

ALLEN COUNTY PROBATE COURT

MEMO: MEDICAID ESTATE RECOVERY FORMS AND PROCEDURE [After SB 124]

The Ohio Department of Job and Family Services, which administers Medicaid programs for the State of Ohio, has implemented an estate recovery program in conformity with applicable federal and state laws, rules, and regulations. Some of the applicable statutes are:

- 1) Ohio Revised Code Section 5111.11;
- 2) Ohio Revised Code Section 2117.061.

IT IS STRONGLY RECOMMENDED THAT YOU READ THESE STATUTES AND COMPLY WITH ANY APPLICABLE NOTICE REQUIREMENT. The statutes are available at your library or on the internet (search for Ohio Revised Code and the code sections).

Pursuant to O.R.C. 2117.061 (C): "The person responsible for the estate shall mark the appropriate box on the appropriate probate form to indicate compliance with requirements of division (B) of this section." The "person responsible" means: "...the executor, administrator, commissioner, or person who filed pursuant to section 2113.03 of the Revised Code for release from administration of an estate." Form 7 is the Standard Probate Form to be filed with the administrator of the Medicaid estate recovery program, along with any required attachments. According to the administrator's office, the form is to be mailed by the fiduciary or other person responsible to: Medicaid Estate Recovery Unit, 150 E. Gay Street, 21st Floor, Columbus, OH 43215-3130. A copy with the certification section completed is to be filed with the Court. **AS OF 1/13/12, THE EFFECTIVE DATE OF SB 124, THE COURT DOES NOT SUBMIT COPIES OF SPF 7.0 FORMS TO THE ADMINISTRATOR OF THE MEDICAID ESTATE RECOVERY PROGRAM.** There have been changes in the law since Form 7 was originally adopted and you must determine what, if anything, in addition to filing Form 7 is necessary to comply with proper notice to the administrator of the Medicaid estate recovery program. The earlier proposed forms have yet to be adopted as Standard Probate Forms.

DISCLAIMER: This memo supercedes/replaces any earlier memo(s) and forms from this Court as to the Ohio medicaid estate recovery program. This memo is not intended to give legal advice. Any questions should be directed to legal counsel and/or the Ohio Medicaid Consumer Hotline, 1-800-324-8680; or the Ohio Attorney General's Office at 614-752-2211.

7/19/12

Ohio Department of Job and Family Services
OHIO MEDICAID ESTATE RECOVERY *

What is estate recovery?

Estate recovery seeks to obtain repayment for the cost of Medicaid benefits once a Medicaid recipient is deceased. This happens after the death of a Medicaid recipient who was either permanently institutionalized or age 55 and older.

What is an estate?

An estate is all of the real and personal property owned by a Medicaid recipient at the time of death, whether or not it passed through probate court.

What Medicaid benefits are subject to estate recovery?

Medicaid payments for services received since January 1995 are subject to estate recovery. Medicare premium assistance payments made after January 1, 2010, are subject to recovery only when the Medicaid recipient was permanently institutionalized.

How does estate recovery work?

The estate's executor is responsible for notifying the Ohio Attorney General's Office (AGO) of a Medicaid recipient's death, if the consumer was permanently institutionalized or age 55 or older. Once the AGO has been notified, the AGO will present a claim to the estate.

When does estate recovery take place?

Recovery from the estate will only be made:

- ✓ After the death of the Medicaid recipient's surviving spouse.
- ✓ When the deceased Medicaid recipient has no surviving child younger than age 21.
- ✓ When the deceased Medicaid recipient has no surviving child of any age who is considered blind or disabled under Medicaid regulations.

Does a will protect assets from estate recovery?

No. Ohio's Medicaid program and other creditors are paid before any assets are distributed to heirs or other beneficiaries.

Are there exceptions to estate recovery?

If there is an undue hardship to a survivor, the right to immediate recovery may be delayed or waived. Undue hardship is determined on a case-by-case basis.

Is a person's house subject to estate recovery?

Yes. A Medicaid recipient's house may be subject to estate recovery. If the recipient was permanently institutionalized, any claim from the sale of a house may be delayed while the recipient's sibling or child resides in the home, if specific conditions are met.

Will the Attorney General's Office contact the family of the deceased?

After a Medicaid recipient dies, the AGO will send a notice of claim to the estate's executor requesting repayment for the cost of Medicaid benefits. It is the estate executor's responsibility to notify any family members or other heirs who might be affected by the estate recovery. If the estate executor has not been identified to the AGO, the AGO may need to contact the Medicaid recipient's family members.

How can the Attorney General's Office be reached?

The Medicaid Estate Recovery Unit of the AGO can be contacted at:

Medicaid Estate Recovery Unit
150 E. Gay Street, 21st Floor
Columbus, Ohio 43215-3130

Information can be obtained online at http://www.ag.state.oh.us/business/estate_recovery.asp, or by calling the Ohio Medicaid Consumer Hotline at 1-800-324-8680, or by calling your local County Department of Job & Family Services.

Instructions to CDJFS: In CLRC, record the date that this form was given or mailed to the consumer.

PROBATE COURT OF _____ COUNTY, OHIO

ESTATE OF _____, DECEASED

CASE NO. _____

**NOTICE OF ADMINISTRATOR OF
ESTATE RECOVERY PROGRAM**

[R.C. 2117.061]

The undersigned gives notice to the Administrator of the Estate Recovery Program that the decedent was fifty-five (55) years of age or older at the time of death and has been determined to have been a recipient of medical assistance under Chapter 5111 of the Revised Code.

- Executor
- Administrator
- Commissioner
- Person who filed pursuant to 2113.03 of the Revised Code for release from administration.

CERTIFICATE OF SERVICE

This is to certify a true copy of the above notice was served by certified U.S. mail, postage prepaid to the Administrator of the Estate Recovery Program, on the _____ day of _____, 20_____.

Person Responsible for the Estate

Typed or Printed Name

Address

City, State, Zip

Phone Number (include area code)

PROBATE COURT OF ALLEN COUNTY, OHIO

IN THE MATTER OF THE ESTATE OF: _____

CASE NO. _____

**AFFIDAVIT – MEDICAID ESTATE
RECOVERY PROGRAM NOTICE NOT REQUIRED
[R.C. 2117.061 & 5111.11]**

State of Ohio, County of _____ ss:

I, _____, Applicant for Release From Administration/Summary Release From Administration in the above-captioned matter, after being duly captioned and sworn, state and aver the following:

1. Affiant states that his/her relationship to the decedent is _____.
2. Affiant further states that the affiant died on _____.
3. Affiant further states that this estate is not the estate of a decedent subject to the Ohio Medicaid estate recovery program or the estate of a spouse of a decedent subject to the Medicaid estate recovery program and that no notice is required to the administrator of the Medicaid estate recovery program.

Further affiant saith naught.

Affiant

Sworn to before me and signed in my presence this ___ day of 20____,
by _____.

Notary Public

Notice

Filing this form is NOT compliance with any applicable notice requirements to the administrator of the Medicaid estate recovery program as may be required by R.C. 2117.061 and R.C. 5111.11.