

Minnesota Department of Human
Services
Benefit Recovery Section
Special Recovery Unit

Dale B. Klitzke
SRU Manager

Medicaid Expenditures

- ◆ The United States spent over **\$438 billion** on Medicaid expenditures last year.
- ◆ Minnesota's expenditures counted for over \$8 billion of that total.

Yearly Recoveries

Medical Assistance (MA) estate recovery	2011	2012	2013	2014
County estate recovery	\$20,413,726	\$20,382,584	\$23,627,290	\$26,523,073
Alternative Care recovery	\$524,797	\$582,317	\$889,711	\$999,932
Liens, trusts and annuities	\$4,599,080	\$6,821,072	\$9,056,641	\$7,361,542
Total	\$25,537,603	\$27,785,973	\$33,573,642	\$34,884,547

Presentation Overview

- ◆ Estate Recovery
- ◆ Liens
 - ◆ MA Liens
 - ◆ NPCs
- ◆ Funeral Expenses
- ◆ Undue Hardships
- ◆ Death Data Match
- ◆ Scenarios
- ◆ Questions

Purpose

- ◆ Provide a quick background of the Minnesota estate recovery program.
- ◆ Provide guidance on when and who to contact if questions become too involved.

What is MA Estate Recovery

- ◆ MA estate recovery is the process initiated by states under federal guidance to recover payments made under the Medicaid program to program recipients.

What is an Estate

- ◊ Although each state defines estate differently, the definition usually includes:
 - ◊ all real estate and personal property that passes title or ownership from a deceased person to an heir through an administration (probate) or pre-death designation/directive.
 - ◊ Trust, Will, Identified Beneficiary
 - ◊ joint tenancy, life estates, pay on death accounts, trusts are usually not part of a probated estate.

What is Probate

- ◊ Probate is a legal process of settling a person's estate in court after they die.
- ◊ The need for a probate depends on what property a person who died owned and whether they owned it alone or with others.
- ◊ Having a will does not avoid probate.

Definitions

- ◊ Joint Tenancy
 - ◊ A tenancy with two or more co-owners who take identical interests at the same time with the same instrument, with the same right of possession.
- ◊ Life Estate:
 - ◊ An estate held only for the duration of a specified person's life.

Federal Overview

- Legislative history
- 42 U.S.C. § 1396p

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Background to Medical Assistance and Recovery

- ◆ Federal Medicaid Program
 - ◆ 1965, Inception of the program
 - ◆ States allowed to recover
 - ◆ 1982, Tax Equity and Fiscal Responsibility Act (TEFRA)
 - ◆ Liens allowed prior to death
 - ◆ 1993, Omnibus Budget Reduction Act (OBRA)
 - ◆ States required to carry out Medicaid recovery program
 - ◆ 2005, Deficit Reduction Act (DRA)
 - ◆ Requirement that the state be named a beneficiary on annuities

Federal Statute

- ◆ 42 U.S. Code §1396p
 - ◆ Covers estate recovery of state MA programs
 - ◆ Restricts recovery in situations where recipient is:
 - ◆ 55 years of age or older
 - ◆ Is institutionalized with no reasonable expectation of discharge
 - ◆ No recovery when recipient passes and survived by:
 - ◆ a "community" spouse,
 - ◆ a child under 21,
 - ◆ a child who is blind, or
 - ◆ a child who is permanently disabled.

Federal Definition of Estate

- ◆ 42 U.S.C. § 1396p, subd. (b)(4)(A)
- ◆ The term estate, with respect to a deceased individual—
 - ◆ **must** include all real and personal property and other assets included within the individual's estate, as defined for purposes of State probate law; and...

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Federal Statute

- ◆ 42 U.S.C. § 1396p
- ◆ **No** recovery from a recipient's home if:
 - ◆ a sibling resided in the home for one year before the recipient's institutionalization and has continuously resided in the home since, **or**
 - ◆ a child or grandchild resided in the home for two years before the recipient's institutionalization, provided care to the recipient that prevented institutionalization, and has continuously resided in the home since.

Federal Definition of Estate

- ◆ 42 U.S.C. § 1396p, subd. (b)(4)(B)
- ◆ ...at the option to the State, an estate of a Medicaid client **may** include:
 - ◆ any other real and personal property and other assets in which the individual has any legal title or interest at the time of death, and
 - ◆ assets conveyed to a survivor, heir, or assign of the deceased individual through joint tenancy, tenancy in common, survivorship, life estates, living trusts, or other arrangements.

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Mandatory Recovery

- 42 U.S.C. § 1396p, subd. (b)(1)(B)(i)
 - ◊ The State **must** seek recovery from an MA recipient's estate for:
 - ◊ nursing facility services,
 - ◊ home and community-based services, **and**
 - ◊ related hospital and prescription drug services.

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Optional Recovery

- 42 U.S.C. § 1396p, subd. (b)(1)(B)(ii)
 - ◊ At the option of the State, recovery **may** include any Medicaid services a person received at 55 years of age or older.

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State Overview

- Minn. Stat. § 256B.15
- Minnesota's Definition of Estate
- Limits on Recovery

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Minnesota's Original Recovery Statute

◆ Minn. Stat. § 256B.15 (1967)

◆ **Claims against estates.** If a person receives any medical assistance hereunder, on his death, if he is single, or on the death of such person and his surviving spouse, if he is married, and only at a time when he has no surviving child who is under 21 or is blind or totally disabled, the total amount paid for medical assistance rendered for such person, after age 65, without interest, shall be filed as a claim against the estate of such person in the court having jurisdiction to probate the estate. Such claim shall be considered an expense of last illness for the purpose of Minnesota Statutes 1965, Section 525.44. Any statute of limitations that purports to limit any county agency or the state agency, or both, to recover for medical assistance granted hereunder shall not apply to any claim made hereunder for reimbursement for any medical assistance granted hereunder.

