovery.

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

The State uses the following collection procedures for estate recovers:

a. The State is developing a pamphlet, outlining estate recovery procedures, for distribution at the time of application to all applicants for long-term care.

b. The State provides notice at the time of recovery in the form of:

i. A letter to the person handling the decedent's estate, containing the following:

(1) Explanation of estate recovery, including citations of the federal and state authority.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: UTAH

LIENS AND ADJUSTMENTS OR RECOVERIES (Continued)

---

7. b. (i) (2) Amount of the debt.

(a) The State claims against the estate of the decedent or against any recipient of the decedent's property by distribution or survival, an amount equal to the lesser of:

(i) The payments for health services, institutional care, and health care premiums; or

(ii) The value of the decedent's estate, as defined in Utah Code Annotated, Section 26-19-13.

(b) The State recovers payments as follows:

(i) All claims from age 55 through case closure for expenses paid on or after October 1, 1993.

(ii) All claims from age 65 through case closure for expenses paid before October 1, 1993.

(3) Explanation of the right to request an undue hardship waiver.

(4) Deadline for contacting the office to request a waiver.

(ii) A Notice of Claim filed in court in a probate action for the estate, if such an action has been filed by the heirs, creditors, or the State; and

(iii) A statutory lien on the property.

c. The person handling the estate of the decedent shall notify all heirs, dependents, or survivors, of their right to an estate hearing.

d. The State follows the procedures outlined in 5 above for hearing and appeal for undue hardship.