

# URBAN AGING NEWS

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Info, Insight, & Inspiration for Metro Detroit's Maturing Adults



Photo Credit: Shawntay

Pictured: Flute Cocktail

## THE MUSIC JUST GETS SWEETER AS LIFE GOES ON!

### -INSIDE-

9<sup>th</sup> Annual Aging Matters Education and Expo. See page 6

Is CBD a viable medical option? See page 8

Can your heirs lose a house if your name was on the deed? See page 9

# Medicaid Estate Recovery: Will Michigan File to Collect Medicaid Assistance Repayment from Your Estate?

By Attorney Norman (Gene) Richards

Expert Advice



Long-term care is expensive, whether hiring someone to come into your home or paying for care in a nursing home. Medicaid is often used to cover expenses but will Michigan ask for the money back after the recipient dies? The answer may surprise you.

The average cost of a nursing home in southeast Michigan is \$10,870 per month. Hiring private caregivers in the home, when the level of care needed is simply too demanding for spouses and family members to provide, will typically cost at least \$7,000 a month, at eight hours a day.

With long-term care costs being so high, many people rely on Medicaid assistance to pay for long-term care in a nursing home. In limited situations, Medicaid may also pay for services in a private home or assisted living setting, under the Home and Community Based Waiver - or the MI Choice Waiver - program. Medicaid, therefore, is often essential for people to receive appropriate, costly long-term care.

But there's a catch. The State of Michigan expects to be paid back. Federal law requires Michigan to attempt to recover what it paid in Medicaid benefits for long-term care in a nursing home and under Waiver, after the recipient dies. This is known as Medicaid Estate Recovery. This payback requirement may come as a surprise to families who do not read the Medicaid application documents thoroughly or who are not fully informed by those assisting with the application process.

There are limitations on which assets are subject to Estate Recovery.

- First, no recovery occurs until the Medicaid recipient dies.
- Second, Michigan recovers only from assets in the deceased recipient's probated estate.
- Third, Michigan is a creditor, which means it recovers from the probate assets left over after other persons and claimants having priority status are satisfied.
- Fourth, there are other exceptions to Estate Recovery, too many to detail here.

For unmarried recipients, the one asset that often surrenders to Estate Recovery is the home. An unmarried recipient may not have more than \$2,000 in countable assets to qualify for assistance. But a home, which can be worth hundreds of thousands, is not countable while a recipient is living and receiving Medicaid. Upon the recipient's death, however, if the home must be probated, Michigan will file a claim against the estate for the amount of Medicaid benefits it paid out. That claim may be hundreds of thousands of dollars.

For married recipients, a similar result occurs if the healthy spouse dies before the recipient spouse. With no living spouse to claim the house, it is then probated after the recipient spouse dies, and Michigan will file for Estate Recovery.

Other assets that were initially retained by a healthy spouse, now the property of the recipient spouse - such as life insurance proceeds, CDs, annuities and retirement accounts - may also be subjected to Estate Recovery if they did not disqualify the recipient from receiving Medicaid. This is all possible if the healthy spouse does not plan appropriately for their death.

Here is an example of the impact of Estate Recovery. An elderly woman in poor health requires constant assistance. Her children take turns caring for her in her home in order to keep her out of a nursing home. They believe that Estate Recovery will not apply as they are caring for their mother themselves and she is not in a nursing home. When their mother dies, the house is probated. They are shocked when Michigan files a claim against their mother's estate for an amount that is more than the value of the house. It turns out that their mother received Medicaid benefits over the years for numerous, small, health and medical expenses that, when added together, totals a large amount. And that amount is subject to Estate Recovery, which means that the home is lost to Estate Recovery.

Is this result avoidable? Yes! It is possible to avoid Estate Recovery with a full understanding of its requirements and limitations, and by engaging in advanced, legally permissible planning. But be warned: The rules are complex and ever-shifting - so proper planning requires the guidance of an elder law attorney.

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