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Minnesota's Definition of Estate

◆ Minnesota's current, expanded definition of estate includes:

- ◆ the person's probate estate;
- ◆ joint tenancy and life estate interest owned at the time of death;
- ◆ securities the person owned in beneficiary form as provided under sections [524.6.301](#) to [524.6.311](#) at the time of the person's death, to the extent the interests or proceeds of those interests become part of the probate estate under section [524.6.307](#);

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Minnesota's Definition of Estate

◆ Minnesota's current, expanded definition of estate includes:

- ◆ joint accounts, multiple-party accounts, and pay-on-death accounts, brokerage accounts, investment accounts, or the proceeds of those accounts; **and**
- ◆ assets conveyed to a survivor, heir, or assign of the person through survivorship, living trust, or other arrangements.

Minn. Stat. § 256B.15, subd. 1a(b) (2015)

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Minnesota's Definition of Estate

- ...assets conveyed to a survivor, heir, or assign of the person through survivorship, living trust, or **other arrangements**.
 - ◊ What is an **other arrangement**?
 - ◊ ...any other means by which title to all or any part of the jointly owned or marital property or interest passed from the predeceased spouse to another including, but not limited to, transfers between spouses which are permitted, prohibited, or penalized for purposes of medical assistance. Minn. Stat. § 256B.15, subd. 1a(d). 22

Populations Affected by Estate Recovery

- ◊ An MA claim for estate recovery can be made if the recipient received MA while:
 - ◊ 55 years of age or older;
 - ◊ residing in a medical institution without any reasonable expectation of returning home;
 - ◊ enrolled in General Assistance Medical Care (GAMC); **or**
 - ◊ enrolled in Alternative Care. 23

State Limits on Estate Recovery

- ◊ Limitations
 - ◊ Recovery is delayed if the MA recipient is survived by:
 - ◊ a surviving spouse,
 - ◊ a child under the age of 21, **or**
 - ◊ a child of any age who is blind or permanently disabled. 24

State Limits on Estate Recovery

◆ Limitations

◆ An MA recipient's homestead assets must be the last assets subject to recovery if the recipient is survived by a:

◆ **sibling** who resided in the MA recipient's home at least one year before the recipient's institutionalization and has continued to live in the home since the date of institutionalization.

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State Limits on Estate Recovery

◆ Limitations

◆ An MA recipient's homestead assets must be the last assets subject to recovery if the recipient is survived by a:

◆ **child or grandchild** who:

◆ resided in the recipient's home for at least two years immediately before the recipient's institutionalization and continued to live in the home since the date of institutionalization, **and**

◆ establishes that he or she provided care:

◆ to the recipient,

◆ before the recipient's institutionalization, and

◆ because of the care, the recipient was permitted to remain in the home rather than an institution.

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Other Limits on Estate Recovery

◆ Limitations

◆ Claims for Alternative Care recovery under Minn. Stat. § 256B.0913 are limited to the net of all premiums paid on or after July 1, 2003.

◆ Claims cannot be made against a recipient's life estate or joint tenancy interests created before Aug. 1, 2003.

◆ Claims against marital property interests can only be made against the estates of recipients who died on or after July 1, 2009.

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Other Limits on Estate Recovery

- ◆ Claims for MA estate recovery no longer include QMB, SLMB or QI
 - ◆ Before Jan. 1, 2010, estate recovery included recovery for the cost of services or benefits received by MA recipients who were also enrolled in:
 - ◆ the Qualified Medicare Beneficiary program (QMB),
 - ◆ the Service Limited Medicare Beneficiaries program (SLMB), or
 - ◆ the Qualified Individual program (QI).
 - ◆ Claims can still be made against the estates of recipients who died on or after Jan. 1, 2010, for any Medicare cost-sharing² benefits received before Jan. 1, 2010.

MAGI Population and Estate Recovery

- ◆ A claim for estate recovery can also be made if the recipient received MA:
 - ◆ under a MAGI (Modified Adjusted Gross Income) methodology
 - ◆ between the ages of 55 and 65.
- ◆ The Centers for Medicare & Medicaid Services (CMS) provided this guidance on Feb. 21, 2014.
- ◆ On Aug. 13, 2014, DHS issued corresponding guidance in Bulletin #14-21-03: MA Estate Claim Recovery and Undue Hardship Waivers.

MAGI Population and Estate Recovery

- ◆ Basics:
 - ◆ Claims to recover MA services under MAGI eligibility are valid against estates of recipients who received those services at 55 years old or older.
 - ◆ No recovery is allowed against estates of recipients who received long-term care (LTC) services under MAGI before the age of 55.
 - ◆ MA liens under Minn. Stat. §§ 514.980–514.985 are not allowed against recipients using LTC services under MAGI eligibility.

How Does Minnesota Recover

- ◆ Recipient's or their surviving spouse's probate estate.
- ◆ SNTs, pooled trusts, revocable trusts, joint bank accounts, brokerage accounts, investment accounts, annuities.
- ◆ Interest in real property the recipient had at the time of death (includes LE, JT and marital interest).

How Does Minnesota Recover

- ◆ Joint effort in Minnesota:
 - ◆ Counties collect in the individual's or their surviving spouse's estate.
 - ◆ Probate, Affidavit of Collections.
 - ◆ State collects on liens, annuities and trusts (pooled and SNT)
 - ◆ State provides policy and conformity with federal law.
 - ◆ Assist counties when the litigated matter has a statewide impact.

