

# Medical Assistance Estate Recovery Program

Learn how estate recovery works, who is affected by it, and other facts about this federally-required program.

## What is estate recovery?

Estate recovery is a program to help pay costs of providing services to people on Medicaid.

**Estate recovery is required by federal law.**

The Colorado Department of Health Care Policy and Financing (the Department) is responsible for administering estate recovery.

## Who will be affected by this program?

**Any Medicaid recipient with the circumstances below may be affected.**

Estate recovery applies to all Medicaid recipients, regardless of their program type or category of eligibility (for instance, MAGI clients may be affected).

**The Department may:**

- Recover payments made for all medical assistance paid on behalf of an individual who was institutionalized at the time he/she received medical assistance
- Recover the costs of medical assistance provided for nursing facility care, home and community-based services, and related hospital and prescription drug services (for persons age 55 and older at the time they received medical assistance)


## What costs will be recovered by this program?

For institutionalized recipients, all payments made by Medicaid will be recovered. Payments include, but are not limited to, payments made to providers and capitation fees paid on behalf of the client.

For recipients age 55 and older at the time they received medical assistance, recovered costs are limited to nursing facility services, home and community-based services, and related hospital and prescription drug services.

## How does estate recovery work?

The Department will file a claim against the estate of the deceased Medicaid recipient. The estate of the recipient will include all of the property (personal and real) that is left when the recipient passes away. Proceeds from the sale of the property in the estate will be used to reimburse the Department for medical assistance provided on behalf of the recipient.



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## Will any estates be exempt from recovery?

The Department will not recover from a deceased recipient's estate if:

- The deceased Medicaid recipient is survived by a spouse, child under age 21, or a blind or disabled dependent residing in the home; OR
- There is a brother or sister who lived in the home for at least one year before the recipient went into a nursing facility, and who lived in the home continuously since the date of entry into the nursing facility; OR
- There is a son or daughter who lived in the home for at least two years before the recipient entered a nursing facility, whose care allowed the recipient to delay nursing facility placement, and who has lived in the home continuously since the date of entry into the nursing facility.

## What if estate recovery would cause a hardship?

The heirs of a Medicaid recipient may submit a request to waive or compromise recovery from the estate on the basis of hardship. Determination of hardship is at the discretion of the Department.

## Can the recipient's heirs keep the property in the estate and pay the Department the amount owed instead?

If the heirs wish to retain the property that is in the estate, they may do so as long as they agree to pay the amount that the Department would have otherwise recovered.

## Is the Medicaid recipient required to sell a home while they are still alive?

The program does not require a recipient to sell a home. However, the Department may place a lien on the property while the recipient is alive. A lien represents a debt that must be satisfied when the property is sold. A lien secures the Department's interest by ensuring the Department can recover medical costs when the property is sold. A lien does not change ownership of the property. Liens will be used when ALL FIVE of the following conditions are met:

1. The recipient resides in a nursing facility or other medical institution;
2. The recipient owns a home or other real property;
3. The Department determines that the recipient is not likely to return home to the property;
4. The recipient does not have a spouse, child under age 21, or a blind or disabled dependent living in the home; AND
5. The recipient does not have a brother or sister who is part owner of the home and who has lived in the home continuously since at least one year prior to the recipient entering the nursing facility.