

subject to estate recovery repayment.

**Can the debt be waived?**

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**Yes.**

**Spouse or Disabled Child Waiver:** If the person who dies leaves behind a husband or wife, or a disabled child, the debt is waived (permission is given to repay the debt later) until the husband, wife or disabled child who receives the waiver dies.

**Minor Child Waiver:** If the person who dies has a child who is under 21, the debt is waived and does not need to be repaid until that child turns 21.

**Hardship Waiver:** If repayment of the Medicaid debt would cause the heir or beneficiary to:

- 1. Not have enough money to pay for food, shelter, clothing, or medical care so that their life or health would be in danger, and
- 2. Have less than \$10,000 in assets, and
- 3. Earn less than 200% of the federal poverty level, they can request a Hardship Waiver.

If the debt is waived because the person has an undue hardship, repayment will be delayed until that heir or beneficiary no longer meets the above requirements or until their death.

**Definitions**

**Affidavit** – a written statement voluntarily made by a person where they swear under oath that what is in the written statement is the truth.

**Annuity** – payments that are paid out of an account a person has established, usually monthly over a certain period of time. It is not life insurance.

**Assets** – the money or property that belongs to a person.

**Assistance** – the money given to help a person in need.

**Beneficiary** – the person named in a written document who will receive money or property when another person dies.

**Care facility** – a place where patients live and receive medical care, also called a nursing home.

**Debt** – money that is owed.

**Estate** – the money, property, and objects of value that a person leaves, or in which the person had an interest, when they die.

**Fair market value** – the price of a property based on what other homes in the neighborhood are selling for.

**Guaranteed** – promised, pledge.

**Heir** – a family member who receives money or assets after a person dies when there is no will. Heirs are not named, but receive money because of their relationship to a deceased person.

**IA Health Link** – A managed care medical assistance (Medicaid) program that helps Iowans with health coverage.

**Iowa Code** – the books Iowa’s laws are kept in.

**Irrevocable** – permanent, fixed, not able to be changed.

**Joint bank account** – a bank account two or more people own and can draw or deposit money in.

**Lien** – a legal document that is filed against the assets of a person who owes money to another.

**Medicaid** – Title 19 Medical Assistance used to help persons who do not have the funds to cover the cost of their long-term health care and related expenses.

**Medicare Savings Program** – includes Specified Low-Income Medicare Beneficiary (SLMB) and Qualified Medicare Beneficiary (QMB) programs. Program services provided after January 1, 2010, is not included in Estate Recovery.

**Priority** – most important, must be paid before other debts.

**Probate** – the legal process where a court settles the affairs of a person who has died by selling their assets, paying their debts, and then giving their money and property to who survive the person who died.

**Survivor** – people left behind when a family member dies.

**Title 19** – Also known as Title XIX and Medicaid, is a federal law that helps people pay for their medical care. It is funded by both federal and state tax dollars.

**Trusts** – a legal paper that tells someone else what to do with money or property you own both before and after your death.

**Waiver** – permission to repay a debt at a later date.

# Iowa’s Estate Recovery Law

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<https://hhs.iowa.gov/programs/welcome-iowa-medicaid/member-services/member-rights-and-responsibilities>

**What is the estate recovery law?**

Federal law requires Iowa to have an estate recovery program when Medicaid funds are used to pay for medical assistance. **The recovery includes the full amount of capitation payments made to a managed care organization, including medical and dental, even if the plan did not pay for any services.** Members affected by the estate recovery policy are those who:

- ◆ Are 55 years of age or older, regardless of where they are living; or
- ◆ Under age 55, live in a long-term care facility, and are not expected to return home.

When a person who gets medical assistance dies, their assets must be used to repay the Department of Health and Human Services (HHS) for the money that was spent on medical care.

Medical assistance is also called IA Health Link, Medicaid or Title 19 and includes programs like the Elderly Waiver and Medically Needy. People can receive medical assistance while living in their own home or in a care facility. In Iowa the estate recovery law is found in Iowa Code section 249A.53(2).

**What is an “estate” for estate recovery?**

An estate includes all:

- ◆ Real property, such as your house, land, etc.,
- ◆ Personal property, such as household goods, bank accounts, annuities, personal effects, cars, etc., or
- ◆ Any other asset that you own or have an interest in at the time of your death.

