

September 17, 2020

Office of the Secretary of the Commonwealth
Public Records Division
McCormack Building, Room 1719
One Ashburton Place
Boston, MA 02108

Re: Appeal of Denial of Access to Public Records

Dear Supervisor of Records,

On June 30, 2020 I submitted a public record request to Daniel Tsai, the Director of the Office of Medicaid, Executive Office of Health and Human Services through the EOHHS Public Records Office website. The agency notified me that they would not be able to reply until July 15, 2020 and I replied that I had no objection to that delay. On July 15, 2020 I received a response acknowledging receipt of my request and estimating a response by July 22, 2020. Since then I have exchanged several more emails with the public records office, and have been informed that my request is still under review.

To date, the agency has not supplied the requested records or claimed that the requested records are exempt from disclosure. The records I am seeking are public records within the meaning of G.L. c. 66 § 10 and G.L. c. 4 § 7 and not subject to any exemption.

Enclosed please find the following documents in support of this appeal:

- June 30, 2020 record request
- July 15, 2020 agency response.

Thank you for your assistance. Please let me know if you require any further information.

Yours truly,



Victoria Pulos

C: Daniel Tsai, Medicaid Director
Alexander D. deBlicke, Public Records Paralegal

June 30, 2020

Daniel Tsai, Assistant Secretary and Medicaid Director
Executive Office of Health and Human Services
Office of Medicaid
One Ashburton Place, 11th Floor
Boston, MA 02108

Re: Public record request submitted on line at <https://www.mass.gov/forms/submit-a-eohhs-public-records-request>

Dear Director Tsai,

This is a request for public records pursuant to G.L. c. 66 § 10. Please supply copies or make available for inspection public records containing any or all of the following information with respect to the state's Medicaid Estate Recovery program:

All requests for information relate to the most recent three year period for which information is available unless otherwise indicated.

1. Any reports, presentations, or other documents describing MassHealth Estate Recovery including claims, characteristics of decedents and estates subject to claims, collections, and subregulatory policies and practices or other agency guidance related to Estate Recovery.
2. Any public records containing any of the following information about MassHealth Estate Recovery.
 - a. The total number of claims filed
 - b. Of claims filed, the total amount claimed including any break out of amounts claimed for mandatory estate recovery (nursing facility or other institutional care, home and community based services and related hospitals and prescription drugs) and for optional estate recovery (any other services)
 - c. Of claims filed, the total number claiming recovery for the amount of a capitated payments to managed care organizations including Senior Care Organizations, Integrated Care Organizations and PACE plans and the total amount claimed for said capitated managed care payments.
 - d. Of claims filed, the total number in which representatives for the Estate disallowed a claim or requested a hardship waiver or a deferral.
 - e. The total number of hardship waivers requested and how many were initially granted on a conditional basis, and the total number denied.
 - f. The total number of conditional hardship waivers that, during or after the two year conditional period, became permanent and binding compared to the total number

in which the claim became payable in full or remained pending because the two year conditional period had not expired.

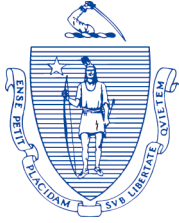
- g. The total number of complaints filed in Superior Court for collection of estate recovery claims
 - h. The total number of post-death real estate liens filed to secure estate recovery claims
 - i. The total number of life-time real estate liens filed to secure potential estate recovery claims.
 - j. The total amount collected on estate recovery claims, including the amount collected that was returned to the federal government
 - k. The total administrative costs attributed to the total amount collected on estate recovery claims.
3. Any documents supplied to MassHealth applicants with information about MassHealth estate recovery
 4. Any documents supplied to MassHealth applicants or members with information about MassHealth estate recovery and whether managed care payments are subject to recovery in whole or in part
 5. Any documents describing the method used by MassHealth to determine whether the amount of managed care payments for which recovery is sought for decedents who were also Medicare recipients includes payment for Medicaid-paid Medicare cost-sharing.
 6. For the current period only (2020), any outreach or advertising materials produced by Managed Care Organizations including Senior Care Organization, Integrated Care Organization (One Care) or PACE plans with information about MassHealth estate recovery and whether managed care payments are subject to recovery in whole or in part
 7. Any training materials produced by MassHealth for Managed Care Organizations or for the Aging Service Access Points regarding MassHealth Estate Recovery
 8. Any analysis of the potentially disproportionate effect of Estate Recovery on decedents who identify as anything other than "White or Caucasian."
 9. Information on the number of MassHealth beneficiaries who are age 55 or older and not residents of a nursing facility or other institutional setting, and not enrolled in any Home and Community Based waiver program such as the Frail Elder Waiver.

