



National
Consumer Law
Center
*Fighting Together
for Economic Justice*

WHAT STATES CAN DO TO HELP CONSUMERS

Medicaid Estate Recovery

Roughly 70 percent of adults who reach age 65 will require long-term services and supports (LTSS). And Medicaid plays a crucial role in ensuring that these working-class, aging, and disabled individuals can receive necessary health care, **paying for over half of LTSS costs Americans accrue annually**. About **8 million Americans use** Medicaid's LTSS, and the program allows aging and disabled people with low and moderate incomes to receive **critical, life-saving services** in their own homes and communities.

But a federal requirement that forces state Medicaid programs to pursue recovery of LTSS costs accrued at age 55 and older from the estates of deceased beneficiaries often leads to the loss of a family home and wealth. Some states choose to recoup costs of other medical services, such as tests, hospital stays, or visits to the doctor, and the wealth loss in those cases can be even more staggering. Those losses disproportionately affect low-income, Black and Brown, and disabled communities but **recoup less than one percent** of total Medicaid LTSS spending.

States can limit estate recovery to only the federal minimum requirements and implement a variety of reforms to their estate recovery programs to reduce its impact on low-income families.



Three-quarters of Medicaid beneficiaries have a **net wealth below \$48,500**, and an average of only \$27,419 in home equity.



On average, a person turning 65 today will incur \$120,900 in **future LTSS costs**.

Reducing the Scope of Recovery

CONSUMER PROBLEMS

Adult children of a Medicaid recipient who have resided in the family home may lose the home to an estate recovery claim.

Adult children of a Medicaid recipient lose family homes and are unable to afford a new home in a high-cost housing market.

Families lose a home that is a primary shelter or an income-producing asset (e.g., a farm).

STATE SOLUTIONS

Exempt heirs who **lived in the home for at least a year before the recipient's death, and heirs who provided care that may have delayed institutionalization**.

Exempt **homes of modest value** from recovery.

Exempt heirs from estate recovery if it would deprive an heir of shelter or other "**necessities of life**," or if the home is a survivor's primary income-producing asset.

CONSUMER PROBLEMS

STATE SOLUTIONS

Families in some states must reimburse the costs of various basic services, including the cost of doctor visits, hospital stays, scans, and other medical tests.

Limit estate recovery to federally-mandated benefit categories (nursing facility services, home- and community-based services, and related hospital and prescription services).

In states with managed care Medicaid programs, families are charged based on time enrolled in Medicaid, rather than the services utilized.

Charge Medicaid recipients for the lesser of the managed care charge and the total cost of services utilized.

Empowering Families to Avoid Family Home Loss

CONSUMER PROBLEMS

STATE SOLUTIONS

In some states, individuals receiving Medicaid cannot use estate planning tools like transfer-on-death deeds to transfer a family home.

Limit estate recovery to the definition of an estate in state probate law per federal regulations, so that homes transferred outside of probate are exempt.

Lower-income individuals enroll in their state's Medicaid program, unaware that their family home is subject to estate recovery after they die.

Provide notice of estate recovery and legal resources in clear and simple language translated into multiple languages at Medicaid enrollment and any recertification or renewal.

Families are not informed that they may qualify for undue hardship waivers and so may avoid Medicaid even though they need health care.

Provide notice of hardship waivers and legal resources in clear, simple language translated into multiple languages at enrollment and upon notice of the recovery claim.

Communities of color, limited-English proficient, or other communities may disproportionately lose homes to estate recovery.

Collect demographic data on waiver applicants, and review this data annually, to ensure that these waivers are accessible across communities.

For more, see Justice in Aging's [Mitigating the Harmful Effects of Medicaid Estate Recovery: Strategies for State Advocates](#) and the Medicaid and CHIP Payment and Access Commission's [Medicaid Estate Recovery: Improving Policy and Promoting Equity](#).

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The nonprofit National Consumer Law Center® (NCLC®) works for economic justice for low-income and other disadvantaged people in the U.S. through policy analysis and advocacy, publications, litigation, and training.

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