

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
Jacob K. Javits Federal Building
26 Federal Plaza
Room 37-100
New York, New York 10278-0063



September 20, 2012

Jason A. Helgeson, Deputy Commissioner
Office of Health Insurance Programs
New York State Department of Health
Corning Tower (OCP-1211)
Empire State Plaza
Albany, New York 12237

Dear Mr. Helgeson:

We have completed our review of New York State Plan Amendment submittal 12-17, "Eliminate the expanded definition of "estate" and define the term "estate" to include all real and personal property and other assets within an individual's estate and passing under the terms of a valid will or by intestacy" (Attachment 4.17-A, Page 1) and find it acceptable for incorporation into New York's Medicaid Plan, effective April 1, 2012. Enclosed please find copies of State Plan Amendment 12-17 and Form CMS-179.

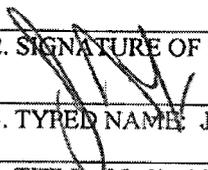
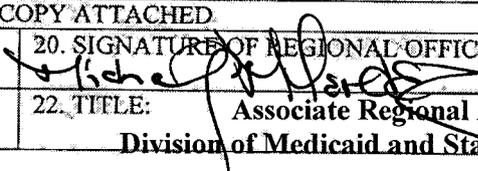
If you have any questions or wish to discuss this further, please contact Patricia Ryan of my staff at 212-616-2436.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Melendez". The signature is written in a cursive style and is positioned above the printed name.

Michael Melendez
Associate Regional Administrator
Division of Medicaid and Children's Health

Enclosures

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| TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: HEALTH CARE FINANCING ADMINISTRATION | | 1. TRANSMITTAL NUMBER: #12-17 | 2. STATE New York |
| | | 3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID) | |
| TO: REGIONAL ADMINISTRATOR HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES | | 4. PROPOSED EFFECTIVE DATE April 1, 2012 | |
| 5. TYPE OF PLAN MATERIAL (Check One): <input type="checkbox"/> NEW STATE PLAN <input type="checkbox"/> AMENDMENT TO BE CONSIDERED AS NEW PLAN <input checked="" type="checkbox"/> AMENDMENT COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment) | | | |
| 6. FEDERAL STATUTE/REGULATION CITATION: Section 1902(a)(18) of the Social Security Act and 42 CFR 433.36 | | 7. FEDERAL BUDGET IMPACT: a. FFY 04/01/12-09/30/12 \$0 b. FFY 10/01/12-09/30/13 \$0 | |
| 8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Attachment 4.17-A: Page 1 **SEE REMARKS BELOW | | 9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): Attachment 4.17-A: Page 1 | |
| 10. SUBJECT OF AMENDMENT: Eliminate the expanded definition of "estate" and define the term "estate" to include all real and personal property and other assets within an individual's estate and passing under the terms of a valid will or by intestacy. (FMAP = 50%) | | | |
| 11. GOVERNOR'S REVIEW (Check One): <input checked="" type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input type="checkbox"/> OTHER, AS SPECIFIED: <input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL | | | |
| 12. SIGNATURE OF STATE AGENCY OFFICIAL:  | | 16. RETURN TO: New York State Department of Health Corning Tower Empire State Plaza Albany, New York 12237 | |
| 13. TYPED NAME: Jason A. Helgerson | | | |
| 14. TITLE: Medicaid Director & Deputy Commissioner Department of Health | | | |
| 15. DATE SUBMITTED: JUN 28 2012 | | | |
| FOR REGIONAL OFFICE USE ONLY | | | |
| 17. DATE RECEIVED: | | 18. DATE APPROVED: September 20, 2012 | |
| PLAN APPROVED - ONE COPY ATTACHED | | | |
| 19. EFFECTIVE DATE OF APPROVED MATERIAL: April 01, 2012 | | 20. SIGNATURE OF REGIONAL OFFICIAL:  | |
| 21. TYPED NAME: Michael Melendez | | 22. TITLE: Associate Regional Administrator Division of Medicaid and State Operations | |
| 23. REMARKS: **By means of this SPA, New York State proposes to eliminate the expanded definition of "estate" and define the term "estate" to include all real and personal property and other assets included within an individual's estate and passing under the terms of a valid will or by intestacy. | | | |

OFFICIAL

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: New York.

1. The State uses the following process for determining that an institutionalized individual cannot reasonably be expected to be discharged from the medical institution and return home:

See Supplement 4.17-A

2. The following criteria are used for establishing that a permanently institutionalized individual's son or daughter provided care as specified under regulations at 42 CFR 433.36(f):

A son or daughter can establish that he or she has been providing care which permitted the individual to reside at home by submitting evidence that he or she made arrangements or actively participated in arranging for care, either directly or indirectly, full-time or part-time.

3. The State defines the terms below as follows:

- estate: includes all the individual's real and personal property and other assets passing under the terms of a valid will or by intestacy. [Pursuant to regulations adopted by the Commissioner of Health, which may be promulgated on an emergency basis, an individual's estate also includes any other property in which the individual has any legal title or interest at the time of death, including jointly held property, retained life estates, and interests in trusts, to the extent of such interests; provided, however, that a claim against a recipient of such property by distribution or survival shall be limited to the value of the property received or the amount of medical assistance benefits otherwise recoverable pursuant to Section 1902(a)(18) of the Social Security Act, whichever is less.]
- individual's home: the former principal place of residence owned by the permanently institutionalized individual or the deceased recipient.
- equity interest in the home: an individual's right to the use of and share in the proceeds from the sale of the property, as demonstrated by the presence of his/her name on the title.
- residing in the home for at least one or two years on a continuous basis: and evidence that the relative was in residence on a regular basis for the continuous one or two years.
- lawfully residing: the fact of the son or daughter's presence in the home as evidenced by postal, motor vehicle, or voting records or by the testimony of a neighbor or other party.

TN#: #12-17

Approval Date: SEP 20 2012

Supersedes TN#: #11-42

Effective Date: APR 01 2012