Minnesota's Lien Program for MA Recovery

- Medical Assistance Liens
- Notice of Potential Claim
- Process

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Minnesota Liens

Two types of liens are used in MN

- 1. TEFRA/pre-death liens: Known in MN as MA liens. Allowed to encumber real property while the recipient is alive and in a LTC facility. Certain restrictions apply.
- 1. Post-death lien: In MN known as Notice of Potential Claims (NPCs). Created to recover against real estate that would be outside of probate (life estate, joint tenancy). Can be filed for post death recovery.

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MA Liens

- ◆ Covered under Minnesota Statute §514.980-§514.985.
- ◆ Filed by DHS Special Recovery Unit after a request is sent by the County.
- ◆ Allowed when an individual received MA and owns property in Minnesota on or after the time when the recipient was institutionalized in:
 - ◆ a LTC facility,
 - ◆ an inpatient at a hospital, **or**
 - ◆ an intermediate care facility for persons with developmental disabilities (ICF/DD).

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MA Liens

- ◆ An MA lien attaches to, and becomes enforceable against, specific real property on the date when all of the following conditions are met:
 1. DHS has made MA payments on behalf of the recipient;
 2. DHS has obtained verification from the recipient's attending physician that the recipient cannot reasonably be expected to be discharged and return home;

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MA Liens

An MA lien attaches to, and becomes enforceable against, specific real property on the date when all of the following conditions have been met:

- 3. the recipient has been provided with notice of the lien and an opportunity for an administrative hearing (appeal);
- 4. the lien notice has been filed in the county recorder's office or memorialized on a certificate of title for the property; **and**
- 5. all restrictions against the lien's enforcement no longer apply.

MA Liens

- ◇ Homestead exceptions to attaching an MA lien:
 - ◇ The property is a homestead of the recipient's **spouse**.
 - ◇ The property was the homestead of the recipient, a **child** of the recipient resides on the property, and the child is:
 - ◇ under 21 years old,
 - ◇ permanently disabled (regardless of age), **or**
 - ◇ blind regardless of age (regardless of age). ³⁸

MA Liens

- ◇ Homestead exceptions to attaching an MA lien:
 - ◇ The property was the homestead of the recipient, and a **sibling** resided in the MA recipient's home at least one year before the recipient's institutionalization and has continued to live in the home since the date of institutionalization.

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MA Liens

- ◆ Homestead exceptions to attaching an MA lien:
 - ◆ The property was the homestead of the recipient, and a **child**:
 - ◆ resided in the recipient's home for at least two years immediately before the recipient's institutionalization and continued to live in the home since the date of institutionalization, **and**
 - ◆ establishes that he or she provided care:
 - ◆ to the recipient,
 - ◆ before the recipient's institutionalization, and
 - ◆ because of the care, the recipient was permitted to remain in the home rather than an institution. 40

MA Liens

- ◆ MA liens apply to life estates and jointly owned interest in land.
 - ◆ Collection on the lien after the MA recipient's death is only allowed on life estate and jointly owned interests created on or after Aug. 1, 2003. 41

MA Liens

- ◆ A law that allowed liens to recover Alternative Care (AC) payments was repealed, effective July 1, 2005.
 - ◆ However, this repeal did not affect counties' ability to file MA estate claims to recover AC payments for services provided to deceased recipients on and after July 1, 2003. 42

MA Liens

- ◆ Length of MA liens
 - ◆ An MA lien is enforceable for 10 years.
 - ◆ DHS may renew the lien for an additional ten years after the expiration date.

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Notice of Potential Claim (NPC)

- ◆ DHS files NPCs on recipients' interests in real property when an MA claim arises under Minn. Stat. § 256B.15.
- ◆ NPCs may be filed anytime before, or within one year after, the MA recipient dies.
 - ◆ An NPC filed before a recipient's death cannot take effect or serve as effective notice until the recipient dies.
 - ◆ An NPC filed after the recipient dies is an effective lien from the time of filing.

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Notice of Potential Claim (NPC)

- ◆ An NPC applies to all real property the recipient holds interest within Minnesota.
- ◆ Includes:
 - ◆ Sole ownership
 - ◆ Tenants in common
 - ◆ Life estate
 - ◆ Jointly held interests
 - ◆ Remember Aug. 1, 2003

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Notice of Potential Claim (NPC)

◆DHS may file an NPC on a deceased recipient's interest in real property, *even if* the recipient is survived by a:

- ◆spouse
- ◆minor child, **or**
- ◆child of any age who is totally and permanently disabled under Supplemental Security Income (SSI) criteria.

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Notice of Potential Claim (NPC)

◆Other exceptions disallowed for MA liens are allowed for NPCs:

- ◆Children who provided care
- ◆Siblings

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Notice of Potential Claim (NPC)

◆NPCs are enforceable for 20 years from the date of filing, or the date of the recipient's death, whichever is later.

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Lien Process

- ◆ Filing liens start at the county level through completing an MA lien worksheet (DHS 3203) and sending it to SRU

Minnesota Health Care Programs (MHCP)
Medical Assistance Lien and Notice of Potential Claim (NPC) Worksheet

PART I. Recipient Information/Attending Physician Information

LAST NAME: _____ FIRST NAME: _____ SSN: _____ HOME CASE # _____ PAGE # _____

SOCIAL SECURITY NUMBER: _____ DATE OF BIRTH: _____ MARITAL STATUS: _____ MA START DATE: _____ IS RECEIPT OCCASIONAL? No Yes IF WELL STATE OF DEATH (Skip to Part II)

