

SENATE BILL NO. 1683

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR MCCREERY.

7105S.031

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 208.215, 473.398, and 473.399, RSMo, and to enact in lieu thereof four new sections relating to estates of persons receiving public benefits.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 208.215, 473.398, and 473.399, RSMo,
2 are repealed and four new sections enacted in lieu thereof, to
3 be known as sections 208.215, 473.398, 473.399, and 473.402, to
4 read as follows:

208.215. 1. MO HealthNet is payer of last resort
2 unless otherwise specified by law. When any person,
3 corporation, institution, public agency or private agency is
4 liable, either pursuant to contract or otherwise, to a
5 participant receiving public assistance on account of
6 personal injury to or disability or disease or benefits
7 arising from a health insurance plan to which the
8 participant may be entitled, payments made by the department
9 of social services or MO HealthNet division shall be a debt
10 due the state and recoverable from the liable party or
11 participant for all payments made on behalf of the
12 participant and the debt due the state shall not exceed the
13 payments made from MO HealthNet benefits provided under
14 sections 208.151 to 208.158 and section 208.162 and section
15 208.204 on behalf of the participant, minor or estate for
16 payments on account of the injury, disease, or disability or

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

17 benefits arising from a health insurance program to which
18 the participant may be entitled. Any health benefit plan as
19 defined in section 376.1350, third-party administrator,
20 administrative service organization, and pharmacy benefits
21 manager shall process and pay all properly submitted medical
22 assistance subrogation claims or MO HealthNet subrogation
23 claims using standard electronic transactions or paper claim
24 forms:

25 (1) For a period of three years from the date services
26 were provided or rendered; however, an entity:

27 (a) Shall not be required to reimburse for items or
28 services which are not covered under MO HealthNet;

29 (b) Shall not deny a claim submitted by the state
30 solely on the basis of the date of submission of the claim,
31 the type or format of the claim form, failure to present
32 proper documentation of coverage at the point of sale, or
33 failure to provide prior authorization;

34 (c) Shall not be required to reimburse for items or
35 services for which a claim was previously submitted to the
36 health benefit plan, third-party administrator,
37 administrative service organization, or pharmacy benefits
38 manager by the health care provider or the participant and
39 the claim was properly denied by the health benefit plan,
40 third-party administrator, administrative service
41 organization, or pharmacy benefits manager for procedural
42 reasons, except for timely filing, type or format of the
43 claim form, failure to present proper documentation of
44 coverage at the point of sale, or failure to obtain prior
45 authorization;

46 (d) Shall not be required to reimburse for items or
47 services which are not covered under or were not covered

48 under the plan offered by the entity against which a claim
49 for subrogation has been filed; and

50 (e) Shall reimburse for items or services to the same
51 extent that the entity would have been liable as if it had
52 been properly billed at the point of sale, and the amount
53 due is limited to what the entity would have paid as if it
54 had been properly billed at the point of sale; and

55 (2) If any action by the state to enforce its rights
56 with respect to such claim is commenced within six years of
57 the state's submission of such claim.

58 2. The department of social services, MO HealthNet
59 division, or its contractor may maintain an appropriate
60 action to recover funds paid by the department of social
61 services or MO HealthNet division or its contractor that are
62 due under this section in the name of the state of Missouri
63 against the person, corporation, institution, public agency,
64 or private agency liable to the participant, minor or estate.

65 3. Any participant, minor, guardian, conservator,
66 personal representative, estate, including persons entitled
67 under section 537.080 to bring an action for wrongful death
68 who pursues legal rights against a person, corporation,
69 institution, public agency, or private agency liable to that
70 participant or minor for injuries, disease or disability or
71 benefits arising from a health insurance plan to which the
72 participant may be entitled as outlined in subsection 1 of
73 this section shall upon actual knowledge that the department
74 of social services or MO HealthNet division has paid MO
75 HealthNet benefits as defined by this chapter promptly
76 notify the MO HealthNet division as to the pursuit of such
77 legal rights.

78 4. Every applicant or participant by application
79 assigns his right to the department of social services or MO

80 HealthNet division of any funds recovered or expected to be
81 recovered to the extent provided for in this section. All
82 applicants and participants, including a person authorized
83 by the probate code, shall cooperate with the department of
84 social services, MO HealthNet division in identifying and
85 providing information to assist the state in pursuing any
86 third party who may be liable to pay for care and services
87 available under the state's plan for MO HealthNet benefits
88 as provided in sections 208.151 to 208.159 and sections
89 208.162 and 208.204. All applicants and participants shall
90 cooperate with the agency in obtaining third-party resources
91 due to the applicant, participant, or child for whom
92 assistance is claimed. Failure to cooperate without good
93 cause as determined by the department of social services, MO
94 HealthNet division in accordance with federally prescribed
95 standards shall render the applicant or participant
96 ineligible for MO HealthNet benefits under sections 208.151
97 to 208.159 and sections 208.162 and 208.204. A participant
98 who has notice or who has actual knowledge of the
99 department's rights to third-party benefits who receives any
100 third-party benefit or proceeds for a covered illness or
101 injury is either required to pay the division within sixty
102 days after receipt of settlement proceeds the full amount of
103 the third-party benefits up to the total MO HealthNet
104 benefits provided or to place the full amount of the third-
105 party benefits in a trust account for the benefit of the
106 division pending judicial or administrative determination of
107 the division's right to third-party benefits.

