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State/Territory Name: Tennessee

State Plan Amendment (SPA) #: 24-0002

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) Form CMS 179
- 3) Approved SPA Pages

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
601 E. 12th St., Room 355
Kansas City, Missouri 64106



Medicaid and CHIP Operations Group

August 14, 2024

Stephen M. Smith
Director, Division of TennCare
310 Great Circle Road
Nashville, TN 37243

Re: Tennessee State Plan Amendment (SPA) – Transmittal #24-0002

Dear Director Smith:

The Centers for Medicare & Medicaid Services (CMS) reviewed your Medicaid State Plan Amendment (SPA) submitted under transmittal number (TN) #24-0002. This amendment proposes to update estate recovery procedures.

We conducted our review of your submittal according to statutory requirements in Title XIX of the Social Security Act, section 1917(b)(1)(B). This letter informs you that Tennessee's Medicaid SPA TN #24-0002 was approved on August 13, 2024, effective April 1, 2024.

Enclosed are copies of Form CMS-179 and approved SPA pages to be incorporated into the Tennessee State Plan.

If you have any questions, please contact Tandra Hodges at (404) 562-7409 or via email at Tandra.Hodges@cms.hhs.gov.

Sincerely,

A large black rectangular redaction box covers the signature of James G. Scott.

James G. Scott, Director
Division of Program Operations

Enclosures

cc: Aaron Butler

**TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL
FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES**

1. TRANSMITTAL NUMBER

2 4 — 0 0 0 2

2. STATE

TN

3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL SECURITY ACT



XIX



XXI

TO: CENTER DIRECTOR
CENTERS FOR MEDICAID & CHIP SERVICES
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE

April 1, 2024

5. FEDERAL STATUTE/REGULATION CITATION

Section 1917(b)(1)(B) of the Social Security Act

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)

a. FFY 2024 \$ 0

b. FFY 2025 \$ 0

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

Attachment 4.17A, Pages 3 and 4

8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (if Applicable)

Attachment 4.17-A, Pages 3 and 4

9. SUBJECT OF AMENDMENT

Updates estate recovery procedures.

10. GOVERNOR'S REVIEW (Check One)



GOVERNOR'S OFFICE REPORTED NO COMMENT



COMMENTS OF GOVERNOR'S OFFICE ENCLOSED



NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL



OTHER, AS SPECIFIED:

11. SIGNATURE OF STATE AGENCY OFFICIAL

[Redacted Signature]

15. RETURN TO

Tennessee Department of Finance & Administration
Division of TennCare
310 Great Circle Road
Nashville, Tennessee 37243

Attention: Aaron Butler

12. TYPED NAME

Stephen Smith

13. TITLE

Director, Division of TennCare

14. DATE SUBMITTED

June 10, 2024

FOR CMS USE ONLY

16. DATE RECEIVED

June 10, 2024

17. DATE APPROVED

August 13, 2024

PLAN APPROVED - ONE COPY ATTACHED

18. EFFECTIVE DATE OF APPROVED MATERIAL

April 1, 2024

19. SIGNATURE

[Redacted Signature]

20. TYPED NAME OF APPROVING OFFICIAL

James G. Scott

21. TITLE OF APPROVING OFFICIAL

Director, Division of Program Operations

22. REMARKS

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: Tennessee

LIENS AND ADJUSTMENTS OR RECOVERIES

The undue hardship shall be considered to no longer exist when such person no longer resides in such home.

5. The following standards and procedures are used by the State for waiving estate recoveries when recovery would cause an undue hardship:

After the death of a beneficiary that is subject to estate recovery, a "Request for Release" (RFR) form and informational packet is provided to the beneficiary's last known address or authorized representative. The informational packet and RFR form explain the estate recovery process and also contain information about applying for an undue hardship. The RFR form is also made publicly available through the State Medicaid agency's website and provided to each county's probate court clerk.

Heirs or interested parties must submit the RFR form to the State Medicaid agency to determine if there is a claim. If there is a claim, the claim is provided to the requesting party. Information on how to apply for an undue hardship is provided a second time in the State's response to the RFR.

If the undue hardship request is approved, a deferral letter is provided to the person requesting the undue hardship. If the undue hardship request is denied, the requesting party may move the Probate Court for an order to waive (either completely or partially) or defer recovery. T.C.A. § 71-5-116.

6. The State defines cost-effective as follows (include methodology/thresholds used to determine cost-effectiveness):

All claims \$10,000 and below are not cost effective. If the claim is below \$10,000, then a release of the claim is provided by the State.

Additionally, it is not cost effective when the estimated costs of recovery, together with the estimated total of other claims with preference over the Medicaid claim, exceeds or nearly exceeds the assets in the decedent's estate. The phrase "nearly exceeds" recognizes uncertainty and allows a claim to be released or adjusted if the estimated gain is disproportionately small. It is not a number that can be quantified except on a case-by-case basis.

7. The State uses the following collection procedures (include specific elements contained in the advance notice requirement, the method for applying for a waiver, hearing and appeals procedures, and time frames involved):

- (1) Pursuant to T.C.A. § 71-5-116(c)(2), all probate estates must obtain a TennCare release prior to closing the estate.

- (2) Personal representatives must submit an RFR to the State Medicaid agency pursuant to T.C.A. § 71-5-116(d)(1)(B).

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: Tennessee

LIENS AND ADJUSTMENTS OR RECOVERIES

- (3) Upon receipt of the RFR, the State provides to the personal representative in writing a claim setting out the amount to which it is entitled under law for estate recovery. If there is a claim, information on how to apply for statutory basis for waiver and undue hardship are provided. The standards and procedures for waiving estate recovery as an undue hardship are outlined in Item 5 above.
- (4) Upon receipt of notice of the opening of a Probate estate, the State files with the court having probate jurisdiction a claim as required by Tennessee probate law. The clerk of court is under a duty to send a copy of the claim to the personal representative. Recovery of such amount goes forward in accordance with the Tennessee Probate Code and all other applicable Tennessee Code sections and judicial decisions related to probate matters. An estate recovery claim has third priority status, following only administrative costs and funeral expenses. General creditor claims have a lower priority status than estate recovery claims. [See, T.C.A. § 30-2-317.] The State receives payments on claims by lump sum and in the normal course of probate proceedings. Accordingly, there are no administrative procedures for payment schedules or payment delays.