

MassHealth Estate Recovery Fact Sheet for Members

What is estate recovery?

MassHealth is required by law to recover money from the estates of some MassHealth members after they die. This process is called “estate recovery”. The recovered money is used to pay back the state and federal government for the cost of care that MassHealth paid for the member.

Who is impacted by estate recovery?

Most MassHealth members are not impacted by estate recovery. Only MassHealth members age 55 or older, and members of any age who receive long-term care in a nursing home or other medical institution may be impacted by estate recovery. These members are impacted only if they leave a probate estate with over \$25,000 of assets that they owned before their death. However, even if the member does leave a probate estate worth over \$25,000, their estate still may qualify for an exception from estate recovery like a deferral or hardship waiver.

When does estate recovery occur?

Estate recovery only occurs after the death of a MassHealth member.

What do I need to do?

You do not have to do anything. MassHealth is providing this information to remind members about longstanding requirements for estate recovery that are included in the MassHealth application. Updates to MassHealth’s estate recovery policy do not affect your eligibility for MassHealth.

Is estate recovery a new requirement?

No, estate recovery is not a new requirement. However, MassHealth has updated its policies to create new exceptions to estate recovery to lessen its impact on members and their families.

What is a probate estate?

A probate estate includes assets that were owned by the MassHealth member at the time of death. Any property or assets that are part of the member’s probate estate are subject to estate recovery. This may include real property (land or homes) and personal property (vehicles, savings, other assets) that the MassHealth member owned or had an ownership interest in when they died. Generally, IRAs, 401Ks, and life insurance policies are not part of the probate estate and are not subject to estate recovery, but there are exceptions.

“Probate” is the formal court process for distributing property after a person dies. In general, assets that people inherit through a will are probate assets and part of a probate estate. If a person dies without a will, state law will determine which of the assets are part of the probate estate and who will inherit them.

How much money can MassHealth recover?

MassHealth can recover the total cost of care (not just long-term care) it paid for members after they turned 55 and at any age while the member was receiving long-term care in a nursing home or other medical institution. Estate recovery may apply to MassHealth members if MassHealth paid for their care directly (“fee for service”), or if they were enrolled in a MassHealth health plan, like an Accountable Care Organization (ACO), Managed Care Organization (MCO), One Care plan, PACE program, or Senior Care Options (SCO) plan.

If the member was enrolled in a MassHealth health plan, MassHealth may recover the total amount it paid to the health plan for their care. This payment is known as the monthly premium payment made to the plan (also

known as the capitation rate). If the member was not enrolled in a MassHealth health plan, MassHealth may recover the total amount it paid directly to individual providers for their care.

A member's estate will never have to repay more than the amount MassHealth paid. If the MassHealth claim (the paid amount) is more than the value of the remaining assets in your estate, MassHealth will only recover the amount remaining in your estate after other priority expenses, like estate administration expenses, funeral expenses, and federal and state taxes are paid first. In general, MassHealth can only pursue payment from the assets of the deceased member's estate. In general, MassHealth will not pursue any unsatisfied claim amount from your family or loved ones if the assets in your estate were not enough to repay the MassHealth claim in full.

Will the state force the sale of my home?

The state will not force the sale of a home (except under rare circumstances) if there are family members living in the home who were living there prior to the member's death. MassHealth estate recovery does not force the sale of a member's home while they are alive because estate recovery only applies after the member's death. If the member's home is part of the probate estate, then the sale of the home may be required to repay the deceased member's creditors, which could include MassHealth.

MassHealth has several exceptions to estate recovery to prevent undue hardship. This includes waivers that aim to support family members who live in the deceased member's home.

Are there exceptions to estate recovery?

Yes. MassHealth will not pursue estate recovery in certain situations, including deferrals, hardship waivers, or other exceptions.

Exceptions. MassHealth will not pursue any estate recovery if

- The value of the member's probate estate is \$25,000 or less
- The member had certain long-term care insurance, or
- The estate includes certain resources belonging to American Indians or Alaska Natives.

Deferral. MassHealth will delay estate recovery if there is a surviving spouse, or a surviving child who is under age 21, or a child of any age who is blind or permanently and totally disabled.

Hardship Waiver. MassHealth will waive (not seek to recover) all or part of its estate recovery amount if the estate qualifies for an undue hardship waiver. There are three hardship waivers that may apply if any heir to the estate of the MassHealth member meets certain criteria:

1. Had income below 133% of the federal poverty level for two years while living in the member's home and meeting other criteria;
2. Provided care to the member for two years while living in the member's home and meeting other criteria; or
3. Had income below 400% of the federal poverty level for two years.

Where can I learn more?

Visit www.mass.gov/estater recovery for more information, including detailed Frequently Asked Questions. For general questions about MassHealth estate recovery, please contact the MassHealth Customer Service Center at (800) 841-2900. MassHealth cannot provide legal advice.

You may also wish to talk to a lawyer for advice on estate planning and probate law. They can give you more information about how estate recovery may affect you or your loved ones after your death. Visit: www.mass.gov/info-details/finding-a-lawyer to find a lawyer in your area or see if you qualify for free legal services for low-income individuals.

You may also get more information about probate estates by visiting www.mass.gov/info-details/find-out-when-its-necessary-to-probate-an-estate.