

ESTATE RECOVERY FOR MEDICAID AND OTHER PROGRAMS

The Wisconsin Estate Recovery Program seeks repayment for the cost of certain long term care services paid for on behalf of members by Medicaid, BadgerCare Plus, Community Options Program (COP), or non-Medicaid Family Care; or any services provided by the Wisconsin Chronic Disease Program (WCDP). Recovery is made from the estates of members, from the estates of their surviving spouses, from certain non-probate property, and from liens filed on their homes. Recovery is made when a member and the member's dependents no longer need those assets.

Wisconsin spends approximately 50 percent of its total Medicaid budget to provide long term care services. The money recovered is returned to the programs and used to pay for care for other members. Long term care services for which the program seeks repayment include nursing home services, home care services and community-based long term care program services.

Note: Members who are age 55 or older, living in the community and who are not receiving services related to long term care or any services through the WCDP will not be affected by estate recovery.

Wisconsin is required by state and federal laws to recover some of the money used to pay for services for Medicaid members. These laws are designed to recover from the assets of those who received benefits from the Medicaid program.

The Estate Recovery Program may recover from the deceased person's assets, up to the cost of recoverable services paid for by, but not limited to, the following programs:

- Medicaid;
- BadgerCare Plus;
- Community Options Program (COP);
- COP-Waiver;
- Community Integration Programs (CIP) IA, IB, II;
- Brain Injury Waiver;
- Community Supported Living Arrangements;
- Community Opportunities and Recovery;
- Family Care / Family Care Partnership;
- Wisconsin Chronic Disease Program (WCDP);
- Include, Respect, I Self-Direct (IRIS); and
- Program for All-Inclusive Care for the Elderly (PACE).

This pamphlet explains how the Estate Recovery Program recovers money from some estates through the use of the Transfers by Affidavit process.

TRANSFERS BY AFFIDAVIT

The Transfers by Affidavit process may be used to close a person's estate when the deceased has \$50,000 or less in assets subject to administration. It is an alternative for smaller estates rather than using a court process. If this process is used, an heir, guardian, trustee of a revocable trust created by the deceased, or the Wisconsin Department of Health Services (DHS) may collect assets of the deceased member by submitting an affidavit to the person, bank or other institution possessing the deceased's assets.

The Estate Recovery Program may recover assets and property up to the cost of health and long term care recoverable benefits paid out. An affidavit is used if the deceased has no surviving spouse, surviving child who is either under age 21, blind, or disabled.

Assets that may be recovered include, but are not limited to:

- Money at a bank, savings and loan, or credit union that is in an account, including joint and payable on death (POD) accounts.
- Nursing home personal accounts.
- Certificates of deposit (CDs) and Money Market accounts.
- Refunds payable to the decedent, his/her estate or owed to the decedent.
- Property transferred by Transfer on Death (TOD) deed.
- Joint property and other non-probate property of the decedent.
- Life insurance and annuities.
- Money left over from a burial fund after reasonable funeral costs have been paid.
- Savings bonds and stocks.
- Any interest in real property held by the deceased immediately before death may be

subject to a lien, even if there is a surviving spouse, disabled or minor child.

The Estate Recovery Program may **not** recover:

- Personal property (automobiles, furniture, jewelry, appliances, etc.) until sold.
- Cash donated or given to the family after the member's death, such as memorial money.

DHS will submit an affidavit to any person or institution possessing funds or real property of the deceased. The affidavit will include the Department's claim against the estate and the rights available to heirs, beneficiaries and co-owners of the deceased's property. The person possessing the funds or real property must pay all available funds to the Department up to the amount of recoverable services. The person handling the estate may pay reasonable funeral costs, cost of administering the estate, such as attorney fees, from the estate prior to paying the Department (see "Allowable Expenses"). If real property is being transferred, a lien may be placed on the property for up to the amount of recoverable services paid by the Department, even if there is a surviving spouse, disabled or minor child.

After transferring all remaining funds to DHS and notifying the Department of any real property transferred, the person is released from any obligation to other creditors or heirs of the deceased for the assets of which the Department was notified.

Allowable Expenses

Reasonable funeral and burial costs, including but not limited to:

- Necessary funeral home charges.
- Necessary cemetery charges.
- One headstone/vase/marker and engraving.
- One funeral meal.
- Flowers.
- Telephone calls related to the funeral.
- Postage related to the funeral.
- Stipend for clergy, organist and soloist (does not include donations made in memory of the deceased).
- Obituary and Death Certificates.
- Transportation of the deceased's remains.
- Funeral clothing for the deceased.

Estate administration costs, which include:

- Attorney fees.
- Personal representative fee (2% of the total estate assets).
- Postage and telephone calls.
- Copying and forms costs.
- Mileage (at the Internal Revenue Service rate) related to administration of the estate.

Other allowable expenses include:

- Guardian fees approved by the court.
- The last month's nursing home patient liability amount.

Please keep receipts/canceled checks as a record of any expenses paid.

Lower Priority Expenses

The Estate Recovery Program does not allow the deceased's funds to be used for the following expenses (lower priority under §859.25, Wis. Stats.) prior to payment of the Department's claim. This includes, but is not limited to:

- Travel to attend the funeral (including airfare, hotels, car rental, meals, etc.).
- Gifts; will bequests.
- Masses; memorials.
- Autopsy.
- Payment for services you provided prior to the death, or purchases prior to the death. These should have been collected at the time the service was provided.
- Any amount due to a hospital or nursing home for a private room.
- Medical bills. If the deceased was on Medicaid at the time of death, tell the provider to bill the Medicaid Program. If the deceased was NOT on Medicaid at the time of death, you will need to send copies of the bills, including the dates of service, to the Estate Recovery Program for review and approval **PRIOR TO MAKING PAYMENT.**

If you have questions about the Estate Recovery Program:

- Call Member Services at 1-800-362-3002 (voice) or 711 (TTY).
- Call the Estate Recovery Program at (608) 264-6755.
- Go to dhs.wisconsin.gov/medicaid/erp,
- Contact your *local agency*,

This brochure is also available at

dhs.wisconsin.gov/publications/p1/p13009.pdf

Wisconsin Estate Recovery Program

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BY
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**Wisconsin
Department of Health Services**

Division of Health Care Access and Accountability
Estate and Casualty Recovery Section

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