

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: \_\_\_\_\_

LIENS, ADJUSTMENTS AND RECOVERIES

Citation(s)

42CFR 433.36(c) &  
1902(a)(18)&  
1917(a) & (b) of the Act

4.17. Liens, Adjustments and Recoveries

A. Liens

be

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

433.36(c)-(g)  
property of any  
account of medical  
her behalf.

The State complies with the requirements of section 1917(a) of the Act and regulations at 42 CFR with respect to any lien imposed against the individual prior to his or her death on assistance paid or to be paid on his or

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

of a  
institution where  
cost of  
income  
imposing  
determine whether an  
permanently institutionalized  
this determination in  
State must also provide the  
hearing procedures and due process

\_\_\_\_\_ The State imposes TEFRA liens under 1917(a)(1)(B) on real property of an individual who is an inpatient nursing facility, ICF/MR or other medical the individual is required to contribute to the institutional care all but a minimal amount of required for personal needs. If the State is TEFRA liens the State is required to institutionalized individual is and specify its procedures for 4.17D(1) of this plan. The individuals with notice, requirements.

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4.17 A. Liens (continued)

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

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.

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 1917(a)(1)(B) (even if it does not impose those

under  
liens).

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4.17 B. Adjustments and Recoveries (continued)

made  
home

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

recovered for  
below:

\_\_\_\_\_ In addition to adjustment or recovery of payments for services listed above, payments are adjusted or other services under the State plan as listed

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4.17 B. Adjustments and Recoveries (continued)

- 1917(b)(1)(C)(4)(A) 4. \_\_\_\_\_ (Only California, Connecticut, Indiana, Iowa and New York may check this entry.) 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. (Check one of the following entries.)
- \_\_\_\_\_ 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.
- \_\_\_\_\_ 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:

4. \_\_\_\_\_ (States other than California, Connecticut, Indiana, Iowa and New York may check this entry.) If an individual covered under a long-term 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.

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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).

individual's  
has no  
blind or

1. Adjustment or recovery of medical assistance correctly paid will be made only after the death of the surviving spouse, and only when the individual surviving child who is either under age 21 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 adjustment or recovery of medical assistance correctly paid until such time as none of the following individuals are residing in the individual's home:
  - 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
  - A child of the individual who was residing in the home for at least two years immediately before the date 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.

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4.17 C. Adjustments or Recoveries: Limitations (continued)

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

D. State Procedures

Section 1917(a)(1)(B)(ii)  
the Act  
42 CFR 433.36(d)

1. The State uses the following procedure for determining that an institutionalized individual cannot reasonably be expected to be discharged from the medical institution and return home:

Section 1917(b)(2)(B)(ii)  
of the Act  
42 CFR 433.36(f)

2. The following criteria are used for establishing that a permanently institutionalized individual's son or daughter provided care that permitted the individual to reside at home rather than become institutionalized:

3. The State uses the following standards and procedures to waive estate recovery due to undue hardship:

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4.17 D. State Procedures (continued)

when

4. The State defines cost-effective as follows and uses the following methodology and thresholds to determine adjustment or recovery is not cost-effective:

42 CFR 433.36(d) &  
(g)(2)(ii)

advance  
a waiver, the  
pertinent time

5. The State's collection procedures are described below. This description includes specific elements of the notice, specifies the method for applying for procedures for hearings and appeals and the frames for these activities.

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4.17 (continued)

E. The State defines the terms below as follows:

Section 1917(b)(4)(B) of the Act

1. ESTATE: (At a minimum, this must include estate as defined under State probate law). The definition of estate must include all real and personal property and assets of an individual, including any property 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 arrangement.

42 CFR §433.36(e)

2. INDIVIDUAL'S HOME:

3. EQUITY INTEREST IN THE HOME:



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4.17 E. Definitions (continued)

4. RESIDING IN THE HOME FOR AT LEAST ONE  
OR TWO YEARS ON A CONTINUOUS BASIS:

5. DISCHARGE FROM THE MEDICAL  
INSTITUTION AND RETURN HOME:

6. LAWFULLY RESIDING:

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