DEATH YEAR CARE FACILITY: _____ PRICING NUMBER: _____

ATTENDING PHYSICIAN NAME: _____ PRICING NUMBER: _____

PHYSICIAN STREET ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____

PART II. Homestead Property (Submit even if Homestead is excluded for eligibility)
 Is the property Homesteaded or was homesteaded immediately prior to entering an LTC facility? Yes No (If no, skip to Part III)
 If yes, is ownership interest in Life Estate Joint Tenancy Tenants in Common Sole Ownership
 Does homesteaded exemption apply? No Yes **If yes, mark all applicable exemptions below:**
 Exemptions - Property occupied by:
 Spouse
 Child under 21 years of age OR child of any age who is blind or permanently disabled according to the Supplemental Security Income (SSI) Program or State Medical Review Team (SMRETT)
 Child who resided in the homestead for at least two years before the date the recipient received MA medical institution services, provided care that permitted the recipient to live without medical institution services AND said child continues to reside in home
 Sibling who has ownership interest

PART III. Non-Homestead Property (No MA Lien/NPC exemptions for non-homestead)
 Does the recipient have ownership interest in non-homesteaded property? Yes No (If no, skip to Part IV)
 If yes, is ownership interest in Life Estate Joint Tenancy Tenants in Common Sole Ownership

PART IV. Protected Asset Under LTC Partnership
 Has the recipient designated this property as a protected asset under LTC Partnership? No Yes
 If yes, value of asset protection is: _____

Send a copy of this worksheet AND:
 required attachments to:
 Minnesota Department of Human Services
 Special Recovery Unit, MA Liens
 P.O. Box 649975
 St. Paul, MN 55164-0975
 Phone: 651-431-5284
 Fax: 651-431-7431

REQUIRED ATTACHMENTS: Attach a copy of at least one of the following: deed, current tax statement, parcel number, legal description or address with name of county. Required for both homestead and non-homestead property.

Lien Worksheet

- ◆ The process:
 - ◆ SRU (recovery unit) receives a lien work sheet (DHS-3203) requesting lien to be filed, the recipient owns interest in real property in MN
 - ◆ Include a copy of the deed
 - ◆ Include a tax statement

Parcel Search Results Page 1 of 1
As of: 9/24/2012 Parcel Number: 23-1359-000 Payable Year: 2012

General Info | Tax Info | Current Receipts | Special Assmt | Unpaid Tax | History | Equipment

Taxpayer/Owner Information
Taxpayer #2799
General
MP #23-1359-000 Rm/Mn: REAL ESTATE
Township: 23 School: 2775 Water: 0 Fire: 0 Debt: 0 Agri: 0

Description
Sect: 5 Twp: 121 Range: 30 Lot: 0 Block: 0
BENSON-ACRE LOTS 40%
PT 1/4 OF NW 1/4 BEG AT A PT 833.8 FT N FROM THE W CORN OF BK 6, 2ND RY ADDN THEN E 300 FT THEN S 6 FT THEN E 201 FT THEN N 219.2 FT THEN W 114.4 FT THEN S 18.1 FT THEN W 268.7 FT, THEN S 134.9 FT TO THE PT OF BEG

Property Address
104-5714 STREET N

Esrow
0
Deeded Acres: 0.00

Another Search | Back to ParcelList

Legal descriptions from 4 deeds

EXHIBIT A
MEDICAL ASSISTANCE LIEN # 15756

AND

EXCEPT THESE 2 PARCELS BELOW:

That part of the Northeast Quarter of the Northeast Quarter (NE 1/4) of Section Five (5), Township One Hundred Twenty-two (122), Range Ninety-two (92), North Dakota, described as follows: Commencing at the Northwest corner of Block 100, Second Avenue Addition to the City of Bismarck, Minnesota; thence Northward on the West boundary line of 12th Street a distance of 210.8 feet to a point which is the point of beginning; thence starting at the last above mentioned point and continuing on the last above mentioned line a distance of 200.8 feet, thence at a right angle, on the right, a distance of 10 feet, thence at a right angle to the right on a line parallel to the West line of 12th Street a distance of 20.2 feet, thence at a right angle to the right a distance of 20 feet to the point of beginning, containing .16 acres more or less.

Ownership interest

County Auditor
No. 288CR301
DATE DEED TAX DUE HEREON \$ 3.20
Date: December 3, 1987
FOR VALUABLE CONSIDERATION, Myrtle G. [Signature], a single, unmarried widow (Grantor), hereby conveys and quitclaims to: Laverne L. [Signature], Helen M. [Signature], Leroy A. [Signature], Aldine S. [Signature], [Signature], [Signature], [Signature], and property in [Signature] County, Minnesota, described as follows:

South 20 acres of East-half (E 1/2) of Northeast Quarter (NE 1/4) and Northwest Quarter (NE 1/4) of Southeast Quarter (SE 1/4), Section 36, Township 105, Range 65, 4th Earth County, Minnesota.

A one-seventh (1/7) undivided interest to each of the above-named grantees.
Grantor hereby reserves a life estate for herself in the subject land.
The consideration for this conveyance is less than \$1,000.00.

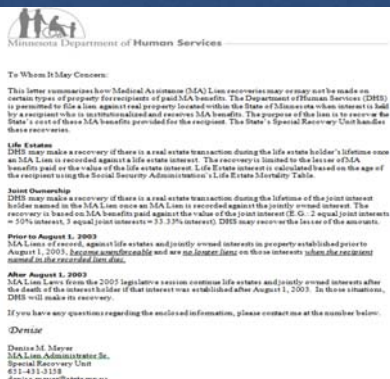
Lien Worksheet

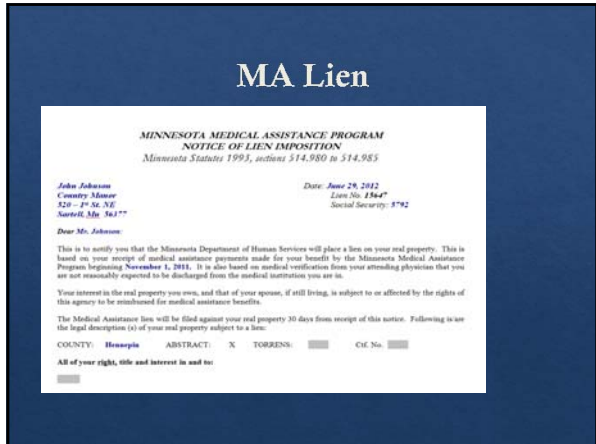
- ◆ The Process (continued):
 - ◆ SRU reviews and verifies recipients' personal information; investigates if a lien can be recorded against the recipient's interest in real property
 - ◆ If yes, SRU enters all information into the database and the file is created

