Final Proposed Filing - Coversheet

Instructions:

In accordance with Title 3 Chapter 25 of the Vermont Statutes Annotated and the "Rule on Rulemaking" adopted by the Office of the Secretary of State, this filing will be considered complete upon filing and acceptance of these forms with the Office of the Secretary of State, and the Legislative Committee on Administrative Rules.

All forms shall be submitted at the Office of the Secretary of State, no later than 3:30 pm on the last scheduled day of the work week.

The data provided in text areas of these forms will be used to generate a notice of rulemaking in the portal of "Proposed Rule Postings" online, and the newspapers of record if the rule is marked for publication. Publication of notices will be charged back to the promulgating agency.

PLEASE REMOVE ANY COVERSHEET OR FORM NOT REQUIRED WITH THE CURRENT FILING BEFORE DELIVERY!

Certification Statement: As the adopting Authority of this rule (see 3 V.S.A. § 801 (b) (11) for a definition), I approve the contents of this filing entitled:

Estate Recovery

____, on ____________

(signature) (date)

Printed Name and Title:
Kristin McClure, Deputy Secretary, Agency of Human Services (AHS)

RECEIVED BY: ________

- ☐ Coversheet
- ☐ Adopting Page
- ☐ Economic Impact Analysis
- ☐ Environmental Impact Analysis
- ☐ Strategy for Maximizing Public Input
- ☐ Scientific Information Statement (if applicable)
- ☐ Incorporated by Reference Statement (if applicable)
- ☐ Clean text of the rule (Amended text without annotation)
- ☐ Annotated text (Clearly marking changes from previous rule)
- ☐ ICAR Minutes
- ☐ Copy of Comments
- ☐ Responsiveness Summary

1. TITLE OF RULE FILING:
   Estate Recovery

2. PROPOSED NUMBER ASSIGNED BY THE SECRETARY OF STATE
   26P006

3. ADOPTING AGENCY:
   Agency of Human Services (AHS)

4. PRIMARY CONTACT PERSON:
   (A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE).

   Name: Beth Quill

   Agency: Agency of Human Services (AHS)

   Mailing Address: 280 State Drive, Waterbury, VT 05671-1000

   Telephone: 802-578-9305 Fax: 802-241-0450

   E-Mail: Beth.Quill@vermont.gov

   Web URL *(WHERE THE RULE WILL BE POSTED)*:
   http://humanservices.vermont.gov/rulespolicies/health-care-rules/health-care-administrativerules-hcar

5. SECONDARY CONTACT PERSON:
   (A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON).

   Name: Susan Coburn

   Agency: Agency of Human Services

   Mailing Address: 280 State Drive, Waterbury, VT, 05671-1000

   Telephone: 802-578-9412 Fax: 802-241-0450

   E-Mail: Susan.Coburn@vermont.gov

6. RECORDS EXEMPTION INCLUDED WITHIN RULE:
   (DOES THE RULE CONTAIN ANY PROVISION DESIGNATING INFORMATION AS CONFIDENTIAL; LIMITING ITS PUBLIC RELEASE; OR OTHERWISE, EXEMPTING IT FROM INSPECTION AND COPYING?) No

   IF YES, CITE THE STATUTORY AUTHORITY FOR THE EXEMPTION:

   Not applicable.

   PLEASE SUMMARIZE THE REASON FOR THE EXEMPTION:

   Not applicable.

7. LEGAL AUTHORITY / ENABLING LEGISLATION:

(THE SPECIFIC STATUTORY OR LEGAL CITATION FROM SESSION LAW INDICATING WHO THE ADOPTING ENTITY IS AND THUS WHO THE SIGNATORY SHOULD BE. THIS SHOULD BE A SPECIFIC CITATION NOT A CHAPTER CITATION).

3 V.S.A. § 801(b)(11); 33 V.S.A. § 1901(a)(1)

8. EXPLANATION OF HOW THE RULE IS WITHIN THE AUTHORITY OF THE AGENCY:

AHS' authority to adopt rules is identified in question 6 above. These statutes authorize AHS as the adopting authority for administrative procedures and afford rulemaking authority for the administration of Vermont's medical assistance programs under Title XIX (Medicaid) of the Social Security Act.

9. THE FILING HAS CHANGED SINCE THE FILING OF THE PROPOSED RULE.

10. THE AGENCY HAS NOT INCLUDED WITH THIS FILING A LETTER EXPLAINING IN DETAIL WHAT CHANGES WERE MADE, CITING CHAPTER AND SECTION WHERE APPLICABLE.

11. SUBSTANTIAL ARGUMENTS AND CONSIDERATIONS WERE NOT RAISED FOR OR AGAINST THE ORIGINAL PROPOSAL.

12. THE AGENCY HAS NOT INCLUDED COPIES OF ALL WRITTEN SUBMISSIONS AND SYNOPSES OF ORAL COMMENTS RECEIVED.

13. THE AGENCY HAS NOT INCLUDED A LETTER EXPLAINING IN DETAIL THE REASONS FOR THE AGENCY'S DECISION TO REJECT OR ADOPT THEM.

14. CONCISE SUMMARY (**150 WORDS OR LESS**):

This new rule, "Estate Recovery," outlines the Medicaid Estate Recovery Procedure. Estate recovery is a federal requirement for states to recover certain Medicaid benefits paid on behalf of a Medicaid enrollee from the individual's estate. The rule needs to be updated to be added to the Health Care Administrative Rules (HCAR). The rule amends the estate recovery provisions from Medicaid Covered Services Rule 7108 "Third Party Liability". The amendments in this new rule include adding a definitions section for clarity and increasing the undue hardship estate value threshold. To better align 4.108.2.1(b) with the wording of the rule, it has been updated to "pursue recovery" instead of "file its claim".

15. EXPLANATION OF WHY THE RULE IS NECESSARY:

It is necessary to define criteria for estate recovery as navigating estate recovery can be complicated. Estate recovery is separate from third party liability and requires a rule of its own. Third party liability focuses on establishing Medicaid as the payer of last resort and ensuring that other sources or insurance or coverage pay for services before Medicaid. In order to make the estate recovery rule more understandable, there is a new definitions section and the language has been streamlined. Additionally, the undue hardship estate value threshold is increased in the rule to reduce financial hardships for families.

16. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY:

The rule is required to implement state and federal health care guidance and laws. Additionally, the rule is within the authority of the Secretary, is within the expertise of AHS, and is based on relevant factors including consideration of how the rule affects the people and entities listed below.

17. LIST OF PEOPLE, ENTERPRISES AND GOVERNMENT ENTITIES AFFECTED BY THIS RULE:

Medicaid beneficiaries and their heirs; Agency of Human Services including its Departments; and health law, policy and related advocacy and community based organizations and groups including the Office of Health Care Advocate.

18. BRIEF SUMMARY OF ECONOMIC IMPACT (150 WORDS OR LESS):

The rule will likely lessen the economic burden on the individual families of long term care Medicaid beneficiaries through increasing the undue hardship estate value threshold. When reviewing the thresholds of other states, Vermont's current threshold is low and by raising the threshold, we are protecting vulnerable Vermonters.

19. A HEARING WAS HELD.

20. HEARING INFORMATION
(THE FIRST HEARING SHALL BE NO SOONER THAN 30 DAYS FOLLOWING THE POSTING OF NOTICES ONLINE).

IF THIS FORM IS INSUFFICIENT TO LIST THE INFORMATION FOR EACH HEARING, PLEASE ATTACH A SEPARATE SHEET TO COMPLETE THE HEARING INFORMATION.

