

MISSISSIPPI DIVISION OF MEDICAID

Eligibility Policy and Procedures Manual

❖ Aged, Blind and Disabled Programs

102.09.06 ESTATE RECOVERY REQUIREMENTS

The Division of Medicaid is required to seek recovery of payments for nursing facility services and Home and Community-Based Services (HCBS) as well as related hospital and prescription drug services from the estates of deceased Medicaid recipients who were fifty-five (55) or older when Medicaid benefits were received.

The estate recovery provision applies to all Medicaid recipients in a nursing facility as of July 1, 1994, and all Medicaid recipients who entered the Home and Community-Based Waiver (HCBS) Program on or after July 1, 2001, who:

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

NOTE: Individuals who entered the HCBS Waiver Program prior to July 1, 2001, are “grandfathered in” and will not have their case referred to estate recovery unless the individual is discharged from the program and readmitted after July 1, 2001. In which case, “grandfathered” status is lost and the individual will be referred to estate recovery as a new HCBS client subject to the provision.

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 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, RVs, mobile homes or any other type of property with value known to be owned by the recipient in full or in part.

Exceptions to the Estate Recovery Provision

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

- Legal surviving spouse, or
- A surviving dependent child under the age of 21 or

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Exceptions to the Estate Recovery Provision (Continued)

- 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.

Assets and Resources Exempt from Estate Recovery

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 judgment 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;
- Reservation payments to special populations.

Estate Recovery Referrals to Third Party Liability (TPL)

TPL has established a \$5000 liquid asset threshold for use in determining whether a case record is to be referred to TPL for estate recovery purposes. The \$5000 threshold is set so that the client will have sufficient funds for burial.

When calculating the \$5000 threshold, do not include burial or insurance or life estate property. Life insurance will be referred only when the estate is the beneficiary. Joint bank accounts, annuities and promissory notes will not be referred to TPL.

Procedures for Referral or Estate Recovery Cases

- If a client owned real property (regardless of CMV) or personal property totaling more than \$5000, the case record is to be referred to TPL via DOM-TPL-411.

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Procedures for Referral or Estate Recovery Cases (Continued)

- If the client owned no real property and the total value of all personal property (liquid assets) is \$5000 or less, complete DOM-TPL-412, and send the form only to TPL.

This will let TPL know the client is deceased but the case record is not being referred to TPL because total assets are below the established threshold.

- If a client owned an annuity purchased on or after February 8, 2006, the case is to be referred to TPL via DOM-TPL-411.
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