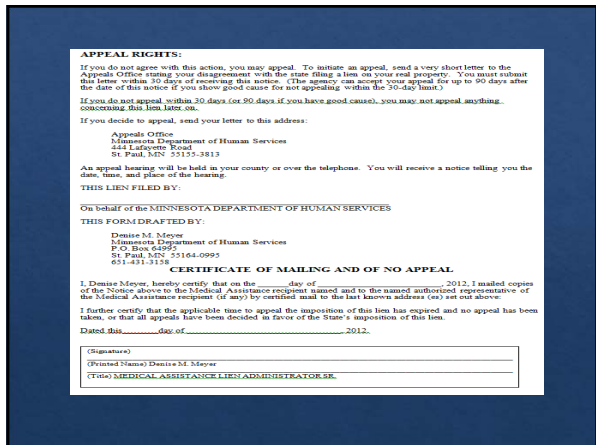
Lien Worksheet

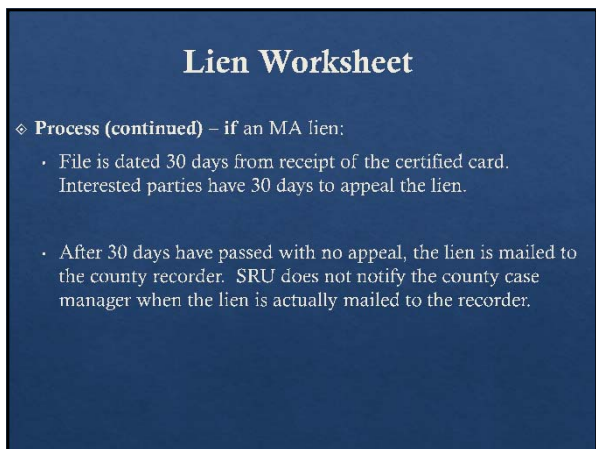
- ◆ Process (continued):
 - ◆ If it is a MA lien:
 - SRU sends a letter to the recipient's attending physician to verify that the recipient is not expected to return home. After SRU receives verification, a lien is created and 1st notice of lien imposition is sent by mail to the recipient or authorized representative and a copy to the county case manager

Letter of Explanation









Lien Worksheet

Process (continued): NPC

If an NPC is required instead of an MA lien:

- ◆ A copy of the NPC with a cover letter is mailed to the recipient, the authorized representative and county case manager. Original is sent to the county recorders office.
- ◆ The NPC becomes a lien only after the MA recipient dies and can be filed up to one year from the recipient's death.
- ◆ The NPC is governed by Statute 256B.15 and has a much greater potential for exceptions than the MA Lien. If the county has filed a claim in the estate of the deceased MA client. The State delegates the authority to recover the MA expenditures back to the county.

If no lien is allowed the county will be made aware and the reason why

Interest in Real Property DHS can Lien

- ◆ Sole Ownership
- ◆ Joint Tenancy
- ◆ Life Estate
 - ◆ Don't worry about 8/1/2003
- ◆ Tenants in Common
- ◆ Revocable Trust
- ◆ Contract for Deed

Funeral Expenses

1. Law & Policy
2. Special needs trusts
3. Pre-paid funerals
4. Reasonable Funeral Expenses

Law & Policy

- ◆ Minnesota Statute § 524.3-805 is the Classification of Claims Statute
 - ◆ Specifically § 524.3-805(a)(2) provides for reasonable funeral expenses to be paid prior to the payment of MA claims in a probate estate.
 - ◆ Liens
 - ◆ Estate claims
- ◆ Different for Special Needs and Pooled Trusts, as well as annuities.
 - ◆ Specifically, 256B.056 – Pooled Trusts
 - ◆ 501B.89 & HCPM 19.25.35.20 Special Needs Trusts
 - ◆ Do not specifically allow for the payment of reasonable funeral expenses prior to repayment to the state.
 - ◆ If such a clause then does not qualify as an SNT or valid Pooled Trust.

Trusts & Funeral Expenses

- ◆ While not in statute, it has been the policy of DHS to allow for reasonable funeral expenses to be paid from the trust prior to reimbursement to DHS.
 - ◆ It is not the practice of DHS to approve funeral costs retroactively.

Trusts Continued

- ◆ Funeral expenses must be submitted to DHS prior to payment from a SNT or Pooled Trust after the beneficiaries death for consideration of reasonable expenses.
 - ◆ Types of fees submitted to DHS include:
 - ◆ Funeral expenses
 - ◆ Administrative expenses
 - ◆ Attorneys fees
 - ◆ Trustee fees

What is Reasonable

- ◆ In the evaluation of what constitutes reasonable funeral expenses we can start by looking at Minnesota Statute § 149A.02 Definitions under the Mortuary Science statutes.
- ◆ Subd. 3a Burial site goods: "Goods sold or offered for sale or rental...in connection with final disposition of a dead human body."
- ◆ Subd. 3b Burial site services: "Any services sold or offered for sale... in connection with the final disposition of the human body"
- ◆ Subd. 21 Funeral goods: "Goods which are sold...in connection with funeral services"
- ◆ Subd. 23 Funeral Services: services which may be used to (1) care/prepare human body for burial...(2)arrange...funeral ceremony...

