



Frequently Asked Questions: Estate Recovery

Q. What is the estate recovery law?

A. After the death of a person who has received Title XIX funded medical assistance, the law requires that the individual's assets be used to provide repayment to the Iowa Department of Human Services (IDHS.) Title XIX funded medical assistance includes Medicaid and various waiver programs, including the Medically Needy Program and the Elderly Waiver Program.

Federal law requires states to have an estate recovery program. In Iowa the estate recovery program is provided under [Iowa Code Section 249A.5\(2\)](#).

Administrative rules are found in section [441 IAC 76.12\(7\)](#).

For more information, you can visit the Estate Recovery Program website at: <http://www.iowa-estates.com/>

Q. What is an estate?

A. For the purposes of the Estate Recovery Program, an estate includes any property, bank accounts, excess funds in a burial trust, or other assets in which the individual had any legal title or interest, including but not limited to jointly held property and interests in trusts, including [life estates](#). An estate does not need to be probated in order for repayment to be made.

Q. Who is affected?

A. Estate recovery affects recipients of Title XIX funded medical assistance who are:

- 55 years of age or older at the time they receive medical assistance, or
- Under the age of 55 and a resident of a care facility who cannot reasonably expect to return home.

Q. Can the repayment be waived?

A. Yes:

- If there is a surviving spouse,
- Or if there is a child of the recipient who has a disability or is blind, or is under the age of 21,
- Or if collection of the debt would cause undue hardship.

If the debt is waived for an adult as described above who is a spouse or has a disability or is blind, the repayment is due at the time of that person's death, to the extent that he or she had inherited from the medical assistance recipient.

If the debt is waived because there is a child of the recipient under the age of 21, the debt is due at the time he or she reaches the age of 21 to the extent that he or she had inherited from the medical assistance recipient.

Q. How will I know how much money is owed to the Iowa Department of Human Services?

A. The Estate Recovery Program can obtain claim information upon request. When inquiring about the payment history, please provide the person's name, birthdate, and date of death. Please click on the appropriate form below:

The Estate Recovery Program will then request the claim information. A list of medical assistance provided since July of 1994 will then be sent to the person handling the affairs of the deceased. The Estate Recovery Program does not apply to medical assistance provided prior to July 1, 1994. Interest accrues on the debt from six months after the death of the recipient.

Q. What is a claim?

A. In many situations, repayment of medical assistance is handled informally. Payment can be made directly from the assets. However, when an estate is opened in probate, the Estate Recovery Program must be notified, and a claim will be filed. Claims request repayment of the medical assistance that has been provided since July 1, 1994. Liens are not placed on property, although the fair market value of the property is considered a recoverable asset.

Q. What expenses can be paid with assets of the deceased?

A. Before payment is provided to the Iowa Department of Human Services, assets should be used to pay funeral and burial expenses, medical bills of last illness, legal fees and other costs of settling the affairs of the deceased. Repayment of the medical assistance is made from the assets that remain.

The order in which payment is to be made is listed in [Iowa Code Section 633.425](#).

Q. How is payment made?

A. Payment can be made in the form of a personal check, money order, or cashier's check. It must be written payable to: Iowa Department of Human Services.

Mail to:
Estate Recovery Program
P.O. Box 36445
Des Moines, Iowa 50315

Q. What about burial trusts?

A. Under [Iowa Code Chapter 523A](#), the seller of a burial contract (the funeral director or banker) is required to contact the Estate Recovery Program when there are funds remaining in a medical assistance recipient's non-guaranteed irrevocable burial trust fund after the funeral and burial expenses have been paid. The Estate Recovery Program then has sixty days in which to inform the seller if those funds are to be paid to the Iowa Department of Human Services or if they may be paid to the next of kin. If an estate is open in probate, the excess burial trust funds are to be paid to the estate.

Q. What about life insurance policies?

A. Proceeds from life insurance policies are generally considered the assets of the named beneficiaries. However, proceeds are considered recoverable after higher priority expenses are paid when the estate is the beneficiary, or when an insurance policy is assigned to a funeral home.

Q. What about Miller Trusts?

A. Most Medicaid recipients do not have a Medical Assistance Income Trust (Miller Trust) or a Special Needs Trust. Where there are such trusts, they are not part of the estate and must not be used to pay estate expenses. Residual funds from such trusts are received by the Estate Recovery Program and must be made payable to the Iowa Department of Human Services, according to the terms of the trust.

Q. What about annuities?

A. Annuities are subject to Estate Recovery to the extent the decedent had an interest in the annuity at the time of death. An annuity is an investment and is not treated like life insurance. Remaining payments must be considered an asset of the estate.