DEPARTMENT OF HEALTH & HUMAN SERVICES
CENTERS FOR MEDICARE & MEDICAID SERVICES
REGION IX

75 Hawthorne Street
Suite 408
San Francisco, CA 94105

AHCCCS/RECEIVED
DIRECTOR'S OFFICE
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Anthony D. Rodgers, Director
Arizona Health Care Cost Containment System
801 E. Jefferson
Phoenix, AZ 85034

Dear Mr. Rodgers:

Enclosed is an approved copy of Arizona State plan amendment (SPA) 04-005, regarding TEFRA liens. I am approving this SPA with the requested effective date of September 11, 2004.

If you have any questions, please have your staff contact Ronald Reepen at (415) 744-3601.

Sincerely,

Pat Daley

for Linda Minamoto
Associate Regional Administrator
Division of Medicaid & Children's Health

Enclosure

cc:
Joan Peterson, CMS, CMSO, FCHPG
Elliot Weisman, CMS, CMSO, PCPG (two copies)

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: ARIZONA

Citation
42 CFR 433.36(c)
1902(a) (18) and
1917 (a) and (b) of
the Act

4.17 Liens and Adjustments or Recoveries

(a) Liens

_X_ The State imposes liens against an individual's real property on account of medical assistance paid or to be paid.*

The State complies with the requirements of section 1917(a) of the Act and regulations at 42 CFR 433.36(c)-(g) with respect to any lien imposed against the property of any individual prior to his or her death on account of medical assistance paid or to be paid on his or her behalf.

_X_ The State imposes liens on real property on account of benefits incorrectly paid.

_X_ The State imposes TEFRA liens 1917(a) (1) (B) on real property of an individual who is an inpatient of a nursing facility, ICF/MR, or other medical institution, where the individual is required to contribute toward the cost of institutional care all but a minimal amount of income required for personal needs.*

The procedures by the State for determining that an institutionalized individual cannot reasonably be expected to be discharged are specified in Attachment 4.17-A. (NOTE: If the State indicates in its State plan that it is imposing TEFRA liens, then the State is required to determine whether an institutionalized individual is permanently institutionalized and afford these individuals notice, hearing procedures, and due process requirements.)

_X_ The State imposes liens on both real and personal property of an individual after the individual's death.

* TEFRA liens apply only to persons who are institutionalized and enrolled in ALTCS.

Revision: HCFA-PM-95-3 (MB)
May 1995

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b) Adjustments or Recoveries

The State complies with the requirements of section 1917(b) of the Act and regulations at 42 CFR 433.36(h)-(i).

Adjustments or recoveries for Medicaid claims correctly paid are as follows:

(1) For permanently institutionalized individuals, adjustments or recoveries are made from the individual's estate or upon sale of the property subject to a lien imposed because of medical assistance paid on behalf of the individual for services provided in a nursing facility, ICF/MR, or other medical institution.

____ Adjustments or recoveries are made for all other medical assistance paid on behalf of the individual.

(2) ____ The State determines "permanent institutional status" of individuals under the age of 55 other than those with respect to whom it imposes liens on real property under §1917(a) (1) (B) (even if it does not impose those liens).

(3) For any individual who received medical assistance at age 55 or older, adjustments or recoveries of payments are made from the individual's estate for nursing facility services, home and community-based services, and related hospital and prescription drug services.

_X_ In addition to adjustment or recovery of payments for services listed above, payments are adjusted or recovered for other services under the State plan as below:

All services provided to ALTC members based on the total amount of reimbursement paid by AHCCCS for Medicaid covered services. The reimbursements include, but are not limited to, capitation payments, reinsurance, any FFS payments, Medicare Part A and B, and Medicare premiums, deductibles, coinsurance and copayments or any other forms of cost sharing.

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(4) ____ N/A The State disregards assets or resources for individuals who receive or are entitled to receive benefits under a long term care insurance policy as provided for in Attachment 2.6-A, Supplement 8b.

_X_ The State adjusts or recovers from the individual's estate on account of all medical assistance paid for nursing facility and other long term care services provided on behalf of the individual. (States other than California, Connecticut, Indiana, Iowa, and New York which provide long term care insurance policy-based asset or resource disregard must select this entry. These five States may either check this entry or one of the following entries.)

