

MEDICAID ESTATE RECOVERY

CONNECTING YOU TO INFORMATION,
ANSWERS & RESOURCES



It is important to remember that every family situation is different; there are exceptions to many MER rules and guidelines. Depending on your situation, you should get more information on how MER might impact you. For the most accurate and up-to-date MER information, consult the following resources:

Ohio Medicaid Consumer Hotline:

1-800-324-8680
www.ohiomh.com

Ohio Attorney General's Office Medicaid Estate Recovery Unit

1-614-779-0105
www.ohioattorneygeneral.gov
150 E. Gay St., 21st Floor
Columbus, OH 43215-3130

If you or a loved one qualify for Medicaid and need long-term care services and supports, you have many options available to you in Ohio. Because these programs are funded by tax dollars, the state will attempt to recover the costs for some or all of the care it provided while an individual was enrolled in a Medicaid program.

This is called Medicaid Estate Recovery (MER).

Many have questions about MER. While staff at Buckeye Hills Regional Council are not qualified to answer questions about Medicaid Estate Recovery or Medicaid law, these resources and common questions and answers may help!

- **Pro Seniors ~ www.proseniors.org ~ 513-345-4160**

People age 60 and older are eligible for a free 30-minute phone consultation with an attorney.

- **Ohio State Bar Association ~ 1-800-282-6556 ~ www.ohiobar.org**

Can direct callers to a certified elder law attorney.

- **Buckeye Hills Regional Council: Aging & Disability Division**

1-800-331-2644 ~ www.buckeyehills.org/aging

Our Information & Assistance Specialists can connect you to local resources to help you get the information and answers you need.

What is Medicaid Estate Recovery?

When a person receives Medicaid care when they are over age 55; in a nursing facility or through a Medicaid Waiver Program such as PASSPORT of the Assisted Living Waiver, the State of Ohio pays for that care. After the person receiving Medicaid benefits dies, the state will try to recover the cost of some or all of that care from the person's estate. This is called Medicaid Estate Recovery (MER).

Buckeye Hills Regional Council

Serving Athens, Hocking, Meigs, Monroe, Morgan, Noble, Perry and Washington Counties in Southeast Ohio

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Medicaid Estate Recovery (MER)

Who is subject to Medicaid Estate Recovery? Medicaid recipients age 55 and older, and those of any age who were permanently institutionalized (in a nursing facility).

How much will be recovered through MER? The amount the state recovers from the estate is equal to the total amount Medicaid paid on behalf of the individual. Examples include Medicaid payments for:

- Physician visits, outpatient visits
- Nursing facility services
- Home and community-based waiver services (PASSPORT, Assisted Living Waiver)
- All medical and prescription-related Medicaid services
(Medicaid services provided prior to Jan. 1, 1995, are exempt).

When does estate recovery take place? By law, MER will take place after the Medicaid recipient's death, AND:

- The death of the Medicaid recipient's surviving spouse
- There are no surviving children under age 21
- There are no surviving children of any age who are considered blind or disabled

What is an estate: An estate is all of the real and personal property (house, land, cars and bank accounts) owned (completely or partially) by a Medicaid recipient at the time of death, regardless of whether or not it passed through probate court. This includes assets passed to a survivor, heir, or other designee through joint tenancy, tenancy in common, survivorship, life estate, living trust or other arrangement. Trusts are not exempt.

Is my home subject to MER? Yes. The state will recover Medicaid costs after the sale of your home. Certain restrictions apply if you have a surviving spouse, surviving children under age 21, or surviving children of any age who are considered blind or disabled. You will need to discuss your situation with a Medicaid attorney.

I have a will and/or a trust. Does that protect me from MER? No. Ohio's MER program is paid before any assets are distributed to your beneficiaries and heirs. Even assets that DO NOT pass through probate are subject to MER. Having a will or Revocable Living Trust designed to avoid taxes and probate does not make your estate exempt from MER.