Date: 4/27/2026
Time: 01:00 PM
Street Address: 280 State Dr. WSOC Ash 49, Room A213, Waterbury, VT
Zip Code: 05671
URL for Virtual: https://teams.microsoft.com/meet/28696159835382?p=0SFSG11h5qdoFpOKP5

Date:
Time: AM
Street Address:
Zip Code:
URL for Virtual:

Date:
Time: AM
Street Address:
Zip Code:
URL for Virtual:

Date:
Time: AM
Street Address:
Zip Code:
URL for Virtual:

21. DEADLINE FOR COMMENT (NO EARLIER THAN 7 DAYS FOLLOWING LAST HEARING):

KEYWORDS (PLEASE PROVIDE AT LEAST 3 KEYWORDS OR PHRASES TO AID IN THE SEARCHABILITY OF THE RULE NOTICE ONLINE).

Estate Recovery

Medicaid

Health Care Administrative Rule

HCAR

Adopting Page

Instructions:

This form must accompany each filing made during the rulemaking process:

Note: To satisfy the requirement for an annotated text, an agency must submit the entire rule in annotated form with proposed and final proposed filings. Filing an annotated paragraph or page of a larger rule is not sufficient. Annotation must clearly show the changes to the rule.

When possible, the agency shall file the annotated text, using the appropriate page or pages from the Code of Vermont Rules as a basis for the annotated version. New rules need not be accompanied by an annotated text.

---

1. TITLE OF RULE FILING:
   Estate Recovery
2. ADOPTING AGENCY:
   Agency of Human Services (AHS)
3. TYPE OF FILING (*PLEASE CHOOSE THE TYPE OF FILING FROM THE DROPDOWN MENU BASED ON THE DEFINITIONS PROVIDED BELOW*):
   - **AMENDMENT -** Any change to an already existing rule, even if it is a complete rewrite of the rule, it is considered an amendment if the rule is replaced with other text.
   - **NEW RULE -** A rule that did not previously exist even under a different name.
   - **REPEAL** - The removal of a rule in its entirety, without replacing it with other text.

   This filing is **A NEW RULE** .
4. LAST ADOPTED (*PLEASE PROVIDE THE SOS LOG#, TITLE AND EFFECTIVE DATE OF THE LAST ADOPTION FOR THE EXISTING RULE)*:

Economic Impact Analysis

Instructions:

In completing the economic impact analysis, an agency analyzes and evaluates the anticipated costs and benefits to be expected from adoption of the rule; estimates the costs and benefits for each category of people enterprises and government entities affected by the rule; compares alternatives to adopting the rule; and explains their analysis concluding that rulemaking is the most appropriate method of achieving the regulatory purpose. If no impacts are anticipated, please specify "No impact anticipated" in the field.

Rules affecting or regulating schools or school districts must include cost implications to local school districts and taxpayers in the impact statement, a clear statement of associated costs, and consideration of alternatives to the rule to reduce or ameliorate costs to local school districts while still achieving the objectives of the rule (see 3 V.S.A. § 832b for details).

Rules affecting small businesses (excluding impacts incidental to the purchase and payment of goods and services by the State or an agency thereof), must include ways that a business can reduce the cost or burden of compliance or an explanation of why the agency determines that such evaluation isn't appropriate, and an evaluation of creative, innovative or flexible methods of compliance that would not significantly impair the effectiveness of the rule or increase the risk to the health, safety, or welfare of the public or those affected by the rule.

---

1. TITLE OF RULE FILING:

   Estate Recovery

2. ADOPTING AGENCY:

   Agency of Human Services (AHS)

3. CATEGORY OF AFFECTED PARTIES:

   LIST CATEGORIES OF PEOPLE, ENTERPRISES, AND GOVERNMENTAL ENTITIES POTENTIALLY AFFECTED BY THE ADOPTION OF THIS RULE AND THE ESTIMATED COSTS AND BENEFITS ANTICIPATED:

   Medicaid beneficiaries and their heirs - the increase in the undue hardship estate value threshold will lessen the economic burden on the individual families of long term care Medicaid beneficiaries and will protect vulnerable Vermonters.

Agency of Human Services including its Departments; and health law, policy and related advocacy and community based organizations and groups including the Office of Health Care Advocate.

4. IMPACT ON SCHOOLS:
INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON PUBLIC EDUCATION, PUBLIC SCHOOLS, LOCAL SCHOOL DISTRICTS AND/OR TAXPAYERS CLEARLY STATING ANY ASSOCIATED COSTS:

No impact.

5. ALTERNATIVES: *CONSIDERATION OF ALTERNATIVES TO THE RULE TO REDUCE OR AMELIORATE COSTS TO LOCAL SCHOOL DISTRICTS WHILE STILL ACHIEVING THE OBJECTIVE OF THE RULE.*

Not applicable.

6. IMPACT ON SMALL BUSINESSES:
INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON SMALL BUSINESSES (EXCLUDING IMPACTS INCIDENTAL TO THE PURCHASE AND PAYMENT OF GOODS AND SERVICES BY THE STATE OR AN AGENCY THEREOF):

No impact.

7. SMALL BUSINESS COMPLIANCE: *EXPLAIN WAYS A BUSINESS CAN REDUCE THE COST/BURDEN OF COMPLIANCE OR AN EXPLANATION OF WHY THE AGENCY DETERMINES THAT SUCH EVALUATION ISN'T APPROPRIATE.*

Not applicable.

8. COMPARISON:
COMPARE THE IMPACT OF THE RULE WITH THE ECONOMIC IMPACT OF OTHER ALTERNATIVES TO THE RULE, INCLUDING NO RULE ON THE SUBJECT OR A RULE HAVING SEPARATE REQUIREMENTS FOR SMALL BUSINESS:

If we did not update the recovery threshold, there would be no economic impact. It is important to note that the economic burden on the individual families of long term care Medicaid beneficiaries remains high when this part of the rule is not amended.

9. SUFFICIENCY: *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*

The Department of Vermont Health Access's (DVHA) estate recovery team was consulted to review costs and benefits of updating the recovery threshold.

Additionally, the estate recovery team advised on what the new threshold should be based on their years of experience in Medicaid estate recovery. We also reviewed the estate recovery provisions of other states and reviewed any available data on the costs and benefits of those programs.

Environmental Impact Analysis

Instructions:

In completing the environmental impact analysis, an agency analyzes and evaluates the anticipated environmental impacts (positive or negative) to be expected from adoption of the rule; compares alternatives to adopting the rule; explains the sufficiency of the environmental impact analysis. If no impacts are anticipated, please specify "No impact anticipated" in the field.

Examples of Environmental Impacts include but are not limited to:

- Impacts on the emission of greenhouse gases
- Impacts on the discharge of pollutants to water
- Impacts on the arability of land
- Impacts on the climate
- Impacts on the flow of water
- Impacts on recreation
- Or other environmental impacts

---

1. TITLE OF RULE FILING:

   Estate Recovery

2. ADOPTING AGENCY:

   Agency of Human Services (AHS)

3. GREENHOUSE GAS: *EXPLAIN HOW THE RULE IMPACTS THE EMISSION OF GREENHOUSE GASES (E.G. TRANSPORTATION OF PEOPLE OR GOODS; BUILDING INFRASTRUCTURE; LAND USE AND DEVELOPMENT, WASTE GENERATION, ETC.):*
   No impact.

