

# Medicaid Estate Recovery

On March 1, 2005, Texas implemented the Medicaid Estate Recovery Program in compliance with federal Medicaid laws. The Texas Department of Aging and Disability Services (DADS) manages the program.

Under this program, the state may file a claim against the estate of a deceased Medicaid recipient, age 55 and older, who applied for certain long-term care services on or after March 1, 2005. Claims include the cost of services, hospital care, and prescription drugs supported by Medicaid under the following programs:

- Nursing facility;
- Intermediate care facility for persons with mental retardation (ICF/MR), which includes state schools;
- Medicaid waiver programs including:
  - Community Living Assistance and Support Services,
  - Deaf-Blind with Multiple Disabilities,
  - Home and Community-based Services,
  - Texas Home Living Program,
  - Consolidated Waiver Programs,
  - Community Based Alternatives,
  - STAR+PLUS and Integrated Care Management (ICM) waiver services; and
- Community Attendant Services.



## Exceptions to filing claims

Medicaid Estate Recovery Program claims will only be filed when it is cost-effective. Claims that are considered not cost-effective are those where:

- the value of the estate is \$10,000 or less;
- the recoverable amount of Medicaid costs is \$3,000 or less; or
- the cost of selling the property would be equal to or greater than the property's value.

In addition, a claim will not be filed should one or more of the following conditions exist:

- there is a surviving spouse;
- there is a surviving child or children under 21 years of age;
- there is a surviving child or children of any age who are blind or permanently and totally disabled under Social Security requirements; or
- there is an unmarried adult child residing continuously in the Medicaid recipient's homestead for at least one year before the time of the Medicaid recipient's death.

An undue hardship waiver may be filed when:

- The estate property
  - has been the site of a family business, farm, or ranch for at least 12 months prior to the death of the Medicaid recipient;
  - is the primary income producing asset of the heirs;
  - produces at least 50 percent of their livelihood; and
  - recovery by the state would affect the property and result in heirs losing their primary source of income.
- The estate's beneficiaries would be eligible for public or medical assistance if a recovery claim is collected.
- Allowing one or more heirs to receive the estate enables them to discontinue eligibility for public or medical assistance.
- The Medicaid recipient received medical assistance as the result of being a crime victim.
- Other compelling reasons exist.

A hardship waiver specific to the homestead may be filed when:

- One or more heirs have gross family income below 300 percent of the federal poverty level.

## Authorization and MERP Certification

Many Texas probate courts have established local rules requiring a recipient's heir to provide a sworn statement specifying whether the recipient's (or decedent's) estate is subject to a MERP claim. To assist in determining whether a decedent's estate is subject to a MERP claim, DADS has created the [Authorization and MERP Certification Form \(AMC Form\)](#).

The AMC Form may also be used by title companies as part of a title encumbrance search.

The AMC Form consists of two sections.

- **Section 1, Authorization To Obtain MERP Claim Information**, must be **completed and signed by the estate representative** before claim information can be provided by MERP staff.
- **Section 2, Certification By MERP**, will be completed by **MERP staff** and will indicate whether the estate or property is subject to a MERP claim.

AMC Form requests will be processed and returned by fax in the order in which they are received, typically within three business days.

## Receipt Acknowledgement Form (Form 8001)

This form was revised effective April 2011. Please discontinue use of the March 2008 version immediately. The form was updated based on feedback from DADS stakeholders and long-term care staff. Thanks to all our contributors.

Please send questions to the MERP staff at [merp@dads.state.tx.us](mailto:merp@dads.state.tx.us).

- [Acknowledgement Form in English](#)
- [Acknowledgement Form in Spanish](#)

## Application for Hardship Waiver (Form 5006 and Form 5006-S)

The Medicaid estate recovery program may waive its claim against the estate when recovery would cause an undue hardship. Individuals seeking a hardship waiver must complete the Application for Hardship Waiver (Form 5006 or 5006-S) and return it with supporting documentation within 60 days from the date of the Notice of Intent to File a Claim.

- English – [PDF format](#) | [MS Word format](#)
- Spanish – [PDF format](#) | [MS Word format](#)

## Additional information

- Personal representatives of estates who elect to provide notice to the State for presentation of an estate recovery claim should send the notice to the following address:  
Accounts Receivable  
Mail Code E-411  
Texas Department of Aging and Disability Services  
P.O. Box 149030  
Austin, TX 78714-9030
- Information about the **filing process**, allowable deductions, and other estate recovery matters can be found in the [Texas Medicaid Estate Recovery Program Receipt Acknowledgement Form](#). If you have received a notice of intent to file a claim, please call 1-800-641-9356.
- For questions about estate recovery, you also may call DADS at **1-800-458-9858**. In-office staff answer this line from 8 a.m. to 5 p.m. Monday through Friday. Voice mail is available 24 hours a day, seven days a week, with a message that states the call will be returned the next day. In-office staff monitor voice mail from 8 a.m. to 5 p.m. on Saturday, Sunday, and holidays. You can also send e-mail to [merp@dads.state.tx.us](mailto:merp@dads.state.tx.us).
- For questions on Medicaid eligibility, please call the Texas Health and Human Services Commission Customer Service Hotline toll-free line at **1-888-834-7406**.
- Contact an **attorney** for legal advice. For free legal advice and consultation, the **Legal Hotline for Texans** is available to persons age 60 and over; Medicare beneficiaries, regardless of age; and victims of violent crime. The toll-free number is **1-800-622-2520**.

## Rules

- [Texas Administrative Code, Title1, Part 15, Chapter 373, Medicaid Estate Recovery Program](#)

## Statutes

- [Social Security Act](#)
- [Texas Government Code](#) (MS Word)
- [Texas Probate Code](#)