



State of New Jersey

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

CHRIS CHRISTIE
Governor

P.O. Box 712
Trenton, NJ 08625-0712

ELIZABETH CONNOLLY
Acting Commissioner

KIM GUADAGNO
Lt. Governor

MEGHAN DAVEY
Director

MEDICAID COMMUNICATION NO. 17-14

DATE: October 17, 2017

TO: NJ FamilyCare Eligibility Determining Agencies

SUBJECT: Incorrect Payment Recovery and Payment Process
(Replaces Medicaid Communication #13-05)

Pursuant to N.J.A.C. 10:49-14.4, the relevant portion of which is attached, County Welfare Agencies (CWAs) are responsible for identifying and initiating recovery of payments made during a period of ineligibility.

Below is the procedure for initiating recovery from Medicaid beneficiaries and/or other responsible parties which is mandated in N.J.A.C. 10:49-14.4:

1. Identify the overpayment period of the Medicaid beneficiary.
2. Contact the IPB Analyst (currently John Persicketti) at the Division of Medical Assistance and Health Services (DMAHS), Office of Legal and Regulatory Affairs (OLRA), with the dates of ineligibility in order to obtain the amount to be recovered. Please use Attachment 4, the revised DMAHS County Recoveries Request Form, for this purpose. The phone number is 609-588-2664 and the fax number is 609-588-7343. When requesting an updated recovery figure in a case previously submitted on this form, please add the words "Updated Request" to the new form.
3. When the CWA identifies a case in which excess resources and/or income exist, the CWA must promptly terminate the case. If the CWA has discovered that the recoverable resource has been transferred in a Long Term Care/Home & Community Based waiver case, a transfer penalty must be calculated and assessed.

4. The CWA Case worker shall then follow up with an adverse action letter, alerting the beneficiary of his/her transfer penalty or case termination, along with an incorrectly paid benefits letter detailing the amount of incorrectly paid benefits due from the beneficiary, and repayment instructions.
5. In accordance with N.J.S.A. 30:4D-7.i, incorrectly paid benefits letters should also be sent to any other party or parties whose action or inaction resulted in the incorrectly paid benefits, or who received the benefit of a transfer of assets for inadequate consideration. Such parties could include family members, other relatives and fiduciaries, such as guardians or trustees.
6. Following the mailing of the first incorrectly paid benefits letter, the CWA Case Worker will wait 30 calendar days. If there is no response received, a second incorrectly paid benefits letter will be sent to the beneficiary and/or other responsible party.
7. If, after two weeks, there is no response to the second letter, the CWA must complete the Incorrectly Paid Benefits Case Information Form (attached) and forward the case and any necessary information to the following address: Division of Medical Assistance and Health Services, PO Box 712, Mail Code 5, Trenton, NJ 08625, Attn: Catherine Z. Gancarz, Supervising Medical Review Analyst, Beneficiary Administrative Action Unit, Office of Legal and Regulatory Affairs.
8. If there is evidence of potential fraud or other crime(s), the CWA should refer the matter to the county prosecutor in accordance with existing procedures in effect between the CWA and the County Prosecutor's Office. Similarly, in cases referred to OLRA that involve potential fraud, OLRA reserves the right to refer the matter to the Medicaid Fraud Division within the Office of the State Comptroller, and/or to the N.J. Division of Criminal Justice.

Below is the procedure relating to repayment of incorrectly paid benefits:

1. CWAs will send in any payments received from an incorrectly paid benefits case to the State for processing. A check, made payable to Treasurer, State of NJ, should be sent in monthly to:

Division of Revenue
Lockbox 656
200 Woolverton Ave., Bldg. 20
Trenton, NJ 08646.
2. Each payment must come with a detailed description of the payment, including the case number, name of beneficiary, date of birth, and social security number.

