



# Medicaid Estate Recovery

Connecting you to information,  
answers and resources.

If you or a loved-one qualify for Medicaid and need long-term care services and supports, you have many options available to you in Ohio.

Ohio Medicaid programs such as PASSPORT, the Assisted Living Waiver, Ohio Home Care Waiver, and MyCare Ohio offer in-home and community-based alternatives to nursing home care.

Because these Medicaid programs are funded by tax dollars, the state will attempt to recover the costs for some or all of the care it provided while an individual was enrolled in a Medicaid program. This is called the Medicaid Estate Recovery (MER) program.

Many people have questions and concerns about the MER program. While staff at Council on Aging are not qualified to answer specific questions about MER or Medicaid law, we have compiled the resources below, as well as some common questions and answers, to help you get the information and answers you need.

<b>Organization Name:</b>	<b>Important Information:</b>	<b>Contact Information:</b>
Ohio Department of Medicaid	<b>Medicaid Consumer Hotline</b> Monday - Friday: 7am to 8pm Saturday: 8am to 5pm	(800) 324-8680 <a href="http://www.ohiomh.com">www.ohiomh.com</a>
Ohio Attorney General's Office	<b>Medicaid Estate Recovery Unit</b> 150 E Gay Street, 21st Floor Columbus, Ohio 43215	(614) 779-0105 <a href="http://www.ohioattorneygeneral.gov">www.ohioattorneygeneral.gov</a>
Pro Seniors	<b>Pro Seniors Legal Hotline</b> People age 60 and older are eligible for a free 30-minute phone consultation with an attorney.	(513) 345-4160 <a href="http://www.proseniors.org">www.proseniors.org</a>
The Cincinnati Bar Association	Contact the Cincinnati Bar Association for a referral to an <b>Elder Law Attorney</b>	(513) 381-8213 <a href="http://www.cincybar.org">www.cincybar.org</a>
Council on Aging	<b>Aging and Disability Resource Center</b> Monday - Friday: 8am to 5pm Call Center staff will connect you to local resources to help you get the information and answers you need.	(513) 721-1025 (800) 252-0155 <a href="http://www.help4seniors.org">www.help4seniors.org</a>

# Medicaid Estate Recovery

It is important to remember that every family situation is different and there are exceptions to many MER rules and guidelines. Depending on your situation, you should get more information about how MER might affect you.

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## What is Medicaid Estate Recovery?

When a person receives Medicaid care when they are over age 55; in a nursing facility; or enrolled in a Medicaid Waiver Program such as PASSPORT, the Assisted Living Waiver, the Ohio Home Care Waiver, or MyCare Ohio, the State of Ohio pays for that care. After the person receiving Medicaid benefits dies, the state will try to recover the cost of some or all of that care from the person's estate. **This is called Medicaid Estate Recovery (MER).**

## Who is subject to MER?

Medicaid recipients age 55 and older, and those of any age who were permanently institutionalized (in a nursing facility).

## How much will be recovered through MER?

The amount the state recovers from the estate is equal to the total amount Medicaid paid on behalf of the individual after Jan. 1, 1995.

Examples include:

- physician visits, outpatient visits
- nursing facility services
- home and community-based waiver services (PASSPORT, Assisted Living Waiver, Ohio Home Care Waiver, MyCare Ohio)
- all medical and prescription-related Medicaid services
- Medicaid managed care premiums

Costs related to Medicare premium assistance programs incurred after Jan. 1, 2010 are excluded.

## When does estate recovery take place?

By law, MER will take place only after the Medicaid recipient's death, AND:

- the death of the Medicaid recipient's surviving spouse
- there are no surviving children under age 21
- there are no surviving children of any age who are considered blind or disabled

## Estate Recovery Tip:

Having a Will or Revocable Living Trust designed to avoid taxes and probate does not make your estate exempt from Medicaid Estate Recovery.



## What is an estate?

An estate is all of the real and personal property (house, land, cars, and bank accounts) owned (completely or partially) by a Medicaid recipient at the time of death, regardless of whether or not it passed through probate court. This includes assets passed to a survivor, heir, or other designee through joint tenancy, tenancy in common, survivorship, life estate, living trust, or other arrangement. Trusts are not exempt.

## Can an estate be too small for MER?

The short answer is no, but in some cases, court costs and attorney fees could consume the estate and prevent an MER collection. You should consult a Medicaid attorney.

## What happens if my MER claim is greater than the value of my estate (Medicaid has spent more on me than my estate is worth)?

In cases where the state's MER claim is greater than the value of the estate, the state will make an MER claim that is equal to the value available to it through the estate (after all higher priority claims are paid through the estate – see related question on page 3).

## Is my home subject to MER?

Yes. The state will recover Medicaid costs after the sale of your home. Certain restrictions apply if you have a surviving spouse, surviving children under age 21, or surviving children of any age who are considered blind or disabled. You will need to discuss your situation with a Medicaid attorney.

