

ESTATE RECOVERY FOR MEDICAID AND OTHER PROGRAMS

Through the Estate Recovery Program, the federal and state governments seek repayment of certain benefits that have been provided to persons enrolled in the programs listed below. Recovery is made from their assets when they pass away. The money recovered goes directly back into the health care programs and is used to provide care for others in need.

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/BadgerCare Plus
- Community Options Program (COP)
- COP-Waiver
- CIP IA
- CIP IB
- CIP II
- Brain Injury Waiver
- Community Supported Living Arrangements
- Family Care/Family Care Partnership
- Wisconsin Chronic Disease Program

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

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The Transfer 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 a deceased's assets by submitting an affidavit to the person, bank or other institution possessing the deceased's assets.

The Estate Recovery Program may recover cash assets up to the cost of health and long term care recoverable benefits paid, by use of an affidavit if:

- 20 days have passed since the death and no one has petitioned the court to probate the deceased's estate;
- The deceased has no surviving spouse; surviving son or daughter who is either under age 21 or disabled; and,
- The deceased has \$50,000 or less in property subject to administration after burial costs are paid.

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 (P.O.D.) 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.

- Life insurance payable to the estate.
- Money left over from a burial fund after funeral costs have been paid.
- Savings bonds and stocks.
- Any interest in real property held by a deceased Medicaid client may be subject to a lien, even if there is a surviving spouse, disabled or minor child.

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

- Life insurance payable to a named living beneficiary. (Please provide documentation from the insurance company listing beneficiaries.)
- Personal property (furniture, jewelry, appliances, etc).
- Cash donated or given to the family after the recipient's death, such as memorial money.

DHS will submit an affidavit to any person or an institution possessing funds or real property of the deceased. The affidavit will include the Department's claim against the estate. The person possessing the funds or real property must pay all available funds to the Department. The person handling the estate may pay funeral costs, costs of administering the estate, such as attorney fees, from the estate prior to paying the Department. (See **Allowable Expenses** on the next page) 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 - including but not limited to:

Funeral and burial costs, which include:

- Funeral home charges.
- 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/cancelled checks as a record of any expenses paid.

Lower Priority Expenses – including but not limited to:

We do not allow the deceased funds to be used for the following expenses (lower priority under s. 859.25, Wis. Stats.) prior to payment of the Department's claim:

- 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 a hospital or nursing home for a private room.
- Medical bills. If the deceased was on Medicaid at the time of their death, tell the provider to bill the Medicaid Program. If the deceased was NOT on Medicaid at the time of their death, you will need to send copies of the bills, including the dates of service, to our office for review and approval **PRIOR TO MAKING PAYMENT.**

If you have any questions about the Estate Recovery Program, please call us at (608) 264-6756.

Department of Health Services
Division of Health Care Access and Accountability
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Wisconsin Estate Recovery Program

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Accountability
Estate and Casualty Recovery Section