3. If the procedures listed above have been followed, CWAs should deduct an incentive fee of 25% of the gross recovery from the amount they received.
4. CWAs are responsible for monitoring repayment plans. If an individual has begun a payment plan at the county level and those payments stop or become infrequent, the CWA must follow-up with the beneficiary or other responsible party. If there is no response following CWA case follow-up, the case should be referred to OLRA.

Please note that we are now requiring that you inform DMAHS of the outstanding balance and the ineligibility period for every case. It is important that the ineligibility period be entered. A Medicaid beneficiary may have more than one ineligible period.

PLEASE NOTE: CWAs will continue to receive their 25% incentive payment for participating in the incorrect payment recovery process, even when the case is sent to OLRA for collection, if they follow the above-mentioned procedures. Cases sent to OLRA for collection will be evaluated by OLRA staff to determine if recovery is warranted based on the evidence and the law. If it is determined that recovery should be pursued, OLRA will either handle the recovery, or will refer the matter to the N.J. Department of Treasury, Division of Revenue and Enterprise Services (DORES) for collection.

As part of its collection efforts, DORES will withhold any state income tax refunds and homestead rebates due to the party against whom recovery is sought.

Voluntary repayments made by beneficiaries or their representatives do not result in a 25% fee to the CWA, and must be sent in full to Division of Aging Services - Provider Relations; Bldg. 12 Rm B-02; PO Box 712; Trenton NJ 08625-0712.

If you have any questions regarding this Medicaid Communication, please refer them to the Division's Office of Eligibility Policy field service staff member for your agency at 609-588-2556.

MD:jm

c: Elizabeth Connolly, Acting Commissioner
Department of Human Services

Jonathan Seifried, Acting Assistant Commissioner
Division of Developmental Disabilities

Joseph Amoroso, Director
Division of Disability Services

Natasha Johnson, Director
Division of Family Development

Laura Otterbourg, Director
Division of Aging Services

Cathleen D. Bennett, Commissioner
Department of Health

Valerie L. Mielke, Assistant Commissioner
Division of Mental Health and Addiction Services

Allison Blake, Commissioner
Department of Children and Families

Attachment 1

§ 10:49-14.4 Recoveries involving a county welfare agency (CWA) (2017)

(a) The purpose of this section is to define areas of responsibility and establish basic principles and procedures in those collection activities in which the Division of Medical Assistance and Health Services (DMAHS), the Division of Family Development (DFD) and/or a county welfare agency (CWA) may be involved. It is intended that maximum conservation of public funds be effected without duplication of effort. It is recognized that certain situations may fall into more than one of the following categories. Any such matter will be processed in accordance with the provisions of the first occurring applicable category.

(b) The following pertain to incorrectly granted assistance (cash and/or medical assistance):

1. In instances involving incorrect eligibility for medical assistance, whether or not in combination with cash assistance, the CWA shall determine the period(s) of ineligibility and ascertain from DMAHS the amount of medical assistance incorrectly granted. The CWA shall then attempt recovery of medical assistance incorrectly granted either by administrative collection, or by way of restitution in a criminal or disorderly persons proceeding.

i. Recoveries or attempts at recoveries can be made from those persons specified in N.J.S.A. 30:4D-7i.

2. When recovery cannot be obtained by these methods in a case generated by the Internal Revenue Service (IRS) unearned income component of the Income and Eligibility Verification System (IEVS), the case shall be referred by the CWA to DMAHS for possible initiation of recovery proceedings.

3. When, in any other case not generated by IEVS, recovery cannot be obtained by these methods, the CWA is authorized, after securing DMAHS approval, to initiate recovery proceedings as DMAHS' agent. If the CWA does not initiate such recovery proceedings, it shall refer the case to DMAHS for possible initiation of recovery proceedings.

