

Alabama Medicaid Estate Recovery Program Q and A

1. What is the Estate Recovery Program?

Established under federal law, this program requires the Alabama Medicaid Agency to recover the costs paid by the Agency from the estates of deceased Medicaid recipients.

2. Who is affected?

- a) A person of any age permanently residing in a nursing facility, intermediate care facility for the intellectually disabled, or other medical institutions; and
- b) A person 55 years of age or older who received medical assistance for any services covered under the Alabama Medicaid State Plan (this includes any individual receiving Home and Community based services).

3. When does Estate Recovery occur?

Estate Recovery happens only after the death of a person receiving Medicaid benefits under the affected categories.

4. How does Estate Recovery work when a Medicaid recipient dies?

The provider, attorney, personal representative, or case manager should contact the Alabama Medicaid Agency's Estate Recovery section to provide notification of a recipient's death within 30 days of the death. This notification can be by phone, fax, email, or mail.

Contact information is provided at the bottom of this informational packet.

5. What property is subject to estate recovery?

All real and personal property and any other assets included within the individual's estate as defined by Alabama Probate Law. This definition includes, but is not limited to, homes, land, vehicles, cash and bank accounts.

6. What are the exemptions for estate recovery efforts?

Estate Recovery will be delayed until after the death of the surviving spouse, if any, and if;

- a) There is a child under 21 years of age; or
- b) There is a blind or totally and permanently disabled child in the home.

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In the case of liens placed on the home, recovery will be delayed until after the death of the surviving spouse, if any, and if:

- a) A sibling is lawfully living in the home and was lawfully residing continuously in the home for at least one year immediately prior to the claimant being admitted to the medical institution; or
- b) If there is a son or daughter of the Medicaid recipient who is and has been residing in the home for at least two years immediately before the date of the individual's admission to the institution, and has been residing there on a continuous basis since that time. The son or daughter would have to establish to the Alabama Medicaid Agency's satisfaction that they were providing care which permitted the individual to reside at home rather than in a medical institution.

7. Are there any situations when a TEFRA lien would not be placed on my home when I enter a nursing facility?

- a) If there is a spouse residing in the home;
- b) If there is a child under age 21 or blind or disabled residing in the home; or
- c) If there is a sibling of the Medicaid recipient who has an equity interest in the home and is currently residing in the home and has been residing continuously in the home for at least one year immediately before the date of the individual's admission to the institution.

8. We never really "got married", but we lived together as husband and wife. Do the Estate Recovery regulations still apply to us?

Yes; please contact an Elder Law attorney if you have any other questions or concerns.

9. What happens if someone has been paying taxes and upkeep expenses for maintaining the deceased's vacant home?

An amount equal to the necessary and reasonable expenses for maintaining the vacant home may be deducted from the TEFRA lien amount if the property is sold. This would only apply to cases regarding Medicaid recipients that were required to sign a lien during the eligibility process.

If you have questions regarding TEFRA (property) liens, please contact our Liens Administrators at (334) 242-5304 OR (334) 242-5305.

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10. Is it true that I have to turn my home over to the state when I move to the nursing facility or begin receiving home and community based services?

No. You do not have to sign over the deed to the state; however, you could be required to sign a lien if you are in a nursing facility, intermediate care facility for the intellectually disabled, or other medical institutions. The lien will act as the state's claim should the property be sold prior to the Medicaid recipient's death. A lien is not required for recipients receiving home and community based waiver services.

11. What if both my name and my spouse's name are on the deed?

Depending on the wording of the deed, property may be a recoverable asset after the Medicaid recipient's death (if no exemptions apply). If you have more specific questions about the particular wording, you will need to contact an attorney.

12. What if only my spouse's name is on the deed?

The only recovery would be if your spouse received Medicaid services or if the property's ownership was transferred to you (the Medicaid recipient). Recovery would happen after the Medicaid recipient's death or when the exemptions no longer apply.

13. Can I give my home away before I enter the nursing facility or receive home and community based services?

There are certain situations in which you could transfer the ownership of your property. You would need to contact an attorney to discuss those situations.

14. How do I transfer the deed to the property?

It is very important you speak with an attorney that has knowledge of Medicaid policies before transferring any property.

15. How do I ask for a hardship waiver?

If the heir feels he/she could be considered for an undue hardship, a request for the waiver application must be made within 30 days of receiving the Agency's notice against the estate, or upon the sale, transfer, or conveyance of the real property subject to a TEFRA lien.

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16. What is the criteria for an undue hardship?

“Undue Hardship” is defined as the existence of a situation, established by convincing evidence, that the estate subject to recovery is an asset such as a family farm or family business which produces “limited income” (defined as equal to or less than the income limit established in Rule 560-X-25.14) and is the sole income-producing asset of one or more heirs to the estate.

An undue hardship is not available in the following circumstances:

1. For recipients with long term care insurance policies who became Medicaid eligible by virtue of disregarding assets because of payments made by a long term care insurance policy or because of entitlement to receive benefits under a long term care insurance policy;
2. If Medicaid determines the hardship was created by the recipient by resorting to estate planning.

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CONTACT INFORMATION:

Alabama Medicaid Agency
Estate Recovery Section
PO Box 5624
Montgomery, AL 36103
Phone: (334) 242-5727
Fax: (334) 353-4820
Email: EstateRecovery@Medicaid.Alabama.Gov

Alabama Medicaid Agency
Estate Notice Office
PO Box 5624
Montgomery, AL 36103
Phone: (334) 242-4097 or (334) 242-4098
Fax: (334) 353-4820
Email: EstateNotice@Medicaid.Alabama.Gov
*Probate cases only

Alabama Medicaid Agency
Property Liens Section
PO Box 5624
Montgomery, AL 36103
Office: (334) 242-5304 or (334) 242-5305
Fax: (334) 353-4820
Email: PropertyLiens@Medicaid.Alabama.Gov

You may also visit the link provided below for additional information regarding Estate Recovery and Property Liens.

https://medicaid.alabama.gov/content/7.0_Providers/7.1_Third_Party/7.1.1_Estate_Recovery.aspx