

CONTACT US

There is much more to estate recovery than can be addressed in this brochure, so please don't hesitate to contact our office if you have questions about the law, the process or the possible exemptions. We are happy to assist during what is often a stressful and confusing time for surviving family members. Please contact us by any of the methods listed below.

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On the web

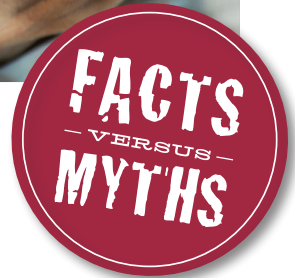
www.scdhhs.gov

NOTES

¹ Omnibus Budget Reconciliation Act of 1993 (OBRA '93)

^{2,3} *Medicaid 101: A Primer For State Legislators*, The Council of State Governments, January 2009, p. 4

* Applicable references may be found at 42 U.S.C. 1396p(b) and S.C. Code Ann. § 43-7-460(A) et.seq.



Medicaid Estate Recovery

IN SOUTH CAROLINA



The South Carolina Department of Health and Human Services is the state agency that administers the South Carolina Healthy Connections Medicaid program. Medicaid is a state/federal program that pays for medical and long-term care services for low-income pregnant women, children, individuals with disabilities and nursing home residents.



ESTATE RECOVERY EXPLAINED

In 1993, the U.S. Congress passed a law requiring every state to establish a Medicaid estate recovery program.¹ This means that in certain special cases, the South Carolina Department of Health and Human Services (SCDHHS) is forced to attempt to recoup costs associated with a deceased beneficiary's health care that was paid for by South Carolina Healthy Connections Medicaid.

HOW ESTATE RECOVERY WORKS

If a qualifying Medicaid beneficiary has an estate at the time of death, with assets more than \$25,000, it may be legally required for Medicaid to file a claim against that estate to recover taxpayer money that was spent providing medical care for the beneficiary.

Medicaid's claim is similar, and lower in priority, to those for things like funeral expenses, taxes and attorney's fees.

It's the law

Federal law requires all states to operate an estate recovery program.

The purpose of the law is to recover some of the public spending on long-term care, which is among Medicaid's largest expenditures.

What is an estate?

An estate includes all of a person's real and personal property and other assets.

Real property is land, and anything growing on, affixed to or built upon land. This includes buildings and crops.

Personal property is any property owned by an individual or family that is movable and not affixed to or associated with the land. This includes vehicles, furniture, collectibles, etc.

PEOPLE AFFECTED BY ESTATE RECOVERY

Two groups of people are subject to the estate recovery process:

- A person of any age who was a patient in a nursing facility, intermediate care facility for the intellectually disabled or other medical institution at the time of death, and who was required to pay most of his/her monthly income for the cost of care;

—OR—

- A person who was 55 years of age or older when he or she received medical assistance consisting of:
 - nursing facility services and home and community-based services, OR
 - hospital and prescription drug services provided to individuals in nursing facilities or receiving home and community-based services.

The price of long-term care

Medicaid is the largest insurer of people with disabilities and those requiring nursing home care.²

Medicaid is also the nation's largest single purchaser of nursing home care, paying for about half of all such care in this country.³



EXCEPTIONS ARE COMMON

Estate recovery may be waived in certain types of cases that involve an undue hardship. Undue hardship waiver requests may be requested and submitted after the death of a beneficiary and will be given full consideration if the conditions outlined in the appropriate provisions of the law are met.

EXAMPLES OF ESTATE RECOVERY CLAIMS

Example 1

John Doe was in a nursing home the entire month of July. He died Aug. 3. Medicaid paid \$2,000 for his care in July and August, and his estate is worth \$50,000. Medicaid would recover only \$2,000 from his estate after claims with higher priority (mortgage, funeral expenses, probate fees, taxes, etc.) were paid.

Example 2

Jane Doe has been on Medicaid for years. Medicaid has spent \$25,000 on the medical services she received since she was 55. Her estate is worth \$20,000. The Medicaid program would only recover from the remainder of the estate after claims with higher priority are paid.

Possible exemptions

In addition to offering undue hardship waivers, estate recovery also may exempt some or all assets of a Medicaid beneficiary who is covered under a qualified long term care partnership (QLTCP) insurance policy.

Estate recovery will not seek adjustment or recovery from the beneficiary's estate to the extent benefits were paid under the QLTCP policy.

MYTH: Medicaid will try to take away your house, property and all of your valuables if your husband or wife dies.

FACT: Estate recovery does not apply if the beneficiary is survived by a spouse or a child under the age of 21, or who is blind or permanently disabled. Medicaid has no interest in removing people from their homes.

MYTH: Medicaid will pursue estate recovery at all costs, even if it means filing claims against surviving family members.

FACT: Family members are never responsible for an estate recovery claim. In cases where Medicaid is forced by federal law to make an estate recovery claim, only the assets of the deceased beneficiary are considered.

MYTH: Medicaid refuses to make exceptions to its estate recovery program, regardless of family circumstances.

FACT: South Carolina is required by federal law to waive the estate recovery process when undue hardship would result. There are many different circumstances that qualify as undue hardship. We'll be glad to explain the criteria.