



Estate Recovery Information

Services Subject to Estate Recovery

Enclosed is a Notice of Intent to File a Lien against property of someone who has died. The following are some frequently asked questions about the lien.

Why did I get a notice of Intent to File a Lien?

Federal law requires the state to recover certain medical and long term care expenses from a person's "estate" - their property - after they die. This is called "estate recovery". It is something the deceased person agreed to before receiving services. The state records a lien against property owned by the person to secure its interest. There are important limits on what, when, and how the state can recover.

What medical expenses are included in estate recovery?

The state can only recover amounts it paid for certain medical and long-term care services. Long-term care includes care in a facility or from a paid caregiver at home. A list of services and time periods included in estate recovery is on the back of this page. They are also in the Washington Administrative Code (WAC 182-527-2742).

How much is the lien?

The lien amount is the **lesser** of: (a) the amount the state paid for included services (plus allowed interest); or (b) the value of the deceased person's equity. Equity is how much you can sell property for minus liens or other encumbrances, like a mortgage or home equity loan. *Example: The state paid \$150,000 of Bob's long-term care expenses. Bob owned a home worth \$200,000, but he had a \$100,000 mortgage. So Bob had \$100,000 in home "equity." The lien amount is limited to Bob's equity in the home, which is less than the total amount the state paid for his long-term care expenses.*

What if more than one person owns the property?

When more than one person owns property, the state's lien is limited to the share owned by the person who got state-paid services. *Example: The state paid \$150,000 of Bob's long-term care expenses. Bob and his brother owned a home 50/50, which is worth \$200,000. The state's lien is limited to Bob's share, worth \$100,000.*

When is the state prohibited from collecting on the lien?

The state cannot collect on the lien when the spouse or a minor, blind, or disabled child is alive. When a non-disabled child reaches the age of 21, the state may start collection. The state must also delay collection if someone shows that they qualify for a hardship deferral (see below).

Can I continue to live in or rent out the property if I am a spouse or a minor, blind, or disabled child?

Yes. You may continue to live in the home and use it without limitations. This includes renting out the property.

Can I sell, transfer, or refinance the property if I am a spouse or a minor, blind, or disabled child?

Yes. You may sell, borrow against, or refinance the property. The state must remove the lien when it receives proof that a bona fide sale or transfer of the real property is complete. You should call the Estate Recovery Unit at 1-800-562-6114 to request removal of the lien.

Who may apply for a hardship deferral?

A deferral means the state will delay estate recovery. You may request a hardship deferral if you are the registered domestic partner of the deceased person. You may also request a hardship deferral if you are an heir of the person who died and: (a) the recovery would deprive you of a place to live and you don't have money to live somewhere else, or (b) you have limited income and the property is your only source of income. An heir is someone who has a right to inherit property. You may call the Estate Recovery Unit at 1-800-562-6114 to request a hardship deferral.



Transforming lives

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If you have questions, please contact DSHS's Office of Financial Recovery at 360-664-5700 or 1-800-562-6114. You can also find more information about your legal rights at www.washingtonlawhelp.org, which is not affiliated with DSHS.

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| Program | Dates | Estate Recovery is allowed for: |
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| Medicaid Funded Long-Term Care Services | Effective January 1, 2014 | <p>Nursing facility services and home and community based services (COPES, NFCDS, Basic Plus Waiver, CORE Waiver, Community Protection Waiver, Medicaid Personal Care and Residential Support Waiver). The portion of the Washington Apple Health managed care premium used to pay for long-term care services under the PACE program and the Washington Medicaid Integration Partnership are included. Roads to Community Living services, private duty nursing and intermediate care facilities for individuals with intellectual disabilities. Hospital and prescription drug costs paid for a client while receiving services listed above. Recovery is limited to services received at age 55 or older.</p> <p>✓Note: Add Community First Choice (CFC), Individual and Family Services (IFS) effective July 1, 2015.</p> |
| | January 1, 2010 - December 31, 2013 | <p>All Medicaid services, except Medicaid savings programs and Medicare premiums (for those also receiving Medicaid). Nursing facility and home and community based services along with associated hospital and prescription drug services. Adult day health, Medicaid Personal Care and private duty nursing provided by AL TSA. Premium payments to managed care organizations. Recovery is limited to services received at age 55 or older.</p> <p>✓Note: Beginning January 1, 2010 Medicare Savings Programs and Medicare premiums are EXEMPT from estate recovery when no other services are provided.</p> |
| | June 1, 2004 - December 31, 2009 | <p>All Medicaid services, including nursing facility and home and community based services along with associated hospital and prescription drug services including adult day health, Medicaid Personal Care and private duty nursing provided by AL TSA. Medicare savings programs and Medicare premiums (for those also receiving Medicaid) as well as premium payments to managed care organizations are included. Recovery is limited to services received at age 55 or older.</p> |
| | July 1, 1995 - May 31, 2004 | <p>All nursing facility and home and community based services along with associated hospital and prescription drug services as well as adult day health, Medicaid Personal Care and private duty nursing provided by AL TSA. Recovery is limited to services received at age 55 or older.</p> |
| | July 1, 1994 - June 30, 1995 | <p>All nursing facility and home and community based services along with associated hospital and prescription drug services provided to a client 55 or older.</p> |
| | July 26, 1987 - June 30, 1994 | <p>All medical assistance provided to clients who were age 65 or older at the time of the service.</p> <p>✓Note: The first \$50,000 of an estate is exempt and recovery is limited to 35% of an estate over \$50,000 up to the amount paid.</p> |
| State Funded Services | Effective July 1, 1995 | <p>All state-funded long-term care services and related hospital and prescription drug services regardless of age provided to Home and Community Services division clients on and after July 1, 1995 and Developmental Disabilities Administration (DDA) clients on and after June 1, 2004.</p> <p>✓Note: State-only funded adult protective services, supplemental security payments authorized by the Developmental Disabilities Administration, the offender reentry community safety program and volunteer chore services are EXEMPT.</p> <p>✓Note: From July 26, 1987 through June 1994 the first \$50,000 of an estate is exempt and recovery is limited to 35% of an estate over \$50,000 up to the amount paid.</p> |

TEFRA (Pre-death liens)

Effective July 1, 2005 the state may file a pre-death lien on property owned by clients residing in a long-term care facility who are "permanently" institutionalized, with no potential for discharge. **Note:** All services are subject to recovery except SSI recipients and MAGI clients may be excluded from TEFRA liens when they do not pay towards the cost of their care.