

DATE: June 20, 2023

TO: Medi-Cal Eligibility Division Information Letter No.: I 23-39

ALL COUNTY WELFARE DIRECTORS  
ALL COUNTY WELFARE ADMINISTRATIVE OFFICERS  
ALL COUNTY MEDI-CAL PROGRAM SPECIALISTS/LIAISONS

SUBJECT: Medi-Cal Estate Recovery

(Reference: Title 42 United States Code, [Section 1396P\(A-B\)](#), Welfare and Institutions Code Section [14009.5](#), Title 22 California Code of Regulations, [Sections 50960.2-50960.36](#); [Sections 50961-50966](#), Probate Code, [Section 215](#), [Section 9202](#), [Section 19202](#))

The purpose of this Medi-Cal Eligibility Division Information Letter (MEDIL) is to provide counties with information regarding the Medi-Cal Estate Recovery Program in relation to the forthcoming elimination of asset limits for Non-Modified Adjusted Gross Income (Non-MAGI) Medi-Cal programs, effective January 1, 2024.

## **Background**

Federal and state laws require the Department of Health Care Services (DHCS) to seek repayment from the estates of certain deceased Medi-Cal members.

Estate Recovery only affects Medi-Cal members who:

- Are age 55 and older, or
- Medi-Cal members of any age who have been determined “permanently institutionalized.”
  - An individual is determined to be “permanently institutionalized” when they are an inpatient in a nursing facility, are not expected to return home, and have had the opportunity for a hearing regarding their “permanently institutionalized” status.
- Own assets at the time of their death.

If a deceased member owns nothing when they die, nothing will be owed.

## **Current Estate Recovery Rules**

For Medi-Cal members who died on or after January 1, 2017:

- Repayment will be limited only to estate assets subject to probate that were owned by the deceased Medi-Cal member at the time of death.
- Repayment will be limited to payments made, including managed care premiums/capitation payments for the cost of nursing facility services, home and community-based services, and related hospital and prescription drug services received when the deceased Medi-Cal member was receiving nursing facility services and/or home and community-based services.

### **Estate Recovery Exemptions**

DHCS does not seek repayment when any of the following apply:

- A deceased member's assets are not subject to probate;
- A deceased Medi-Cal member is survived by:
  - a spouse or registered domestic partner
  - a child who is under the age of 21
  - a disabled child of any age
- The deceased member did not receive nursing facility and/or home and community-based care on or after their 55<sup>th</sup> birthday;
- The heirs of the deceased member qualify for a hardship waiver.

### **Estate Recovery and Asset Elimination**

The estate recovery rules will remain **unchanged** as a result of the upcoming elimination of assets. As a reminder, DHCS operates the Estate Recovery program, and will continue to seek repayment from deceased Medi-Cal members who meet the criteria under federal and state laws and the criteria listed above. Counties shall **not** request asset information from applicants or Medi-Cal members for purposes of Estate Recovery.

### **Estate Recovery Contact Information**

If counties receive questions from individuals inquiring about Estate Recovery, counties can provide the following information:

- **Estate Recovery Program Website:**  
[https://www.dhcs.ca.gov/services/Pages/TPLRD\\_ER\\_cont.aspx](https://www.dhcs.ca.gov/services/Pages/TPLRD_ER_cont.aspx)
- **Estate Recovery Brochure:**  
[https://www.dhcs.ca.gov/services/Documents/ER\\_Brochure\\_Eng\\_0619.pdf](https://www.dhcs.ca.gov/services/Documents/ER_Brochure_Eng_0619.pdf)

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- **Email Inbox:**  
[ER@dchs.ca.gov](mailto:ER@dchs.ca.gov)
- **Telephone Contact Number:**  
(916) 650-0590

If you have any questions, or if we can provide further information, please contact Sara McDonald, by phone at (916) 345-8061 or by email at [Sara.McDonald@dhcs.ca.gov](mailto:Sara.McDonald@dhcs.ca.gov).

Original Signed By

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