MLRI is a non-profit organization seeking this information on behalf of the MassHealth members and we ask that you waive any fees associated with this request.

Please let me know if anything in this request is unclear. If any request is burdensome, please let me know and I will be happy to try to fashion a less burdensome request. Thank you for your assistance.



Victoria Pulos
617-357-0700 Ext. 318
vpulos@mri.org



The Commonwealth of Massachusetts
Executive Office of Health and Human Services
One Ashburton Place, 11th Floor
Boston, Massachusetts 02108

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Via e-mail

July 15, 2020

Victoria Pulos
Massachusetts Law Reform Institute
vpulos@mlri.org

Re: Public Records Request Dated June 30, 2020 – Estate Recovery

Dear Ms. Pulos,

The Executive Office of Health and Human Services (EOHHS), responds to the above referenced public records request (PRR) received on June 30, 2020, wherein you requested the following records:

All requests for information relate to the most recent three year period for which information is available unless otherwise indicated.

1. Any reports, presentations, or other documents describing MassHealth Estate Recovery including claims, characteristics of decedents and estates subject to claims, collections, and subregulatory policies and practices or other agency guidance related to Estate Recovery.
2. Any public records containing any of the following information about MassHealth Estate Recovery.
 - a. The total number of claims filed
 - b. Of claims filed, the total amount claimed including any break out of amounts claimed for mandatory estate recovery (nursing facility or other institutional care, home and community based services and related hospitals and prescription drugs) and for optional estate recovery (any other services)
 - c. Of claims filed, the total number claiming recovery for the amount of a capitated payments to managed care organizations including Senior Care Organizations, Integrated Care Organizations and PACE plans and the total amount claimed for said capitated managed care payments.
 - d. Of claims filed, the total number in which representatives for the Estate disallowed a claim or requested a hardship waiver or a deferral.
 - e. The total number of hardship waivers requested and how many were initially granted on a conditional basis, and the total number denied.

- f. The total number of conditional hardship waivers that, during or after the two year conditional period, became permanent and binding compared to the total number in which the claim became payable in full or remained pending because the two year conditional period had not expired.
 - g. The total number of complaints filed in Superior Court for collection of estate recovery claims
 - h. The total number of post-death real estate liens filed to secure estate recovery claims
 - i. The total number of life-time real estate liens filed to secure potential estate recovery claims.
 - j. The total amount collected on estate recovery claims, including the amount collected that was returned to the federal government
 - k. The total administrative costs attributed to the total amount collected on estate recovery claims.
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 5. Any documents describing the method used by MassHealth to determine whether the amount of managed care payments for which recovery is sought for decedents who were also Medicare recipients includes payment for Medicaid-paid Medicare cost-sharing.
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 8. Any analysis of the potentially disproportionate effect of Estate Recovery on decedents who identify as anything other than “White or Caucasian.”
 9. Information on the number of MassHealth beneficiaries who are age 55 or older and not residents of a nursing facility or other institutional setting, and not enrolled in any Home and Community Based waiver program such as the Frail Elder Waiver.

Please note EOHHS continues to process your request to gather potentially responsive records. EOHHS is unable to provide a complete response by July 15, 2020; doing so would unduly burden EOHHS and interfere with its other responsibilities. Pursuant to G.L. c. 66 § 10(b)(vi), EOHHS estimates a response will issue by July 22, 2020 (15 business days after PRR receipt).

Please contact me with any questions or concerns. Thank you.

Sincerely,

Alexander D. deBlicke

Alexander D. deBlicke
Records Access Officer