____ N/A The State does not adjust or recover from the individual's estate on account of any medical assistance paid for nursing facility or other long term care services provided on behalf of the individual.

____ N/A The State adjusts or recovers from the assets or resources on account of medical assistance paid for nursing facility or other long term care services provided on behalf of the individual to the extent described below:

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(c) Adjustments or Recoveries: Limitations

The State complies with the requirements of section 1917(b) (2) of the Act and regulations at 42 CFR §433.36(h)-(i).

(1) Adjustment or recovery of medical assistance correctly paid will be made only after the death of the individual's surviving spouse, and only when the individual has no surviving child who is either under age 21, blind, or disabled.

(2) With respect to liens on the home of any individual who the State determines is permanently institutionalized and who must as a condition of receiving services in the institution apply their income to the cost of care, the State will not seek adjustment or recovery of medical assistance correctly paid on behalf of the individual until such time as none of the following individuals are residing in the individual's home:

(a) a sibling of the individual (who was residing in the individual's home for at least one year immediately before the date that the individual was institutionalized), or

(b) a child of the individual (who was residing in the individual's home for at least two years immediately before the date that the individual was institutionalized) who establishes to the satisfaction of the State that the care the child provided permitted the individual to reside at home rather than become institutionalized.

(3) No money payments under another program are reduced as a means of adjusting or recovering Medicaid claims incorrectly paid.

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(d) ATTACHMENT 4.17-A

(1) Specifies the procedures for determining that an institutionalized individual cannot reasonably be expected to be discharged from the medical institution and return home. The description of the procedure meets the requirements of 42 CFR 433.36(d).

(2) Specifies the criteria by which a son or a daughter can establish that he or she has been providing care, as specified under 42 CFR 433.36(f).

(3) Defines the following terms:

- estate (at minimum, estate as defined under State probate law). Except for the grandfathered States listed in Section 4.17(b)(3), if the State provides a disregard for assets or resources for any individual who received or is entitled to receive benefits under a long term care insurance policy, the definition of estate must include all real, personal property, and assets of an individual (including any property or assets in which the individual had any legal title or interest at the time of death to the extent of the interest and also including the assets conveyed through devices such as joint tenancy, life estate, living trust, or other arrangement),
- individual's home
- equity interest in the home,
- residing in the home for at least 1 or 2 years,
- on a continuous basis,
- discharge from the medical institution and return home, and
- lawfully residing.

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(4) Describes the standards and procedures for waiving estate recovery when it would cause undue hardship.

(5) Defines when adjustment or recovery is not cost-effective. Defines exemptions to placing a TEFRA lien and to the recovery of a TEFRA lien.

(6) Defines cost-effective and includes methodology or thresholds used to determine cost-effectiveness.

(7) Describes collection procedures. Includes advance notice requirements, specifies the method for applying for a waiver, hearing and appeals procedures, and the time frames involved. Describes TEFRA lien procedures for: notification, the request for an exemption, the request for a State Fair Hearing and the release of a TEFRA lien. Describes the State Fair Hearing procedures for Estate Recovery.

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LIENS AND ADJUSTMENTS OR RECOVERIES

1. **The State uses the following process for determining that an institutionalized individual cannot reasonably be expected to be discharged from the medical institution and return home:**

The State tracks ALTCS Medicaid members who are institutionalized. If the member is institutionalized in a nursing facility, ICF/MR, or other medical institution defined in 42 CFR 435.1009 for 90 consecutive days, there is a rebuttable presumption that she/he is not reasonably expected to be discharged and return home.

After the 90th day, the member or member's representative is sent a Notice of Intent advising that the State intends to place a TEFRA lien on the real property. The Notice of Intent advises the member of the exceptions and exemptions to TEFRA liens, as well as the member's right to request a state fair hearing. Additional information is included with the Notice of Intent describing the Estate Recovery Program and TEFRA liens.

A member may rebut the above presumption by providing a written opinion from a treating physician that she/he is reasonably expected to be discharged and return home. The physician's opinion must state that the member's condition is likely to improve to the point that the member will be discharged from the medical institution and will be capable of returning home by a certain date.

