

WHAT IS ESTATE RECOVERY?

Medicaid is a State and Federally funded program that pays for healthcare for people with limited incomes. The Federal government requires state Medicaid programs to seek recovery from the estates of certain deceased beneficiaries who have received benefits from a state Medicaid program.

Under the Estate Recovery program, the Department of Community Health will seek repayment of benefits received from Medicaid. Under some circumstances, the state may choose not to seek recovery from your estate.

WHO IS SUBJECT TO ESTATE RECOVERY?

Estate recovery only applies to Medicaid beneficiaries who are:

- 55 years of age or older; *or*
- in a medical facility without a reasonable expectation of returning home

WHAT IS AN ESTATE?

An estate includes all property and other assets that passes from a deceased beneficiary to his/her heirs through a probate proceeding. Estate is defined in MCL 400.112h. [<http://legislature.mi.gov/doc.aspx?mcl-400-112h>]

CAN I TRANSFER MY ASSETS TO AVOID ESTATE RECOVERY?

Transferring assets to avoid estate recovery may affect your Medicaid eligibility, and before you transfer any assets, you should speak with an advisor so that you fully understand the consequences of transferring assets in an attempt to avoid estate recovery.

In addition, under the Michigan Estate Recovery law, there is a presumption that no undue hardship exists if the hardship resulted from estate planning methods under which assets were diverted in order to avoid estate recovery.

STATUTORY EXEMPTIONS TO ESTATE RECOVERY

The Department of Community Health will not recover assets from the home of a Medicaid recipient while one of the following individuals is lawfully residing in that home:

1. A Medicaid recipient's spouse.
2. A Medicaid recipient's child who is under the age of 21.
3. A Medicaid recipient's child who is blind or permanently disabled.

4. A caretaker relative who lived in the home and provided care that allowed the Medicaid recipient to remain in their home for at least the two years immediately prior to the Medicaid recipient's admission into a medical facility.
5. A Medicaid recipient's sibling who has equity interest in the home and who resided in the home for at least one year immediately prior to the Medicaid recipient's admission into a medical facility.

Certain Medicare cost sharing benefits are exempt from Estate Recovery.

Additionally, under certain circumstances, MDCH will not pursue Estate Recovery if doing so would result in an undue hardship.

WHAT IS AN UNDUE HARDSHIP?

An undue hardship exists when (1) the estate subject to recovery is the sole-income producing asset of the survivors (where such income is limited), including, but not limited to a family farm or business; (2) the estate subject to recovery is a home of modest value; or (3) the State's recovery of a decedent's estate would cause a caretaker relative to become or remain eligible for Medicaid.

There is a presumption that no hardship exists if the hardship resulted from estate planning methods under which assets were diverted in order to avoid estate recovery.

Home of modest value means a hardship exemption for that portion of a medical recipient's homestead that is equal to 50% of the average price of a home in the county in which the Medicaid recipient's homestead is located as of the date of the Medicaid recipient's death. Caretaker relative means a relative by blood, marriage, or adoption who is within the fifth degree of kinship to the Medicaid recipient and who resided in the Medicaid recipient's home for a period of at least 2 years immediately before the date of the Medicaid recipient's admission to a medical institution and who can establish that he or she provided care that permitted the medical assistance recipient to reside at home rather than in an institution during that 2 year period.

CONTACT INFORMATION:

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LINKS TO ESTATE RECOVERY LAWS:

State:

<http://legislature.mi.gov/doc.aspx?mcl-400-112g>

Federal: <http://frwebgate3.access.gpo.gov/cgi-bin/PDFgate.cgi?WAISdocID=9015037587+0+2+0&WAIAction=retrieve>

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