4. WATER: *EXPLAIN HOW THE RULE IMPACTS WATER (E.G. DISCHARGE / ELIMINATION OF POLLUTION INTO VERMONT WATERS, THE FLOW OF WATER IN THE STATE, WATER QUALITY ETC.):*
   No impact.

5. LAND: *EXPLAIN HOW THE RULE IMPACTS LAND (E.G. IMPACTS ON FORESTRY, AGRICULTURE ETC.):*
   No impact.

6. RECREATION: *EXPLAIN HOW THE RULE IMPACTS RECREATION IN THE STATE:*
   No impact.

7. CLIMATE: *EXPLAIN HOW THE RULE IMPACTS THE CLIMATE IN THE STATE:*
   No impact.

8. OTHER: *EXPLAIN HOW THE RULE IMPACT OTHER ASPECTS OF VERMONT'S ENVIRONMENT:*
   No impact.

9. SUFFICIENCY: *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*
   This rule has no impact on the environment.

Public Input Maximization Plan

Instructions:

Agencies are encouraged to hold hearings as part of their strategy to maximize the involvement of the public in the development of rules. Please complete the form below by describing the agency's strategy for maximizing public input (what it did do, or will do to maximize the involvement of the public).

This form must accompany each filing made during the rulemaking process:

---

1. TITLE OF RULE FILING:

   Estate Recovery

2. ADOPTING AGENCY:

   Agency of Human Services (AHS)

3. PLEASE DESCRIBE THE AGENCY'S STRATEGY TO MAXIMIZE PUBLIC INVOLVEMENT IN THE DEVELOPMENT OF THE PROPOSED RULE, LISTING THE STEPS THAT HAVE BEEN OR WILL BE TAKEN TO COMPLY WITH THAT STRATEGY:

   AHS and DVHA (The Department of Vermont Health Access) shared the proposed rule with the Medicaid and Exchange Advisory Committee (MEAC), Vermont Legal Aid (VLA), Vermont Medical Society (VMS), Vermont Association of Hospitals and Health Systems VAHHS), Vermont Care Partners (VCP), Bi-State Primary Care Association, and the Visiting Nurse Associations (VNAs) of Vermont on 9/25/2025. No comments were received.

   When a rule is filed with the Office of the Secretary of State, AHS provides notice and access to the rule through the Global Commitment Register (GCR). The GCR provides notification of policy changes and clarifications of existing Medicaid policy, including rulemaking, under Vermont's 1115 Global Commitment to Health waiver. Anyone can subscribe to the GCR.

Proposed, final proposed, and adopted rules, including all public comments and responses to rulemaking, are posted to the GCR. Subscribers receive email notifications of rule filings including hyperlinks to posted documents and an explanation of how to provide comment and be involved in the rulemaking.
GCR was posted and the public comment period ended May 8, 2026. No comments were received.

4. BEYOND GENERAL ADVERTISEMENTS, PLEASE LIST THE PEOPLE AND ORGANIZATIONS THAT HAVE BEEN OR WILL BE INVOLVED IN THE DEVELOPMENT OF THE PROPOSED RULE:

Agency of Human Services, and the Department of Vermont Health Access;

Health Care Advocate, Vermont Legal Aid Society;

Medicaid and Exchange Advisory Committee;

Vermont Medical Society;

Vermont Association of Hospitals and Health Systems;

Vermont Care Partners; and

Bi-State Primary Care Association

VNAs of Vermont.

Proposed Rule: Agency of Human Services (AHS) – Third Party Liability; amendment to current Medicaid Covered Services Rule 7108.

Presented By: Beth Quill, Attorney, DVHA

Motion was made to accept the rule by Jared Adler, seconded by John Kessler, and passed with the following recommendation:

1) Cover Sheet:
    a. Concise Summary – recommend mentioning rule title, and what the rule does, explanation of the change. Lay friendly language.
    b. Signature Page – add agency and title
2) Adopting Page:
    a. #4 – Add title of the rule.
3) Public Impact Maximization Plan:
    a. Spell out DVHA and VNA acronyms.

Proposed Rule: Agency of Human Services (AHS) - Estate Recovery; amendment to Medicaid Covered Services Rule 7108.3 in new Health Care Administrative Rule 4.108.

Presented By: Beth Quill, Attorney, DVHA

Motion was made to accept the rule by John Kessler, seconded by Jared Adler, and passed with the following recommendation:

1) Cover Sheet:
    a. Concise Summary – recommend stating rule title and what the rule does, explanation of change. Lay friendly language.
    b. Signature Page: Add agency and title.
    c. #8: Clean up sentence (add or delete a word)
2) Economic Impact:
    a. #9: Spell out DVHA and VNA acronyms.

Proposed Rule: Agency of Natural Resources (ANR) – Vermont Hazardous Waste Management Regulations

Presented By: Anna Bourakovsky, Environmental Program Manager, DEC

Motion was made to accept the rule by John Kessler seconded by Nicole Dubuque, and passed with the following recommendation:

Estate Recovery
(Annotated from
Third Party
Liability 7108)

4.108 Estate Recovery

4.108.1 Definitions

For the purposes of this rule, the following definitions apply:

(a) "**Estate**" means any assets or property that are owned by a decedent at the time of death under Vermont state probate law, including any amounts in personal needs accounts held by the decedent, but does not include amounts in a designated burial account that are in fact used for burial costs.

(b) "**Family income**" means the income of the heir, their spouse or civil union partner, and their children, including children by marriage, if any of those family members reside in the heir's household. If the heir is under 18 and not emancipated, "family income" means the income of the heir, their parents, including parents by marriage, and their siblings, including siblings by a parent's marriage, if any of those family members reside in the heir's household.

(c) An "**income-producing asset**" is any asset or property that generates revenue or cash flow, even if the asset or property generates negative net cash flow, such as a financial instrument that generates interest or returns, a business that generates revenue, or real property that generates rental income.

(d) A "**lineal heir**" is a direct descendant of a decedent, such as a child or grandchild.

(e) "**Related hospital and prescription drug services**" includes any hospital services or prescription drug services that are paid for by Long-Term Care Medicaid.

(f) A "**sibling**" is a direct descendant of a decedent's parents, such as a brother or sister.

4.108.2 Estate Recovery

(a) Federal law (42 U.S. Code § 1396p) requires Vermont Medicaid to attempt to recover from estates of individuals who:
  (1) Died on or after January 1, 1994,
  (2) Received long-term care services, including nursing facility services, home-and-community-based services, or related hospital and prescription drug services, paid for by Long-Term Care Medicaid, and
  (3) Were 55 years old or older when they received those services.

4.108.2.1 Estate Recovery Procedure

(a) Vermont Medicaid shall attempt to recover from estates by filing a claim as a creditor of the estate with the probate court.

(b) If the decedent was married, or has surviving children who are blind or disabled as defined by the Social Security Administration, or has surviving children under the age of 21, Vermont Medicaid shall only ~~file its claim~~ pursue recovery after:

(1) The decedent's spouse is deceased,

(2) The decedent's blind or disabled children, if any, are deceased or the Social Security Administration deems the child(ren) are no longer disabled after a continuing disability review, including all relevant appeals, and

(3) The decedent's children under the age of 21, if any, have attained the age of 21.