What is Reasonable

- ◆ What is considered reasonable can vary from county to county; culture to culture; and cost-of-living.
- ◆ Some baselines:
 - ◆ Certificate of Death: the first two
 - ◆ Grave marker/site: use estimates for prior paid markers from previous accounts within a reasonable period of time from death.
 - ◆ Obituary: Limited to one.
 - ◆ Clergy
 - ◆ Singer/Organist

*Exceptions and discretion may always be exercised based on circumstance.

What is Considered a Family Expense

- ◆ Often times families will seek reimbursement for items they would have otherwise had to pay for on their own, but for the estate or trust.
- ◆ The following are examples of family expenses*
 - ◆ Family travel and lodging expenses
 - ◆ Flowers no matter the purpose, not matter who they are from
 - ◆ Food costs (all entertainment outside of the funeral or burial proceedings)

*All are excluded unless previous arranged in a pre-paid funeral trust agreement.

Ramsey County Reasonableness

Re: Reasonable Funeral Expenses

Dear Charlotte:

Per your request: Minnesota Statute 24A.1-805 (a)(2) allows for reasonable funeral expenses to be paid prior to the payment of a claim for Medical Assistance.

If a prepaid funeral trust is set up and a dollar amount is given for any item, Ramsey County allows up to that amount to be paid from the funeral trust account.

Guidelines for reasonable amounts for funeral items (unless noted differently on prepaid trust agreement):

Certificates of Death – Cost of first two (exceptions may be made if more are necessary)
 Grave marker - \$500
 Obituary - \$250 (limited to one only)
 Clergy - \$100
 Singer and/or Organist - \$75 each

Items considered family expenses (unless specifically listed and paid for on prepaid trust agreement):

Family travel/lodging expenses – total costs
 Flowers – total costs
 Food/luncheon costs – total costs

Please feel free to contact me if you have any further questions.

Pre-paid Funeral Trusts

- ◆ There are various types of pre-paid funeral arrangements that a recipient may purchase.
- ◆ The initial evaluation of such purchases lies with eligibility.
 - ◆ Life & Annuity Burial Funds
 - ◆ Irrevocable Burial Agreements
 - ◆ Revocable Burial Agreements
 - ◆ Burial Funds

Burial Funds and Recovery

- ◆ We worry about burial funds on the back end.
- ◆ Reasonable Burial Expenses still apply.
 - ◆ When this comes up:
 - ◆ When there are additional burial funds at the time of death on the account.
- ◆ Reasonableness still applies because of Minnesota Statute § 149A.97 which states:
 - ◆ "the funds shall be distributed for the payment of the at-need funeral goods, funeral services, burial site goods, or burial site services selected, with any excess funds distributed to the beneficiary's estate".

Undue Hardships

- What you need to know

What Constitutes Undue Hardship

- ◆ One of the following exist:
 1. County's estate claim cannot be paid except by the sale of real or personal property subject to the probate proceedings for which all of the following are true for a period of at least 180 days:
 - ◆ Assets used by waiver applicant to produce income in trade/profession/occupation.
 - ◆ Assets are necessary part of applicant's trade/profession occupation.
 - ◆ Trade/profession/occupation sole source of income.
 - ◆ Applicant has worked continuously and exclusively in the trade/profession/ occupation which assets used.

What Constitutes Undue Hardship

2. The county's estate claim could not be paid except by the sale of the decedent's real estate subject to the probate proceedings for which all of the following are true:
 - ◆ Applicant actually and continuously occupied the real estate as their only dwelling place for at least 180 days prior to the date of the decedent's death and continues to do so from that date through the date of the waiver being granted.
 - ◆ Applicant has an ownership interest in the real estate and had one before the death of the decedent.
 - ◆ Homestead property.

Whole/Partial Allowance

- ◆ Counties discretion whether to:
 - ◆ Deny in whole.
 - ◆ Deny in part.
 - ◆ Example: The Farm, only farming a portion of the property and renting the other portion.
 - ◆ Allow entire waiver claim.
- ◆ After determination the county and the appeal time frame has run, the county may then proceed with the portion of its claim where it has refused to grant the waiver claim.

No Undue Hardship

- ◆ If decedent took any of the following actions and the applicant is in the position of applying for waiver based on the following:
 - ◆ Divesting/diverting assets to avoid recovery.
 - ◆ Divesting/diverting making wholly or partially unrecoverable from estate.

Death Data Match

1. Purpose
2. Location of the Report
3. Frequency of the Report
4. On-Line Instructions

Death Data Match

- ◆ December 25, 2014 DHS began placing a new report in the county's MN-IT mailbox.
- ◆ The report will be generated monthly on or about the 25th of each month
- ◆ The report identifies matches between current death certificates filed in Minnesota and people that received MA services.
- ◆ A tool to help the county collection worker identify possible claims.

