

This was the reply to an email from Vicky Pulos (Vpulos@mlri.org) to MassHealth's Director of Program Integrity (the Office that oversees the ERU) asking for more information about the letters going out from ERU in reference to Trocki.

Nov 16, 2021

As a result of the Trocki Appeals Court decision, MH is excluding from estate recovery all capitation payments that occurred prior to June 1, 2021, for MassHealth Notices of Claim that had not yet been paid as of the date of the Trocki decision. For MassHealth Notices of Claim that have already been closed out, no refunds will be issued, and the decision does not apply retroactively to paid and closed claims prior to the Trocki date of decision.

As of June 1, 2021, the new standalone estate recovery notice specifying that capitated payments are estate recoverable had been sent out to members and all capitated payments paid on behalf of members after this date will be recovered. The claim amounts in all newly claimed cases and in all still outstanding claimed, but unpaid, cases will be updated by removing all capitated payment amounts from the claim amount due to MassHealth that were incurred prior to the June 1, 2021 date when notice that capitated payments would be recoverable was sent to members.

For all outstanding claimed cases as of the date of the Trocki decision, the ERU is in the process of issuing a one-time notice that you reference below, listing the new amount owed that removes all capitated payments that were incurred prior to the June 1, 2021 date.

For any outstanding claimed cases as of the date of the Trocki decision with payments made to the Commonwealth after the Trocki decision through present, ERU will reimburse the estate as appropriate. This process is ongoing and all impacted estates should receive notice within the next month or so that they will be receiving a refund because they paid capitated payments back to MassHealth after the date of the Trocki decision when they were no longer required to do so because of the decision.

In sum, MassHealth will estate recover all capitated payments made on or after 6/1/21 for all estate recovery cases, and MassHealth will not further recover capitated payments incurred by members prior to the June 1, 2021 noticing date consistent with federal and state law. Past closed and paid claims will not be reopened and no refunds will issue in those cases.

If others have questions they can direct them to ERU@umassmed.edu.