~~7108.3.1~~4.108.2.2 Exemptions from Estate Recovery

~~The department exempts the following assets from estate adjustment or recovery when an heir requests an exemption in writing no later than four months after the publication of notice to creditors of the estate.~~

(a) A decedent's estate may be exempt from estate recovery if recovering from the estate would create an undue hardship for the decedent's survivors.

~~A. Homes in trust prior to December 1, 1997:~~

~~The department normally recovers for long-term care Medicaid costs incurred after January 1, 1994. Individuals with homes in revocable trusts who received Medicaid payment of long-term care services before December 1, 1997, however, are exempt from recovery until after May 1, 1998, or, if later, the effective date of the first Medicaid eligibility review completed after December 1, 1997.~~

~~B. When loss of assets would present an undue hardship:~~

(b) An undue hardship exists only under the following circumstances:

~~The department will not seek adjustment or recovery from assets when that adjustment or recovery would present an undue hardship to the decedents family members, as specified below and in rule 7108.3.~~

(1) *Estate value under $7,500*. It is an undue hardship to recover from an estate with assets under $7,500.

~~1.~~ (2) *Income-producing assets*. It is an undue hardship to recover an income-producing asset from an estate if the only way to recover from the asset is for the asset to be sold and either:

~~Undue hardship exists when adjustment or recovery from an income-producing asset can be made only if the asset, alone or in combination with other related assets, is sold and either or both of the following conditions are met:~~

~~a.~~ (A) ~~The assets sold are the~~ The income producing asset is the sole source of income for the decedent's spouse, parent~~s~~(s), child~~ren~~(ren), or sibling~~s~~(s), or~~.~~

~~b.~~

(B) As a result of the sale, it is likely the decedent's spouse, parent~~s~~(s), child~~ren~~(ren), or sibling~~s~~(s) would qualify for public assistance (including, but not limited to, Reach Up benefits, SSI/AABD, general or emergency assistance, or TANF or TANF/MOE benefits from another state).

~~C. Estates with personal property valued at less than $2,000:~~

~~The department will not seek recovery where the estate inventory filed with the probate court consists only of personal property that does not exceed $2,000 in value, such as home furnishings, apparel, personal effects, and household goods.~~

~~The department will not seek to recover assets for which the department has imposed a penalty period of ineligibility for Medicaid coverage of long term care services related to the transfer of those assets.~~

(3) *Homestead*. It is an undue hardship to recover a homestead under the following conditions.

(A) *Sibling occupancy*. If the decedent's sibling has been living in a home continuously for at least one year immediately before the date the decedent began receiving long-term care services, it is an undue hardship to recover the home.

(B) *Child occupancy*. If the decedent's child has been living in a home continuously for at least two years immediately before the date the decedent began receiving long-term care services, and the decedent's child provided care that allowed the decedent to remain at home, it is an undue hardship to recover the home.

(C) *Lineal heir retention*. If subsection (i), and one or both of subsections (ii) and (iii), are met, it is an undue hardship to recover the first $250,000 in fair market value of a home. Vermont Medicaid shall apply this exemption by reducing the amount of its claim by the fair market value of the home or $250,000, whichever is lesser. If the decedent willed a home to multiple heirs, each heir must meet the requirements of this subsection (C). If one or more heirs do not meet the requirements of this subsection (C), their share of the homestead is subject to Medicaid estate recovery.

(i) Only the decedent's siblings or lineal heirs may inherit the home.

(ii) The heir's gross family income is below 300 percent of the federal poverty level.

(iii) The heir or their spouse provided significant services or financial support to the decedent that enabled the decedent to delay receiving long-term care services for at least six months. The decedent need not have been a Medicaid beneficiary at the time the heir or their spouse provided the services or support. The heir need not have been the sole provider of services or support.

4.108.2.3 Procedure for Applying for Exemptions from Estate Recovery

(a) An individual who has a legal claim to a homestead under 4.108.2.2 may apply for an exemption from estate recovery. The exemption must be requested in writing before the estate closes. The application must clearly state the grounds for requesting an exemption from estate recovery and must provide supporting documentation to demonstrate that the exemption applies. Vermont Medicaid shall respond to the application in writing within 28 days of receipt.

(b) If Vermont Medicaid determines that an exemption from estate recovery applies, Vermont Medicaid shall reduce the amount of its claim accordingly:

(1) If an estate is valued under $7,500 within the meaning of section 4.108.2.2(b)(1), Vermont Medicaid shall withdraw its claim.

(2) If the estate includes an income-producing asset within the meaning of section 4.108.2.2(b)(2), Vermont Medicaid shall reduce its claim by an amount sufficient to ensure that the asset need not be sold.

(3) If the estate includes a homestead within the meaning of section 4.108.2.2(b)(3), Vermont Medicaid shall either reduce its claim by an amount sufficient to ensure that the home not be sold or, in the case of subsection 4.108.2.2(b)(3)(C), shall reduce its claim as calculated by that section.

(4) If Vermont Medicaid determines that an exemption from estate recovery does not apply, Vermont Medicaid shall not reduce its claim.

~~7108.3.2 Hardship Exemptions for Homesteads~~

~~At any time before closure of the probate estate, an heir may assert that adjustment or recovery against the homestead would be an undue hardship and that the homestead should be exempt from adjustment or recovery for the costs of Medicaid long-term care services. The department shall exempt a decedents home from estate adjustment or recovery based on undue hardship when one or more of the following three conditions have been established to the departments satisfaction.~~

~~A. A sibling has been living in the home continuously for at least one year immediately before the date the decedent began receiving long-term care services.~~

~~B. A son or daughter has been living in the home continuously for at least two years immediately prior to the date the decedent began receiving long-term care services and provided care that allowed the decedent to remain at home.~~

~~C. Conditions (1), (2), and (3) below have been met.~~

~~1. The fair market value of the homestead is less than $250,000. If the fair market value of the homestead exceeds this amount, the first $250,000 in fair market value shall be exempt from estate recovery and any equity value in excess of $250,000 shall be subject to the provisions of rule 7108.3.~~

~~2. A sibling or lineal heir of the deceased Medicaid beneficiary will inherit the homestead. A lineal heir is a direct descendant, such as a child or grandchild.~~

~~3. The heir meets one or both of conditions (a) and (b) below.~~

~~a. The heir has gross family income below 300 percent of the federal poverty level. No income exclusions or deductions are allowed. The income of the persons presented in the following table is included in the heirs gross family income, provided that they are living in the heirs household.~~

~~Heir's Household~~

~~Type of Heir~~	~~Family Members, If Living in the Heirs Household~~
~~Adult 18 years or older; or person younger than 18 and emancipated~~	~~Heir~~ ~~Heirs spouse or civil union partner~~ ~~Heirs biological or adoptive child or stepchild~~
~~Person younger than 18 and not emancipated~~	~~Heir~~ ~~Heirs parent~~ ~~Heirs stepparent~~ ~~Heirs biological or adoptive sibling, stepsibling, or half sibling, if younger than 18 and not emancipated~~

~~b. The heir demonstrates that significant services or financial support provided to the deceased person by heirs meeting condition (2) or the spouses of such heirs enabled the person to avoid long-term care or delay it at least six months. It is not necessary for the deceased person to have been a Medicaid beneficiary when the services or financial support were provided. Services may have been provided in combination with services provided by governmental or other private entities.~~

~~To meet condition (b), the services or financial support must fall into one or both of the following two categories:~~

