

# What You Need to Know About Medicaid Estate Recovery



Medicaid Estate Recovery is the process by which Medicaid seeks to reclaim money spent on individual's long-term medical care and services by going after their most valuable asset — their home. Read on to learn what you should know about Medicaid Estate Recovery and its effect on the American Dream of homeownership.

## Many families don't know they're at risk.

Imagine losing your loved one, only to be surprised days or even years later with a letter from your state Medicaid agency filing a claim against their estate for tens to hundreds of thousands of dollars for their care — even if they weren't in a nursing home. Unfortunately, this scenario is all too real for families across the country due to a provision in the [Omnibus Budget Reconciliation Act of 1993](#), a federal law that requires state Medicaid agencies to try to get back the money they spent on an individual's long-term Medicaid care and support services. Because individuals on Medicaid are allowed to exempt their home when they apply for the program, the only asset valuable enough to cover the amount they owe is often their home. So, state agencies will try to force a sale of the home after they die to reclaim the money. Their benefits, in effect, turn out to be a loan that must be repaid.

In some cases, families don't know their loved one signed up for a Medicaid long-term care program with these requirements; the Medicaid beneficiary may not have even realized it themselves. After their death, families are left not only grieving their loved one's loss but facing a large claim against the estate that may put their family's home — even one willed to them — at risk.

## Recovery amounts differ depending on where you live.

While federal law requires Medicaid agencies to try to reclaim money spent on individuals who need long-term medical care and support, the law lets states decide how much they want to recover. Some states only go after the minimum amount, while others are more aggressive. (You can see policies of individual states as of 2021 [here](#).) Although states can waive Medicaid Estate Recovery in certain cases — such as children who care for their parent at home for two years, keeping them out of a nursing home — states may apply these waivers differently. So, a person's home may be at greater risk simply because of where they live.



To learn more about Medicaid Estate Recovery, scan the QR code. →



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### **The program generally earns less than 1% back.**

The amount of money Medicaid recovers from estates is less than 1% of the amount it spends on long-term supports and services. For example, in Fiscal Year 2019, the most recent year available, Medicaid Estate Recovery brought in \$733 million in revenue, compared to more than \$600 billion spent on Medicaid long-term supports and services that year. Given the administrative costs of employees' time and resources in pursuing estates, it is not a good return on investment for states and has a devastating impact on the families who are affected.

### **Many people affected were once middle class.**

Medicaid Estate Recovery hurts people of all economic backgrounds. Individuals who suffer from diseases such as dementia or Parkinson's can require care that costs thousands of dollars a month. With this staggeringly high cost of care, people who have been middle class throughout their lives and have saved for retirement suddenly find they can't keep up with expenses for medical care and services. After exhausting their personal financial resources, the only option left is to apply for Medicaid — putting a home that may already be paid off at risk of Medicaid Estate Recovery.

### **People may hesitate to apply for the help they need.**

If individuals do know about Medicaid Estate Recovery and the risk that they could lose their home, they may face a heartbreaking choice of avoiding the care they need or being unable to secure the financial future for their loved ones. While exemptions to Medicaid Estate Recovery exist, they require planning, especially while the individual on Medicaid is alive. For example, if the home is transferred to a family member more than five years before an individual is enrolled in Medicaid, they can protect the home. However, that requires a level of foresight that may not be possible for everyone.

Elder law attorneys are uniquely positioned to help individuals understand the legal system while protecting them, their family, and their hard-earned assets due to their in-depth knowledge of laws and regulations affecting Medicaid. Visit [NAELA.org](https://naela.org) to find an elder law attorney in your area who can help you.



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