

STATE OF NEVADA
DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF WELFARE AND SUPPORTIVE SERVICES
Medicaid Estate Recovery (775) 687-8414

**MEDICAID ESTATE RECOVERY
NOTIFICATION OF PROGRAM OPERATION**

If you are applying for or receiving benefits from the Medicaid Program, this document contains important information which may affect your decision about using the Medicaid Program.

Under Nevada State and Federal law, the Division of Health Care Financing and Policy (DHCFP) administers a Medicaid Estate Recovery Program whereby Medicaid assistance is recovered from the undivided estate of the person who received benefits after October 1, 1993. Medicaid recipients aged 55 or older and/or permanently institutionalized individuals¹ are affected by this program and, after their death, may have Medicaid benefits they received subject to recovery from their undivided estates. Medicaid benefits paid out on behalf of a Medicaid recipient include medical assistance of home and community-based services, nursing facility services, related hospital, doctor, prescription drug services, Medicare Part A and B premiums prior to January 1, 2010, fees paid for Medicaid co-insurance and deductibles, Managed Care Organization premiums after March 31, 2017 and any other payments made by the Medicaid Program.

Medicaid cannot recover correctly paid Medicaid benefits if the deceased recipient has a surviving spouse, surviving child under age 21 or surviving child of any age who is blind and/or disabled. **Medicaid can only recover correctly paid benefits when these exemptions no longer exist.** Federal law [42 U.S.C. 1396p(b)(4)] and State law [NRS 422.054] define undivided estate. The State defines undivided estate as all real and personal property and other assets included in the estate of a deceased recipient of Medicaid and any other real and personal property and other assets in or to which the individual had any interest or legal title immediately before or at the time of his or her death (to the extent of that interest or title). The term includes, without limitation, assets conveyed to a survivor, heir, or assignee of the deceased recipient or as the result of any joint tenancy, tenancy in common, survivorship, life estate, living trust, annuity, declaration of homestead or other arrangement. **Claims brought by the State for the recovery of correctly paid Medicaid benefits shall not be defeated by a claim of homestead exemption or by the operation of bankruptcy or insolvency law.**

The DHCFP may initiate property liens against the real and/or personal property of a Medicaid recipient:

1. For incorrectly paid benefits at any time before or after the death of a recipient; or
2. For correctly paid benefits, upon the recipient's death, if the recipient was age 55 years or older and/or if the recipient, of any age, was permanently institutionalized. Recovery will be delayed until the death of the surviving spouse, and only at the time when there are no children under the age of 21 or blind/disabled children of any age. The State will not recover on its lien if the surviving spouse, child under 21 or blind/disabled child engages in a bona fide sale or financial transaction involving the real or personal property

The following income, resources and property are exempt from Medicaid estate recovery:

1. Certain income and resources of American Indians and Alaska Natives. Income and resources (such as interests in and income derived from Tribal land and other resources currently held in trust status and judgment funds from the Indian Claims Commission and the U.S. Claims Court) that are exempt from Medicaid estate recovery by other laws and regulations;
2. Ownership interest in trust or non-trust property, including real property and improvements:
 - a. Located on a reservation (any federally recognized Indian Tribe's reservation, Pueblo or Colony, including former reservations in Oklahoma, Alaska Native regions established by Alaska Native Claims Settlement Act and Indian allotments) or near a reservation as designated and approved by the Bureau of Indian Affairs of the U.S. Department of the Interior; or

¹ Permanently institutionalized refers to an inpatient in a nursing facility, intermediate care facility for individuals with intellectual disabilities or other medical institution and the Division of Welfare and Supportive Services determines, after notice and opportunity for a hearing, that he or she cannot reasonably be expected to be discharged and return home.

- b. For any federally-recognized Tribe not described in (a), located within the most recent boundaries of a prior Federal reservation.
- c. Protection of non-trust property described above is limited to circumstances when it passes from an Indian (as defined in Section 4 of the Indian Health Care Improvement Act) to one or more relatives (by blood, adoption or marriage), including Indians not enrolled as members of a Tribe and non-Indians, such as spouses and step-children, that their culture would nevertheless protect as family members; to a Tribe or Tribal organization; and/or to one or more Indians;
3. Income left as a remainder in an estate derived from property protected in (2) above, that was either collected by an Indian, or by a Tribe or Tribal organization and distributed to Indian(s), as long as the individual can clearly trace it as coming from the protected property;
4. Ownership interests left as a remainder in an estate in rents, leases, royalties or usage rights related to natural resources (including extraction of natural resources or harvesting of timber, other plants and plant products, animals, fish and shellfish) resulting from the exercise of Federally-protected rights, and income either collected by an Indian, or by a Tribe or Tribal organization and distributed to Indian(s) derived from these sources as long as the individual can clearly trace it as coming from protected sources;
5. Ownership interest in or usage rights to items not covered by (1-4) above that have unique religious, spiritual, traditional and/or cultural significance or rights that support subsistence or a traditional life style according to applicable Tribal law or custom; and
6. Government reparation payments to special populations.

Income Resources and Property of American Indians and Alaska Natives which are not exempt from Medicaid estate recovery:

1. Ownership interests in assets and property, both real and personal, that are not described above.
2. Any income and assets left as a remainder in an estate that do not derive from protected property or sources listed above.

Recovery may be waived, compromised or delayed if it would cause undue hardship for the heirs of a Medicaid recipient. An heir may submit a hardship waiver request packet to the Administrator of the DHCFF (or his/her appointed representative) for review. Hardship waiver requests are only considered at the time of recovery. The denial or compromise of a hardship waiver may be appealed through the appropriate court system.

Medicaid has no restrictions on recovery when Medicaid benefits are incorrectly paid to a Medicaid recipient.

If you have questions or need additional clarification, please contact the Medicaid Estate Recovery Program at 1100 East William Street, Suite 109, Carson City, NV 89701, (775) 687-8414.

I have read and been provided a copy of this information.

Signature or Mark of Applicant/Recipient or their Representative

Date

Refusal to sign by the applicant, recipient or their representative does not negate the State's legal ability to pursue Medicaid Estate Recovery action.

Signature of Division of Welfare and Supportive Services Employee

Date