


MINNESOTA FAMILY SUPPORT & RECOVERY COUNCIL

2017 ANNUAL CONFERENCE





MA RECOVERY 101

Nancy Menssen
Hennepin County

9/13/2017 MFSRC Annual Conference 1


What is MA Recovery?



- Statute 256B.15
- Recovery of funds to reimburse for amount spent on cost of care for clients.
- The County collects remaining assets from eligible Medical Assistance recipients who have passed away.

9/13/2017 MFSRC Annual Conference 2

Who are eligible MA recipients?




- Clients who received GAMC (General Assistance Medical Care) at any age. *County percentage of recovery: 50%*
 - GAMC program ended 2/28/11
- Clients over 55 who received (AC) Alternative Care Services after 2003. *County percentage of recovery 10%*
- Clients who received (LTSS) Long Term Support Services after age 55. *County percentage of recovery 25%*
 - We will touch on LTSS later.

9/13/2017 MFSRC Annual Conference 3

How do we know when a client has passed away?


- Newspaper obituaries
- Nursing home notices
- Funeral home notices
- Family
- Eligibility workers
- DHS death match list from MN-ITS
- Commissioner notices from DHS
- Any other ways?



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Now What?


You have been notified of a client's passing, how do you know if there are recoverable MA claims?




9/13/2017 MFSRC Annual Conference 5

Start by checking MAXIS

- STAT:MEMB age? Family members under 21?
- STAT:MEMI marital status why?
- STAT:FACI long term support services?
- STAT:PNLR assets?
- STAT:AREP send notice to this individual




9/13/2017 MFSRC Annual Conference 6



So.....what is LTSS??

How do we know if we can recover estate assets?


9/13/2017 MFSRC Annual Conference 7



LTSS includes:

- Skilled facility services (MFS)
- Home and community-based services (HCBS)
- Waiver HCBS
 - Alzheimer's care (AC)
 - Brain Injury (BI)
 - Community alternative care (CAC)
 - Community access for disability inclusion (CAI)
 - Developmental disabilities (DD)
 - Elderly waiver (EW)
- Nonmember HCBS
 - Home health services
 - Home care nursing
 - Home health aide services
 - Medical supplies and equipment
 - Physical therapy, occupational therapy and speech therapy, when the service is provided by a home health agency
- Personal care assistance (PCA)
- Hospital and prescription drug services received during the time the member was provided MFS or HCBS
- All MA services received by a member, regardless of age, during permanent residence in a medical institution

9/13/2017 MFSRC Annual Conference 8



Link to DHS Estate Recover Manual

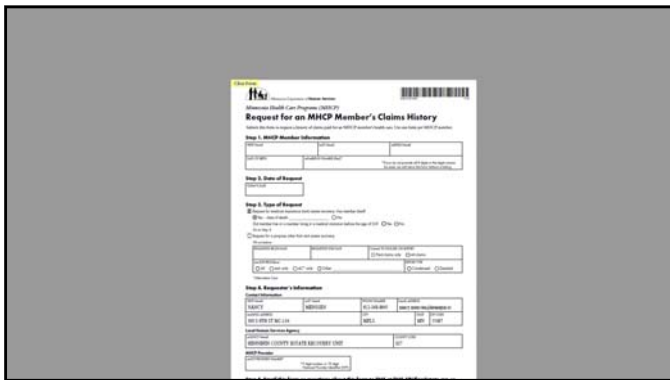
http://www.dhs.state.mn.us/main/idcplg?IdcService=GET_DYN_AMIC_CONVERSION&RevisionSelectionMethod=LatestReleased&dDocName=SRU-030101

9/13/2017 MFSRC Annual Conference 9

Where to get LTSS totals?

- Fill out and send form DHS-2133 to DHS Special Recovery Unit to get the recoverable claim total.
- <https://edocs.dhs.state.mn.us/lfserver/Public/DHS-2133-ENG>
- DHS.SRUfax@state.mn.us - email to send form.
- Wait ☺☺☺

9/13/2017 MFSRC Annual Conference 10




Can I use PIN totals?

- No, you cannot use the total of claims that show up on PIN for your claim.
- You can however see if MA has paid direct payments to a LTC facility
- You can see that AC or GAMC was paid out for the client
- You can see dates of service

9/13/2017 MFSRC Annual Conference 12

Decedent has a recoverable Claim



- The first thing we do at Hennepin County is file a Demand for Notice with the probate court.
- With the filing of this form you are mandating anyone, attorney or private individual to notify you when they initiate probate proceedings.