108 5. Every person, corporation or partnership who acts
109 for or on behalf of a person who is or was eligible for MO
110 HealthNet benefits under sections 208.151 to 208.159 and
111 sections 208.162 and 208.204 for purposes of pursuing the

112 applicant's or participant's claim which accrued as a result
113 of a nonoccupational or nonwork-related incident or
114 occurrence resulting in the payment of MO HealthNet benefits
115 shall notify the MO HealthNet division upon agreeing to
116 assist such person and further shall notify the MO HealthNet
117 division of any institution of a proceeding, settlement or
118 the results of the pursuit of the claim and give thirty
119 days' notice before any judgment, award, or settlement may
120 be satisfied in any action or any claim by the applicant or
121 participant to recover damages for such injuries, disease,
122 or disability, or benefits arising from a health insurance
123 program to which the participant may be entitled.

124 6. Every participant, minor, guardian, conservator,
125 personal representative, estate, including persons entitled
126 under section 537.080 to bring an action for wrongful death,
127 or his attorney or legal representative shall promptly
128 notify the MO HealthNet division of any recovery from a
129 third party and shall immediately reimburse the department
130 of social services, MO HealthNet division, or its contractor
131 from the proceeds of any settlement, judgment, or other
132 recovery in any action or claim initiated against any such
133 third party. A judgment, award, or settlement in an action
134 by a participant to recover damages for injuries or other
135 third-party benefits in which the division has an interest
136 may not be satisfied without first giving the division
137 notice and a reasonable opportunity to file and satisfy the
138 claim or proceed with any action as otherwise permitted by
139 law.

140 7. The department of social services, MO HealthNet
141 division or its contractor shall have a right to recover the
142 amount of payments made to a provider under this chapter
143 because of an injury, disease, or disability, or benefits

144 arising from a health insurance plan to which the
145 participant may be entitled for which a third party is or
146 may be liable in contract, tort or otherwise under law or
147 equity. Upon request by the MO HealthNet division, all
148 third-party payers shall provide the MO HealthNet division
149 with information contained in a 270/271 Health Care
150 Eligibility Benefits Inquiry and Response standard
151 transaction mandated under the federal Health Insurance
152 Portability and Accountability Act, except that third-party
153 payers shall not include accident-only, specified disease,
154 disability income, hospital indemnity, or other fixed
155 indemnity insurance policies.

156 8. The department of social services or MO HealthNet
157 division shall have a lien upon any moneys to be paid by any
158 insurance company or similar business enterprise, person,
159 corporation, institution, public agency or private agency in
160 settlement or satisfaction of a judgment on any claim for
161 injuries or disability or disease benefits arising from a
162 health insurance program to which the participant may be
163 entitled which resulted in medical expenses for which the
164 department or MO HealthNet division made payment. This lien
165 shall also be applicable to any moneys which may come into
166 the possession of any attorney who is handling the claim for
167 injuries, or disability or disease or benefits arising from
168 a health insurance plan to which the participant may be
169 entitled which resulted in payments made by the department
170 or MO HealthNet division. In each case, a lien notice shall
171 be served by certified mail or registered mail, upon the
172 party or parties against whom the applicant or participant
173 has a claim, demand or cause of action. The lien shall
174 claim the charge and describe the interest the department or
175 MO HealthNet division has in the claim, demand or cause of

176 action. The lien shall attach to any verdict or judgment
177 entered and to any money or property which may be recovered
178 on account of such claim, demand, cause of action or suit
179 from and after the time of the service of the notice.

