

Changes to estate recovery of medical assistance

This brochure includes changes made on Oct. 1, 2013, to the estate recovery program for medical assistance (sometimes called Medicaid).

Medical assistance paid to you BEFORE October 1, 2013

The following applies to medical assistance you received before Oct.1, 2013.

The benefits were paid before October 1, 2013, and:	Estate recovery will seek reimbursement from your estate (as defined in ORS 416.350) of:
<ul style="list-style-type: none"> You were 55 years or older. 	<p>All medical assistance benefits, after you turned 55 years of age, including OHP. OHP benefits may include monthly fees paid to a coordinated care organization or managed care organization. Excluding, on or after January 1, 2010, Medicare cost sharing, such as Medicare co-pays, coinsurance, premiums and deductibles. QMB only benefits on or after January 1, 2010 are not included.</p>

Medical assistance for benefits paid to you ON or AFTER October 1, 2013

The following applies to medical assistance you received on or after Oct. 1, 2013.

The benefits were paid on or after October 1, 2013, and:	Estate recovery will seek reimbursement from your estate (as defined in ORS 416.350) of:
<ul style="list-style-type: none"> You were 55 years or older; and You received medical assistance to pay some or all of the cost of long-term care in: <ul style="list-style-type: none"> An assisted living facility; A residential care facility; An adult foster home; In-home care, including the State Plan Personal Care program; A nursing facility; An intermediate care facility for individuals with intellectual or developmental disabilities; or Other similar long-term care. 	<p>All medical assistance benefits, including OHP you received since age 55 while getting long-term care benefits. OHP benefits may include monthly fees paid to a coordinated care organization. Excluding, on or after January 1, 2010, Medicare cost sharing, such as Medicare co-pays, coinsurance, premiums and deductibles. QMB only benefits on or after January 1, 2010 are not included.</p>

EAU will recover the monthly fee charged to the state for Medicare Part D. See box on the other side about Part D.

Please share this brochure with your family or the individual who will handle your estate.

NOTE: Information contained in this brochure is based on federal and state laws and rules as of its publication date. These laws and rules may change without notice. This brochure is intended to inform and not to advise. Discuss any questions about estate recovery with EAU staff at 1-800-826-5675 or 503-378-2884. EAU staff cannot provide legal advice. If you have legal questions or need legal advice, speak to a lawyer. Your local legal aid office may be able to help.

ODHS Estate Administration Unit

P.O. Box 14021
Salem, OR 97309-5024

503-378-2884
1-800-826-5675
TTY: 1-800-735-2900 or 711
Fax: 503-378-3137

estate.admin@odhsoha.oregon.gov

You can get this document in other languages, large print, braille or a format you prefer free of charge. Contact the Estate Administration Unit at estate.admin@odhsoha.oregon.gov or 503-378-2884 or 1-800-826-5675.

We accept all relay calls.



Estate Recovery Program

Your estate and the state assistance cost recovery program



Estate recovery

When you pass away, the state may require your estate to repay certain assistance benefits you received. This is called “estate recovery.” The state may not seek reimbursement for more than it paid in benefits.

The program is very complicated. This is a general summary, and does not replace statutes and rules. Direct any questions to the Estate Administration Unit or a lawyer. Please note that estate recovery laws and rules may change without notice.

Federal and state law

Federal and state laws require the Department of Human Services (ODHS) and the Oregon Health Authority (OHA) to have an estate recovery program. The Estate Administration Unit (EAU) administers the program for both agencies. Approximately 60 percent of the money recovered pays for services and benefits for Oregonians. The

state returns the remaining amount to the federal government for the share of the benefits it paid.

General assistance program and Oregon Supplemental Income Program

EAU will recover from your estate any benefits the Oregon Supplemental Income Program or general assistance program provided.

