

Medicaid and Estate Recovery

Overview

Estate recovery is the process to obtain reimbursement for claims paid by Medicaid from the estate of a deceased Medicaid member. The estate recovery statute has existed in Georgia since 1981. Estates with a gross value of \$25,000 or less are exempt from estate recovery. In addition, to prevent substantial and unreasonable hardship, the department waives any claim against the first \$25,000 of any estate subject to an estate recovery claim for the deceased Medicaid Member with a date of death on or after July 1, 2018.

States are required to have an Estate Recovery Program under the provisions of the Omnibus Budget Reconciliation Act of 1993.

Estate recovery applies to Medicaid members who, at the time of their death:

- Were of any age, and an inpatient in a nursing facility or intermediate care facility for individuals with intellectual disability, or other medical institution.
- Were 55 years of age or older when they received home- and community-based services instead of being cared for in an institution.

The Definition of “Estate”

For the purposes of estate recovery, the estate is defined as “all real and personal property” as defined in the probate code. The estate also includes real property passing by joint tenancy, right of survivorship, life estate, survivorship, trust, annuity, homestead or any other arrangement. The estate 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. The notice should be mailed to:

Georgia Department of Community Health, Estate Recovery Unit
100 Crescent Centre Parkway Suite 1000
Tucker, Georgia 30084
770-916-0328 or fax to 855-334-0066

NOTE: If the personal 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.



Hardship Criteria

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

- The asset to be recovered is an income-producing farm and sole income source of one or more of the Heirs and the annual gross income is limited to \$25,000 or less and is not merely rental income; or
- The recovery of assets would result in the applicant becoming eligible for governmental public assistance based on need and/or medical assistance programs.

Delayed Recovery

Recovery is delayed if:

- The deceased member's spouse is alive.
- 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.

For More Information

For additional information, contact the Medicaid Estate Recovery Unit at 770-916-0328 or visit the DCH website at <https://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
100 Crescent Centre Parkway Suite 1000
Tucker, Georgia 30084
or call 770-916-0328 or fax to 855-334-0066
gaestates@gainwelltechnologies.com

For program information, please visit the following website: <https://medicaid.georgia.gov/programs/third-party-liability/medicaid-estate-recovery>.