180 9. On petition filed by the department, or by the
181 participant, or by the defendant, the court, on written
182 notice of all interested parties, may adjudicate the rights
183 of the parties and enforce the charge. The court may
184 approve the settlement of any claim, demand or cause of
185 action either before or after a verdict, and nothing in this
186 section shall be construed as requiring the actual trial or
187 final adjudication of any claim, demand or cause of action
188 upon which the department has charge. The court may
189 determine what portion of the recovery shall be paid to the
190 department against the recovery. In making this
191 determination the court shall conduct an evidentiary hearing
192 and shall consider competent evidence pertaining to the
193 following matters:

194 (1) The amount of the charge sought to be enforced
195 against the recovery when expressed as a percentage of the
196 gross amount of the recovery; the amount of the charge
197 sought to be enforced against the recovery when expressed as
198 a percentage of the amount obtained by subtracting from the
199 gross amount of the recovery the total attorney's fees and
200 other costs incurred by the participant incident to the
201 recovery; and whether the department should, as a matter of
202 fairness and equity, bear its proportionate share of the
203 fees and costs incurred to generate the recovery from which
204 the charge is sought to be satisfied;

205 (2) The amount, if any, of the attorney's fees and
206 other costs incurred by the participant incident to the
207 recovery and paid by the participant up to the time of

208 recovery, and the amount of such fees and costs remaining
209 unpaid at the time of recovery;

210 (3) The total hospital, doctor and other medical
211 expenses incurred for care and treatment of the injury to
212 the date of recovery therefor, the portion of such expenses
213 theretofore paid by the participant, by insurance provided
214 by the participant, and by the department, and the amount of
215 such previously incurred expenses which remain unpaid at the
216 time of recovery and by whom such incurred, unpaid expenses
217 are to be paid;

218 (4) Whether the recovery represents less than
219 substantially full recompense for the injury and the
220 hospital, doctor and other medical expenses incurred to the
221 date of recovery for the care and treatment of the injury,
222 so that reduction of the charge sought to be enforced
223 against the recovery would not likely result in a double
224 recovery or unjust enrichment to the participant;

225 (5) The age of the participant and of persons
226 dependent for support upon the participant, the nature and
227 permanency of the participant's injuries as they affect not
228 only the future employability and education of the
229 participant but also the reasonably necessary and
230 foreseeable future material, maintenance, medical
231 rehabilitative and training needs of the participant, the
232 cost of such reasonably necessary and foreseeable future
233 needs, and the resources available to meet such needs and
234 pay such costs;

235 (6) The realistic ability of the participant to repay
236 in whole or in part the charge sought to be enforced against
237 the recovery when judged in light of the factors enumerated
238 above.

239 10. The burden of producing evidence sufficient to
240 support the exercise by the court of its discretion to
241 reduce the amount of a proven charge sought to be enforced
242 against the recovery shall rest with the party seeking such
243 reduction. The computerized records of the MO HealthNet
244 division, certified by the director or his or her designee,
245 shall be prima facie evidence of proof of moneys expended
246 and the amount of the debt due the state.

247 11. The court may reduce and apportion the
248 department's or MO HealthNet division's lien proportionate
249 to the recovery of the claimant. The court may consider the
250 nature and extent of the injury, economic and noneconomic
251 loss, settlement offers, comparative negligence as it
252 applies to the case at hand, hospital costs, physician
253 costs, and all other appropriate costs. The department or
254 MO HealthNet division shall pay its pro rata share of the
255 attorney's fees based on the department's or MO HealthNet
256 division's lien as it compares to the total settlement
257 agreed upon. This section shall not affect the priority of
258 an attorney's lien under section 484.140. The charges of
259 the department or MO HealthNet division or contractor
260 described in this section, however, shall take priority over
261 all other liens and charges existing under the laws of the
262 state of Missouri with the exception of the attorney's lien
263 under such statute.

264 12. Whenever the department of social services or MO
265 HealthNet division has a statutory charge under this section
266 against a recovery for damages incurred by a participant
267 because of its advancement of any assistance, such charge
268 shall not be satisfied out of any recovery until the
269 attorney's claim for fees is satisfied, regardless of
270 whether an action based on participant's claim has been

271 filed in court. Nothing herein shall prohibit the director
272 from entering into a compromise agreement with any
273 participant, after consideration of the factors in
274 subsections 9 to 13 of this section.

275 13. [This section shall be inapplicable to any claim,
276 demand or cause of action arising under the workers'
277 compensation act, chapter 287. From funds recovered
278 pursuant to this section the federal government shall be
279 paid a portion thereof equal to the proportionate part
280 originally provided by the federal government to pay for MO
281 HealthNet benefits to the participant or minor involved.
282 The department or MO HealthNet division shall enforce TEFRA
283 liens, 42 U.S.C. Section 1396p, as authorized by federal law
284 and regulation on permanently institutionalized
285 individuals.] The department or MO HealthNet division shall
286 [have the right to enforce TEFRA liens, 42 U.S.C. Section
287 1396p, as authorized by federal law and regulation on all
288 other institutionalized individuals] **collect costs of**
289 **medical assistance paid for permanently institutionalized**
290 **individuals pursuant to and to the extent authorized under**
291 **section 473.402.** For the purposes of this subsection, **the**
292 **term "permanently institutionalized individuals"** includes
293 those people who the department or MO HealthNet division
294 determines, **in compliance with 42 U.S.C. Section**
295 **1396p(a)(1)(B)**, cannot reasonably be expected to be
296 discharged and return home[, and "property" includes the
297 homestead and all other personal and real property in which
298 the participant has sole legal interest or a legal interest
299 based upon co-ownership of the property which is the result
300 of a transfer of property for less than the fair market
301 value within thirty months prior to the participant's

