
STATE OF IOWA DEPARTMENT OF

Health ^{AND} Human

SERVICES

Iowa Medicaid Estate Recovery

October 19, 2023

Estate Recovery - Related Laws

Federal Law:

Estate Recovery Law – [42 U.S.C 1396p\(b\)](#)

Congress passed the Tax Equity and Fiscal Responsibility Act (TEFRA) in 1982, as the first federal estate recovery law for Title XIX medical assistance, also known as Medicaid. Some states had already been recovering medical assistance through state laws for decades. Since TEFRA was not mandatory, others refused to implement estate recovery. The Budget Reconciliation Acts of 1993 and 1994 then mandated that states recoup Medicaid payments from the estates of recipients. States who failed to implement an estate recovery program were to lose federal funds. This mandate was upheld in *West Virginia v. United States* 289 F.3rd 281 (4th Cir. 2002).

State Law:

In Iowa, the estate recovery program is provided under [Iowa Code Section 249A.53\(2\)](#). Administrative rules are found in section [441 IAC 75.28\(7\)](#)

Some Benefits of Estate Recovery

- Estate Recovery helps reinvest money back into the Medicaid program to help tax-payer dollars stretch as far as possible to provide quality services and care to its members.
- Since Iowa began pursuing estate recovery in 1994, over half a billion dollars have been reinvested back into the Medicaid program.

How Far Can Estate Recovery Funds Stretch?

- In SFY2023, Iowa's Estate Recovery unit collected approximately \$39 million. In that year this equated to:
 - Care for 440 members in a Psychiatric Mental Institute for Children (PMIC) facility, or
 - Care for 447 members over age 65 in a nursing facility, or
 - Care for 735 members receiving treatment for Breast and Cervical Cancer, or
 - Care for 5,814 pregnant women.

How Does Estate Recovery Work?

- After the death of a person who received Medicaid and was over 55 or a resident of long-term care, the value of their estate (if they have one) is used to reimburse the Iowa Department of Health and Human Services (HHS). This includes the cost of services that were paid out for Medicaid benefits, including capitation fees paid to a managed care plan (medical and dental), regardless of how much the actual services cost the managed care plan.
- At the time of death, if the person has no assets in their estate, as defined in Iowa Code 249A.53(2)(c), there is no recovery.
- Unlike many neighboring states, Iowa does not place liens on real estate to secure a medical assistance debt.

Who is Subject to Estate Recovery?

Iowa's Estate Recovery law requires HHS to be reimbursed from the estate of a person who has received benefits under Medicaid and is:

- Age 55 or older, or
- Under age 55 and residing in a nursing facility, intermediate care facility for persons with an intellectual disability, or mental health institute, and unlikely to return home.

What Medicaid Cost is Included in Estate Recovery?

At the time of death, all medical assistance paid by HHS becomes a debt against the member's estate.

This debt includes:

- All medical assistance paid out by HHS, including fee-for-service claims, capitation rates to managed care plans (regardless of how much the actual services cost the managed care plan), and interest.

This debt does not include:

- Medicare cost-sharing and Medicare premiums for lower income populations after January 1, 2010.

Capitation Rates - What are they?

- Most states today utilize Managed Care Organizations (MCOs) for their Medicaid programs.
- One of the benefits of having MCOs, is that they are able provide additional value-added services to members that are not part of the standard required Medicaid coverage plan.
- When a state utilizes MCOs to administer Medicaid services, the state pays the MCO a monthly capitation rate for each member assigned to the MCO each month, to provide care for its members.
- The calculation of these capitation rates are subject to many different regulations for states to abide by.

Capitation Rates - Development

- Capitation rates must be reasonable (within a normal or acceptable range) and comply with all applicable laws for Medicaid managed care.
- Capitation rates must be actuarially sound, which means the rates are projected to provide for all reasonable, appropriate, and attainable costs that are required under the terms of the contract.
- Iowa uses an actuary to develop capitated rates (a fixed monthly payment for each person) for the MCOs.
- The state monitors the capitation rate through a medical loss ratio (MLR) which is the sum of the MCOs' incurred claims and expenditures.
- For more information on this topic, go to your Iowa Health Link Member Handbook, and refer to the section on "RATE SETTING". You can find it online here:
<https://hhs.iowa.gov/sites/default/files/Comm580.pdf?040620211416>

Categorical Waivers

The medical assistance debt that comes due from the estate of a deceased Medicaid member can be waived if:

- there is a surviving spouse, a child of any age of the deceased member who has a disability or is blind, or
- there is a child under the age of 21
- deferrals of payment until death of the spouse, disabled or blind child, or the minor child turns 21

Hardship Waivers

The collection of the debt would cause undue hardship for an heir or beneficiary. Deferrals of payment are until the hardship no longer exists or at death of the person who received the hardship waiver.

Undue hardship is defined as:

- a. Having less than \$10,000 in resources not including the home, or a vehicle, and
- b. Income at or below 200 percent of the poverty level, and
- c. Collection of the debt would deprive the person of food, clothing, shelter, or medical care.

What Part of an Estate Can Be Recovered?

The estate includes any assets owned by the deceased Medicaid member or in which the member has an interest at the time of death. This includes a house, saving account, jointly held property, retained life estates, interests in trusts, annuities, IRA's, pay-on-death accounts, etc.

