

DEPARTMENT OF HEALTH SERVICES

714/744 P STREET
SACRAMENTO, CA 95814

July 15, 1983

To: All County Welfare Directors

Letter No. 83-52

PROBATE/RECOVERY OF HEALTH CARE SERVICES

Re: All County Welfare Directors Letter No. 81-35

This is to provide you with information about the Probate Recovery system the Recovery Branch of the Department of Health Services (DHS) implemented as a result of AB 251 and AB 1260. The system is administered by the state. County welfare department responsibility is limited to responding to inquiries from interested persons. Following is a brief summary of the system.

Effective June 28, 1981 Section 700.1 of the Probate Code and Section 14009.5 of the Welfare and Institutions (W & I) Code were amended to allow the DHS to claim against the estate of an aged decedent an amount equal to the amount of medical expenses paid by Medi-Cal funds providing the decedent has no spouse, minor dependents, or other dependents who are blind or permanently and totally disabled within the meaning of the Social Security Act.

Potential claims are identified through an automated system which uses data from the Social Security Death List and the State Vital Statistics List. An inquiry letter (attached) is sent to the last known address of deceased Medi-Cal beneficiaries who meet the criteria in Section 14009.5 (W & I Code). When this letter is returned, the State has four months to perfect a claim to recover Medi-Cal expenses.

Attached is an informational sheet outlining the major points of the system. Also attached is a copy of the amendments to Section 700.1 of the Probate Code and Section 14009.5 of the W & I Code.

This collection program has recovered more than \$1.7 million in ten months. The Department is projecting a \$3.0 million collection from this source in FY 1983/84.

Should you have any questions, please call Barbara Jacobsen at (916) 322-0647.

Sincerely,

Caroline Cabias
Caroline Cabias, Chief
Eligibility Branch

Attachments

cc: Medi-Cal Liaisons
Medi-Cal Program Consultants

PROBATE/RECOVERY OF HEALTH CARE SERVICES

In certain cases, the State may file a claim against the estate of deceased Medi-Cal beneficiaries to recover the cost of Medi-Cal services paid. Following is information about this recovery program.

I. Notification of Medi-Cal Beneficiary's Death

It is the responsibility of the heirs, the executor, the administrator, or the persons in possession of any property of the decedent to notify the state of the death of a Medi-Cal beneficiary. (Probate Code 700.1(a))

The State has a system which identifies decedents who meet the criteria in Welfare and Institutions (W & I) Code Section 14009.5. An inquiry letter is sent to the last known address of appropriate Medi-Cal beneficiaries. The return of the letter satisfies the provision in Probate Code 700.1(a) to notify the State of the death of a Medi-Cal beneficiary.

II. Persons Claims May be Filed Against

The Department may file a claim if the Medi-Cal decedent was 65 or older, there is no surviving spouse, no surviving child who is under the age of 21 or who is blind or permanently and totally disabled and there is an estate (Welfare and Institutions (W & I) Code, Section 14009.5).

Estates may include real property (joint tenancy, tenants-in-common and fee-simple) and/or personal property.

III. Amount of the Claim

The department may file a claim against the estate of the decedent, or against any recipient of the property of that decedent by distribution or survival in an amount equal the payments for health care services received, (W & I Code, Section 14009.5) or the amount of the estate, whichever is less (Probate Code 700.1).

Expenses of last illness (funeral expenses, administration of estate and costs) are paid first.

IV. Payment of Claims

Payment in full from the proceeds of the estate, monthly payments and voluntary property liens are used to effect satisfaction of our claim. This is decided on a case-by-case basis depending on the circumstances. The Department can, by law, force a sale of property to satisfy claims.

V. Distributed Estate

If the assets of the estate have been distributed, the law provides that the Department of Health Services is entitled to a claim against the distributee(s). The claim is either the amount equal to the payments for Medi-Cal services received, or each distributee's share of the distributed assets, whichever is less. (Probate Code 700.1)

The law also allows for reference to the Attorney General for Superior or Municipal Court action.

DEPARTMENT OF HEALTH SERVICES

711/744 P STREET
 SACRAMENTO, CA 95814

DECEASED :
 SOCIAL SECURITY NO. :
 MEDI-CAL NO. :

ATTENTION: Person Responsible for the Estate of Decedent Named Above

Section 700.1 of the Probate Code requires that our Department be notified when a deceased person has received or may have received health care under the Medi-Cal Program. This Section requires heirs, the executor, the administrator, or the persons in possession of any property of the decedent to provide the Director of Health Services, notice of death no later than than 90 days from the date of death.* All notices should be sent to the Department of Health Services, General Collection Section, 1250 Sutterville Road, Room 226, Sacramento, CA 95822, and include the following additional information:

1. After burial expenses, estimated value of :
 - A. Real Estate _____
 - b. Cash & Bank Accounts _____
 - A. Other _____
2. Death certificate.
3. Name, address, and telephone number of person or attorney settling estate _____

4. Probate number & County of filing _____
5. Comments _____

The return of this letter will serve as your notice as required by law. Depending on the information provided, our Department may file a claim to recover Medi-Cal benefits paid on behalf of the decedent as provided for in Section 14009.5 of the Welfare and Institutions Code.

If there is an attorney handling probate proceedings, please refer this letter to the attorney as soon as possible. If you have any questions, please call (916) 322-2280. Your cooperation is appreciated.

* notification to social security does not satisfy this requirement.

ASSEMBLY BILL 1260

Section 700.1 of the Probate code is amended to read:

700.1. (a) Where a deceased person has received or may have received health care under the provisions of Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200), Part 3, Division 9, Welfare and Institutions Code, the heirs, the executor, the administrator, or the persons in possession of any property of the decedent shall give the Director of Health Services or his or her successor notice of the death no later than 90 days from the date of death. Such notice shall be mailed postage prepaid, and addressed to the director at his or her Sacramento office.

(b) All notices given pursuant to this section shall include a copy of the decedent's death certificate.

(c) The director shall have four months after notice is given pursuant to this section in which to perfect a claim. In the event that assets of the estate have been distributed, the director shall be entitled to a claim against the distributee or distributees to the full extent of the director's claim, or each distributee's share of the distributed assets, whichever is less. The director's entitlement against distributees shall include interest rate of interest equal to that earned in the Pooled Money Investment Fund from the date of distribution or the date of presenting the claim by the director, whichever is later, plus other accruing costs as in the case of other executions.

(d) Failure to comply with the provisions of this section shall not affect the validity of any proceeding under this division.

Section 14009.5 of the Welfare and Institutions Code is amended to read:

14009.5 Notwithstanding any other provisions of this chapter, when a decedent has received health care services under this chapter or Chapter 8 (commencing with Section 14200) the department may claim against the estate of the decedent, or against any recipient of the property of that decedent by distribution or survival an amount equal to the payments for the health care services received. The department may not claim where the eligible person was under 65 when services were received, or where there is a surviving spouse, or where there is a surviving child who is under age 21 or who is blind or permanently and totally disabled, within the meaning of the Social Security Act.

The department may waive its claim, in whole or in part, if it determines that enforcement of the claim would result in substantial hardship to other dependents of the individual against whose estate the claim exists.