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CALIFORNIA ADVOCATES FOR NURSING HOME REFORM
Long Term Care Justice and Advocacy

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SB 33 (Hernandez): Stop Targeting the Poorest for Recovery for Health Care Costs

Medi-Cal Should Be a Safety Net Program, Not a Long Term Loan Program

Many low-income Californians age 55 and older are reluctant to enroll in Medi-Cal because they are afraid the state will 'recover' their house when they die.

The federal government requires states to recover against Medi-Cal beneficiaries age 55 and older for long term care services such as nursing home care, but California is one of a handful of states that collects for all medical care, including the total premiums paid to a health plan.

Where's the Equity? Only Poor People Are Impacted, Increasing Intergenerational Poverty Medi-Cal Estate Recovery is Inequitable with the Individual Mandate

Some people would rather enroll in Covered California and pay a small premium than be subject to Medi-Cal estate recovery. However, individuals with incomes less than $16,243 year (or less than $21,984 for a couple) who are eligible for Medi-Cal cannot get tax credits for Covered California. People with subsidies through Covered California are benefitting from public payment for their health coverage but their estates are not subject to recovery when they die. Some people may pay as little as $1 per month for Covered California.

Studies show that low-income individuals have limited assets,[1] so recovering these limited assets once they pass away contributes to generational poverty.[2]

California: A Collection Agency for the Feds?

The first three years of the Medi-Cal expansion population has its costs paid 100% by federal funds, scaling down to a still-high 90% by 2020. Thus, by collecting from the newly expanded population, California is acting as a collection agency for the federal government.

Does Medi-Cal Estate Recovery Encourage Saving and Personal Responsibility?

One of the profound reforms of the Affordable Care Act is that eligibility for Medi-Cal is based on income, not assets. However, the state can recover those assets after an individual dies. This sends the message to spend down personal assets and not pay off the mortgage as the family home is subject to estate recovery. *Is this encouraging personal responsibility?*

SB 33 Eliminates Only Optional Recovery; State Would Still Recover for Long-Term Care

SB 33 would limit recovery for those 55 to what is required by federal law (including nursing facility, home and community based services and related hospital and prescription drug services), eliminate recovery from the estate of a surviving spouse of a deceased Medi-Cal beneficiary, and require DHCS to provide claims detail information free of charge to Medi-Cal beneficiaries.

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[1] Data from Survey of Consumer Finances and Panel Study of Income Dynamics indicates low income families have less than $17,000 in assets. Source: http://web.stanford.edu/group/scspi/_media/working_papers/pfeffer-danziger-schoeni_wealth-levels.pdf and http://www.urban.org/UploadedPDF/411678_low-income_families.pdf.

[2] Studies find a correlation between family wealth and relative intergenerational mobility. Source: Mazumder, B. (2005) *Fortunate Sons: New Estimates of Intergenerational Mobility in the US Using Social Security Earnings Data* and Bowles, S. and Gintis. (2002) *The Inheritance of Inequality*.

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SB 33 Case Stories

Jo Ann, 68 years old, Oakland
Jo Ann took care of her mother before she passed away in January 2012. Medi-Cal tried to recover against Jo Ann who was granted the Caregiver Exemption which waived 1/4th of the claim. However, her brothers who jointly inherited the home did not qualify for the exemption, resulting in a remaining claim of $40,000. Jo Ann is the only child still living in the home. She agreed to pay the state $250 a month against the $40,000 lien on her home. Of that, $16.67 goes to the principal amount owed and the rest goes to the 7% annual interest rate the state charges. Jo Ann is 68 years old, works two jobs, and is unable to retire. She is concerned that she will be unable to continue to afford her monthly payments and will lose her home and only residence.

Chinese Couple, in their 60s, Richmond
A low-income couple from Richmond heard about Covered California and both applied. The 62 year old wife qualified for Covered California. Her monthly payment is $1 for health coverage. The 64 year old husband was told that his income was low enough to qualify for Medi-Cal, which would cost him nothing. He signed up. A month later, he received a letter about Medi-Cal estate recovery, which was a shock to him. He owns the house he lives in now, and would like to pass it to his wife and daughter if he is the first to die. He thinks it is unfair and misleading that he was enrolled in Medi-Cal a healthy man with a house, but his family may not be able to keep the home after he passes away. He wishes to dis-enroll from Medi-Cal and is currently attempting to do that.

Anne-Louise Vernon, 60 years old, Campbell
After applying for Covered California, a 60 year old woman learned that her income qualified her for Medi-Cal. Ms. Vernon was told her health coverage would be "completely free" according to a county worker. However, due to issues with her application, which took six months to resolve, she learned about the Medi-Cal asset recovery program. Her initial dismay at being told Medi-Cal was her only option turned to panic. If given the option, she would much prefer to enroll in Covered California and pay some fee instead of be subject to Medi-Cal estate recovery. She believes it is unfair that individuals with higher incomes qualify for subsidized health care and are not subject to Medi-Cal estate recovery.

Chris and Amalia Darling, ages 62 and 57 respectively, Richmond
Chris and Amalia Darling applied for Medi-Cal in November 2013, but did not hear about estate recovery until reading an article online. If SB 33 does not pass, they plan to disenroll from Medi-Cal and wait until they are old enough for Medicare because they are concerned their family home will go to the state instead of their children.

Single Deaf Male, 54 years old, Bakersfield
DHCS is requesting $10,740.81 in recovery from a 54-year old deaf man for his brother's Medicare premiums that were paid by Medi-Cal. He and his deceased brother both grew up in Bakersfield. Before their mother passed away she transferred the home they grew up in to her two sons in joint tenancy. The brother utilized Med-Cal services before passing away in January 2014, leaving the house where the deaf-man still lives subject to Medi-Cal estate recovery.

Robert Rodriguez, 57 years old, San Gabriel Valley
Robert was living with his father, Rudolph Rodriguez, when his father became too ill to live at home. Rudolph was 90 years old when he entered the nursing home and passed away two years later. The State of California sent Robert a Medi-Cal recovery claim of $100,000 for Rudolph's care. Shortly after receiving the claim, Robert was diagnosed with cancer and was forced to file for bankruptcy. Robert is in the process of appealing his claim and is concerned that his inability to pay the claim will result in him losing the family home that his parents worked so hard for.

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