Life insurance is generally not collectible, but if it is not reported, or if it is converted to a burial fund, then there may be recovery from some or all of the life insurance, depending on the facts of the case.

Priority of Debt Payment From an Estate

Probate rules govern how a person's final affairs are handled in each state. Probate rules involve everything from establishing a probate estate to choosing an executor, determining heirs, distributing property, and paying debts.

When an estate does not have enough money to satisfy its debts, the executor must carefully follow Iowa estate law to determine who to pay first.

Even if there is no executor or probate opened in court, the Iowa Probate Code governs how estates are to be handled for estate recovery.

Who is Paid First?

Generally, the order of probate is:

1. Court costs
2. Costs of administration
3. Funeral expenses
4. Taxes and other debts to federal
5. Medical bills of last illness
6. Taxes owed to state
7. Medical assistance debt
8. Labor claims for deceased business owners
9. Unpaid child support
10. General claims (credit cards, older medical bills, etc.)

Recovery of Medicaid Trust

HHS is a beneficiary of Medicaid Trusts. These types of trusts include:

- Medical Assistance Income Trusts, also known as MAIT's, Miller trusts, Qualified Income Trusts, or Income Assignment Trusts
- Special Needs Trusts
- Pooled Trusts

Other Information on Estate Recovery

- The Federal government requires all states to have a Medicaid Estate Recovery Program, but the laws, the resources devoted to the program, and political climates vary greatly.
- Assets that could have been used to pay medical bills before death are instead used to replenish Medicaid after death, much like a line of credit that is due in full at death.
- Iowa stats: Of the total Estate Recovery cases opened (10,000/year), about 65% have no recovery, and 20% have recovery of less than \$2,000.

Comparison of Similar States - Slide 1 of 2

<u>State</u>	<u>Who is recovered</u>	<u>What claims are recovered</u>
Iowa	<ul style="list-style-type: none"> Over the age of 55 Any age if in a long-term care (LTC) facility with no reasonable expectation of returning home 	<ul style="list-style-type: none"> FFS Claims Capitation Paid Medicare Savings Program (MSP) up to 01/01/2010 All types of Medicaid claims both if over 55 or institutionalized
Kansas	<ul style="list-style-type: none"> Over the age of 55 Any age if they have been in LTC in a nursing facility 	<ul style="list-style-type: none"> Nursing Facility (NF) Care HCBS (Waiver) and any related hospital care and prescription drug services provided while receiving NF care at home or in a community setting. FFS Claims Capitation Paid MSP up to 1/1/2003 No recovery if the recipient is ONLY on a MSP
Minnesota	<ul style="list-style-type: none"> Over age 55 and a Medicare Advantage (MA) member receiving Long Term Care Services (LTCS) and Supports Any age if institutionalized 	<ul style="list-style-type: none"> An MA claim includes capitation payments made to managed care organizations (MCOs) for coverage of these services.
Nevada	<ul style="list-style-type: none"> Over the age of 55 Any age if permanently institutionalized 	<ul style="list-style-type: none"> FFS Claims Capitation Paid Medicare Savings Program (MSP) up to 01/01/2010 All types of Medicaid claims both if over 55 or institutionalized
North Dakota	<ul style="list-style-type: none"> Over the age of 55 Any age if permanently institutionalized 	<ul style="list-style-type: none"> FFS Claims Capitation Paid
South Dakota	<ul style="list-style-type: none"> Over the age of 55 Any age if permanently institutionalized 	<ul style="list-style-type: none"> FFS Claims Capitation Paid Prescription drug services provided while in an institution

Comparison of Similar States (Slide 2 of 2)

<u>State</u>	<u>State Specific Exemptions, Exclusions or Waivers</u>
Iowa	Hardship waiver for: <ul style="list-style-type: none"> • Undue hardship if income less than 200% of Federal Poverty Level (FPL) AND • Less than \$10K in assets AND • The waiver is also deferred
Kansas	Hardship waiver for: <ul style="list-style-type: none"> • Undue hardship to the heirs of the estate. Determined on a case by case basis.
Minnesota	Hardship waiver for: <ul style="list-style-type: none"> • Business in home • Public assistance • Other compelling circumstances
Nevada	Hardship waiver if: <ul style="list-style-type: none"> • Asset is sole income producing asset of waiver applicant • Public assistance eligibility • There is a doctor's written verification of a medical condition that compromises the applicant's ability to pay • Resided in home for at least 2 years prior to death or going into an institution
North Dakota	Hardship waiver for: <ul style="list-style-type: none"> • Undue hardship to the heirs of the estate. Determined on a case by case basis.
South Dakota	Hardship waiver for: <ul style="list-style-type: none"> • Undue hardship to the heirs of the estate. Determined on a case by case basis.

Links to Iowa Medicaid Estate Recovery

- Medicaid Application – [Application for Health Coverage and Help Paying Cost](#)
- Iowa Medicaid Website – [Iowa's Estate Recovery Law](#)
- Comm. 123 – [Important Information for You and Your Family Members about the Estate Recover Program](#)
- Comm. 266 – [Iowa's Estate Recovery Law](#)
- Handbooks:
 - Comm. 476 - [IA Health Link Member Handbook](#)
 - [Amerigroup Member Handbook](#)
 - [Iowa Total Care Member Handbook](#)
 - [Molina Member Handbook](#)

Estate Recovery Contact Information

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Questions