

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

STATE Alabama

Liens and Recoveries

Citation

FR 43647
October 1, 1982
42 CFR 433.36
AT-82-29

A son or daughter can establish to the agency's satisfaction that he or she has been providing care which permitted the individual to reside at home rather than in an institution (SNF or ICF) by providing the agency with convincing evidence that establishes that fact.

- (7) The State defines "estate" as: An estate consists of real and personal property and other assets as defined by Alabama probate law.
- (8) The State defines "undue hardship" as: The existence of a situation, established by convincing evidence, that the estate subject to recovery is an asset such as a family farm or family business which produces limited income and is the sole income-producing asset of one or more heirs to the estate. The State will waive recovery while such a situation exists. An undue hardship waiver is not available: (a) for individuals with long term care insurance policies who became Medicaid eligible by virtue of disregarding assets because of payments made by a long term care insurance policy or because of entitlement to receive benefits under a long term care insurance policy; or (b) where an individual has created the claimed hardship by resorting to estate planning methods under which the individual illegally divested assets in order to avoid estate recovery.
- (9) The State defines "cost-effective" as: A situation where the State determines that the amount to be recovered exceeds the cost of recovery. The State will determine cost-effectiveness on a case-by-case basis, based on such factors as: the size of the estate; the amount of the State's claim; whether an estate has already been opened by an heir or other creditor; the expected amount of fees for appraisals, filings and other items; and other anticipated legal and administrative costs.

TN No. AL-11-002
Supersedes
TN No. AT-82-29

Approval Date 03-29-11

Effective Date 01-01-11