

~~15-121.~~

~~(a) (1) In accordance with applicable federal law and rules and regulations, including those under Title XIX of the Social Security Act, the Department may make claim against the estate of:~~

~~(I) [a] A deceased Program recipient for the amount of any medical assistance payments under this title; OR~~

~~(II) THE SURVIVING SPOUSE OF A DECEASED PROGRAM RECIPIENT FOR THE AMOUNT OF MEDICAL ASSISTANCE PAYMENTS MADE ON BEHALF OF THE DECEASED PROGRAM RECIPIENT UNDER THIS TITLE, UNLESS THE SURVIVING SPOUSE AT THE TIME OF THE SURVIVING SPOUSE'S DEATH IS SURVIVED BY A CHILD WHO IS:~~

- ~~1. LESS THAN 21 YEARS OF AGE;~~
- ~~2. BLIND; OR~~
- ~~3. PERMANENTLY AND TOTALLY DISABLED.~~

~~(2) THE ASSETS OF THE ESTATE OF THE SURVIVING SPOUSE SUBJECT TO THE DEPARTMENT'S CLAIM UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION SHALL BE RESTRICTED TO THOSE ASSETS THAT PASSED TO THE SURVIVING SPOUSE FROM THE DECEASED PROGRAM RECIPIENT UPON THE DEATH OF THE DECEASED PROGRAM RECIPIENT BY:~~

- ~~(I) TESTAMENTARY DISPOSITION;~~
- ~~(II) DISTRIBUTION UNDER THE LAWS OF INTTESTATE SUCCESSION;~~
- ~~(III) RIGHT OF SURVIVORSHIP FROM PROPERTY HELD IN TENANCY BY THE ENTIRETY OR IN JOINT TENANCY; OR~~
- ~~(IV) A REMAINDER INTEREST FROM A LIFE TENANCY.~~

~~(3) THE DEPARTMENT'S CLAIM AGAINST THE ESTATE OF A SURVIVING SPOUSE MAY NOT BE FILED AGAINST THE ESTATE UNLESS THE SURVIVING SPOUSE DIED WITHIN 5 YEARS AFTER THE DATE OF DEATH OF THE PROGRAM RECIPIENT.~~

~~(4) THE DEPARTMENT'S CLAIM AGAINST THE ESTATE OF A SURVIVING SPOUSE MAY NOT BE FILED AGAINST THE ESTATE UNLESS THE PROGRAM RECIPIENT APPLIED FOR MEDICAID ON OR AFTER JULY 1, 2005.~~

~~(b) The claim shall be waived by the Department if, in its judgment, enforcement of the claim will cause substantial hardship to the surviving dependents of the deceased.~~

~~15-124.~~

~~(b) (2) The reimbursement shall be up to the amount paid for the same items or services under the pharmacy program of the Maryland Medical Assistance Program and shall be subject to a copayment of not more than:~~