



# Your Guide to the Medicaid Estate Recovery Program



**TEXAS**

Department of Aging and Disability Services

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## ***Medicaid Estate Recovery Program***

Medicaid is a government program that pays for healthcare for people with limited incomes. Some of these services are provided to people as they grow older. Medicaid pays for services that help people stay in their own homes. It also pays for people to move to a nursing home, if that is what they need.

To help pay for these long-term services, every state must have a Medicaid Estate Recovery Program (MERP). If you received Medicaid long-term services and supports, the state of Texas has the right to ask for money back from your estate after you die. In some cases, the state may not ask for anything back, and the state will never ask for more money back than it paid for your services.

## ***Who does MERP affect?***

This program will affect only long-term care services and supports you receive after the age of 55, and only if you first applied for these services after March 1, 2005. If you applied for these services before March 1, 2005, MERP does not affect you. If you were on an interest list for services before that date but did not complete an application for services until after March 1, 2005, MERP does affect you.

The following services and programs are affected by MERP:

- Nursing facility care (nursing homes)
- Intermediate Care Facility for Persons with Mental Retardation (ICF/MR)
- The following Medicaid Waiver Programs:
  - ✓ Home and Community-based Services (HCS)
  - ✓ Community Living Assistance and Support Services (CLASS)
  - ✓ Texas Home Living Waiver (TXHmL)
  - ✓ Consolidated Waiver Program (CWP)
  - ✓ Deaf-Blind with Multiple Disabilities (DBMD) Waiver
  - ✓ Community Based Alternatives (CBA)
  - ✓ STAR+PLUS Waiver (SPW)
  - ✓ Integrated Care Management Waiver (ICMW)
  - ✓ Community Attendant Services (CAS)

MERP also affects the costs of certain hospital and prescription drug services you receive. Primary Home Care (PHC) is not affected by MERP.

If you are not sure whether MERP applies to the services you currently receive or will be receiving, you should ask your Department of Aging and Disability Services (DADS) case manager. If you are a Medicaid managed care enrollee, you should ask your service coordinator with the health plan from which you receive your services.

### ***How does this program work?***

When a person applies for Medicaid and long-term services and supports, the state provides a notice that explains MERP. When the person dies, the state sends a different notice to the estate representative or heirs to let them know that the state intends to file a claim. The notice will ask the representative for information so the state can decide whether to file a MERP claim.

### ***What is an estate?***

An estate is property, such as money, a house, or other things of value, that a person leaves to family members or others (heirs) when he or she dies. MERP does not apply to all property that a person may own.

Here are some examples of property that the state will not collect on:

- Life insurance policies that name a person to receive the payment.
- Bank accounts that are paid on death to another person.

## ***Are there times when the state will not ask for money back?***

Yes, the state will not ask for money when:

- There is a spouse who is still alive.
- There is a child under 21 years of age.
- There is a child of any age who is blind or permanently and totally disabled.
- The value of the estate is \$10,000 or less.
- The amount of Medicaid costs is \$3,000 or less.
- There is an unmarried adult child who lived full-time in the Medicaid person's home for at least one year before this person died.
- The cost of selling the property is more than the property is worth.

Also, the state will not ask for money when this would cause an undue hardship for the heirs.

## ***How does the state define undue hardship?***

The state may consider it a hardship when:

- The estate property was a family business, farm, or ranch for at least 12 months before the person on Medicaid dies, and is the main source of income for the heirs.
- The heirs would need financial help from the government if the state filed a MERP claim to get money back.
- The heirs could stop getting financial help from the government if the state did not file a MERP claim.
- The person who died received services because he or she was a crime victim.
- There are other circumstances that may create a hardship.

One type of hardship applies just to the home. If the value of the homestead is under \$100,000, and if one or more of the heirs have family income under a certain amount, the state may not ask for money back. In 2011, this income limit for one person is \$32,670. For a family of two, it is \$44,130. These figures are adjusted each year.

The state will not grant a hardship request unless the person's heirs ask for it, and provide the requested proof of the hardship.

If the estate has debts, such as funeral costs, legal costs, or a home mortgage, those costs are paid before a MERP claim is paid.

### ***Will the state ever reduce the amount owed?***

Yes, if money is spent to maintain a person's home while he or she is in the nursing facility, these costs can be deducted from the MERP claim. If money is spent to pay for care that helps keep the person living at home for as long as possible before entering the nursing home, those costs can be deducted as well.

The heirs must have receipts to show what was spent on the person's home or services when they ask the state to deduct these amounts from the MERP claim. The state may allow deductions from an estate recovery claim for necessary and reasonable expenses, such as:

1. home maintenance costs, such as real estate taxes, utility bills, insurance, home repairs, and home maintenance expenses, such as lawn care for recipients receiving Medicaid-covered services in a nursing facility; and
2. the direct payment of the costs of care (including payment of personal attendant care) provided for a deceased Medicaid recipient that enabled the recipient to remain in his or her home and thereby delayed institutionalization.

## ***What happens if I give away or transfer my assets before moving into a nursing home?***

Giving away resources for no compensation, or refusing to accept income, or reducing income you could receive before moving into a nursing home may result in:

- a penalty against you for not paying for nursing facility or ICF/MR facility services when you were able to do so; or
- a decision by the state that you are ineligible for waiver program services or state supported living center services.

The state may “look back” up to 60 months before you applied for nursing home, ICF/MR or waiver services to determine when your income was reduced and resources were transferred.

## ***How can I get more information on Medicaid estate recovery?***

For more detailed information on this program, call the **Texas Department of Aging and Disability Services (DADS)** toll-free at **1-800-458-9858**. This line is answered 8 a.m. – 5 p.m., Monday through Friday. Voicemail is available 24 hours a day. You may also visit the DADS website at **[www.dads.state.tx.us/services/estate\\_recovery/](http://www.dads.state.tx.us/services/estate_recovery/)**.

You may e-mail questions to **[merp@dads.state.tx.us](mailto:merp@dads.state.tx.us)**. Estate representatives of deceased Medicaid recipients should contact the DADS Third Party Recovery unit by calling 512-438-2200 to determine if there are other outstanding Medicaid claims against the estate.



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