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State Name: Virginia

State Plan Amendment (SPA) #: 10-06

This file contains the following documents in the order listed:

1) Approval Letter

2) CMS-179

3) Approved SPA Pages

DEPARTMENT OF HEALTH & HUMAN SERVICES Centers for Medicare & Medicaid Services 150 S. Independence Mall West Suite 216, The Public Ledger Building Philadelphia, Pennsylvania 19106-3499



## Region III/Division of Medicaid and Children's Health Operations

## JUL 14 2010

Cynthia B. Jones, Acting Director Department of Medical Assistance Services 600 East Broad Street, Suite 1300 Richmond, Virginia 23219

Dear Ms. Jones:

We have reviewed State Plan Amendment (SPA) 10-06, in which you propose to prevent the Medicaid agency from pursuing estate recoveries for Medicare cost-sharing amounts. This SPA, as modified by your email note dated July 1, 2010, is acceptable. Therefore, we are approving SPA 10-06 with an effective date of April 1, 2010. Enclosed are the approved SPA pages and signed CMS-179 form.

If you have further questions about this SPA, please contact Jake Hubik at (215) 861-4181.

Sincerely,

/S/

Ted Gallagher Associate Regional Administrator

**Enclosures** 

FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES  3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)  10. REGIONAL ADMINISTRATOR CENTERS FOR MEDICARE & MEDICAID SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES  5. TYPE OF PLAN MATERIAL (Check One)  1. NEW STATE PLAN AMENDMENT TO BE CONSIDERED AS NEW PLAN COMPLETE BLOCKS & THRU 10 IF THIS IS AN AMENDMENT (Separate transmittal for each amendment)  6. FEDERAL STATUTE/REGULATION CITATION 42 CFR Part 433  8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT Attach. 4.17-C, Page 2 of 6  10. SUBJECT OF AMENDMENT  Estate Recovery Update  11. GOVERNOR'S REVIEW (Check One) GOVERNOR'S OFFICE REPORTED NO COMMENT ON RETLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL  12. SIGNATURE OF STATE AGENCY DEFICIAL ON OR ATTACHMENT (IN Applicable)  13. RETURN TO  Dept. of Medical Assistance Services 600 East Broad Street, #1300 Richmond VA 23219	ATATE DI AAI DA ATENDA I	1. TRANSMITTAL NUMBER 2. STATE Virginia
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State of Virginia

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- B. Under the authority and consistent with the requirements of the *Social Security Act* § 1917 (the *Act*), the Commonwealth shall recover applicable medical assistance payments when such payments have been correctly or incorrectly paid on behalf of certain individuals. The Department of Medical Assistance Services (DMAS) shall provide notice of the Commonwealth's Medicaid estate recovery program at the time of application for medical assistance.
- C. Adjustment and recovery. Adjustment or recovery can only be made after the death of the individual's surviving spouse, if any, and only at a time when the individual has no surviving child under age 21, or a blind or disabled child as defined in § 1614 of the *Act*. The Commonwealth shall seek adjustment or recovery of medical assistance payments correctly paid on behalf of an individual who is age 55 or older under the State Plan as follows:
  - 1. The Commonwealth shall seek adjustment or recovery from the estate of an individual who was age 55 or older when that person received medical assistance. The Commonwealth shall recover amounts up to the total amount spent on the individual's behalf for medical assistance recover amounts for items or services provided for the individual under the State Plan.
  - 2. Dual eligible protection from recovery.
  - a. The Commonwealth shall recover from the estates of the following dual eligible individuals, who are age 55 or older, who receive full Medicaid benefits in addition to Medicare: (i) qualified Medicare beneficiaries with full Medicaid benefits (QMB Plus), (ii) specified low-income Medicare beneficiaries with full Medicaid benefits (SLMB Plus), and (iii) Medicare beneficiaries eligible for a limited package of Medicaid benefits (QMB, SLMB, qualified individuals (QI) or qualified disabled and working individuals (QDWI)). The Commonwealth shall recover from these individuals' estates medical assistance payments made on behalf of these individuals with the exception of Medicare cost sharing benefits or for benefits described in § 1902(a)(10)(E). This exception shall apply to Medicare cost sharing benefits (i.e., Part A and B premiums, deductibles, coinsurance, and co-payments) with dates of service on or after January 1, 2010. The date of service for deductibles, coinsurance, and co-payments shall be the date the request for payment is received by DMAS. The date of service for premiums shall be the date the Medicaid agency paid the premium.
  - b. The above protection from estate recovery against Medicare cost sharing benefits (premiums, deductibles, coinsurance, co-payments) which is made for the applicable categories of protected dual eligible persons above, shall apply to approved mandatory and optional services set out in the State Plan for which Medicare cost sharing applies.
  - 3. The Commonwealth shall recover from individuals with long-term care insurance policies. However, the Commonwealth shall not seek adjustment or recovery from the individual's estate for all Medicaid costs for nursing facility and other long-term care services if assets or resources are disregarded to the extent of payments made under a qualified long-term care partnership insurance policy.

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