Will my spouse be evicted or forced to sell our home after I die? No. There can be no MER claim while there is a surviving spouse.

Will the state place a lien on my house after I die? Although allowed by law, this typically only happens when there is no surviving spouse and there is evidence that the MER claim could be paid through the sale of your house or other real property (subject to restrictions described earlier). Other circumstances may apply. You should consult with a Medicaid attorney if you are concerned about Medicaid liens.

Who is in charge of MER? The Ohio Department of Job and Family Services and The Ohio Attorney General's Office. While the Medicaid beneficiary is alive and receiving services, the Ohio Department of Job and Family Services is tracking the amount paid for that person's care. Regular reports are provided to the Ohio Attorney General's Office. After the Medicaid recipient dies, the Attorney General's Office will send a claim for estate recovery to the person responsible for the estate or the person's representative within one year of the Medicaid recipient's death.

Can an estate be too small for MER? The short answer is no, but in some cases, court costs and attorney fees could consume the estate and prevent MER collection. You should consult a Medicaid attorney.



Medicaid Estate Recovery (MER)

What priority do MER claims have over other claims to my estate? The claims made through MER are paid after the following claims:

- costs and expenses of estate administration and personal property taxes
- \$4,000 of funeral expenses and \$3,000 for burial and cemetery expenses (if the total bill of a funeral exceeds \$4,000, another \$2,000 is paid for funeral expenses)
- allowance for support made to the surviving spouse and/or minor children
- debts entitled to a preference under the laws of the United States
- expenses of the last sickness of the person who died including the last continuous stay in a nursing home, residential facility or hospital long-term care unit.

Does the state ever waive its right to MER? Yes. The state will not pursue MER if it would cause an “undue hardship.” This is determined on a case-by-case basis; you should consult a Medicaid attorney. Your estate will be required to prove undue hardship. Some examples of undue hardship include:

- an estate that is the sole income-producing asset of the survivor
- recovery would deprive the survivor of necessary food, clothing or shelter
- if survivor is age 65 or older and financially dependent upon receipt of the estate proceeds
- the survivor provides clear and convincing evidence that he/she made substantial personal financial contributions to the deceased person and, therefore, has an equity interest in the property.
- the survivor is totally and permanently disabled and is financially dependent upon receipt of the estate proceeds and if, and only if, the estate proceeds are preserved for the benefit of the disabled survivor

I heard that I have to be a Medicaid recipient for at least 6 months before my estate would be subject to the MER program. Is this true? No. this is a common misconception. MER applies no matter how long the individual was enrolled and receiving services.

What happens if my MER claim is greater than the value of my estate (Medicaid has spent more on me than my estate is worth?) In cases where the state’s MER claim is greater than the value of the estate, the state will make an MER claim that is equal to value available to it through the estate (after all higher priority claims are paid through the estate - see related claims question on pg. 2).

How does my long-term care insurance policy affect MER? The Qualified Long-term Care Partnership (QLTCP) program creates an MER exemption that is equal to the amount of the benefits allowed under the Medicaid recipient’s long-term care insurance policy. In other words, if you paid for a long-term care insurance policy that pays \$100,000 in benefits, that same amount would be exempt from MER (it would be left in your estate). You should consult a Medicaid attorney or financial planner before purchasing long-term care insurance.

What happens if I give a “gift” of property or money to my family before I enroll in Medicaid? There are significant penalties for gifts made within five years from the date of Medicaid application. The value of these gifts and transfers may be used to determine a period of time in which you would not be eligible to receive Medicaid services. You should consult a Medicaid attorney or financial planner before making any such gifts or transfers.

Is there any way I can protect my estate from MER? Buckeye Hills Regional Council staff can not answer this question. We recommend that you consult with a qualified Medicaid attorney.

In 1993, the U.S. Congress passed the Omnibus Budget Reconciliation Act requiring all states with Medicaid to begin an estate recovery program. This helps sustain the Medicaid program. Ohio’s MER became effective Jan. 1, 1995.