Location

- ◆ Placed in the RECIPIENTFILE folder of your MN-ITS mailbox.
- ◆ The report will be named as follows:
(your NPI)_RECIPIENTFile_YYMMDD_MonthlyDeathMatch
- ◆ Login to MN-ITS and select MAILBOX

Location

The screenshot shows the MN-ITS web portal. At the top, it says "Minnesota Department of Human Services" and "MN-ITS Home". Below the header, there is a navigation menu with "MAILBOX" selected. The main content area is divided into several sections:

- MAILBOX**: Includes links for "Episodic Request (27)", "Subsidized Request (27)", "Subsidy Termination", "Subsidy Exit Claims (27)", and "Request Claim Status (27)".
- User Administration**: Includes "User Details", "COSTI Status", "SIN-Access Requests", "Health Care History", "Health Information Request", "Mailbox", "MPPF Links", "Appointment Card", "Check My Information", "Provider List (Individual PCAs)", "Provider List", "MPPF Complete List", and "Reporting/Control Claim Maintenance".
- MN-ITS**: Includes "Your access to MN-ITS functions and applications on the left menu has been tailored based on the services you provide. Your MN-ITS Administrator may further restrict your web access. Learn which functions and applications apply to your position here, and contact your MN-ITS Administrator with questions. These functions listed below represent an exhaustive list and may not appear for each user."
 - Eligibility Request (27)**: Link to determine eligibility and coverage and review all Eligibility Request (27) links apply to up to 10 requests at a time by using the Eligible Request System.
 - Administrative Request (27)**: Check and update current status.
 - Service Agreement Request (27)**: Check and update service agreement requests.
 - Subsidy Termination**: Submit your request to terminate your VFC production team, VFC treatment and maintenance (i.e., all other MA, appointment requests, etc.) terminations.
 - Subsidy Exit Claims (27)**: Submit your request to exit.
 - Request Claim Status (27)**: Check the status of your claim.
- Mailbox Subscribers**: Link to "MAILBOX".

On the right side, there are sections for "Related Pages" (including "Transitional Guide", "MPPF Termination & Claim Card", "MPPF Claims", "MPPF Exit Schedule", "MPPF Exit Subsidies", "Provider Details", "Provider History", "Link to the Social Links", and "Text Editor") and "Related Links" (including "Workforce Exchange Center", "MPPF Claims", "Questions or Comments?", and "Contact Provider Relations").

Location

◆ Use Miscellaneous Received

Mailbox Home

Use the Provider Update link (under Related Pages in the right column) to keep up-to-date. Your access to MHITS functions and applications (on the left menu, under MHITS) has been tailored based on the services you provide. Your MHITS Administrator may further restrict your user permissions. Learn which functions and applications apply to your provider type, and contact your MHITS Administrator with any questions. Help links have been provided below for the services you deliver, and Provider News for all providers. Use Quick Search to find older notices or check Provider Notices. Contact our Provider Call Center at 652.432.2702 or 1.800.366.5411 to request that we place a handwritten Notice file older than 1 year in your Archive folder.

Quick Search

Start Date: 10/01/2014 File Type: SAL HOL RECIPIENTFILE

End Date: 11/02/2014 HEALTH ID INVOLUNTARY CHMPS OHL

Search

Location

◆ Select RECIPIENTFILE

Mailbox Miscellaneous Received

Search for your authorization/service agreement letters, provider enrollment letters and other data files here, by file type (SAL=Prior Authorization Letters, SAL=Service Agreement Letters, R59A02=HCD Data, MHITS/Refillation letters, category of service changes, and enrollment status changes). To request archived files, contact our Provider Call Center at 652.432.2702 or 1.800.366.5411.

Quick Search

Start Date: 10/01/2014 File Type: SAL HOL RECIPIENTFILE

End Date: 11/02/2014 HEALTH ID INVOLUNTARY CHMPS OHL

Search

Note: You'll need [Adobe Acrobat Reader](#) to view and print PDF files. Get [Adobe Acrobat Reader](#) or get [Screening Adobe Reader](#), which is designed for people with disabilities. Follow the instructions provided.

Location

◆ Select Search to display the items within the RECIPIENTFILE

Mailbox Miscellaneous Received

Search for your authorization/service agreement letters, provider enrollment letters and other data files here, by file type (SAL=Prior Authorization Letters, SAL=Service Agreement Letters, R59A02=HCD Data, MHITS/Refillation letters, category of service changes, and enrollment status changes). To request archived files, contact our Provider Call Center at 652.432.2702 or 1.800.366.5411.

Quick Search

Start Date: 10/01/2014 File Type: SAL HOL RECIPIENTFILE

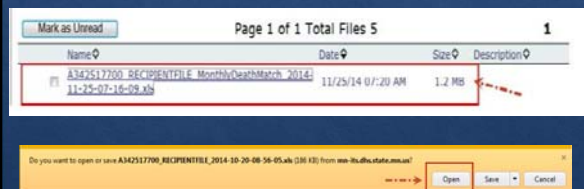
End Date: 11/02/2014 HEALTH ID INVOLUNTARY CHMPS OHL

Search

Note: You'll need [Adobe Acrobat Reader](#) to view and print PDF files. Get [Adobe Acrobat Reader](#) or get [Screening Adobe Reader](#), which is designed for people with disabilities. Follow the instructions provided.

Location

- ◆ Select the file and Open.



The Report

- ◆ The report information is listed alphabetical by the decedent's last name, with identifying information following the decedent's full name.
- ◆ The identifying information includes the person's PMI, SSN, DOB, DOD, and last known address.

Lastname	Firstname	MiddleName	PMI	SSN	DOB	DOD	ResidenceStreet	ResidenceCity	St	Zip
Anderson	ANDREW	PAUL	1234567	123456789	10/22/1987	9/29/2014	123 HIGHLAND DRIVE	BURNSVILLE	MINNESOTA	55337
Bradley	JULIA	JOANNE	00063089	987654321	6/21/1959	10/1/2014	2323 1ST AVE.	LINDSTROM	MINNESOTA	55045

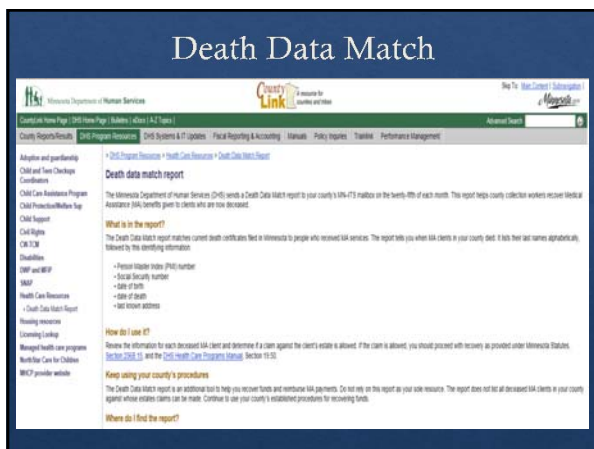
Frequency

- ◆ The report will appear in your in-box on or about the 25th of each month.
- ◆ Data from one report will not carry over to the next report for your county.
- ◆ Each County's report will include only matches for that county based on the CFR.