Transfers from one medical institution to another do not interrupt the 90-day period.

A discharge to a community setting will terminate the 90-day period. If the member is re-admitted to a medical institution, a new 90-day period will begin. However, discharge to a community setting which is not the member's home will not constitute a basis for removal of a lien which had previously been placed.

2. **The following criteria are used for establishing that a permanently institutionalized individual's son or daughter provided care as specified under regulations at 42 CFR § 433.36(f):**

A son or daughter of the member must have lived with the member for the two years prior to the date of admission and provided care that enabled the member to reside at home. The following documentation must be provided:

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- Physician's statement describing the member's physical condition and service needs for the previous two years;
- Verification that the son or daughter lived in the home;
- Statement from the son or daughter providing services that describes and attests to the services provided;
- Any statement from the member regarding the services received, if available; and
- Statement from a physician, friend or relative as witness to the care provided.

3. **The State defines the terms below as follows:**

Estate: "The property of the decedent, trust or other person whose affairs are subject to this title as originally constituted and as it exists from time to time during administration. As it relates to a spouse, the estate includes only the separate property and the share of the community property belonging to the decedent or person whose affairs are subject to this title." Property "includes both real and personal property or any interest in real and personal property and means anything that may be the subject of ownership." (A.R.S. 14-1201.16 and 1412.01.41)

Individual's home: The property in which a member has an ownership interest and which serves as the member's primary residence. This property includes the shelter, the land on which the shelter is located and any related outbuildings.

Equity interest in the home: The county assessor's full cash value or market value of the home minus any valid liens, encumbrances or both.

Residing in the home for at least one or two years on a continuous basis: Occupancy of a member's home by a sibling or son or daughter of the member as a primary place of residence. During the one or two year period, the member's home address was used by the sibling or son or daughter as their permanent address and the address remained unchanged.

Lawfully residing: To live in a residence with the authorization of the owner and within the bounds of the law.

On a continuous basis: Without interruption.

Discharge from the medical institution and return home: To be officially discharged from the medical institution with the intent to return to the primary

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residence. Discharge does not include release from the medical institution for medical leave days or visitation days.

4. **The State defines undue hardship as follows:**
AHCCCS' undue hardship criteria for a waiver of the estate claim follows federally suggested guidelines. AHCCCS waives its claim against the member's estate when any one of the heirs to the estate meets AHCCCS' undue hardship criteria. AHCCCS' undue hardship criteria apply when the estate contains either real or personal property, or both. Real property in the estate is listed as residential property by the Arizona Department of Revenue or County Assessor's Office.

Undue Hardship exists if an heir to the estate meets either of the criteria below:

- Owns a business that is located at the residential property which has been in operation at the residential property for at least 12 months preceding the AHCCCS member's death and provides more than 50% of the heir(s) livelihood and recovery of the property would result in the heir(s) to the estate losing their means of livelihood; or
- Currently resides in the member's residence, resided there at the time of the AHCCCS member's death, has made the residence his or her primary residence for the 12 months immediately preceding the AHCCCS member's death and owns no other residence.

5. **The following standards and procedures are used by the State for waiving estate recoveries when recovery would cause an undue hardship, and when recovery is not cost-effective:**
AHCCCS will waive its claim against the estate when the estate contains personal property assets only and an heir to the estate meets the criteria listed in both (1) and (2) below:

(1) The heir(s) annual gross income for their household size is less than the federal income poverty guidelines. New sources of income (for example, employment, Social Security, etc.) will be included in determining the household's annual gross income; and

(2) The heir does not own a home, land or other real property. If there is no heir to the estate that meets AHCCCS' undue hardship criteria as described in number 4 above, the State will not waive its claim against the estate. The State, however, will consider a Partial Recovery (reduction) of the estate claim if one of the heirs to the estate submits a completed application and supporting documentation to substantiate a qualifying

condition for a Partial Recovery. The Partial Recovery process is discussed in number 7.

If an estate consists of both personal and real property that meet the criteria for undue hardship waiver, AHCCCS may either grant an undue hardship waiver, or adjust its claim to the value of the personal property.