Surviving spouse and children

EAU will not make a claim until your spouse¹ dies. EAU may submit the claim to your spouse’s estate at that time. Also, EAU will not seek payment from your estate if you are survived by a minor child under 21 years of age or a child of any age who is visually impaired or permanently and totally disabled. The disability must meet Social Security Administration criteria for visual impairment or for permanent and total disability. The individual must be your natural or legally adopted child.

Waiving estate recovery

Any individual receiving assets from your estate may ask EAU to waive estate recovery. However, the individual must meet the requirements for a hardship waiver. Instructions on how to request a hardship waiver are included in the information EAU will send with its claim. A request for a hardship waiver must be made within specific deadlines. Individuals that are going to ask for a hardship waiver should promptly contact EAU.

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¹ For information about how domestic partnerships may affect estate recovery, contact the Estate Administration Unit or a lawyer.

After you pass away

Friends or family should notify your caseworker as soon as possible. If you don’t have a caseworker they should contact EAU. Oregon law requires an estate recovery claim be paid before most of your other debts. An individual who uses your estate assets to pay lower priority debts could be liable for some of, or the entire, estate recovery claim. The individual handling your affairs after you pass away should contact EAU before paying any of your debts.

Real property

If you own an interest in real property at your passing, the estate may have to sell it to get money to pay creditors’ claims, including EAU’s. Individuals who inherit the property are usually allowed to pay the claim instead of selling the real property. In some circumstances EAU may accept payments. EAU usually charges 9 percent interest on any unpaid balance.

Property that automatically passes to another on your passing away

There are many kinds of ownership interests in property that automatically pass to another person when you pass away. Some common examples are property owned with rights of survivorship, life estates or transfer on death deeds. Property of this type is not usually part of your estate. However, it may still be subject to an EAU estate recovery claim. EAU will contact the individual who will receive the ownership interest when you pass away. This is a particularly complex area of law. If you have questions, please speak to EAU staff or an elder law attorney.

Bank accounts and accounts with facilities

You may have money in a financial institution, such as a bank account, or funds may be held by your facility. Your family or heirs should contact EAU before spending any of your money after you pass away. Banks and facilities are asked to send your remaining funds to EAU, except when your spouse is still alive.

Personal property and effects

These items may have great personal value to family and friends. Unless the items have significant monetary value, EAU will generally not enforce its claim against these items.

Life insurance

Normally, EAU will not make a claim against your life insurance if you gave written instructions to the insurance company about who gets the proceeds. If the proceeds are paid to your estate, they will be subject to an estate recovery claim.

Giving away assets

Some programs do not allow you to give away assets, including to a spouse or other family member. This can include transferring assets before you started assistance. You should always check with your case worker before giving away an asset to anyone. Otherwise, you may lose eligibility for benefits. Also, EAU may ask a court to require the person who received the assets to give them back to your estate or pay the full value to your estate so an estate recovery claim can be paid.

Failing to disclose assets

Some programs require you to disclose your assets to your caseworker. You are also required to report changes in your financial condition. Failing to accurately report this information may result in you getting benefits you were not entitled to receive. EAU can recover the payments you were not entitled to from your estate after you pass away. This type of recovery is payable regardless of whether you have a living spouse, a child under 21 years old, or a child with a disability or visual impairment.

Funeral expenses

You are encouraged to prepay your funeral expenses. You should discuss this with your caseworker. Generally, EAU will allow much less for funeral expenses after death than is allowed for prepaid funeral expenses. EAU may, under limited circumstances, be able to refund some money for funeral expenses. EAU cannot refund more than it collected.

Medicare Part D prescription drug coverage

The federal government charges the state a monthly fee for Medicare Part D prescription drug coverage when you receive both state medical assistance and Medicare. EAU will recover all payments made to the federal government before Jan. 1, 2014. EAU will recover payments made to the federal government on or after Jan. 1, 2014, only if you were 55 or older when the payments were made. This does not apply to individuals only receiving benefits under the Qualified Medicare Beneficiary (QMB) program.