Instructions

- ◆ Instructions were sent out in December informing counties about the report, how to create or assign MN-ITS user access.
- ◆ You can also view the instructions on CountyLink
 - ◆ CountyLink Home page >DHS Program Resources > Health Care Resources >Death Data Match Report

Death Data Match



Scenarios

A few examples of why every case = it depends

LTC and Liens

- ◆ Husband & wife.
- ◆ Husband applies for MA LTC and is eligible.
- ◆ Husband transfers homestead to wife.
- ◆ County sends in a Lien Worksheet to SRU because of several real properties owned by the couple, some are for sale.
 - ◆ Cabin Property
 - ◆ Hunting Land-jointly held with siblings, interest established in 2002
 - ◆ Homestead
- ◆ What properties can SRU lien?
- ◆ What Type of Lien?

LTC and Liens Answer

- ◆ Homestead- unable to lien as the property is still occupied by the community spouse and the recipient transferred it to the community spouse. County is still allowed to recover against this asset after community spouse's death.
- ◆ Hunting Land- Able to place an MA lien on the property on the interest held by the recipient. Since the joint tenancy was created in 2002, the lien will be released upon death
- ◆ Cabin- Able to place an MA lien on the entire interest and will be able to collect upon the sale of the property
- ◆ No NPC Necessary

Life Estate before 8-1-03

- ◆ Widowed wife applies for MA LTC.
- ◆ Homestead was transferred to children back in 2002 and wife reserved a life estate.
- ◆ County is thinking about sending in a lien worksheet but remembers the 2003 rule and life estates.
- ◆ Should the county send in a lien worksheet?
- ◆ Would an NPC or MA lien be filed?
- ◆ What if there was the same scenario but there is a disabled child in the home?

Life Estate before 8-1-03 Answer

- ◆ The county should send in a lien worksheet. The state can still place an MA lien on the current life estate interest. If the property is sold prior to death, the state will be able to collect.
- ◆ The lien filed by the state would be an MA lien. An NPC would not be effective since it is not valid until death and after this recipient dies her life estate no longer exists.
- ◆ If there is a disabled child in the home, no lien is allowed under state and federal law.

MA Lien Filed

- ◆ Widowed wife applies for MA LTC and is approved.
- ◆ Wife has been in the institution for 2 months. She leaves a homestead worth \$300,000 with no one living in it.
- ◆ County is thinking about sending in a lien worksheet but thinks they should wait until the recipient has been institutionalized for 6 months.
- ◆ Should the county send in a lien worksheet?
- ◆ Would an NPC or MA lien be filed?

MA Lien Filed Answer

- ◆ MA liens are allowed to be filed once an individual is in an institution with no intent to return home and the home is not occupied by the following:
 - ◆ Surviving spouse, disabled child, child under 21, child who provided care or a sibling who resided in the home one year prior to institutionalization.
- ◆ Send in the worksheet once the county believes the recipient will not return home. The state will get confirmation from a physician verification.

Length of Time to File

- ◆ Over 65, Husband and Wife own a homestead together.
- ◆ Wife applies for MA and is found eligible.
- ◆ Husband applies for MA LTC and is found eligible.
- ◆ Husband dies and no NPC filed.
- ◆ Wife dies three years later and county sends in a lien worksheet 6 months after the wife's death.
- ◆ What can be filed? Who can it be filed against?
- ◆ What other options for recovery are there?

Length of Time to File Answer

- ◆ Due to the length of time after death the state received a lien worksheet, the only interest we can file against is the interest of the wife. Can file an NPC up to 1 year after death. No MA lien allowed as the husband was on LTC but the wife was still in the home.
- ◆ Other options to recover; eventually the estate will have to administer the assets as the home needs a new title owner and the county would submit a claim for MA reimbursement for both husband and wife.

Living Disabled Child

- ◆ Over 65, Husband and Wife own a homestead together.
- ◆ Wife applies for MA and is found eligible.
- ◆ Husband applies for MA LTC and is found eligible.
- ◆ Husband dies and no NPC filed.
- ◆ Wife dies three years later and is survived by 3 children, one of whom is disabled and living in the home.
- ◆ Probate is commenced by the family.
- ◆ What can be filed? Who can it be filed against?
- ◆ What other options for recovery are there?

Living Disabled Child Answer

- ◆ A claim for reimbursement for MA is allowed for both individuals (husband and wife) but delayed until the disabled child is no longer living. See 256B.15, Subd 3
- ◆ Due to the length of time after death of the husband, the only interest the state can file an NPC against is the interest of the wife. Can file an NPC up to 1 year after death. No MA lien allowed as the husband was on LTC but the wife was still in the home.
- ◆ Other options to recover; file a claim in the estate and request a PR lien to be filed against the home for the entire amount (husband and wife MA received). Interest will be allowed and recovery would be allowed when there is no longer a living disabled child.

Contact SRU

Property Liens:

A-G Jan Curran	651-431-3154
H-M Denise Meyer	651-431-3158
N-R Greg Lulic	651-431-3152
S-Z Kelly Buckley	651-431-3115

Policy Questions:

Dale Klitzke	651-431-3108
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Questions