AHCCCS shall exempt the following income, resources and property of Native Americans (NA) from estate recovery:

- Income and resources from tribal land and other resources currently held in trust and judgment funds from the Indian Claims Commission or U.S. Claims Court;
- Ownership interest in trust or non-trust property;
- Ownership interests left as remainder in an estate in rents, leases, royalties or usage rights related to natural resources;
- Any other ownership interests in property rights that have unique religious, spiritual, traditional or cultural significance or rights that support subsistence or a traditional life style according to applicable Tribal law or custom; and
- Income left as a remainder in an estate derived from any property that was either collected by a NA or by a Tribe or Tribal organization and distributed to a NA.

A TEFRA lien shall not be placed against a member's home if one of the following individuals is lawfully residing in the member's home:

- Member's spouse;
- Member's son or daughter under the age of 21 years;
- Member's son or daughter who is blind or disabled under 42 U.S.C. 1382c; or
- Member's sibling who has an equity interest in the home and who was residing in the home for at least one year immediately prior to the date of admission to a medical institution as defined under 42 CFR 435.1009.

AHCCCS shall not attempt to recover a lien if the member is survived by any of the following:

- a spouse;
- a son or daughter under the age of 21;
- a son or daughter who receives benefits under either Title II or Title XVI of the Social Security Act as blind or disabled as defined under 42 U.S.C. 1382c;

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- a sibling currently residing in the deceased member's home and who was residing in the member's home for at least one year immediately prior to the member's admission to a medical institution; or
- a son or daughter currently residing in the deceased member's home who was residing in the member's home for at least two years immediately prior to the member's admission to a medical institution and who provided care to the member which allowed the member to reside in their home.

6. **The State defines cost-effective as follows (include methodology/thresholds used to determine cost-effectiveness):**
No initial cost threshold is applied and all potential cases are worked for recovery. However, should an estate enter into litigation, a $5,700 litigation cost threshold has been established which is applied at the point of litigation to determine whether it is cost effective to pursue recovery. Cases are worked in the order of priority using the amount of the AHCCCS' claim and the amount of estate assets as guidelines.

The following factors are taken into consideration in determining whether it is cost effective to pursue recovery:
- The claim amount;
- The priority of the claim;
- Other creditors and the amounts of their claims;
- Total estate assets;
- The number of surviving heir(s) to the estate;
- Legal and administrative costs necessary to obtain recovery; and
- Consequences of an unfavorable judicial decision.

The litigation threshold of $5,700 is based on the following methodology:
- $2,000 allowance for claim litigation threshold;
- $3,200 for attorney fees; and
- $500 for miscellaneous expenses (for example, preparing the case for attorneys, briefing attorneys, or negotiations with estate executor).

7. **The State uses the following collection procedures (include specific elements contained in the advance notice requirement, the method for applying for a waiver, hearing and appeals procedures, and time frames involved):**

The TPL Contractor identifies potential cases using referrals provided by AHCCCS and other sources. Referral sources include, but are not limited to:

- AHCCCS' automated eligibility systems;
- Authorized representative;
- Estate representative;
- Personal representative;
- Public fiduciary;
- Probate court; or
- Newspaper clipping service.

Once a referral is received by the TPL Contractor from AHCCCS or another referral source, the TPL Contractor files a Demand for Notice with the Superior (Probate) Court in the county of residence, county of death, and county of property ownership. The Notice requires the court to notify AHCCCS about all orders and filings regarding the AHCCCS member's estate and assist in the protection of the state's interest in any future estate proceeding.

The TPL Contractor also mails the personal representative a Notice of Intent to File a Claim Against the Estate, an Estate Questionnaire and a copy of the Demand for Notice that was filed with the Superior Court(s).

The Notice of Intent to File a Claim Against the Estate cites federal and state Laws authorizing AHCCCS to seek reimbursement for AHCCCS' expenditures for the member and explains that a Demand for Notice has been filed with the Superior (Probate) Court.

The Estate Questionnaire provides information about exemptions and lists documents to provide if there is a surviving spouse of the member, surviving son or daughter of the member who is under age 21 or a surviving son or daughter of the member who is blind or disabled.