## Estate Recovery continued...

### **Will my spouse be evicted or forced to sell our home after I die?**

No. There can be no MER claim while there is a surviving spouse. MER can only make a claim in the surviving spouse's estate for the value of the property inherited by the surviving spouse from the Medicaid recipient.

### **Will the state place a lien on my home after I die?**

Although allowed by law prior to death in limited circumstances, currently the Medicaid Department will only file a lien on the home after the death of the Medicaid recipient. A lien is not authorized, however, when the surviving spouse is alive. Other circumstances may apply. You should consult with a Medicaid attorney if you are concerned about Medicaid liens.

### **I have a will and/or a trust. Does that protect me from MER?**

No. Ohio's MER program is paid before any assets are distributed to your beneficiaries and heirs. Even assets that DO NOT pass through probate are subject to MER. Having a will or Revocable Living Trust designed to avoid taxes and probate does not make your estate exempt from Medicaid Estate Recovery.

### **How does my long-term care insurance policy affect MER?**

The Qualified Long-term Care Partnership (QLTCP) program creates an MER exemption that is equal to the amount of the benefits allowed under the Medicaid recipient's long-term care insurance policy. In other words, if you paid for a long-term care insurance policy that pays \$100,000 in benefits, that same amount would be exempt from MER (it would be left in your estate). You should consult a Medicaid attorney or financial planner before purchasing long-term care insurance.

### **What priority do MER claims have over other claims to my estate?**

The claims made through MER are paid after the following claims:

- costs and expenses of estate administration
- \$4,000 of funeral expenses and \$3,000 for burial and cemetery expenses (if the total bill of a funeral exceeds \$4,000, another \$2,000 is paid for funeral expenses)
- allowance for support made to the surviving spouse and/or minor children
- debts entitled to a preference under the laws of the United States
- expenses of the last sickness of the person who died, including the last continuous stay in a nursing home, residential facility, or hospital long-term care unit
- personal property taxes

### **What happens if I give a "gift" of property or money to my family before I enroll in Medicaid?**

There are significant penalties for gifts made within five years from the date of Medicaid application. The value of these gifts and transfers may be used to determine a period of time in which you would not be eligible to receive Medicaid services. You should consult a Medicaid attorney or financial planner before making any such gifts or transfers.

### **Estate Recovery Tip:**

MER claims are limited to property owned by the Medicaid recipient immediately prior to death. Consult an attorney or financial planner before making any "gifts" or asset transfers.



## Estate Recovery continued...

### **I heard that I have to be a Medicaid recipient for at least 6 months before my estate would be subject to the MER program. Is this true?**

No, this is a common misconception. MER applies no matter how long the individual was enrolled and receiving services.

### **Does the state ever waive its right to MER?**

Yes. The state will not pursue MER if it would cause an "undue hardship." This is determined on a case-by-case basis. Some examples of undue hardship include:

- an estate that is the sole income-producing asset of the survivor
- recovery would deprive the survivor of necessary food, clothing, or shelter
- if survivor is age 65 or older and financially dependent upon receipt of the estate proceeds
- the survivor provides clear and convincing evidence that he/she made substantial personal financial contributions to the deceased person and, therefore, has an equity interest in the property
- the survivor is totally and permanently disabled and is financially dependent upon receipt of the estate proceeds and if, and only if, the estate proceeds are preserved for the benefit of the disabled survivor

Your estate will be required to prove undue hardship. You should consult a Medicaid attorney.

### **How can I protect my estate from MER?**

Council on Aging staff cannot provide advice on this question. You should consult with a qualified Medicaid attorney.

### **Estate Recovery Tip:**

Estate Recovery will occur no matter how long the individual was enrolled in Medicaid and receiving Medicaid services.



### **Who is in charge of MER?**

The Ohio Department of Medicaid and the Ohio Attorney General's Office.

After the Medicaid recipient dies, the Attorney General's Office will send a claim for estate recovery to the person responsible for the estate or the person's legal representative within one year of the Medicaid recipient's death.

### **Is Ohio the only state that has MER?**

No. In 1993 the US Congress passed the Omnibus Budget Reconciliation Act requiring all states participating in Medicaid to begin an estate recovery program. The purpose is for the government to help individuals with the cost of long-term care but to recover those public funds for the taxpayers after individuals have died. This helps sustain the Medicaid program. Ohio's MER program became effective Jan. 1, 1995.

### **Preserving Independence, Enhancing Quality of Life**

Council on Aging is designated by the state of Ohio to serve older adults and people with disabilities within a multi-county region. We are experts at helping people with complex medical and long-term care needs, offering a variety of services via publicly-funded programs. **Our mission:** *Enhance lives by assisting people to remain independent through a range of quality services.*

**Contact Us: (513) 721-1025 | (800) 252-0155 | [www.help4seniors.org](http://www.help4seniors.org)**