9/13/2017 MFSRC Annual Conference 13

ESTATE OF: [REDACTED] **DEMAND FOR NOTICE**

Demandant as agent of Hennepin County Human Services state:


1. My address is 300 South Sixth Street, Mail Code 134, Minneapolis, MN 55487
2. My telephone number is (612) 596-9387.
3. Hennepin County has a financial or property interest in the Estate of the Decedent, for the following reasons: Hennepin County is a creditor in the above named estate.
4. Decedent's date of birth: [REDACTED]
5. Decedent's date of death: [REDACTED]
6. Decedent's last known address: [REDACTED]

WHEREFORE, I demand notice of all orders and filings pertaining to the Estate. Notice shall be served upon me at the address stated above, or my attorney, named below.

Under penalties for perjury, I declare or affirm that I have read this document and I know or believe its representations are true and complete.

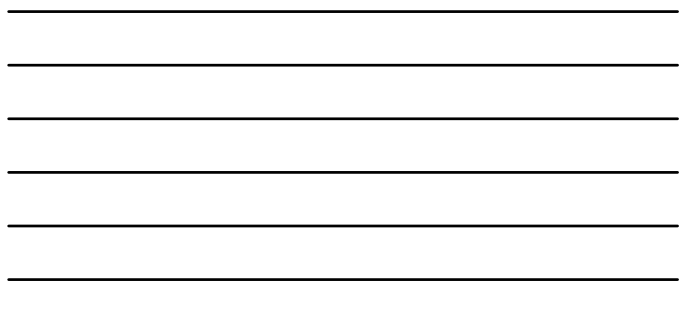
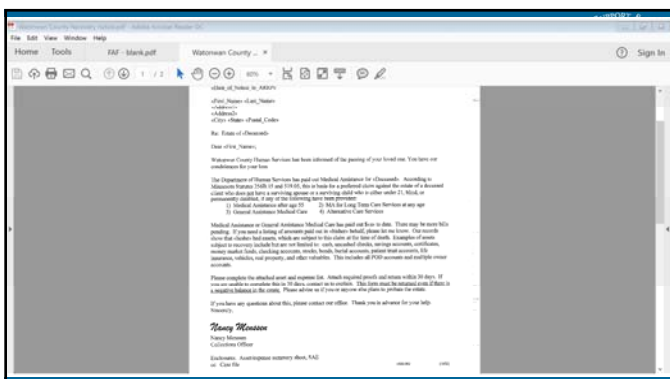
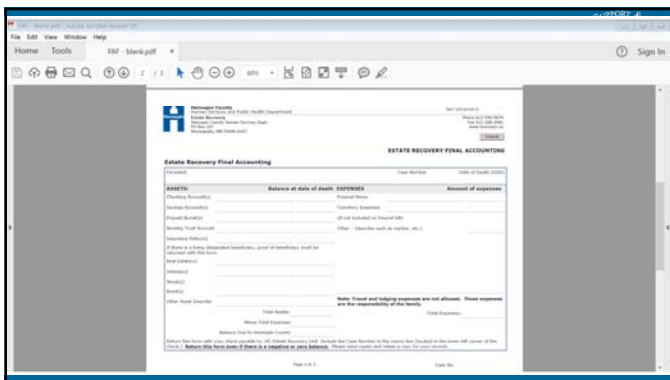
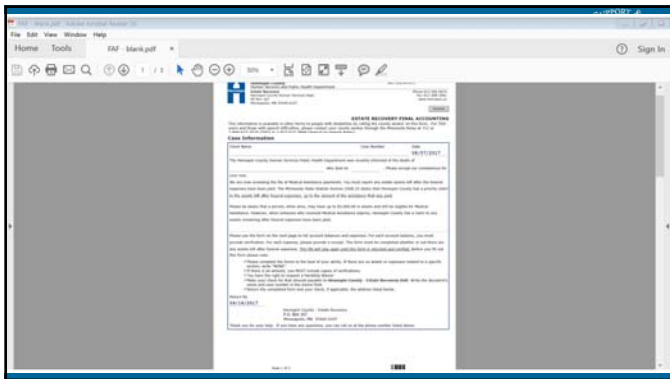
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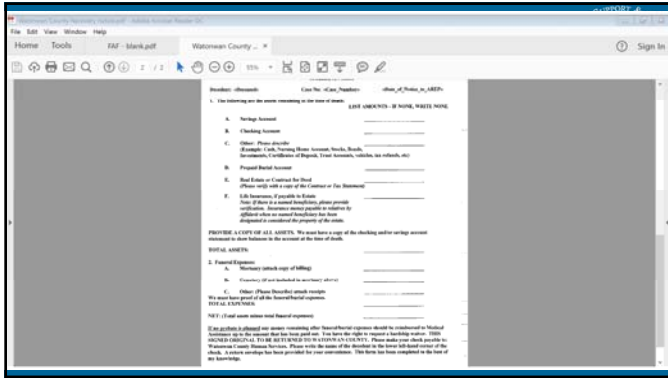
How do you start the recovery process?