4. When collection occurs in a case involving both cash assistance and medical assistance, the CWA shall, in the absence of court instruction to the contrary, apply the proceeds to the repayment of cash assistance and the reimbursement of DMAHS for medical assistance. The reimbursement shall be made payable to the Treasurer, State of New Jersey, which shall then reimburse the CWA in the amount of 25 percent of the gross recovery on a periodic basis to be determined by DMAHS.

5. When a CWA recovers only for medical assistance improperly granted, the CWA shall remit the proceeds to DMAHS. The reimbursement shall be made payable to the Treasurer, State of New Jersey, who will then reimburse the CWA in the amount of 25 percent of the gross recovery on a periodic basis to be determined by DMAHS.

6. When any CWA action, whether alone or in combination with DMAHS, results in a recovery of improperly granted medical assistance from a case generated by the Internal Revenue Service (IRS) unearned income component of the IEVS match, all funds

recovered shall be remitted to DMAHS payable to the Treasurer, State of New Jersey, which shall then reimburse the CWA in the amount of 25 percent of the gross recovery on a periodic basis to be determined by DMAHS.

* * *

(d) The following pertain to liquidation of potential resources:

1. The CWA will participate in the liquidation of potential resources according to the Program requirements under which eligibility has been established, regardless of whether cash assistance is being granted. Notification of the potential resource to be liquidated shall be forwarded to DHSS, enabling it to seek a voluntary contribution. Sale of real property to which title is held by a CWA is subject to DFD approval in all instances regardless of the proposed distribution of the proceeds.

2. All funds arising from the liquidation of resources and which, by action of law, regulation, or agreement with the owner, fall under the jurisdiction of either a CWA or DHSS for distribution will, insofar as possible, be allocated as follows:

i. Proceeds will be first applied to the cash costs of liquidation, such as advertising costs and filing fees, but not including costs, such as CWA staff time, supplies, counsel fees or overhead.

ii. Proceeds will be next applied to any claims superior to that of the CWA (for example, taxes).

iii. Proceeds will be next applied to any funds owing to and collectible by the CWA.

iv. Any residue remaining after the above payments are allocated would, in the absence of circumstances to the contrary, be the property of the client and thereby subject to (d)3 below.

3. All funds properly belonging to a beneficiary free of any agency claim are to be remitted to the beneficiary as promptly as possible or otherwise disbursed at the beneficiary's instruction. The CWA will promptly reevaluate eligibility following such distribution, taking into consideration any voluntary repayment to the New Jersey Medicaid or NJ FamilyCare program.

(e) The following pertains to recovery from estates of deceased beneficiaries:

1. The CWA shall normally undertake recovery activity as agent for DMAHS in any case in which the CWA is or will be undertaking activities on its own account. However, in those cases where the recovery of medical assistance is possible and where the entire CWA claim is for burial expenses only, DMAHS shall initiate recovery activity inclusive of CWA burial costs. DMAHS may, in certain cases, assume direct jurisdiction in recovery of its claim concurrent with CWA activity. DMAHS shall make the CWA aware of its activity in such cases.

2. CWA recoveries and distribution shall be in accord with the following procedures:

i. From the proceeds of liquidation, the CWA shall first recover the amount necessary to satisfy its own claim, including costs of liquidation and the claims of other New Jersey CWAs. The CWA shall recover funds from the clearing account in the order in which the funds were received in the clearing account. If any part of any remaining surplus has been received from the proceeds of assigned life insurance for which there was a named beneficiary other than the client's estate, that surplus or the policy benefit, whichever is less, is the property of the beneficiary and should be so directed.

ii. All other surplus funds are part of (or the entire) the client's estate and are payable to the legally designated representative of the estate. If the representative of the estate is unknown or if no representative has been appointed and there are no known next of kin, the CWA shall forward to the DMAHS an amount not to exceed the amount of the proper medical assistance claim as determined by communication with the Administrator, Bureau of Administrative Control, DMAHS. Any remaining funds will escheat to the State of New Jersey.

