



## Medicaid Estate Recovery Program

### What is Estate Recovery?

Estate Recovery is a program in every state whereby the states are reimbursed from the estates of deceased Medicaid members for long term care such as nursing home care or community care services provided through Medicaid. By accepting Medicaid benefits, a debt is created on part of the beneficiary that must be paid from the beneficiary's estate. Funds are recovered from the member's estate, only after death, for the cost of these services.

### Why is Estate Recovery Program being implemented in Georgia?

The Medicaid program is a joint federal/state program. Federal law, enacted in 1993, required states to develop and implement an estate recovery program. Georgia is one of the last two states to implement an Estate Recovery Program.

### Who is affected by Estate Recovery?

The Estate Recovery Program applies to people who receive any of the following services paid for by Medicaid:

- A person of any age living in a nursing home.
- A person of any age living in a facility or medical institution outside their own family's home.
- A person 55 years of age or older who is in a home or community based program. For example, a nurse that comes to your home to help you take your medication or change bandages or a person that comes to your home to help you with bathing or getting dressed in the morning.

### When will Estate Recovery begin?

Medicaid members or their authorized representative who qualify for Estate Recovery will receive notification by mail that the Estate Recovery Program began date has changed from May 1, 2006 to **May 3, 2006**. Individuals who apply for Medicaid and who may be subject to start Estate Recovery will be advised of this program prior to determination as Medicaid eligible.

The Estate Recovery Program has been put in place to help the federal government get back some of the money that Medicaid has used to pay for your health care. In order to protect your family and you, the federal government has put the following rules in place before any money will be collected:

- The person on Medicaid must have passed away and the husband or wife must also be deceased.
- The person on Medicaid must not have any dependent children younger than 21 years of age.
- The person on Medicaid must not have any dependent children of any age with a disability.
- The person on Medicaid must have property or cash that is worth more than \$25,000.
- Collection will be delayed or waived if the family of the person on Medicaid can show the collection will be an undue hardship.

### Does recent action by the Georgia General Assembly regarding the asset threshold and retroactivity affect the program?

The Georgia General Assembly, in their 2006 session, passed Senate Bill 572, which increased the asset threshold from \$25,000 to the first \$100,000 of an estate and removed the retroactive provision from the program. The Department of Community Health (DCH) submitted to the Centers for Medicare and Medicaid Services (CMS) an amendment to the Georgia plan capturing the legislation. Since CMS did not approve the proposal, the legislative changes had no effect on the current Estate Recovery Program. At the direction of Governor Sonny Perdue and upon final Board approval the Department seeks to modify the effective date of the Estate Recovery Program from August 1, 2001 to May 3, 2006 through a formal rule making process. Simply stated only Medicaid members with expenditures on and after May 3, 2006 will be subject to Estate Recovery upon Board approval of the proposed rules.

### What constitutes a hardship?

The Medicaid program will waive or delay recovery if an undue hardship exists. Some of these reasons include:

- Asset to be recovered is an income producing farm of one or more of the heirs and the annual gross income is limited to \$25,000 or less.
- Recovery of assets would result in the applicant becoming eligible for governmental assistance based on need and/or medical assistance programs.
- The asset to be recovered is the sole income-producing asset of the Medicaid member's heirs.

**What expenses must be reimbursed?**

In accordance with the State's plan, expenses incurred by Medicaid, for any service provided in a long-term care facility and for individuals receiving institutional services in the home, Medicaid payments for nursing facility services, home and community based services, related hospital services and prescription drug services are recoverable.

**What assets are considered subject to recovery?**

Estate includes all real and personal property (i.e. homes, real estate, vehicles, cash and other financial instruments) held individually or jointly. Assets subject to recovery also includes property held with a life estate interest.

**How will Medicaid go about recovering assets?**

Estate Recovery will occur when the State files a notice of claim against the estate of a deceased Medicaid member. No action to recover debt due by the deceased Medicaid member will be taken against the personal representative or heirs until six months after personal representative or heirs have been notified.

**How do I apply for an undue hardship waiver?**

Undue hardship waiver request may be made within 30 days of receiving the Medicaid's notice against the estate, or upon the sale, transfer or conveyance of the real property subject to a TEFRA lien. The Estate Recovery Unit will provide detailed instructions on how to file for undue hardship waiver in the Medicaid notice.

**What is a lien?**

A lien means a claim, encumbrance or charge against the Medicaid member's real or personal property on account of medical assistance paid to the member correctly under the State plan. A lien may be placed on the real property of a Member who is an inpatient of a nursing facility, intermediate care facility for the mentally retarded, or other institution or a lien may be placed on both real and personal property of a member after the member's death.

**Can I transfer my assets to avoid the Estate Recovery Program?**

If you choose to transfer your assets, you must contact your local Department of Family and Children Services (DFCS) case worker prior to the transfer to evaluate how the transfer may affect your Medicaid eligibility and if any penalties are applicable.

**Does this program apply to me if I am not receiving home and community based waiver services or nursing home services?**

No. However, if in the future you enroll in one of these services, yes it will apply to you.

**How much money will I owe back to the Medicaid program?**

If you meet the criteria for Estate Recovery, your case will be evaluated to establish the exact amount owed to Medicaid at the time of the member's death. The amount requested will be limited to the amount that Medicaid has paid on qualified expenses and the available assets.

**How do I find out how much has been paid for member's Medicaid services?**

Members may request this information by fax at (678) 569-0066 or call the Estate Recovery Unit at (770) 916-0328.

**Disclaimer: The information contained herein shall not constitute legal advice but should be used for informational purposes only.**

**For additional information, contact the Medicaid Estate Recovery Office at 770-916-0328 or visit our website at [www.dch.georgia.gov](http://www.dch.georgia.gov). Members with questions on Medicaid Estate Recovery can submit questions to [GAEstateRecovery@dch.ga.gov](mailto:GAEstateRecovery@dch.ga.gov).**