In addition, the questionnaire requests information about:

- property transfers since AHCCCS eligibility was determined;
- real and personal property owned by the AHCCCS member;
- the name and address of attorney or personal representative; and
- any petition filed for probate of the estate, and if so, the date filed and county court in which filed.

The party is given information on where to send the completed form, timeframes for submitting and whom to contact with any questions.

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The TPL Contractor closes the estate case if documentation is provided that verifies that the estate qualifies for an Estate Claim Statutory Exemption. If requested to do so by the personal representative or heir, the TPL Contractor files a withdrawal of the Demand for Notice with the Superior (Probate) Court. AHCCCS Demands for Notice that are left on file at the Superior (Probate) Court do not have any legal impact to heirs.

Upon identification that an AHCCCS member has an estate that will be filed by affidavit (small estate) or probated, and no qualifying Estate Claim Statutory Exemption has been identified, the TPL Contractor files a Superior Court Claim Against the Estate to provide information to the Court and interested parties that the estate is indebted to AHCCCS and the amount to which the estate is indebted. The TPL Contractor mails a copy of the Superior Court Claim Against the Estate and a Notification of the AHCCCS Claim Against the Estate to the personal representative with the following enclosures:

- Application form for Estate Claim Statutory Exemption, Undue Hardship Waiver or Partial Recovery of the AHCCCS Claim against the estate;
- Chronology of AHCCCS Medical Payment History; and
- Copy of the Superior Court Claim against the estate that was filed with the Superior (Probate) Court.

Notification of the AHCCCS claim includes the following information:

- AHCCCS claim amount and an itemization of AHCCCS expenditures to be recovered;
- Authority for the AHCCCS estate claim;
- Estate Claim Statutory Exemption criteria for a waiver of the estate claim and documentation required to support the criteria;
- Undue Hardship Waiver of Estate Claim criteria and documentation required to support the criteria;
- Partial Recovery criteria and documentation required to support the criteria;
- Explanation of the enclosed application form and the application process for applying for one or more of the three processes: Estate Claim Statutory Exemption, Undue hardship Waiver of Estate Claim and/or Partial Recovery;
- Timeframes for filing a completed application;
- To whom and where to file the application and supporting documentation;
- Whom to contact if there are any questions; and
- The heir's right to file a grievance and request a hearing.

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The personal representative is responsible for notifying the heirs and, if the heirs so choose, filing a request for an Estate Claim Statutory Exemption, Undue Hardship Waiver of Estate Claim and/or a Partial Recovery. Heirs are responsible for providing any supporting documentation. Applications must be submitted in writing with supporting documentation within 30 days from the date on the Notification of the AHCCCS Claim Against the Estate.

An heir may apply to receive a waiver under the Estate Claim Statutory Exemption or Undue Hardship Waiver of Estate Claim processes or a reduction of the claim under the Partial Recovery process based on his or her circumstances. Application and supporting documentation are reviewed first for an Estate Claim Statutory Exemption, followed by an Undue Hardship Waiver of Estate Claim, and lastly, for Partial Recovery dependent on the process(es) applied for and the decision(s) rendered.

If supporting documentation for an Estate Claim Statutory Exemption is provided to establish a qualifying exemption, the TPL Contractor reviews the supporting documentation and renders a decision. If the TPL Contractor determines that there is a qualifying condition for an Estate Claim Statutory Exemption, the TPL Contractor files a withdrawal of the Superior Court Claim Against the Estate with the Superior (Probate) Court, sends a Decision Notice regarding the AHCCCS Estate Claim and a copy of the withdrawal of the Superior Court Claim Against the Estate to the personal representative or heir and closes the case. No further action is taken.

If there is no qualifying Estate Claim Statutory Exemption and the application section of the application form has been completed for consideration of an Undue Hardship Waiver of Estate Claim, the application and supporting documentation are reviewed for a qualifying Undue Hardship Waiver of Estate Claim. The TPL Contractor reviews the application and supporting documentation and makes a recommendation to AHCCCS. If AHCCCS determines that there is a qualifying Undue Hardship Waiver of Estate Claim, AHCCCS will waive the prorata share of the probate assets attributable to the heir qualifying for the waiver. The TPL Contractor files a withdrawal of the Superior Court Claim Against the Estate with the Superior (Probate) Court, sends a Decision Notice Regarding the AHCCCS Estate Claim and a copy of the withdrawal of the Superior Court Claim Against the Estate to the personal representative or heir and closes the case. No further action is taken.

