

HUMAN SERVICES DEPARTMENT [441]

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 76, "Application and Investigation," Iowa Administrative Code.

This amendment limits the Medicaid expenses subject to recovery from a Medicaid member's estate. This amendment is intended to implement the Medicare Improvements for Patients and Providers Act of 2008, Public Law 110-275. Effective January 1, 2010, this legislation prohibits states from using estate recovery programs to recover Medicaid payments made for Medicare cost-sharing benefits under a Medicare savings program.

Coverage groups referred to as Medicare savings programs include qualified Medicare beneficiaries (QMBs), specified low-income Medicare beneficiaries (SLMBs), expanded specified low-income Medicare beneficiaries (E-SLMBs), and qualified disabled and working persons (QDWP). Depending on the coverage group, Medicare cost-sharing may include Medicaid payments to cover a member's Medicare Part A and B premiums, deductibles, coinsurance, and copayments.

The cost of medical assistance is subject to recovery from the estates of Medicaid members who received benefits after the age of 55 or while living in a medical institution without the expectation of returning home. Under this amendment, the value of cost-sharing benefits paid on or after January 1, 2010, is excluded from the calculation of the cost of a member's medical assistance for purposes of the estate recovery program.

This amendment does not provide for waivers in specified situations because this exemption is a benefit to those affected.

Notice of Intended Action on this amendment was published in the Iowa Administrative Bulletin on September 9, 2009, as **ARC 8113B**. The Department received no comments on the Notice of Intended Action. This amendment is identical to that published under Notice of Intended Action.

The Council on Human Services adopted this amendment on November 10, 2009.

This amendment is intended to implement Iowa Code section 249A.5(2).

These amendments shall become effective on January 6, 2010.

The following amendment is adopted.

Amend subrule 76.12(7), introductory paragraph, as follows:

**76.12(7)** Estate recovery. Medical assistance is subject to recovery from the estate of a Medicaid member, the estate of the member's surviving spouse, or the estate of the member's surviving child as provided in this subrule. Effective January 1, 2010, medical assistance that has been paid for Medicare cost-sharing or for benefits described in Section 1902(a)(10)(E) of the Social Security Act is not subject to recovery. All assets included in the estate of the member, the surviving spouse, or the surviving child are subject to probate for the purposes of medical assistance estate recovery pursuant to Iowa Code section 249A.5(2)"d." The classification of the debt is defined at Iowa Code section 633.425(7).