

4705.00.00 CLAIMS AGAINST THE ESTATE

Under the provisions of the Social Security Act (42 USC 1396p) the state is required to recover certain Medicaid benefits correctly paid on behalf of an individual from the individual's estate.²

This includes any capitation payments made on behalf of the recipient. Capitation payments are made each month on behalf of a member when they are enrolled with a Managed Care Entity (health plan) for programs such as HIP, Hoosier Care Connect, or Pathways. Capitation rates may include payments made for Medicaid services and for case management services with the health plan.

The circumstances under which a recovery claim must be filed are explained in this and the following sections.

Upon the death of a Medicaid recipient, the total amount paid for medical coverage, except as explained in Section 4710.00.00 and Section 4725.10.00, is allowed as a preferred claim against the estate of such person in favor of the state. All assets owned by the deceased individual at the time of death, including both real and personal property, become a part of the estate, even if no probate proceedings are initiated in court. The estate does not include property held jointly with rights of survivorship, property held in trust, or life insurance proceeds paid to the deceased's survivors or other beneficiaries.

The claim provision is applicable to all categories of MA, except for Medicare cost sharing benefits which include the Medicaid categories of QMB (MA L), SLMB (MA J) and QI (MA I).³ Medicare premiums and Medicare cost sharing benefits paid for any member are not recoverable.

A claim against the estate can be filed for Medicaid benefits "incorrectly paid" on behalf of a recipient regardless of age.⁴

It is not required that there be a previous court judgment as to the amount of Medicaid benefits incorrectly paid. However, the existence of such a court judgment would expedite the probate proceedings when the claim against the estate is filed.

² Social Security Act, Section 1917(b)(1), Indiana State Plan 4.17

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⁴ IC 12-15-2-19, H.R.2264- Omnibus Budget Reconciliation Act of 1993, Subchapter B: Medicaid- Part I: Services, Part II: Eligibility