~~i. Medical or remedial care or support services that were:~~

- ~~medically necessary;~~
- ~~provided directly by the heir or the heir's spouse without compensation, or purchased with the heir's funds; and~~
- ~~provided while the deceased person required medical care and services consistent with the level of care standard for level III residential care homes at a frequency averaging no fewer than three times per week or, if provided less frequently, constituting the equivalent expenditure of time or money.~~

~~The department shall not verify the level of care unless it has a reasonable basis for questioning that the level III standard was met.~~

~~ii. Other services or financial support at least as significant as the care or services described in category (i).~~

~~When there are two or more heirs, the full value of the homestead is exempt from Medicaid estate adjustment or recovery only if each heir meets conditions (1), (2), and (3) above. When one or more heirs do not meet conditions (1), (2), and (3), the percentage of the value of the homestead corresponding to their share is subject to Medicaid estate adjustment or recovery.~~

~~7108.3.3 Adjusting Claims Against Homesteads~~

~~An estate includes all real and personal property and other assets listed on an inventory filed in the probate court. The probate court oversees the distribution of assets to heirs and the payment of the decedent's outstanding debts, which requires creditors to submit proof of their claims to the court.~~

~~The probate court judge compares the total value of claims filed by creditors to the total value of available assets in the estate. The court determines which assets are available to pay debt~~

~~When any heir meets the department's undue hardship criteria as specified in rule 7108.3, some or all of these available assets may be exempt from adjustment or recovery by the department under these rules. Nonexempt assets are those subject to the department's claim because an heir has not met the undue hardship criteria. Creditors other than the department are not subject to these exemptions.~~

~~When the total available assets are insufficient to pay all claims, the probate court prioritizes the debts and prorates each claim according to law. Each creditor collects the resulting percentage of its claim.~~

~~If there are sufficient nonexempt assets to allow the department to collect its full percentage, it does so. If the nonexempt assets allow the department to collect only a partial amount of its share after the court's proration, it collects that amount. The department shall maintain its original claim so it can be prorated along with all other creditors claims according to law. The department notifies the court of its decision on the homestead exemption. If the department grants a homestead exemption, it shall inform the court of the maximum payment it will accept against its claim. The department determines the maximum payment it will accept by subtracting the amount of the exemption from the amount of the department's claim.~~

~~7108.3.4 Retroactive Homestead Exemptions~~

~~The undue hardship exemption applicable to homesteads shall be effective for any probate estate opened after June 30, 1999. Heirs seeking the exemption from July 1, 1999, through the effective date of this policy must submit their claim to the department's Coordination of Benefits unit in the Office of Vermont Health Access within 60 days following receipt of proper notice from the department. In the sole discretion of the commissioner, the department may make exceptions to the 60-day rule when an heir establishes undue hardship due to lack of notice, a medical need, or natural disaster. Heirs seeking an exemption from the 60-day submission requirement must sign an affidavit describing the condition that prevented them from complying with the 60-day submission requirement and submit the affidavit along with supporting documentation to the commissioner.~~

~~7108.3.5 Long-Term Care Insurance Partnership Exemption~~

~~The department will exempt assets or resources pursuant to rule 4242.2 in an amount equal to the insurance benefit payments that are made to or on behalf of an individual who is a beneficiary under a qualified State long-term care insurance partnership policy whether or not an heir requests an exemption.~~

4.108 Estate Recovery

4.108.1 Definitions

For the purposes of this rule, the following definitions apply:

(a) "**Estate**" means any assets or property that are owned by a decedent at the time of death under Vermont state probate law, including any amounts in personal needs accounts held by the decedent, but does not include amounts in a designated burial account that are in fact used for burial costs.

(b) "**Family income**" means the income of the heir, their spouse or civil union partner, and their children, including children by marriage, if any of those family members reside in the heir's household. If the heir is under 18 and not emancipated, "family income" means the income of the heir, their parents, including parents by marriage, and their siblings, including siblings by a parent's marriage, if any of those family members reside in the heir's household.

(c) An "**income-producing asset**" is any asset or property that generates revenue or cash flow, even if the asset or property generates negative net cash flow, such as a financial instrument that generates interest or returns, a business that generates revenue, or real property that generates rental income.

(d) A "**lineal heir**" is a direct descendant of a decedent, such as a child or grandchild.

(e) "**Related hospital and prescription drug services"** includes any hospital services or prescription drug services that are paid for by Long-Term Care Medicaid.

(f) A "**sibling**" is a direct descendant of a decedent's parents, such as a brother or sister.

4.108.2 Estate Recovery

(a) Federal law (42 U.S. Code § 1396p) requires Vermont Medicaid to attempt to recover from estates of individuals who:

(1) Died on or after January 1, 1994,
(2) Received long-term care services, including nursing facility services, home-and-community-based services, or related hospital and prescription drug services, paid for by Long-Term Care Medicaid, and
(3) Were 55 years old or older when they received those services.

4.108.2.1 Estate Recovery Procedure

(a) Vermont Medicaid shall attempt to recover from estates by filing a claim as a creditor of the estate with the probate court.

(b) If the decedent was married, or has surviving children who are blind or disabled as defined by the Social Security Administration, or has surviving children under the age of 21, Vermont Medicaid shall only pursue recovery after:
(1) The decedent's spouse is deceased,

(2) The decedent’s blind or disabled children, if any, are deceased or the Social Security Administration deems the child(ren) are no longer disabled after a continuing disability review, including all relevant appeals, and
(3) The decedent’s children under the age of 21, if any, have attained the age of 21.

4.108.2.2 Exemptions from Estate Recovery

(a) A decedent’s estate may be exempt from estate recovery if recovering from the estate would create an undue hardship for the decedent’s survivors.

(b) An undue hardship exists only under the following circumstances:
(1) Estate value under $7,500. It is an undue hardship to recover from an estate with assets under $7,500.

(2) Income-producing assets. It is an undue hardship to recover an income-producing asset from an estate if the only way to recover from the asset is for the asset to be sold and either:
(A) The income producing asset is the sole source of income for the decedent’s spouse, parent(s), child(ren), or sibling(s), or
(B) As a result of the sale, it is likely the decedent’s spouse, parent(s), child(ren), or sibling(s) would qualify for public assistance (including, but not limited to, Reach Up benefits, SSI/AABD, general or emergency assistance, or TANF or TANF/MOE benefits from another state).

(3) Homestead. It is an undue hardship to recover a homestead under the following conditions.
(A) Sibling occupancy. If the decedent’s sibling has been living in a home continuously for at least one year immediately before the date the decedent began receiving long-term care services, it is an undue hardship to recover the home.
(B) Child occupancy. If the decedent’s child has been living in a home continuously for at least two years immediately before the date the decedent began receiving long-term care services, and the decedent’s child provided care that allowed the decedent to remain at home, it is an undue hardship to recover the home.
(C) Lineal heir retention. If subsection (i), and one or both of subsections (ii) and (iii), are met, it is an undue hardship to recover the first $250,000 in fair market value of a home. Vermont Medicaid shall apply this exemption by reducing the amount of its claim by the fair market value of the home or $250,000, whichever is lesser. If the decedent willed a home to multiple heirs, each heir must meet the requirements of this subsection (C). If one or more heirs do not meet the requirements of this subsection (C), their share of the homestead is subject to Medicaid estate recovery.
(i) Only the decedent’s siblings or lineal heirs may inherit the home.
(ii) The heir’s gross family income is below 300 percent of the federal poverty level.
(iii) The heir or their spouse provided significant services or financial support to the decedent that enabled the decedent to delay receiving long-term care services for at least six months. The decedent need not have been a Medicaid beneficiary at the time the heir or their spouse provided the services or support. The heir need not have been the sole provider of services or support.

