
NONFINANCIAL ELIGIBILITY FACTORS

ESTATE RECOVERY

**A. ESTATE
RECOVERY
REQUIREMENT**

Effective July 1, 1994, the Division of Medicaid will begin to seek recovery of payments for nursing facility services and related hospital and prescription drug services from the estate of a deceased Medicaid recipient who was fifty-five (55) years of age or older when Medicaid benefits were received. Estate recovery was mandated by the Omnibus Budget Reconciliation Act of 1993 (P.L. 103-66) and is now State law located in the Mississippi Code, Section 43-13-317.

Estate recovery applies to all Medicaid recipients in a nursing facility as of July 1, 1994, who:

- Are age 55 or older at the time of death, and
- Own real or personal property at the time of death that can be considered an estate.

**1. Estate
Property**

Estate property includes any real or personal property owned by the recipient in its entirety or by shared ownership. Ownership of Life Estate Interests or ownership of property that has previously been transferred into a trust is not subject to estate recovery.

Real property includes the home and any other real property, including ownership of mineral rights and/or timber rights. Personal property includes ownership of any cash reserves, stocks, bonds, automobiles, RV's, mobile homes or any other type of property with value known to be owned by the recipient in full or in part.

**2. Exceptions
to Estate
Recovery**

Estate recovery rules do not apply to a deceased recipient if at the time of death the recipient had a:

- a. Legal surviving spouse, or,
- b. A surviving dependent child under the age of 21; or,

NONFINANCIAL ELIGIBILITY FACTORS

ESTATE RECOVERY

- c. A dependent blind or disabled child of any age. The blind or disabled individual must be dependent on the Medicaid recipient for a home or income, such as a disabled child drawing benefits from the parent's record.

The following assets and resources of American Indians and Alaska Natives are exempt from estate recovery:

- Interest in and income derived from Tribal land and other resources currently held in trust status and judgement funds from the Indian Claims Commission and the U.S. Claims Court
- Ownership interest in trust or non-trust property, including real property and improvements located on a reservation.
- Reparation payments to special populations

**3. HCBS
Waiver
Applicants/
Recipients**

Under federal and state law, the Division of Medicaid is required to seek recovery of payments for home and community-based services, related hospital services, and prescription drug services from the estates of deceased Medicaid beneficiaries who were 55 years of age or older when these benefits were received. Effective July 1, 2001, estate recovery applies to persons applying for a HCBS Waiver Program. Any person who entered the HCBS Waiver Program prior to July 1, 2001, will not have their case referred to estate recovery. Those individuals will be "grandfathered"; however, if the individual is discharged from the program and is readmitted after July 1, 2001, the "grandfathered" status is lost. The case will be referred to estate recovery as a new HCBS client