- Send a notice of claim letter and asset assessment form to Maxis arep or next of kin.
- When to send the notice? Do you have to wait 30 days?
 - No, you do not have to wait 30 days
 - Hennepin County waits at least 14 days from date of death
 - Smaller Counties can mail after funeral.
- What language does the claim letter have to include?
 - Include Statute number
 - Hardship language
 - Due date

9/13/2017 MFSRC Annual Conference 15





Before you can review the asset assessment you need to know a few things.....

9/13/2017
MFSRC Annual Conference
20

Order of claims payable in an estate. MN Statute 524.3-805

1. Costs and expenses of administration
2. Reasonable funeral expense
3. Debts and taxes with preference under federal law
4. Expenses of last illness and MA debt (paraphrased)


Allowed expenses?
MA Estate Recovery Manual not bulletin 17-21-02

9/13/2017
MFSRC Annual Conference
21

IV. Funeral Expenses Policy

If a deceased person's (decedent's) estate does not have enough assets to pay all the claims made against it, Minnesota law prioritizes payment of the decedent's "reasonable funeral expenses" before MA claims. Reasonable funeral expenses are paid from the estate before you or the state can recover MA payments from the estate.

You must adopt either the following funeral expenses policy or your own policy that is in accordance with the following policy.



9/13/2017 MFSRC Annual Conference 22


A. Reasonable funeral expenses

Reasonable funeral expenses include the following:

- Expenses directly related to goods sold or offered for sale or rental in connection with the final disposition of the human body
- Services sold in connection with the final disposition of the human body
- Goods that may be used for a funeral service
- Services that may be used to prepare a human body for burial or a funeral service

Reasonable costs for the following items are paid before MA claims:

- Certificates of death (up to two) (five)
- Mortuary expenses:
 - Cremation
 - Embalming
 - Casket (get a quote for the least expensive casket from two funeral homes within the county and set the expense guideline at the less expensive of the two quotes)
 - Clothing for the body, only if clothing is unavailable
- Ground transportation of the body
- Interment:
 - Cemetery plot (get quote from two cemeteries to determine reasonable cost of plot)
 - Vault
 - Burial of cremated remains
 - Grave marker ▪ Lowest-cost stone marker
 - Engraving
 - Winter burial
- Memorial service, viewing, and visitation:
 - One of the following:
 - Public visitation service
 - Funeral service
 - Grave site service
 - Fee or required donation for one officiant
 - Music (one instrument or vocalist)
 - One 24-hour obituary without picture for a one-day run



9/13/2017 MFSRC Annual Conference 23


B. Unreasonable funeral expenses

Expenses for these items are **not** paid before MA claims:

- Family travel and lodging
- Flowers (no matter the purpose or sender)
- Food and beverage
- Entertainment not listed above as a reasonable expense


Clothing, unless clothing for the deceased is unavailable

- Police escort
- Memorial cards and thank you cards
- Memorial donations
- Planning costs



9/13/2017 MFSRC Annual Conference 24

Hennepin County Funeral Expense Policy



I. Allowable funeral expenses:
Reasonable costs for the following items are paid before MA claims:


- Ministry expenses:
 - Certification of death (up to 2)
 - Cremation
 - Embalming
 - Casket - not to exceed \$950
 - Ground transportation of the body
- Interment:
 - Cemetery plot
 - Cost of opening and closing grave
 - Vault
 - Burial of cremated remains
 - Lowest cost casket under grave marker
- Funeral:
 - Transportation
 - Musical services, viewing and visitation
 - One of the following:
 - Public visitation service
 - Funeral service
 - Graveside service
 - Fire or required donation for state official
 - Music (one instrument/or vocalist)
 - One 24-hour obituary without picture for a one-day run

II. Unallowable funeral expenses:
Expenses for these items are not paid before MA claims:

- Family travel and lodging
- Flowers (to assist the process or Sunday)
- Food and beverage
- Entertainment and travel above a reasonable expense
- Clothing unless clothing for the decedent is unaffordable
- Public event
- Memorial cards and thank you cards
- Photos and photo books
- Memorial donations
- Planning costs

9/13/2017 MFSRC Annual Conference 25


Reviewing the assets/expenses



- No remaining assets:
 - The funeral cost and final allowable bills have used up all the client's remaining resources.
 - What do Counties allow for final bills? Phone? Cable?
- Put proofs in file and close the case. Most estate files have the same retention time as other Maxis cases.

9/13/2017 MFSRC Annual Conference 26

Assets Remaining?