4.108.2.3 Procedure for Applying for Exemptions from Estate Recovery

(a) An individual who has a legal claim to a homestead under 4.108.3.2 may apply for an exemption from estate recovery. The exemption must be requested in writing before the estate closes. The application must clearly state the grounds for requesting an exemption from estate recovery and must provide supporting documentation to demonstrate that the exemption applies. Vermont Medicaid shall respond to the application in writing within 28 days of receipt.

(b) If Vermont Medicaid determines that an exemption from estate recovery applies, Vermont Medicaid shall reduce the amount of its claim accordingly:
   (1) If an estate is valued under $7,500 within the meaning of section 4.108.3.2(b)(1), Vermont Medicaid shall withdraw its claim.
   (2) If the estate includes an income-producing asset within the meaning of section 4.108.3.2(b)(2), Vermont Medicaid shall reduce its claim by an amount sufficient to ensure that the asset need not be sold.
   (3) If the estate includes a homestead within the meaning of section 4.108.3.2(b)(3), Vermont Medicaid shall either reduce its claim by an amount sufficient to ensure that the home not be sold or, in the case of subsection 4.108.3.2(b)(3)(C), shall reduce its claim as calculated by that section.
   (4) If Vermont Medicaid determines that an exemption from estate recovery does not apply, Vermont Medicaid shall not reduce its claim.

The Vertmont Statutes Online

Title 3 : Executive

Chapter 025 : Administrative Procedure

Subchapter 001 : GENERAL PROVISIONS

(Cite as: 3 V.S.A. § 801)

§ 801. Short title and definitions

(a) This chapter may be cited as the "Vermont Administrative Procedure Act."

(b) As used in this chapter:

(1) "Agency" means a State board, commission, department, agency, or other entity or officer of State government, other than the Legislature, the courts, the Commander in Chief, and the Military Department, authorized by law to make rules or to determine contested cases.

(2) "Contested case" means a proceeding, including but not restricted to rate-making and licensing, in which the legal rights, duties, or privileges of a party are required by law to be determined by an agency after an opportunity for hearing.

(3) "License" includes the whole or part of any agency permit, certificate, approval, registration, charter, or similar form of permission required by law.

(4) "Licensing" includes the agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal, or amendment of a license.

(5) "Party" means each person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party.

(6) "Person" means any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character other than an agency.

(7) "Practice" means a substantive or procedural requirement of an agency, affecting one or more persons who are not employees of the agency, that is used by the agency in the discharge of its powers and duties. The term includes all such requirements, regardless of whether they are stated in writing.

(8) "Procedure" means a practice that has been adopted in writing, either at the election of the agency or as the result of a request under subsection 831(b) of this

title. The term includes any practice of any agency that has been adopted in writing, whether or not labeled as a procedure, except for each of the following:

(A) a rule adopted under sections 836-844 of this title;

(B) a written document issued in a contested case that imposes substantive or procedural requirements on the parties to the case;

(C) a statement that concerns only:

(i) the internal management of an agency and does not affect private rights or procedures available to the public;

(ii) the internal management of facilities that are secured for the safety of the public and the individuals residing within them; or

(iii) guidance regarding the safety or security of the staff of an agency or its designated service providers or of individuals being provided services by the agency or such a provider;

(D) an intergovernmental or interagency memorandum, directive, or communication that does not affect private rights or procedures available to the public;

(E) an opinion of the Attorney General; or

(F) a statement that establishes criteria or guidelines to be used by the staff of an agency in performing audits, investigations, or inspections, in settling commercial disputes or negotiating commercial arrangements, or in the defense, prosecution, or settlement of cases, if disclosure of the criteria or guidelines would compromise an investigation or the health and safety of an employee or member of the public, enable law violators to avoid detection, facilitate disregard of requirements imposed by law, or give a clearly improper advantage to persons that are in an adverse position to the State.

(9) “Rule” means each agency statement of general applicability that implements, interprets, or prescribes law or policy and that has been adopted in the manner provided by sections 836-844 of this title.

(10) “Incorporation by reference” means the use of language in the text of a regulation that expressly refers to a document other than the regulation itself.

(11) “Adopting authority” means, for agencies that are attached to the Agencies of Administration, of Commerce and Community Development, of Natural Resources, of Human Services, and of Transportation, or any of their components, the secretaries of those agencies; for agencies attached to other departments or any of their components, the commissioners of those departments; and for other agencies, the chief officer of the agency. However, for the procedural rules of boards with quasi-judicial powers, for the Transportation Board, for the Vermont Veterans’ Memorial Cemetery Advisory Board, and for the Fish and Wildlife Board, the chair or executive secretary of the board shall be the adopting authority. The Secretary of State shall be the adopting authority for the Office of Professional Regulation.

(12) “Small business” means a business employing no more than 20 full-time employees.

(13)(A) “Arbitrary,” when applied to an agency rule or action, means that one or more of the following apply:

(i) There is no factual basis for the decision made by the agency.

(ii) The decision made by the agency is not rationally connected to the factual basis asserted for the decision.

(iii) The decision made by the agency would not make sense to a reasonable person.

(B) The General Assembly intends that this definition be applied in accordance with the Vermont Supreme Court’s application of “arbitrary” in Beyers v. Water Resources Board, 2006 VT 65, and In re Town of Sherburne, 154 Vt. 596 (1990).

(14) “Guidance document” means a written record that has not been adopted in accordance with sections 836-844 of this title and that is issued by an agency to assist the public by providing an agency’s current approach to or interpretation of law or describing how and when an agency will exercise discretionary functions. The term does not include the documents described in subdivisions (8)(A) through (F) of this section.

(15) “Index” means a searchable list of entries that contains subjects and titles with page numbers, hyperlinks, or other connections that link each entry to the text or document to which it refers. (Added 1967, No. 360 (Adj. Sess.), § 1, eff. July 1, 1969; amended 1981, No. 82, § 1; 1983, No. 158 (Adj. Sess.), eff. April 13, 1984; 1985, No. 56, § 1; 1985, No. 269 (Adj. Sess.), § 4; 1987, No. 76, § 18; 1989, No. 69, § 2, eff. May 27, 1989; 1989, No. 250 (Adj. Sess.), § 88; 2001, No. 149 (Adj. Sess.), § 46, eff. June 27, 2002; 2017, No. 113 (Adj. Sess.), § 3; 2017, No. 156 (Adj. Sess.), § 2.)

The Vermont Statutes Online

Title 33 : Human Services

Chapter 019 : Medical Assistance

Subchapter 001 : MEDICAID

(Cite as: 33 V.S.A. § 1901)

§ 1901. Administration of program

(a)(1) The Secretary of Human Services or designee shall take appropriate action, including making of rules, required to administer a medical assistance program under Title XIX (Medicaid) and Title XXI (SCHIP) of the Social Security Act.

(2) The Secretary or designee shall seek approval from the General Assembly prior to applying for and implementing a waiver of Title XIX or Title XXI of the Social Security Act, an amendment to an existing waiver, or a new state option that would restrict eligibility or benefits pursuant to the Deficit Reduction Act of 2005. Approval by the General Assembly under this subdivision constitutes approval only for the changes that are scheduled for implementation.

