

IMPORTANT NOTICE

MEDICAID ESTATE RECOVERY CLAIM

_____ DATE

RE: _____

This is **NOTICE** that North Carolina General Statute § 108A -70.5 authorizes Medicaid to **file** a claim against the estate of the person named above. Attached to this notice is an invoice itemizing the amount of Medicaid payments subject to recovery. It is the responsibility of the executor/administrator/legally authorized representative of the estate to notify each individual who will be affected by this claim and explain the following provisions:

There are some circumstances when Medicaid will not pursue collection. Recovery will be waived when:

- ▶ The total assets in the estate are less than \$50,000, **OR**
The total Medicaid payments subject to recovery is less than \$10,000.

There are some circumstances when your estate can be deferred:

- ▶ When the spouse of the Medicaid beneficiary is still living; or,
When the Medicaid beneficiary has a surviving child, who is under age 21, or
When the Medicaid beneficiary has a surviving child of any age who is blind or disabled as provided in 42 U.S.C. § 1396p(b)(2)(A); or
When a qualified undue hardship applicant continues to meet the undue hardship criteria.

Please refer to the back of this notice for a definition of undue hardship and directions to make a claim of undue hardship.

If you have questions about anything in this notice, contact the Medicaid Eligibility Unit. If you have a specific question regarding the invoice or collection process, contact the Third-Party Recovery Section (TPR) at Medicaid. Both can be reached toll free at 1-888-245-0179.

Caseworker Signature

In order for a claim of undue hardship to be granted, the qualified undue hardship applicant must meet all of the requirements for at least one of the three following undue hardship definitions:

1. Real or personal property included in the estate of the deceased Medicaid beneficiary pursuant to North Carolina General Statute § 28A-15-1 meets the following conditions:
 - a. The property is the sole source of income for a qualified undue hardship applicant and their spouse and related family members in their household, and
 - b. The gross income available to the qualified undue hardship applicant and their spouse and related family members in their household is below 200 percent of the federal poverty level, **or**
2. Recovery would result in the sale of real property included in the estate of the deceased Medicaid beneficiary pursuant to North Carolina General Statute § 28A-15-1 meets the following conditions:
 - a. The qualified undue hardship applicant is residing on and has continuously resided on the real property since the decedent's death and
 - b. The qualified undue hardship applicant resided on the property for at least 12 months immediately prior to and continuously until the date of the decedent's death; and
 - c. The gross income available to the qualified undue hardship applicant and their spouse and related family members in their household is below 200 percent of the federal poverty level; and
 - d. The assets of the qualified undue hardship applicant and their spouse and related family members of their household are valued below twenty-five thousand dollars (\$25,000), **or**
3. Recovery would result in the sale of real property included in the estate of the deceased Medicaid beneficiary pursuant to North Carolina General Statute § 28A-15-1 meets the following conditions:
 - a. The qualified undue hardship applicant owns a tenancy in common interest of at least 25% in the real property, as evidenced by a valid and properly recorded deed; and
 - b. The qualified undue hardship applicant's ownership interest in the real property was acquired at least 24 months prior to the Medicaid beneficiary's death, as evidenced by a valid and properly recorded deed; and
 - c. The real property has a value of less than \$100,000 determined as follows:
 - (1) By the most current County tax assessment value of the property; or
 - (2) By an appraisal of the property, obtained at the expense of the qualified undue hardship applicant, by an appraiser licensed by and in good standing with the North Carolina Appraisal Board; and
 - d. The qualified undue hardship applicant is residing on and has continuously resided on the real property since the decedent's death; and
 - e. The qualified undue hardship applicant resided on the real property for at least 12 months immediately prior to and continuously until the date of the decedent's death; and
 - f. The gross income available to the qualified undue hardship applicant and their spouse and related family members in their household is below 200 percent of the federal poverty level; and
 - g. The assets of the qualified undue hardship applicant and their spouse and related family members in their household, excluding the qualified undue hardship applicant's tenancy in common interest in the real property, are valued below twenty-five thousand dollars (\$25,000).

An undue hardship waiver or deferral applies only during the lifetime of the qualified undue hardship applicant and only as long as the qualified undue hardship applicant continues to meet the criteria for one of the undue hardship definitions.

A claim of undue hardship must be made within **60** days of the date of the notice of the Medicaid claim. The executor or qualified undue hardship applicant may contact the HMS Estate Recovery Unit at 1-866-455-0109 to

obtain an Application for Undue Hardship Waiver of North Carolina Medicaid Estate Recovery. The completed application with supporting documentation stated on the application should be sent to:

The Division of Health Benefits
Estate Recovery Administrator
2508 Mail Service Center
Raleigh, North Carolina 27699-2508

If documentation necessary to evaluate the claim is not provided or the undue hardship applicant requests additional time to obtain the documentation, the estate recovery administrator may extend the review for an additional 30 calendar days. If necessary documentation is not provided within the time frame, the claim will be denied.

The estate recovery administrator will notify the undue hardship applicant, the executor, and/or the clerk of court of the decision in writing.

If the undue hardship applicant disagrees with the decision on the claim of hardship, they may appeal to the Office of Administrative Hearings (OAH) within 60 calendar days from receipt of the decision. If no appeal to OAH is filed, the decision is final.