

Michigan Estate Recovery Frequently Asked Questions

What is an estate?

An estate is property, such as money, a house or other things of value that a person leaves to family members or others when he or she dies. Estate recovery does not apply to all property that a person may own. Estate recovery only applies to those assets that are subject to probate court administration.

Who does estate recovery affect?

Estate recovery applies to individuals receiving Medicaid benefits who are 55 years of age or older and have received Medicaid long-term care services on or after September 30, 2007. If you would like to check whether a deceased family member is subject to estate recovery you may call the toll-free number listed below.

How does estate recovery work?

When the recipient dies, the Michigan Department of Health and Human Services will send a notice to the estate representative or a family member to tell them that MDHHS intends to file a Medicaid estate recovery claim against the recipient's estate. That notice will include an estate questionnaire form that is to be completed so that MDHHS can determine whether it should file a claim. This notice will also provide information on how to request an undue hardship waiver application. If no exemptions or hardships apply, MDHHS will file a claim against the estate.

Are there any times when the Michigan Department of Health and Human Services will not try to recover from my estate?

Yes, there are several situations when MDHHS will temporarily defer recovery. MDHHS will not ask for money back after a recipient dies while one of the following persons is living:

- A spouse.
- A child under 21 years of age.
- A child of any age who is blind or permanently and totally disabled.

MDHHS will also defer recovery while one of the following is living in the home:

- A survivor who was residing in the home and providing care for a period of at least 2 years immediately before the date of the recipient's admission to a medical institution, and that care allowed the recipient to live at home rather than in an institution.
- A sibling who has an equity interest in the home who was residing in the home for a period of at least 1 year immediately before the recipient's admission to a medical institution.

If none of the above situations apply, does that mean the Michigan Department of Health and Human Services will file a claim against my estate?

If none of the five situations above apply, then MDHHS may file a claim against the probate estate of the Medicaid recipient unless:

- The estimated cost of recovery efforts would exceed the estimated amount expected to be recovered; or
- It is determined that estate recovery would result in an undue hardship.

What is an Undue Hardship?

After an undue hardship application is filed, MDHHS may grant a hardship waiver when:

- The estate property is the primary income-producing asset of the beneficiaries, such as a family business or farm and the income produced by the asset is limited;
- The estate property is a home of modest value; or
- Recovery from a recipient's estate would cause a survivor to become or remain eligible for Medicaid.

An applicant for an undue hardship must also satisfy a Means Test.

What is the Means Test?

The means test is applied to make sure an actual hardship would result if recovery is made. To pass the means test, an applicant must prove that:

- Their total household income is less than 200% of the poverty level; and
- Their total household resources are less than \$10,000.

How do I apply for an undue hardship waiver?

To receive a waiver based on an undue hardship, the applicant must request, complete, and submit an application and provide proof of the hardship. An application may be obtained by calling the toll-free number listed below. A hardship waiver should only be applied for if probate has been open. If no probate is open, MDHHS cannot file a claim and so there is no claim to defer with a waiver. Any applications received when there is no probate estate opened will not be processed.

What if there is not enough money in the estate to pay MDHHS's claim?

The state is limited to what is in the decedent's estate. If there is not enough money or assets in the estate to pay all claims filed against the estate, the estate is deemed "insolvent." If the estate is insolvent, then payment will occur by order of priority until there is nothing left.

What is the Order of Priority?

The order of priority refers to the order that creditor's claims are paid from estate assets. Under Michigan law, there are several things that are paid before an estate recovery claim is paid such as funeral and costs of administration.

What is Probate?

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Probate refers to the process of administering an estate in court. This is how assets are distributed to heirs and creditors are paid.

How do I open an estate?

MDHHS cannot provide legal advice. You may wish to consult an attorney or probate clerk.

What are my responsibilities as Personal Representative?

MDHHS cannot provide legal advice. You may wish to consult an attorney or probate clerk. In general, duties of a personal representative are found in the Estates and Protected Individuals Code in Michigan.

How can I get more information about the Medicaid estate recovery process?

If you need more detailed information on how this will work, or if you have a specific question, you may send an e-mail to MDHHS-EstateRecovery@michigan.gov or call the beneficiary helpline toll-free at (800) 642-3195.