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A withdrawal of the Superior Court Claim Against the Estate releases both an AHCCCS claim against an estate filed by affidavit (small estate) or probated.
If there is no qualifying Estate Claim Statutory Exemption or Undue Hardship Waiver of Estate Claim and the personal representative or heir has completed the application section of the application form for consideration of Partial Recovery, the TPL Contractor reviews the application and supporting documentation and makes a recommendation to AHCCCS. AHCCCS may undertake partial recovery to avoid an undue hardship situation.

The factors that AHCCCS considers on a case-by-case basis when reviewing application requests and supporting documentation for a Partial Recovery include:

- Financial and medical hardship to the heir(s);
- Income of the heir(s) and whether the household income is within 100% of the Federal Poverty Guidelines;
- Resources of the heir(s);
- Value and type of assets in the estate (real and personal);
- Amount of the AHCCCS claim against the estate;
- Whether other creditors have filed claims against the estate or have foreclosed on the property; or
- Any other factors relevant for a fair and equitable determination under the circumstances of a particular case.

If AHCCCS determines there is a qualifying condition for a Partial Recovery, the TPL Contractor sends a Decision Notice Regarding the AHCCCS Estate Claim to the personal representative or heir and advises them of the approval for a reduction of the estate claim and that the new claim amount represents the amount due. The TPL Contractor closes the case when payment of the reduced claim is paid in full.

AHCCCS will not grant a Partial Recovery of the estate claim when there are sufficient assets in the estate to pay the claim and provide for the heir. AHCCCS' decision to grant a Partial Recovery does not waive or release its remaining claim against the estate of the AHCCCS member.

AHCCCS may initiate probate if the estate contains enough assets to pay a portion of or the full amount of AHCCCS' claim, if the case is legally uncontested with no other issues.

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If AHCCCS denies an application for an Estate Claim Statutory Exemption, Undue Hardship Waiver of Estate Claim and/or Partial Recovery, the TPL Contractor mails a Decision Notice Regarding the AHCCCS Estate Claim to the personal representative and sends a copy of the Decision Notice to the heir. The Decision Notice regarding the AHCCCS Estate Claim informs the personal representative and heir that AHCCCS has denied the application(s) and the full amount of AHCCCS' claim remains in force. The estate will be released when all available funds have been collected.

The Decision Notice regarding the AHCCCS Estate Claim includes the following information:

- Decision regarding application for Estate Claim Statutory Exemption, Undue Hardship Waiver of Estate Claim and/or Partial Recovery as applicable to the specific case;
- Reasons why the application was approved/denied;
- The amount due and payable to AHCCCS, if any;
- Instructions where to send the payment;
- Whom to contact to answer any questions; and
- The heir's right to file a grievance and request a hearing.

If the representative and/or heir(s) disagree with AHCCCS' Decision, they may file a grievance with the AHCCCS Administration. The grievance must be submitted in writing and must be received by the AHCCCS Administration, Office of Legal Assistance, Mail Drop 6200, PO Box 25520, Phoenix, Arizona 85002, no later than 60 days of the Decision Notice regarding the AHCCCS Estate Claim.

When a grievance is received, the Office of Legal Assistance (OLA) will either:

- Review the agency action and issue a final agency decision within 30 days (which final decision can then be appealed to a fair hearing); or
- Schedule the matter directly to hearing before an Administrative Law Judge (ALJ) at the Office of Administrative Hearings (OAH).

If OLA reviews the grievance and renders a decision, OLA sends the grievance decision, which contains information regarding the right to request a hearing at OAH, to the Complainant. Requests for hearing of OLA's decision must be submitted in writing and mailed or hand delivered to OLA so that it is received by OLA not later than 35 days from the date of the OLA grievance decision notice.

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If an administrative hearing is held concerning an estate matter, the ALJ issues a Recommendation Decision to the Director of AHCCCS within 20 days of the conclusion of the hearing.

