

(4) (i) The Department is not liable for payment of or contribution to any attorney fees or litigation costs of any Program recipient or attorney, guardian, or personal representative of any Program recipient.

(ii) The deduction of applicable attorney fees and litigation costs under [subsection (b)(1) of this section] PARAGRAPH (1) OF THIS SUBSECTION may not be considered as payment for or contribution to those fees or costs by the Department.

~~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 [a]:~~

~~(i) 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:~~

~~(i) THOSE ASSETS THAT PASSED TO THE SURVIVING SPOUSE FROM THE DECEASED PROGRAM RECIPIENT UPON THE DEATH OF THE DECEASED PROGRAM RECIPIENT BY:~~

- ~~1. TESTAMENTARY DISPOSITION;~~
- ~~2. DISTRIBUTION UNDER THE LAWS OF INTESTATE SUCCESSION;~~
- ~~3. RIGHT OF SURVIVORSHIP FROM PROPERTY HELD IN TENANCY BY THE ENTIRETY OR IN JOINT TENANCY; OR~~
- ~~4. A REMAINDER INTEREST FROM A LIFE TENANCY; OR~~

~~(ii) RECEIPT BY INTER VIVOS GIFT FROM THE DECEASED PROGRAM RECIPIENT.~~

~~(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.~~