

FACT SHEET

Medicaid and Estate Recovery

Overview

By law, Estate Recovery is the reimbursement claim that Medicaid has against the estate of a deceased Medicaid member. Since 1993, states have been required to have an Estate Recovery Program under the provisions of the Omnibus Budget Reconciliation Act of 1993.

Estate Recovery by the Georgia Department of Community Health (DCH) applies to Medicaid members who at the time of their death:

- Were of any age and an inpatient in a nursing facility, intermediate care facility for people with mental retardation or other mental institution.
- Were 55 years of age or older when they received home- and community-based services instead of care in an institution.

The Estate Recovery statute has existed in Georgia since 1981. Only estates with a gross value of less than \$25,000 are excluded from Estate Recovery.

The Definition of “Estate”

For Estate Recovery, the estate is defined as all real and personal property under the probate code, and real property passing by joint tenancy, right of survivorship, life estate, survivorship, trust, annuity, homestead, or any other arrangement. The estate also includes excess funds from a burial trust or contract, promissory notes, cash and personal property.

Notifying DCH about a Member’s Death

DCH must be notified in writing within 30 days of the death of the Medicaid member by mailing notice to the Georgia Department of Community Health, Estate Recovery Unit, P.O. Box 1984, Atlanta, GA 30303. *NOTE: If the personal*



Hardship Criteria

The following criteria will be used to determine whether an undue hardship exists:

- The asset to be recovered is the sole income-producing farm of one or more of the heirs, is the sole income source of the family, and the annual gross income is limited to \$25,000 or less; or
- The recovery of assets would result in the applicant becoming eligible for governmental public assistance based on need and/or medical assistance programs.

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An Overview of Medicaid's Estate Recovery

representative of an estate makes a distribution either in whole or in part of the property of an estate without having reimbursed the Medicaid agency, the personal representative may be held personally liable for the amount of the Estate Recovery claim.

Delayed Recovery

Recovery is delayed if:

- The deceased member's spouse is still living.
- The deceased member has a living child under the age of 21.
- The deceased member has a living child of any age who is blind or permanently and totally disabled pursuant to Title XIX of the Social Security Act.

Tax Equity and Fiscal Responsibility Act (Pre-Death) Liens

According to the Tax Equity and Fiscal Responsibility Act (TEFRA), Medicaid may place a lien on the home of a member who is institutionalized if there is not a reasonable expectation that the member will return home. However, recovery on the lien will be delayed as long as any of the following persons are living in the home:

- The member's spouse.
- The member's living child under the age of 21.
- The member's living child of any age who is blind or permanently and totally disabled pursuant to Title XIX of the Social Security Act.
- A sibling of the member who has an equity interest in the home and was living in the member's home for at least one year on a continuous basis immediately before the date that the member was institutionalized.
- A child of the member who was living in the member's home for at least two years on a continuous basis before the date that the member was institutionalized and who has established to the satisfaction of the department that he or she provided care that permitted the member to live at home rather than be institutionalized.

For More Information

For additional information, contact the Medicaid Estate Recovery Unit at 770-916-0328 or visit the DCH website at www.dch.georgia.gov. Members with questions about Medicaid Estate Recovery may submit them to GAEstateRecovery@dch.ga.gov, or write to Georgia Department of Community Health, Estate Recovery Unit, 900 Circle 75 Parkway, Suite 650, Atlanta, GA 30339, or fax to 678-569-0066. For program information, please visit the following website: <http://hms.com/ga/medicaidrecovery/>