(3) [Repealed.]

(4) A manufacturer of pharmaceuticals purchased by individuals receiving State pharmaceutical assistance in programs administered under this chapter shall pay to the Department of Vermont Health Access, as the Secretary's designee, a rebate on all pharmaceutical claims for which State-only funds are expended in an amount that is in proportion to the State share of the total cost of the claim, as calculated annually on an aggregate basis, and based on the full Medicaid rebate amount as provided for in Section 1927(a) through (c) of the federal Social Security Act, 42 U.S.C. § 1396r-8.

(b) [Repealed.]

(c) The Secretary may charge a monthly premium, in amounts set by the General Assembly, per family for pregnant women and children eligible for medical assistance under Sections 1902(a)(10)(A)(i)(III), (IV), (VI), and (VII) of Title XIX of the Social Security Act, whose family income exceeds 195 percent of the federal poverty level, as permitted under section 1902(r)(2) of that act. Fees collected under this subsection shall be credited to the State Health Care Resources Fund established in section 1901d of this title and shall be available to the Agency to offset the costs of providing

Medicaid services. Any co-payments, coinsurance, or other cost sharing to be charged shall also be authorized and set by the General Assembly.

(d)(1) To enable the State to manage public resources effectively while preserving and enhancing access to health care services in the State, the Department of Vermont Health Access is authorized to serve as a publicly operated managed care organization (MCO).

(2) To the extent permitted under federal law, the Department of Vermont Health Access shall be exempt from any health maintenance organization (HMO) or MCO statutes in Vermont law and shall not be considered to be an HMO or MCO for purposes of State regulatory and reporting requirements. The MCO shall comply with the federal rules governing managed care organizations in 42 C.F.R. Part 438. The Vermont rules on the primary care case management in the Medicaid program shall be amended to apply to the MCO except to the extent that the rules conflict with the federal rules.

(3) The Agency of Human Services and Department of Vermont Health Access shall report to the Health Reform Oversight Committee about implementation of Global Commitment in a manner and at a frequency to be determined by the Committee. Reporting shall, at a minimum, enable the tracking of expenditures by eligibility category, the type of care received, and to the extent possible allow historical comparison with expenditures under the previous Medicaid appropriation model (by department and program) and, if appropriate, with the amounts transferred by another department to the Department of Vermont Health Access. Reporting shall include spending in comparison to any applicable budget neutrality standards.

(e) [Repealed.]

(f) The Secretary shall not impose a prescription co-payment for individuals under age 21 enrolled in Medicaid or Dr. Dynasaur.

(g) The Department of Vermont Health Access shall post prominently on its website the total per-member per-month cost for each of its Medicaid and Medicaid waiver programs and the amount of the State's share and the beneficiary's share of such cost.

(h) To the extent required to avoid federal antitrust violations, the Department of Vermont Health Access shall facilitate and supervise the participation of health care professionals and health care facilities in the planning and implementation of payment reform in the Medicaid and SCHIP programs. The Department shall ensure that the process and implementation include sufficient State supervision over these entities to comply with federal antitrust provisions and shall refer to the Attorney General for appropriate action the activities of any individual or entity that the Department determines, after notice and an opportunity to be heard, violate State or federal antitrust laws without a countervailing benefit of improving patient care, improving access to health care, increasing efficiency, or reducing costs by modifying payment methods. (Added 1967, No. 147, § 6; amended 1997, No. 155 (Adj. Sess.), § 21; 2005, No. 159 (Adj. Sess.), § 2; 2005, No. 215 (Adj. Sess.), § 308, eff. May 31, 2006; 2007, No.

74, § 3, eff. June 6, 2007; 2009, No. 156 (Adj. Sess.), § E.309.15, eff. June 3, 2010; 2009, No. 156 (Adj. Sess.), § I.43; 2011, No. 48, § 16a, eff. Jan. 1, 2012; 2011, No. 139 (Adj. Sess.), § 51, eff. May 14, 2012; 2011, No. 162 (Adj. Sess.), § E.307.6; 2011, No. 171 (Adj. Sess.), § 41c; 2013, No. 79, § 23, eff. Jan. 1, 2014; 2013, No. 79, § 46; 2013, No. 131 (Adj. Sess.), § 39, eff. May 20, 2014; 2013, No. 142 (Adj. Sess.), § 98; 2017, No. 210 (Adj. Sess.), § 3, eff. June 1, 2018; 2023, No. 85 (Adj. Sess.), § 471, eff. July 1, 2024.)

VERMONT

Proposed Rules Postings
A Service of the Office of the Secretary of State

Search Rules

Deadline For Public Comment

Deadline: May 08, 2026

The deadline for public comment has expired. Contact the agency or primary contact person listed below for assistance.

Rule Details

Rule Number:	26P006
Title:	Estate Recovery.
Type:	Standard
Status:	Proposed
Agency:	Agency of Human Services
Legal Authority:	3 V.S.A. § 801(b)(11); 33 V.S.A. § 1901(a)(1)
Summary:	This new rule, "Estate Recovery," outlines the Medicaid Estate Recovery Procedure. Estate recovery is a federal requirement for states to recover certain Medicaid benefits paid on behalf of a Medicaid enrollee from the individual's estate. The rule needs to be updated to be added to the Health Care Administrative Rules (HCAR). The rule amends the estate recovery provisions from Medicaid Covered Services Rule 7108 "Third Party Liability". The amendments in this new rule include adding a definitions section for clarity and increasing the undue hardship estate value threshold.
Persons Affected:	Medicaid beneficiaries and their heirs; Agency of Human Services including its Departments; and health law, policy and related advocacy and community based organizations and groups including the Office of Health Care Advocate.
Economic Impact:	The rule will likely lessen the economic burden on the individual families of long term care Medicaid beneficiaries through increasing the undue hardship estate value threshold. When reviewing the thresholds of other states, Vermont's current threshold is low and by raising the threshold, we are protecting vulnerable Vermonters.
Posting date:	Mar 04,2026

Hearing Information

	Information for Hearing # 1
Hearing date:	04-27-2026 1:00 PM ADD TO YOUR CALENDAR
Location:	Waterbury State Office Complex, Ash 49 Room A213
Address:	280 State Drive
City:	Waterbury
State:	VT
Zip:	05671
Hearing Notes:	Also virtually via MS Teams: https://teams.microsoft.com/meet/28696159835382?p0SFSG11h5qdoFpOKP5
	Information for Hearing # 2
Hearing date:	04-27-2026 1:00 PM ADD TO YOUR CALENDAR
Location:	Virtually via MS Teams
Address:	https://teams.microsoft.com/meet/28696159835382?p0SFSG11h5qdoFpOKP5
City:	n/a
State:	VT
Zip:	n/a

Hearing Notes:	Virtually via MS Teams: https://teams.microsoft.com/meet/28696159835382?p0SFSG11h5qdoFpOKP5

Contact Information

Information for Primary Contact

PRIMARY CONTACT PERSON - A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE.

Level:	Primary
Name:	Beth Quill
Agency:	Department of Vermont Health Access, Agency of Human Services
Address:	280 State Dive
City:	Waterbury
State:	VT
Zip:	05671-1000
Telephone:	802-585-5415
Fax:	802-241-0260
Email:	Beth.Quill@vermont.gov SEND A COMMENT
Website Address:	https://humanservices.vermont.gov/rules-policies/health-care-rules/health-care-administrative-rules-hcar VIEW WEBSITE

Information for Secondary Contact

SECONDARY CONTACT PERSON - A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON.