Within 30 days of receipt of the Recommended Decision, the AHCCCS Director issues a Director's Decision, which will adopt, modify or reject the ALJ's Recommended Decision. A copy of the Director's Decision is mailed to all parties with information regarding filing a Motion for Rehearing or Review of the Director's Decision and appealing the Director's Decision to court. Additional information about the grievance process is found in Arizona Administrative code, Chapter R9-28-801 et seq.

If the assets of the AHCCCS member's estate are insufficient to pay all claims in full, the creditors of the estate are paid according to the priority of payment of claims as set forth by the Arizona Probate Code, A.R.S. § 14-3805. Statute provides that the personal representative of the estate shall pay expenses and creditors of the estate in the following order:

- Costs and expenses of administration, which includes:
  - Attorney's fees;
  - Probate Court fees;
  - Reasonable compensation of the personal representative or administrator;
  - Reasonable costs associated with the maintenance and repair of the real property of the estate; and
  - Other expenses reasonably related to the administration of the estate as determined by AHCCCS.
- Reasonable funeral expenses.
- Debts and taxes with preference under federal law.
- Reasonable and necessary medical and hospital expenses of the last illness of the decedent, including compensation of persons attending the decedent.
- Debts and taxes with preference under the laws of this state.
- All other claims.

Requests for refunds:
If an heir or personal representative disagrees with the estate claim amount that was paid to AHCCCS, a Request for Refund form must be completed by the heir or personal representative and submitted to AHCCCS with any supporting documentation. AHCCCS will review the request for refund and render a

decision within 30 days of receipt of the request. The decision notice will contain the following information:

- Reason why the refund was approved or denied;
- Who the heir or personal representative can contact with questions; and
- Explanation of the right of the heir or personal representative to file a grievance or request a hearing.

If an heir or personal representative disagrees with the estate claim amount stated on the Notification of the AHCCCS Claim Against the Estate prior to payment, a request must be made for review within 30 days of receipt of the Notification of the AHCCCS Claim Against the Estate along with any supporting documentation. The TPL contractor will review for an Estate Claim Statutory Exemption, Undue Hardship Waiver of Estate Claim and/ or a Partial Recovery. If any of these conditions are approved, the heir and personal representative will be notified of a withdrawal of the lien or the reduced estate claim amount.

TEFRA Lien notice procedures:
AHCCCS shall send the member, or the member's representative, a Notice of Intent at least 30 days prior to filing a TEFRA lien. The Notice of Intent shall include:

- A description of a TEFRA lien and what action AHCCCS intends to take;
- How a TEFRA lien affects the member's property;
- The legal authority for filing a TEFRA lien;
- The time frames and procedures involved in filing a TEFRA lien;
- The member's right to request a State Fair Hearing; and
- The process and time frames for requesting a State Fair Hearing.

Exemption of a TEFRA lien:
A request for exemption of a TEFRA lien must be in writing and received within 30 days of the member's receipt of a Notice of Intent. The request must describe the factual basis for a claim that the property should be exempt from placement of a TEFRA lien or recovery of a TEFRA lien.

State Fair Hearing procedures for TEFRA liens and Estate Recovery:
The request for a State Fair Hearing must be made in writing and within 30 days of notification of AHCCCS' intended action, including:

- A Notice of Intent to place a TEFRA line against a member's property;
- The denial of a request for exemption from a TEFRA lien;
- Notification of an AHCCCS claim made against the estate; or

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- The denial of a request to waive estate recovery because of an undue hardship.

AHCCCS shall mail the member a Notice of Hearing if the request for hearing is made timely. AHCCCS shall mail the member a Director's Decision no later than 30 days after the date of the Administrative Law Judge's recommended decision and within 90 days of the request for hearing.

Release of a TEFRA lien:
AHCCCS shall issue a release of a TEFRA lien within 30 days of:

- Satisfaction of the lien; or
- Notice that the member has been discharged from the medical institution and has returned home with the intent to remain in the home.

AHCCCS views "satisfaction of the lien" as a written document from AHCCCS indicating that the lien amount has been satisfied and/or paid.