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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

<b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE &amp; MEDICAID SERVICES</b>	1. TRANSMITTAL NUMBER 1 0 0 6	2. STATE Virginia
	3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
TO: REGIONAL ADMINISTRATOR CENTERS FOR MEDICARE & MEDICAID SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES	4. PROPOSED EFFECTIVE DATE April 1, 2010	

5. TYPE OF PLAN MATERIAL (Check One)

NEW STATE PLAN       AMENDMENT TO BE CONSIDERED AS NEW PLAN       AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate transmittal for each amendment)

6. FEDERAL STATUTE/REGULATION CITATION 42 CFR Part 433	7. FEDERAL BUDGET IMPACT a. FFY 2010 \$ 0 b. FFY 2011 \$ 0
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT Attach. 4.17-C, Page 2 of 6	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable) Same pages

10. SUBJECT OF AMENDMENT  
Estate Recovery Update

11. GOVERNOR'S REVIEW (Check One)

GOVERNOR'S OFFICE REPORTED NO COMMENT<sup>2010</sup>  
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED  
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

OTHER, AS SPECIFIED  
Secretary of Health and Human Resources

12. SIGNATURE OF STATE AGENCY OFFICIAL /S/	16. RETURN TO Dept. of Medical Assistance Services 600 East Broad Street, #1300 Richmond VA 23219  Attn: Regulatory Coordinator
13. TYPED NAME Cynthia B. Jones	
14. TITLE Acting-Director	
15. DATE SUBMITTED 4/23/10	

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED 4/23/2010	18. DATE APPROVED JUL 14 2010
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PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL	20. SIGNATURE OF REGIONAL OFFICIAL /S/
21. TYPED NAME Ted Gallagher	22. TITLE Associate Regional Administrator, DMC10

23. REMARKS

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.