Level:	Secondary
Name:	Susan Coburn
Agency:	Agency of Human Services
Address:	280 State Drive
City:	Waterbury
State:	VT
Zip:	05671-1000
Telephone:	802-578-9412
Fax:	802-241-0450
Email:	susan.coburn@vermont.gov SEND A COMMENT

Keyword Information

Keywords:	Estate Recovery Medicaid Health Care Administrative Rule HCAR

Back

OFFICE OF THE SECRETARY OF STATE

VERMONT STATE ARCHIVES & RECORDS ADMINISTRATION (VSARA)

(802) 828-2863

TO:		
	Seven Days Legals (legals@sevendaysvt.com)	Tel: (802) 865-1020 x110.
	The Caledonian Record Julie Poutré (adv@caledonian-record.com)	Tel: 748-8121 FAX: 748-1613
	Times Argus / Rutland Herald Classified Ads (classified.ads@rutlandherald.com)	Tel: 802-747-6121 ext 2238 FAX: 802-776-5600
	The Valley News (advertising@vnews.com)	Tel: 603-298-8711 FAX: 603-298-0212
	The Addison Independent (legals@addisonindependent.com)	Tel: 388-4944 FAX: 388-3100 Attn: Display Advertising
	The Bennington Banner / Brattleboro Reformer Lylah Wright (lwright@reformer.com)	Tel: 254-2311 ext. 132 FAX: 447-2028 Attn: Lylah Wright
	The Chronicle (ads@bartonchronicle.com)	Tel: 525-3531 FAX: 525-3200
	Herald of Randolph (ads@ourherald.com)	Tel: 728-3232 FAX: 728-9275 Attn: Brandi Comette
	Newport Daily Express (jlafoe@newportvermontdailyexpress.com)	Tel: 334-6568 FAX: 334-6891 Attn: Jon Lafoe
	News & Citizen (mike@stowereporter.com)	Tel: 888-2212 FAX: 888-2173
	St. Albans Messenger Legals (legals@samessenger.com; cfoley@orourkemediagroup.com)	Tel: 524-9771 ext. 117 FAX: 527-1948 Attn: Legals
	The Islander (islander@vermontislander.com)	Tel: 802-372-5600 FAX: 802-372-3025
	Vermont Lawyer (hunter.press.vermont@gmail.com)	Attn: Will Hunter
	VT Digger (legals@vtdigger.org)	Attn: Legals

FROM: APA Coordinator, VSARA **Date of Fax:** July 1, 2026

RE: The "Proposed State Rules " ad copy to run on **March 12, 2026**

PAGES INCLUDING THIS COVER MEMO: **2**

***NOTE* 8-pt font in body. 12-pt font max. for headings - single space body. Please include dashed lines where they appear in ad copy. Otherwise minimize the use of white space. Exceptions require written approval.**

If you have questions, or if the printing schedule of your paper is disrupted by holiday etc. please contact VSARA at 802-828-3700, or E-Mail sos.statutoryfilings@vermont.gov, Thanks.

PROPOSED STATE RULES

===

By law, public notice of proposed rules must be given by publication in newspapers of record. The purpose of these notices is to give the public a chance to respond to the proposals. The public notices for administrative rules are now also available online at https://secure.vermont.gov/SOS/rules/ . The law requires an agency to hold a public hearing on a proposed rule, if requested to do so in writing by 25 persons or an association having at least 25 members.

To make special arrangements for individuals with disabilities or special needs please call or write the contact person listed below as soon as possible.

To obtain further information concerning any scheduled hearing(s), obtain copies of proposed rule(s) or submit comments regarding proposed rule(s), please call or write the contact person listed below. You may also submit comments in writing to the Legislative Committee on Administrative Rules, State House, Montpelier, Vermont 05602 (802-828-2231).

Refugee Medical Assistance Rule Update.

Vermont Proposed Rule: 26P004

AGENCY: Agency of Human Services

CONCISE SUMMARY: This proposed rulemaking amends the Refugee Medical Assistance rule which was last amended effective November 1, 2019. This proposed rule establishes criteria and process used to determine eligibility and provide coverage under the Refugee Medical Assistance program. Updates to this rule are strictly formal, adopting the federal APA outline standard, as required for implementation within the Agency's upcoming eligibility and enrollment technology system. There are no substantive changes to this rule.

FOR FURTHER INFORMATION, CONTACT: Tracy Dolan, Agency of Human Services, 280 State Drive, Center Building Waterbury VT 05676 Tel: 802-233-1117 Fax: 802-241-0450 E-Mail: Tracy.Dolan@vermont.gov URL: https://humanservices.vermont.gov/rules-policies/health-care-rules.

FOR COPIES: Gabriel Epstein, Agency of Human Services, 280 State Drive, Center Building, Waterbury VT 05676 Tel: 802-585-5925 Fax: 802-241-0450 E-Mail: gabriel.epstein@vermont.gov.

Third Party Liability.

Vermont Proposed Rule: 26P005

AGENCY: Agency of Human Services

CONCISE SUMMARY: This rule, Medicaid Covered Services Rule 7108 Third Party Liability, is being amended to remove the estate recovery language and adopt that language into a new rule. Estate recovery is a federal requirement for states to recover certain Medicaid benefits paid on behalf of a Medicaid enrollee from the individual's estate. This rule is not being amended other than to remove the estate recovery section.

FOR FURTHER INFORMATION, CONTACT: Beth Quill, Agency of Human Services (AHS), Department of Vermont Health Access (DVHA) 280 State Drive, Waterbury, VT 05671-1000 Tel: 802-585-5415 Fax: 802-241-0260 E-Mail: Beth.Quill@vermont.gov URL: https://humanservices.vermont.gov/rules-policies/health-care-rules/health-care-administrative-rules-hcar.

FOR COPIES: Susan Coburn, Agency of Human Services, 280 State Drive, Waterbury, VT, 05671-1000 Tel: 802-578-9412 Fax: 802-241-0450 E-Mail: Susan.Coburn@vermont.gov.

Estate Recovery.

Vermont Proposed Rule: 26P006

AGENCY: Agency of Human Services

CONCISE SUMMARY: This new rule, "Estate Recovery," outlines the Medicaid Estate Recovery Procedure. Estate recovery is a federal requirement for states to recover certain Medicaid benefits paid on behalf of a Medicaid enrollee from the individual's estate. The rule needs to be updated to be added to the Health Care Administrative Rules (HCAR). The rule amends the estate recovery provisions from Medicaid Covered Services Rule 7108 "Third Party Liability". The amendments in this new rule include adding a definitions section for clarity and increasing the undue hardship estate value threshold.

FOR FURTHER INFORMATION, CONTACT: Beth Quill, Agency of Human Services (AHS), Department of Vermont Health Access (DVHA) 280 State Drive, Waterbury, VT 05671-1000 Tel: 802-585-5415 Fax: 802-241-0260 E-Mail: Beth.Quill@vermont.gov URL: https://humanservices.vermont.gov/rules-policies/health-care-rules/health-care-administrative-rules-hcar.

FOR COPIES: Susan Coburn, Agency of Human Services, 280 State Drive, Waterbury, VT, 05671-1000 Tel: 802-578-9412 Fax: 802-241-0450 E-Mail: Susan.Coburn@vermont.gov.