This includes items that you own with someone else, such as joint property, trusts, and retained life estates.

**What is a claim?**

When the estate of a person who received medical assistance starts the probate process, the Estate Recovery Program must be contacted and a claim will be filed. Liens are not placed on property, but the fair market value of the property is an asset that can be used for repayment of the medical assistance debt. *The medical assistance debt is not subject to the four month limitation on filing claims. See Iowa Code Section 633.410 for time limits that apply and Iowa Code 633.231 and 633.304A for the appropriate notices that must be sent electronically at:*

<https://hhs.iowa.gov/programs/welcome-iowa-medicaid/member-services/member-rights-and-responsibilities>

**What expenses can be paid with the assets of the recipient?**

Repayment of medical assistance can be made from the assets that are left after funeral and burial expenses, legal fees, medical expenses of last illness, and other costs used to settle the affairs of the person who has died. Donations to charities, travel expenses for relatives to the funeral, and care giving by family members before death, cannot be paid before the medical assistance debt. *The order in which payment is to be made is listed in Iowa Code section 633.425. The medical assistance debt is a priority claim.*

**How will I know how much money is owed to HHS?**

At any time after death, the person managing the affairs of the deceased can get an updated listing of medical assistance payments by requesting a payment history. The Estate Recovery Program will send the amount of medical assistance paid expenses to the person managing the affairs of the deceased. The deceased person's name, birthdate, social

security number, and date of death must be provided.

**How is payment made if an estate is not probated?**

Often, persons who receive medical assistance do not leave a large amount of money or property behind when they die. When this happens, the estate recovery repayment process is done without going through probate. For example, if the person who was on medical assistance left \$1,000 in a joint bank account, the survivor can use the money to repay what is owed to Medicaid. If no one else's name is on the bank account, a Small Estate Affidavit (*Iowa Code 633.356*) can be signed by the heir or beneficiary that will direct the bank to use the money to repay what was given in medical assistance. Payment can be made by check or money order to Department of Health and Human Services and mailed to:

**Estate Recovery Program**  
PO Box 13110  
Des Moines, IA 50310

**What about life insurance policies?**

Proceeds from life insurance policies are generally considered the assets of the person named as beneficiary. However, the medical assistance debt must still be repaid from the life insurance funds when:

- ◆ The deceased person's will or trust provides that the insurance policy must be used to pay his or her debt.
- ◆ A funeral home or HHS is named as the beneficiary of those life insurance funds or the policy is assigned to the funeral home.
- ◆ When the policy was not reported before the death and had a cash value that would have caused the person not to meet the rules that say who can and cannot receive medical assistance.

**What about Medicaid trusts?**

A Medicaid Trust names the Department of Health and Human Services (HHS) as the beneficiary after the death of the person for whom the trust is established. These types of trusts include special needs trusts and income trusts. Income trusts are also known as Income Assignment Trusts, Qualified Income Trusts, and Miller Trusts. Money in Medicaid trusts is not part of the estate of the person who has received Medicaid, and cannot be used to pay estate expenses. The money left from these trusts must be used to repay the HHS medical assistance debt according to the terms of the trust and sent to the Iowa Estate Recovery Program.

**What about burial trusts?**

Funeral directors or bankers are required by law to contact the Estate Recovery Program when there are funds remaining in a medical assistance recipient's non-guaranteed irrevocable burial trust fund after the funeral expenses have been paid. The Estate Recovery Program then has sixty days in which to confirm if those funds are to be paid to HHS.

If the funds are in a guaranteed trust and the guaranteed services are provided, the funeral home may dispose of the funds as the funeral home deems appropriate.

If an insurance policy is assigned or made payable to the funeral home, any money that is left after funeral costs are paid on the medical assistance debt. See Iowa Code Chapter 523A.

**What about annuities?**

Annuities are used for repayment of medical assistance debt if the person who received assistance had an interest in the annuity at the time of their death. An annuity is an investment and is not treated like life insurance. Annuity payments that have not been paid are part of the Medicaid recipient's estate and so are