

Is Medicaid really free?

If MassHealth provides you with home care or pays for long term care in a nursing home now, your family could end up repaying MassHealth in the future.

Don't lose the house to Estate Recovery.



# Elder Care and Estate Recovery



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If you apply for Medicaid home care or nursing home care, it's important to ask: "Will I have to repay Medicaid Estate Recovery for the costs of this care?"

The answer depends on the ownership status of your assets. If you want to pass your home or other assets on to your family (rather than forfeit assets to Medicaid Estate Recovery) you have to plan to avoid probate.

MassHealth sent a notice to all members in May warning that Medicaid can collect from probate assets after a patient dies. The notice explained how MassHealth seeks repayment in Probate Court for any costs paid for any patient over age 55.

There are some exceptions to Probate Estate Recovery, but only for low income families and for some care givers. MassHealth issued regulations (effective May 14, 2021) to protect families from estate recovery in 3 limited categories

## 1 Small Estates

MassHealth will no longer file probate estate recovery claims on estates that are valued at \$25,000 or less.

## 2 Low Income Family Financial Hardships

MassHealth expanded its *Residence and Financial Hardship Waiver* to cover more people who inherit residences owned by Medicaid patients.

If the heir's income is at or below 133% of the Federal Poverty Level, he or she can apply for an Estate Recovery waiver on the home. (The FPL for Family of 1 is \$12,800 during 2021). The heir must have lived in the property as their principal place of residence for two full years prior to the death of the MassHealth member, or the day the member was admitted to a nursing facility.

A new Income Waiver will now cover \$50,000 worth of probate estate assets for Qualifying Heirs who have incomes under 400% of the FPL. To be considered a qualifying heir, the person must show that they are inheriting an interest in the member's probate estate, and their family income has been under 400% of the FPL for two-years prior to the date MassHealth filed a probate *Notice of Claim in Probate Court*. If multiple heirs qualify for the waiver, the amount excluded is capped at \$100,000.

## 3 Live in Family Caregivers

To claim the *Care Provided Waiver*, to eliminate the MassHealth lien on a house, the heir must prove they provided care continuously during the 2-year time frame that avoided admission to a long-term care facility.

Since these three waiver categories are so limited, your best protection is: plan to completely avoid probate.

I provide a full review of income, assets and care needs to protect the clients' assets, health and safety.

Important parts of this planning include the ownership status of your assets, and how you want to transfer assets to your family in the future.

**If you apply for MassHealth but don't plan, and your family later need Probate to access assets, Medicaid may have rights to those assets.**

Click on this video *Don't Lose the house to Estate Recovery*. The video explains two cases that were hit with MassHealth Estate Recovery. In one case, the Kendall case, MassHealth missed a probate deadline and couldn't collect. [https://www.youtube.com/watch?v=7M5V\\_](https://www.youtube.com/watch?v=7M5V_)



If you need Medicaid to pay for Long Term Care in a nursing home, or you want Medicaid to pay for Home Care to avoid a nursing home admission, be aware of MassHealth Estate Recovery.

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