iii. When there are known next of kin, the CWA shall request the next of kin to take appropriate legal action to be appointed administrator if the amount to be disbursed is greater than the claim of the New Jersey Medicaid or NJ FamilyCare program. If the claim of the New Jersey Medicaid or NJ FamilyCare program will equal or exceed the estate, the CWA shall request the next of kin to sign a consent to transfer his or her rights to the New Jersey Medicaid or NJ FamilyCare program and, upon receipt of such signed consent, the CWA shall forward the funds to DMAHS.

iv. When the next of kin will not sign a consent to transfer his or her right to the Medicaid Agent and DMAHS and will not file to become the administrator, the CWA may, at its option, arrange for someone to file to become administrator or the CWA may refer the information to DMAHS for action.

v. In any questions or dispute among two or more claimants on surplus funds, the CWA shall withhold payment pending resolution by mutual consent of all claimants or by court order.

3. The Medicaid Agent or DMAHS recoveries and distribution shall be in accordance with the following procedures:

i. DMAHS shall undertake recovery activity in medical assistance payment cases in which no CWA shall be submitting a claim. However, should information from the CWA be necessary to such DMAHS activity, the CWA shall communicate with DMAHS, supplying such material as may be required.

ii. In cases in which DMAHS is acting for a CWA in collection of burial expenses, DMAHS shall accord payment of the burial claim priority over its own recovery.

* * *

(g) Regarding compromise settlements:

1. Compromise settlements of cash assistance are subject to DFD approval.

2. Compromise settlements of medical assistance are subject to DMAHS approval.

(h) This section shall apply to all pending and future recovery cases, except that:

1. The 25 percent incentive payments provided for in (b)4 and 5 above shall apply to all non-IEVS incorrect payment recoveries received by the CWA on or after July 1, 1993.

2. Paragraph (b)6 above applies to all IEVS-related recoveries received on or after July 1, 1989 by either DMAHS or the CWA, whichever agency is handling the recovery.

Attachment 2

Links to free real property ownership websites:

- New Jersey Association of County Tax Boards: <http://www.njactb.org/> (click on "Record Search") (Allows searches by municipality and county)
- Asbury Park Press
website: <http://php.app.com/agent/propertyassessments/search>
- NJ Parcels: <http://njparcels.com/property/> (allows searches by municipality, county and statewide)

Links to online county databases containing NJ real property records:

- Atlantic County: http://24.246.110.8/or_web1/disclaim.asp
- Burlington County:
<http://press.co.burlington.nj.us/PRESS/clerk/ClerkHome.aspx?op=basic>
- Camden County: <http://www.camdencounty.com/service/county-clerk/online-property-records/>
- Cape May County: <http://clerk.capemaycountynj.gov/landrecords/>
- Gloucester County: <http://i2e.uslandrecords.com/NJ/Gloucester/D/Default.aspx#>
- Mercer County: http://records.mercercounty.org/RecordsNG_Search/
- Middlesex County: <https://mcrecords.co.middlesex.nj.us/records/index.jsp>
- Monmouth County:
<http://oprs.co.monmouth.nj.us/oprs/clerk/ClerkHome.aspx?op=basic>
- Morris County: http://mcclerksng.co.morris.nj.us/recordsng_web/default.aspx
- Ocean County: <http://sng.co.ocean.nj.us/searchapplication/>
- Passaic County: <http://records.passaiccountynj.org/press/indexPassaic.aspx>
- Somerset County: <https://ccsearch.co.somerset.nj.us/>
- Sussex County:
<https://sussex.landrecordsonline.com/sussex/templates/disclaimer.html>
- Union County: <http://clerk.ucnj.org/UCPA/DocIndex>

Attachment 3

Incorrectly Paid Benefits Case Information Form

Name of CWA: _____

Beneficiary's Name: _____

Identification Number(s): _____

Beneficiary's Program (Medicaid, NJ FamilyCare, Other): _____

Date of Birth: _____ SSN: _____

Beneficiary Address: _____

Telephone Number: _____

Marital Status: Married Divorced Widowed Single

Authorized Agent, Power-of Attorney, Guardian or other Fiduciary's Name, Address and Contact Information (If Applicable): _____

Period of Ineligibility: From: _____ To: _____

Total Amount of Incorrectly Paid Benefits Calculated by DMAHS \$ _____,

As of (DATE) _____.

