

## Medicaid Estate Recovery Program

**A. Provide the following information at the beginning of each program description.**

<b>Name of Program or Function</b>	Medicaid Estate Recovery Program
<b>Location/Division</b>	701 W. 51 <sup>st</sup> Street, Austin, TX 78751/ Access & Intake Division
<b>Contact Name</b>	Elisa J. Garza, Assistant Commissioner for Access & Intake
<b>Actual Expenditures, FY 2012</b>	Actual expenditures are captured with actual expenditures for Access, Intake and Eligibility Services in Section VII.
<b>Number of Actual FTEs as of June 1, 2013</b>	FTEs are allocated to Access & Intake.
<b>Statutory Citation for Program</b>	Social Security Act § 1917(b)(1) [42 U.S.C. §1396p(b)(1)]; Texas Government Code § 531.077.

**B. What is the objective of this program or function? Describe the major activities performed under this program.**

In 1993, the federal government enacted legislation that required each state to develop a Medicaid Estate Recovery Program. The federal law requires state Medicaid programs to recover a portion of the money spent on services provided to long-term Medicaid recipients. Under this program, the state may file a claim against the estate of a deceased Medicaid recipient, age 55 and older, who applied for certain long-term care services on or after March 1, 2005. HHSC delegates responsibility for implementing this law to DADS. Through a competitive bidding process, DADS contracted with a private entity to administer the claims filing process. DADS retains responsibility for contract oversight, determinations on program policy issues, and public educational efforts.

Claims include the cost of services, hospital care, and prescription drugs supported by Medicaid under the following programs:

- Nursing Facility;
- ICF/IID (includes State Supported Living Centers);
- Community Attendant Services;
- Deaf-Blind with Multiple Disabilities;
- Community Living Assistance and Support Services;
- Home and Community-based Services;
- Texas Home Living Program;

- Community Based Alternative;
- Community Attendant Services; and
- STAR+PLUS.

For more detailed information, the public can visit the DADS internet website at: [www.dads.state.tx.us/services/estate\\_recovery/index.html](http://www.dads.state.tx.us/services/estate_recovery/index.html).

**C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.**

During FY 2012, the Medicaid Estate Recovery Program contractor created, researched, and processed approximately 17,833 estate cases. During this same period, the contractor sent 32,741 introductory letters to identified estates and sent 32,206 claim letters. Because of these efforts, DADS recovered \$6,086,808 in claims. The total amount recovered since March 2005 is \$25.2 million.

**D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.**

Significant services and functions of this program have changed, including:

- 2010 As of April 2010, the program ceases requiring the current contractor to perform creditor administration. DADS delegates the claims deduction process to the contractor.
- 2011 The revised Request for Proposal, effective January 1, 2011, delegates standard hardship determinations to the contractor.

**E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.**

The Medicaid Estate Recovery Program applies only to:

- services provided to individuals who are age 55 or older; and
- individuals who apply for the long-term services and supports on or after March 1, 2005.

Claims include the cost of services, hospital care, and prescription drugs supported by Medicaid under one of the programs listed in Section B above.

The recovery of the estate is limited to the amounts of assets remaining in the estate at the

time of the recipient's death after subtraction of higher priority claims (e.g., claims for burial expenses, last medical expenses, Internal Revenue Service obligations, etc.). The contractor will file a Medicaid estate recovery claim only when it is cost-effective. Claims will **not** be filed when the:

- recipient's spouse is alive;
- recipient's living child is under 21 years of age;
- recipient's living child of any age is blind or permanently and totally disabled;
- value of the recipient's estate is \$10,000 or less;
- amount of Medicaid costs incurred by the recipient is \$3,000 or less;
- recipient's unmarried adult child lived full-time in the recipient's home for at least one year before the recipient died;
- cost of selling the recipient's property is more than the property is worth; or
- recovery of the estate would cause an undue hardship for the recipient's heir(s).

**F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

Through a competitive bidding process, DADS contracted with a private entity to administer the claims filing process for this program. The contractor is responsible for identifying the decedent's Medicaid long-term care services and any assets that exist, notifying the heirs and/or personal representative of the decedent of the potential claim, and taking the necessary steps to collect payment from the identified assets.

DADS retains responsibility for contract oversight, determinations on program policy issues, and public educational efforts. DADS staff:

- provide contract management and oversight of the contract;
- resolve program policy issues;
- respond to inquiries from the public, staff, elected officials, and providers;
- manage the State's Medicaid Estate Recovery Program website; and
- provide training to stakeholders on a statewide basis.

**G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).**

The funding sources for this program include General Revenue, federal funds, and other funds.

### Funding Sources: Medicaid Estate Recovery Program

Program	State: General Revenue	Federal	Total
Medicaid Estate Recovery Program	\$415,247	\$415,247	\$830,494

**H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.**

N/A

**I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.**

The program does not routinely require coordination of program activities to avoid duplication or conflict with other programs. However, staff notify DADS Third Party Recovery Unit of Medicaid Estate Recovery Program payments to avoid over-collection of payments.

**J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.**

N/A

**K. If contracted expenditures are made through this program please provide:**

- a short summary of the general purpose of those contracts overall;
- the amount of those expenditures in fiscal year 2012;
- the number of contracts accounting for those expenditures;
- top five contracts by dollar amount, including contractor and purpose;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

Through a competitive bidding process, DADS awarded one contract for management of the claims and recovery process. DADS renewed contract for one additional year beginning March 1, 2013.

The contract outlines very specific contract requirements, responsibilities, and deliverables. DADS uses regular and unscheduled reviews, onsite visits, and reports to manage this contract and ensure contract and operational compliance. DADS tracks all payments sent in for Medicaid Estate Recovery Program claim payments and reconciles them once a month with

contractor records to confirm accuracy. Staff review and approve all contractor invoices. In addition, DADS performs reviews of hardship applications submitted for consideration under “other compelling reasons.” DADS reviews and approves cases involving settlement offers that may comprise a claim for more than 20 percent of the claim amount. The contractor must document case facts and any justification for a recommendation to settle.

DADS is entitled to actual and consequential damages resulting from the contractor’s failure to comply with any of the terms of the agreement included in the contract. If the contractor fails to perform in accordance with the contract, DADS may assess liquidated damages for specific conditions and amounts. DADS may elect to collect liquidated damages:

- through direct assessment and demand for payment delivered to contractor within ten business days of occurrence; or
- by deduction of amounts assessed as liquidated damages as set-off against payments then due to contractor after assessment of the liquidated damages, and notification is made to the contractor within ten days of occurrence.

**L. Provide information on any grants awarded by the program.**

N/A

**M. What statutory changes could be made to assist this program in performing its functions? Explain.**

N/A

**N. Provide any additional information needed to gain a preliminary understanding of the program or function.**

The preceding discussion is sufficient to gain a preliminary understanding of this program.

- O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:**
- why the regulation is needed;
  - the scope of, and procedures for, inspections or audits of regulated entities;
  - follow-up activities conducted when non-compliance is identified;
  - sanctions available to the agency to ensure compliance; and
  - procedures for handling consumer/public complaints against regulated entities.

N/A

**P. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.**

N/A