- Did the arep/nok send a check?
 - Put the proofs in the file and close case.
- Can the arep/nok access bank account?
 - The County will then have to issue an affidavit to the bank and recover the funds.
 - The County may have to pay some final bills for the client after recovery of bank funds.
- Arep/nok didn't fill out the form completely or filled it out in error?
 - Send a letter requesting additional information.

9/13/2017 MFSRC Annual Conference 27

Minnesota, MN 55402-0107 www.hennepin.us

ESTATE RECOVERY ADDITIONAL INFORMATION

Case Information

Client Name	Client Number	Date
		09/07/2017

Final Accounting Form Information


Thank you for your recent response to our Final Accounting Form.

If you have any questions, you can call 612-596-0674.

Thank you,

Hennepin County
Estate Recovery

Serving Affidavits



- An affidavit of collection is a procedure that transfers assets of estates that would otherwise be probated and that have a net value of under \$75,000. With the affidavit, there is no court appearance, no personal representative appointed, and no mailed notification to interested parties. Presenting the affidavit to the possessor of the decedent's property is sufficient to make the transfer. The affidavit can transfer only personal property. Personal property includes bank accounts, stocks, furniture, motor vehicles, and the like; it does not include real estate.
- (excerpt from MA Estate Recovery Manual)

9/13/2017 MFSRC Annual Conference 29

In the State of MINNESOTA, FOURTH JUDICIAL DISTRICT

AFFIDAVIT FOR COLLECTION OF PERSONAL PROPERTY

Affiant, being first duly sworn, deposes and states:


- Affiant is an agent of Hennepin County Department of Human Services, a last shown priority creditor of the decedent under Minnesota Statute section 57B.11, with address of employment being Hennepin County Estate Recovery, 300 South South Street, 3rd Code 114, Minneapolis, MN 55407.
- That the amount of Hennepin County's claim is \$ [redacted].
- The value of the decedent's entire probate estate, wherever located, including specifically the contents of a safety deposit box, less taxes and encumbrances, does not exceed \$75,000.00.
- Thirty (30) days have elapsed since the death of the decedent.
- No application or petition for the appointment of a personal representative is pending or has been entered in any jurisdiction.
- Affiant, as an agent of Hennepin County Department of Human Services, is entitled to payment or delivery of the property under Minnesota Statutes section 247.12(1). Under said statute, Affiant is required to immediately take an affidavit or other personal property of the decedent over to Affiant, by sending same to Hennepin County Estate Recovery, 300 South South Street, 3rd Code 114, Minneapolis, MN 55407.

FURTHER AFFIANT SAVETH NOT

Date: _____
Subscribed and sworn to before me this _____ day of _____, 2017.
Notary

Hennepin County, Minnesota
Christiana Maricova, Assistant County Attorney
Office of Hennepin County Attorneys, Attorney for Affiant
Government Center
200 South South Street
Minneapolis, MN 55407
Phone 612-548-7807
ID: 0895112


The right to collect by affidavit



- To recover MA claims under Minnesota Statutes, [section 256B.15](#), you may use an affidavit of collection to collect the deceased MA recipient's personal property once 30 days or more have passed since the decedent's death. See Minnesota Statutes, [section 524.3-1201](#).
- The affidavit can collect the decedent's personal property in safe deposit boxes, interests in multiple-party accounts, and debts owed to the decedent. See Minnesota Statutes, [sections 524.3-1201, 55.10, and 524.6-207](#).
- There are important limitations to affidavits of collection. An affidavit of collection may be used only when the decedent's estate consists of personal property with a net value of \$75,000 or less. In addition, you cannot exercise the right to collect by affidavit when a request for appointment of a personal representative is pending.
- (Excerpt from DHS Estate Recovery Manual)

9/13/2017 MFSRC Annual Conference 31


Timing for the Affidavit



- You must wait 30 days after death to serve the affidavit.
- Banks will take affidavits on a first come first serve basis.
 - You may need to get to the bank early!

9/13/2017 MFSRC Annual Conference 32

Customer Service



- Answering questions from the arep or next of kin:
 - Be respectful and kind.
 - Don't be afraid to offer your sympathy and find common ground.
 - Know your stuff! Sound confident and competent.
 - Be prepared, have statute numbers handy. Have Maxis case pulled up or file open.
 - Be careful to not give legal advice.

9/13/2017 MFSRC Annual Conference 33

Helpful Information



DHS-7273: Minnesota Health Care Programs
Medical Assistance Estate Recovery and Liens

DHS-5186: Alternative Care Program Estate Recovery
Information

Clients receive copies of these when applying but family members don't always see this. Very good information on estate recovery and proof that the client knew their estate could be subject to recovery.

9/13/2017

MFSRC Annual Conference

34
