

**RULES OF  
DEPARTMENT OF COMMUNITY HEALTH**

**CHAPTER 111-3  
MEDICAL ASSISTANCE**

**SUBJECT 111-3-8  
ESTATE RECOVERY**

**SYNOPSIS OF PROPOSED RULES**

**STATEMENT OF PURPOSE:** The Georgia Department of Community Health proposes to amend and update Rules and Regulations for Medical Assistance, Recovery Assistance; Probate, Ga. Comp. Rules & Regs., r. 111-3-8-.05. This rule is being proposed pursuant to the authority granted the Department of Community Health in O.C.G.A. §§ 49-4-147.1 and 53-7-42.

**MAIN FEATURE OF THE PROPOSED RULE:** This is an amendment to existing rule Ga. Comp. R. & Regs. r. 111-3-8-.05 regarding the Department's estate recovery efforts which are required by federal law. This amendment updates and makes reference to the Department's new mailing address for personal representatives to make written notification at least thirty (30) days before disbursing assets of a Medicaid Member. The amendment also provides for a Department email address through which personal representatives may provide the Department written notice.

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(1) After receipt of notice of the death of an affected Member, the Department will file a claim against the estate for the full value of the Medicaid benefits paid on behalf of the Member.

(2) No action to recover a debt due by the deceased Member shall be commenced against the personal representative until the expiration of six (6) months from the date of qualification of the first personal representative to serve.

(3) Notwithstanding any other law, a claim filed for recovery of Medicaid assistance has priority in order of payment from the estate over all other claims, except the following:

- (a) Years support for the family;
- (b) Funeral expenses in an amount not to exceed ten thousand dollars (\$10,000). However, this amount is zero (0) if the deceased Member has prepaid funeral expenses that were excluded as a resource for Medicaid eligibility;
- (c) Necessary expenses of administration;
- (d) Reasonable expenses of the deceased Member's last illness; and
- (e) Unpaid taxes or other debts due the state or the United States. The category of Medicaid Estate Recovery is a debt due the state.

(4) The affidavit of a person designated by the Commissioner to administer this action is prima facie evidence of the amount of the claim.

(5) Notwithstanding any statute of limitations or other claim presentation deadline provided by law, a state claim against an estate is not barred for lack of timely

presentation if it is presented in the probate proceeding within the time specified in the published notice to creditors.

(6) The personal representative must notify the Department in writing of the Member's death at least thirty (30) days before disbursing assets of the Member and shall not disburse assets prior to obtaining a release from the Department. Such notice must be sent to the Department via email at [gaestaterecovery@dch.ga.gov](mailto:gaestaterecovery@dch.ga.gov) or via mail at Georgia Department of Community Health, Office of Inspector General, Medicaid Estate Recovery Program, 19<sup>th</sup> Floor, 2 M.L.K. Jr. Drive, SW, Atlanta, GA 30334, or such other mailing address listed for the Department's headquarters as set forth on its website located at [www.dch.ga.gov](http://www.dch.ga.gov). The personal representative is personally liable for any incorrectly paid assets if the Department is not informed of the Member's death and assets are distributed to Heirs and/or creditors without having first obtained a release from the Department. The Department shall issue a release within ten (10) business days from the satisfaction of the claim with the Department.

**Authority:** O.C.G.A. §§ 49-4-147.1, 53-7-42.



## PUBLIC NOTICE OF PROPOSED RULE CHANGES

Pursuant to the Georgia Administrative Procedures Act, Official Code of Georgia Annotated (O.C.G.A.) § 50-13-1 et seq., the Georgia Department of Community Health is required to provide public notice of its intent to adopt, amend, or repeal certain rules other than interpretive rules or general statements of policy. Accordingly, the Department hereby provides notice of its intent to revise its rules and regulations, specifically Ga. Comp. R. & Regs. r. 111-3-8-.05, Recovery of Assistance; Probate. This is an amendment to existing rule Ga. Comp. R. & Regs. r. 111-3-8-.05 regarding the Department's estate recovery efforts which are required by federal law. This amendment updates and makes reference to the Department's new mailing address for personal representatives to make written notification at least thirty (30) days before disbursing assets of a Medicaid Member. The amendment also provides for a Department email address through which personal representatives may provide the Department written notice. An exact copy of the revised rules and a synopsis of the revisions are attached to this public notice.

## NOTICE OF PUBLIC HEARING

An opportunity for public comment will be held on May 17, 2023, at 11:00 a.m. via Zoom. There will be no in-person attendance at the Department of Community Health. The Zoom meeting ID number is 882 4044 9164 and the event password is "704792". Follow these instructions to join the event:

1. Click the link or copy and paste the link text to a browser:  
<https://us02web.zoom.us/j/88240449164?pwd=dkl3Z1UxcW5weHlHYktmUlp6UlV6dz09>
2. Click "Join Now"

To join by telephone: One tap mobile  
+16465588656,,88240449164# US (New York)

+16469313860,,88240449164# US

Oral comments will be limited to ten (10) minutes per person. Individuals who are disabled and require assistance to participate during this meeting should contact the Office of General Counsel at (470) 295-0735 at least three (3) business days prior to the meeting.

Individuals wishing to comment in writing on any of the proposed changes must do so on or before May 24, 2023, at 5:00pm. Due to reduced physical staffing at the 2 M.L.K., Jr. Drive, SE



**GEORGIA DEPARTMENT  
OF COMMUNITY HEALTH**


location DCH encourages written public comments submitted in accordance with O.C.G.A. § 50-13-4(a)(2) to be submitted via e-mail to the following e-mail address: **Public.Comment@dch.ga.gov**.

Written comments may be submitted via regular mail to the following address:

Attention: Alycia Allgood  
Office of General Counsel  
Georgia Department of Community Health  
2 M.L.K., Jr. Drive, SE, 18<sup>th</sup> Floor, East Tower  
Atlanta, GA 30334

Comments from written and public testimony will be provided to the Board of Community Health prior to June 8, 2023. The Board will vote on the proposed changes on June 8, 2023.

**NOTICE IS HEREBY GIVEN THIS 13<sup>th</sup> DAY OF APRIL 2023.**

  
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**Caylee Noggle, Commissioner**