



Estate Recovery Overview

Updated December 2021

Definition of Estate Recovery

Estate recovery is a process required by the federal government for states to seek reimbursement for Medicaid (MaineCare, in Maine) benefits from the estates of deceased Medicaid recipients who are age 55 and older at the time of death. MaineCare seeks recovery for the cost of certain MaineCare benefits that were provided to the deceased. MaineCare does not seek recovery for any Medicare cost-sharing paid on behalf of Medicare Savings Program beneficiaries.

Effective November 24, 2021, MaineCare will only seek to recover costs for nursing facility services (Section 67 of the MaineCare Benefits Manual (MBM)), home- and community-based services (HCBS), and hospital (Section 45 of the MBM) and prescription drug services (Section 80 of the MBM) related to these services. For the purposes of estate recovery, HCBS are defined as services under the following sections of the MBM:

- Section 12, Consumer Directed Attendant Services
- Section 18, Home and Community-Based Services for Adults with Brain Injury
- Section 19, Home and Community Benefits for the Elderly and Adults with Disabilities
- Section 20, Home and Community-Based Services for Adults with Other Related Conditions
- Section 21, Home and Community Benefits for Members with Intellectual Disabilities or Autism Spectrum Disorder
- Section 29, Support Services for Adults with Intellectual Disabilities or Autism Spectrum Disorder
- Section 40, Home Health Services
- Section 96, Private Duty Nursing and Personal Care Services

Seeking Estate Recovery

All of the following must be true for MaineCare to seek recovery for costs related to the services listed above. The MaineCare member:

- ✓ Must be age 55 or older at date of death
- ✓ Have received nursing facility services or HCBS
- ✓ Have no surviving spouse at the time the Department seeks recovery
- ✓ Have no children under the age of 21 at the time the Department seeks recovery
- ✓ Have no disabled children of any age at the time the Department seeks recovery

Recoverable Property

The following are examples of types of property subject to recovery by MaineCare:

- ✓ A home
- ✓ Land
- ✓ Automobiles of significant value
- ✓ Recreational vehicles such as boats, campers, motorhomes, and All Terrain Vehicles (ATVs)
- ✓ Liquid assets such as bank accounts, stocks, bonds, and annuities

Only the amount of MaineCare's cost for past expenses is subject to recovery. For example, if an estate is worth \$150,000 and MaineCare costs were \$20,000, then MaineCare would seek to recover \$20,000, not the value of the whole estate. Starting November 24, 2021, the only benefits for which MaineCare will seek recovery are nursing facility services, HCBS, and hospital and prescription drug services related to these services.

Not Subject to Estate Recovery

The following may not be recovered:

- For members who passed on or after September 1, 2019: For estates of \$20,000 or less, a \$15,000 family allowance if there is a surviving child of any age
- For members who passed prior to September 1, 2019: For estates of \$10,000 or less, a \$7,000 family allowance if there is a surviving child of any age
- Reasonable funeral expenses
- Attorneys' fees
- Probate court costs
- Upkeep of property (e.g. taxes, insurance, repairs to property to make it marketable)
- Personal representative fees for handling the estate, up to \$3,000

Waivers from Recovery

Maine offers two options for MaineCare members to seek a waiver from full estate recovery of MaineCare payments. MaineCare deducts the amount of the waiver granted from the value of the estate assets.

These two waivers options are:

1. "Care Given" Waiver

Heirs who provided care for the MaineCare member while living in the member's home for at least two years prior to the member being admitted to a long-term care facility or death may seek a waiver from recovery. The heir must have an income below 200% of the federal poverty level.

The amount waived from recovery depends on the level and type of home care the heir provided. For each of the two years:

- \$6,000 is waived for basic help at least three times a week with transportation, housekeeping, appointments, and daily in-home personal care.
- \$12,000 is waived for care that includes the above plus dispensing medications, changing dressings, and bathing.
- \$32,000 is waived if the level of care is personal care that would have been provided in an institutional setting.

2. Hardship Waiver

If full recovery of MaineCare's claim will create an undue hardship, heirs may request a hardship waiver. The heirs' income and assets combined must be below 180% of federal poverty level, and they must have lived in the member's home for a period of at least two years prior to the member's death.