Date of Termination of Eligibility (If Applicable): _____

Reasons for Incorrectly Paid Benefits:

Excess Resources

Are these resources currently available to satisfy a recovery? Yes No

If yes, please list asset, including the value (House, annuity, etc. and any relevant information, name of bank, address of home or other real property, etc.):

Unreported/Excess Income

Source of Income and amount of unreported income:

Transfer Penalty

Dates of Penalty Period: From: _____ To: _____

Other: _____

Does this Beneficiary have any additional assets? Yes No

Comments: _____

Is someone other than, or in addition to, the Beneficiary responsible for causing the overpayments? Yes No If yes, please state the name and address of the individual, and the individual's relationship to the beneficiary (family member, relative, friend, guardian, power-of-attorney, etc.) _____

County Contact's Name: _____

County Contact's Phone Number: _____

County Contact's Fax Number: _____

County Contact's Email Address: _____

FOR DMAHS INTERNAL USE ONLY:

Date case sent to Division of Revenue: _____

Employee who processed case: _____

Forward copies of county collection letters, relevant application(s), adverse action letter along with all information pertaining to assets, if applicable (examples: annuity documentation or contact information, bank statements, documentation relating to real property, etc.). **PLEASE NOTE THAT AT LEAST TWO COLLECTION LETTERS MUST BE SENT OUT BY THE COUNTY IN ORDER TO QUALIFY FOR THE 25% INCENTIVE FEE.**

**DMAHS County Recoveries Request
DMAHS Office of Legal and Regulatory Affairs. FAX: (609) 588-7343**

<input type="checkbox"/> Atlantic County	<input type="checkbox"/> Bergen County	<input type="checkbox"/> Burlington County
<input type="checkbox"/> Camden County	<input type="checkbox"/> Cape May County	<input type="checkbox"/> Cumberland County
<input type="checkbox"/> Essex County	<input type="checkbox"/> Gloucester County	<input type="checkbox"/> Hudson County
<input type="checkbox"/> Hunterdon County	<input type="checkbox"/> Mercer County	<input type="checkbox"/> Middlesex County
<input type="checkbox"/> Monmouth County	<input type="checkbox"/> Morris County	<input type="checkbox"/> Ocean County
<input type="checkbox"/> Passaic County	<input type="checkbox"/> Salem County	<input type="checkbox"/> Somerset County
<input type="checkbox"/> Sussex County	<input type="checkbox"/> Union County	<input type="checkbox"/> Warren County

Date of Request:	
County Contact Name:	
County Contact Title:	
County Contact Telephone:	
County Contact FAX:	
County Contact Email Address:	

Please provide **Program Expenditures** for the following client:

First & Last Name:	
Client ID# (Including Person #):	_____ - ____
Social Security #	____ - ____ - _____
Date of Birth	__ / __ / _____
Date of Death (if applicable)	__ / __ / _____
Dates of ineligibility:	__ / __ / _____ thru __ / __ / _____
Resource Amt. <input type="checkbox"/> Actual or <input type="checkbox"/> Estimate	\$ _____
Reasons for ineligibility:	

All payments made during an ineligible period are subject to reimbursement pursuant to N.J.S.A. 30:4D-7.i.

Should you have any additional questions or require additional information, please contact John Persicketti of DMAHS, Office of Legal and Regulatory Affairs, by email at John.Persicketti@dhs.state.nj.us or by FAX at (609) 588-7343. If you have any further questions John can be reached at (609)588-2664.