

Recommendations suggested from the Stephen Moses reports during the 9/23 meeting:

(N.B. FMAP portion of recovered estates goes to federal government)

- Improve estate recovery.
 - Hire more staff in the estate recovery unit.
 - Don't wait six months for estate recovery process to begin.
 - Include assets in joint tenancy situations by bypass probate and therefore exempt from estate recovery.

- Impose TEFRA liens on property in advance of death.

- Eligibility limits?
 - Reduce home equity exemption to federal minimum (\$536,000).
 - Reduce the monthly allowance (\$7,000) that is exempted.
 - Courts consider PNMI to be community based care so would have to have the 5 year lookback on asset transfer for all HCB services. (Unsuccessful in getting a different level of eligibility of NFs.)
 - Homemaker program allows retaining \$50,000 individual or \$75,000 for a couple in assets. Other home based care programs?
 - Other types of assets (e.g. ownership value in a family business), expensive cars.
 - Reduce amount allowable for pre-paid burials.
 - Half-a-loaf – giving away half of assets to shelter them and using the rest to pay the penalty.

- Annuities. Applicants can shelter a lot of money in assets and be eligible for MaineCare. Need CMS support.

Recommendations from the Stephen Moses 2013 report:

1. Increase staff of the estate recovery unit.
2. Retain an attorney to provide legal expertise to the MaineCare estate recovery unit.
3. Reduce the six month period to see if a family probates the estate.
4. Request “consensual mortgages” or “notices of potential claim” in all cases where estate recovery is deferred or delayed by law.
5. Eliminate MaineCare’s \$7,000 family allowance and pursue recovery from all estates that is cost-effective.

6. Use small estate affidavits to capture LTC facility personal needs accounts and small bank accounts.
7. Use TEFRA (Tax Equity and Fiscal Responsibility Act) liens.
8. Recover from estates of surviving spouses and disabled children and minor children upon reaching adulthood.
9. Expand the definition of “estate” to include assets that pass outside a formal probated estate in joint tenancy, tenancy in common, survivorship, life estate, living trust, or other arrangement.
10. Pursue recovery of benefits received before the age of 55 for all institutionalized recipients.
11. Recover MaineCare’s expenditures for the Medicare buy-in whenever such recovery is not precluded by the Medicare Improvements for Patients and Providers Act of 2008.
12. Pursue recovery of excess, unexpended funds in prepaid burial accounts.
13. Pursue more nonprobate claims. In all cases that are expected to repay the cost of recovery.
14. Expand the use of private attorneys to probate cases that would otherwise go unrecovered.
15. “Paint the fence” – reach out and assist the estate planning bar, judges, LTC providers and funeral directors.
16. Restore and improve access for the estate recovery unit to the case notes in deceased recipients’ eligibility records.
17. Refer all cases of MaineCare LTC recipient deaths to the estate recovery unit for whom significant funds have been expended regardless of the eligibility system’s evidence of assets. Make an effort to find hidden assets.
18. Articulate the moral high ground of estate recoveries.
19. Seek exemption from MOE requirement (Beth Hamm says this has been dropped).
20. Enhance cost avoidance by reducing home equity exemption to the federal minimum from its current level near the maximum.