

## Estate Recovery

### What is Estate Recovery?

This is a federally mandated program in which the state files a claim against the estates of deceased MO HealthNet Participants in order to recover MO HealthNet expenditures. Estate Recovery excludes Qualified Medicare Beneficiaries (QMB) and Specified Low-Income Medicare Beneficiaries (SLMB) only participants. Missouri's Estate Recovery program has been in existence since 1980.

### Statutory Authority

The Estate Recovery program is mandated by federal law and state statutes.

- **Federal authority**
  - Title 42 U.S.C., Section 1396p, Subpart B
    - Mandates adjustment or recovery from estates of deceased participants.
      1. Participants under the age of 55 receiving vendor benefits.
      2. Participants age 55 or older that received medical assistance.
  
- **State authority**
  - RSMo 208.215
    - MO HealthNet is the payer of last resort.
  
  - RSMo 473.398
    1. The total amount expended by MO HealthNet is a debt due the state.
    2. Release from MO HealthNet Division must be presented to probate court by a personal representative of the estate before estate may be closed.
  
  - RSMo 473.397
    - The MO HealthNet debt is a class 7 Probate claim. After estate administration costs, exempt property, family and homestead allowances, funeral expenses, taxes, expenses of last illness. Before other judgments levied on the property and other claims.

### Estate Recovery Exemptions

The state may not file a claim against some estates as defined by federal law. Predefined guidelines must be met in order for the state to cease recovery activity.

- **Exempt estates**
  - The participant is survived by a spouse
  - There is a child under 21 years of age
  - There is a blind or disabled dependent in the home
  - There is a sibling residing in the home with an equity interest in such home and for at least one year prior to the individual's admission to a medical institution
  - RSMo 208.692 mandates the disregard of resources in an amount equal to the Long-Term Care insurance benefits paid to, or on behalf of, an individual who has received MO HealthNet benefits.

## Estate Identification Sources

Potential estate leads are received from various sources. These leads are researched and a case is established.

- **Primary identification sources**
  - Deceased Estate Report
    1. Compares MO HealthNet eligibility file to the Bureau of Vital Statistics files of deceased Missourians.
  - Estate Release Request
    1. Personal representative of the estate must obtain a release from MO HealthNet evidencing payment of all MO HealthNet benefits, premiums, or other such costs due from the estate before an estate may be closed.
  - CaseNet
    1. This is an Internet website administered by the Office of State Courts.
    2. Probate Courts list estates that have opened in their county. (All counties are not yet connected to CaseNet.)
  - Court Reports
    1. Paper reports of some Probate Courts listing estates opened in their county. Counties using this report are not yet on the CaseNet website.
  - Miscellaneous leads
    1. Leads are also received from sources such as estate attorneys, family members of participant, public administrators, Family Support caseworkers, etc.

## Estate Claim Procedures

Once cases are identified, a claim is filed with the appropriate county Probate Court.

- **Claim procedures**
  - Claim documentation
    1. MO HealthNet determines expenditures made on behalf of the deceased participant.
    2. The expenditure data is sent to the Attorney General's office for filing with the appropriate county Probate Court.
    3. The claim is satisfied through receipt of payment from the estate or is set for Probate hearing.
  - Court process
    1. The Attorney General's office receives hearing notices from attorneys representing the estate.
    2. MO HealthNet testifies to the MO HealthNet claim.