

Medicaid Estate Recovery

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What is Medicaid estate recovery?

The Medicaid estate recovery involves the recovery of certain paid Medicaid benefits after a recipient is deceased. When a Medicaid application or reapplication is processed, consumers are informed of the Medicaid Estate Recovery program by county departments of job & family services through [JFS form 7400](#).

Is Medicaid estate recovery required?

Estate recovery is required by the federal Omnibus Budget Reconciliation Act of 1993 (OBRA 1993) and by Section 5111.11 of the Ohio Revised Code, effective in Ohio January 1, 1995. Medicaid services provided before January 1, 1995 are excluded.

How does the program work?

In Ohio, Medicaid estate recovery is administered jointly by the Ohio Department of Job & Family Services (ODJFS) and the Ohio Attorney General's Office (AGO). ODJFS sends deceased recipient claim totals to the AGO on a monthly basis. The AGO investigates the existence of an estate, and may call nursing homes and local county department of job & family service offices for additional information. The AGO files a claims in local probate courts on behalf of ODJFS to recover what Medicaid has paid for the recipient's care.

Who is affected and what Medicaid benefits are subject to recovery?

All Medicaid services provided to persons 55 years of age or older are subject to recovery.

Examples include:

- Physician visits, outpatient visits
- Nursing facility (NF) & Intermediate Care Facility for the Mentally Retarded (ICF-MR) services
- Home and Community-Based Waiver Services (HCBS)
- All medically related Medicaid services

Only probated assets from the deceased recipient's estate are subject to recovery. An estate is real and personal property, such as a house, land, cars and bank accounts. Recovery from the estate may only be made:

- After the death of the individual's surviving spouse,
- At a time when the (deceased) Medicaid consumer has no surviving child younger than age 21, and
- At a time when the consumer has no surviving child of any age who is blind or totally disabled.



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The amount to be recovered from the estate is equal to the total amount of Medicaid payments on or after January 1, 1995 made to the NF or ICF-MR, HCBS waivers, any related hospital and prescription drug services, or any QMB cost-sharing expenses.

What is not included in estate recovery?

Survivorship: If a consumer and a spouse own assets (e.g. a home) under a survivorship deed (where a surviving joint owner inherits the share from the deceased), then the assets would not be included since survivorship assets do not go through probate.

Hardship: In certain circumstances when recovery from the estate is found to create an undue hardship, the right to immediate recovery may be waived by the state. An example is an estate that is the sole income-producing asset of the survivor.

Does Estate Recovery Override the Individual's Will and How is the Estate Handled Upon Death?

The legal process known as probate settles an individual's estate. Creditors file claims to ensure payment of a debt owed to them. Both the state and other creditors are paid before any assets are distributed to heirs or beneficiaries whether or not there is a will. Debts are repaid in the following order of obligation:

1. The costs of administering the estate (including the cost of an attorney);
2. The funeral costs, not exceeding two thousand dollars;
3. The allowance for support made to the surviving spouse, minor children or both;
4. Debts entitled to a preference under the laws of the United States;
5. Expenses of the last sickness of the decedent;
6. If funeral costs exceed two thousand dollars, then additional funeral costs, not exceeding one thousand dollars, will be paid;
7. Personal property taxes and obligations for which the decedent was personally liable to the state or any of its subdivisions;
8. Debts for manual labor performed for the decedent within twelve months preceding the decedent's death, not exceeding three hundred dollars to any one person;
9. Other debts for which claims have been presented and finally allowed.

Debts associated with estate recovery will be included in the fifth, sixth or seventh obligation and should be paid before distribution of the will. The distribution order for estate recovery depends on the interpretation of the county probate court.



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How can the Attorney General's office be reached?

The Medicaid estate recovery unit of the AGO can be contacted at:

Medicaid Estate Recovery Unit
150 E. Gay Street, 21st Floor
Columbus, OH 43215-3130

For additional information, call the Medicaid Consumer Hotline at 1-800-324-8680 (TTY/TDD 1-800-292-3572) or visit http://www.ag.state.oh.us/business/estate_recovery.asp.