302 entering the nursing facility. The following provisions
303 shall apply to such liens:

304 (1) The lien shall be for the debt due the state for
305 MO HealthNet benefits paid or to be paid on behalf of a
306 participant. The amount of the lien shall be for the full
307 amount due the state at the time the lien is enforced;

308 (2) The MO HealthNet division shall file for record,
309 with the recorder of deeds of the county in which any real
310 property of the participant is situated, a written notice of
311 the lien. The notice of lien shall contain the name of the
312 participant and a description of the real estate. The
313 recorder shall note the time of receiving such notice, and
314 shall record and index the notice of lien in the same manner
315 as deeds of real estate are required to be recorded and
316 indexed. The director or the director's designee may
317 release or discharge all or part of the lien and notice of
318 the release shall also be filed with the recorder. The
319 department of social services, MO HealthNet division, shall
320 provide payment to the recorder of deeds the fees set for
321 similar filings in connection with the filing of a lien and
322 any other necessary documents;

323 (3) No such lien may be imposed against the property
324 of any individual prior to the individual's death on account
325 of MO HealthNet benefits paid except:

326 (a) In the case of the real property of an individual:
327 a. Who is an inpatient in a nursing facility,
328 intermediate care facility for the intellectually disabled,
329 or other medical institution, if such individual is
330 required, as a condition of receiving services in such
331 institution, to spend for costs of medical care all but a
332 minimal amount of his or her income required for personal
333 needs; and

334 b. With respect to whom the director of the MO
335 HealthNet division or the director's designee determines,
336 after notice and opportunity for hearing, that he cannot
337 reasonably be expected to be discharged from the medical
338 institution and to return home. The hearing, if requested,
339 shall proceed under the provisions of chapter 536 before a
340 hearing officer designated by the director of the MO
341 HealthNet division; or

342 (b) Pursuant to the judgment of a court on account of
343 benefits incorrectly paid on behalf of such individual;

344 (4) No lien may be imposed under paragraph (b) of
345 subdivision (3) of this subsection on such individual's home
346 if one or more of the following persons is lawfully residing
347 in such home:

348 (a) The spouse of such individual;

349 (b) Such individual's child who is under twenty-one
350 years of age, or is blind or permanently and totally
351 disabled; or

352 (c) A sibling of such individual who has an equity
353 interest in such home and who was residing in such
354 individual's home for a period of at least one year
355 immediately before the date of the individual's admission to
356 the medical institution;

357 (5) Any lien imposed with respect to an individual
358 pursuant to subparagraph b. of paragraph (a) of subdivision
359 (3) of this subsection shall dissolve upon that individual's
360 discharge from the medical institution and return home].

361 14. The debt due the state provided by this section is
362 subordinate to the lien provided by section 484.130 or
363 section 484.140, relating to an attorney's lien and to the
364 participant's expenses of the claim against the third party.

365 15. Application for and acceptance of MO HealthNet
366 benefits under this chapter shall constitute an assignment
367 to the department of social services or MO HealthNet
368 division of any rights to support for the purpose of medical
369 care as determined by a court or administrative order and of
370 any other rights to payment for medical care.

371 16. All participants receiving benefits as defined in
372 this chapter shall cooperate with the state by reporting to
373 the family support division or the MO HealthNet division,
374 within thirty days, any occurrences where an injury to their
375 persons or to a member of a household who receives MO
376 HealthNet benefits is sustained, on such form or forms as
377 provided by the family support division or MO HealthNet
378 division.

379 17. If a person fails to comply with the provision of
380 any judicial or administrative decree or temporary order
381 requiring that person to maintain medical insurance on or be
382 responsible for medical expenses for a dependent child,
383 spouse, or ex-spouse, in addition to other remedies
384 available, that person shall be liable to the state for the
385 entire cost of the medical care provided pursuant to
386 eligibility under any public assistance program on behalf of
387 that dependent child, spouse, or ex-spouse during the period
388 for which the required medical care was provided. Where a
389 duty of support exists and no judicial or administrative
390 decree or temporary order for support has been entered, the
391 person owing the duty of support shall be liable to the
392 state for the entire cost of the medical care provided on
393 behalf of the dependent child or spouse to whom the duty of
394 support is owed.

395 18. The department director or the director's designee
396 may compromise, settle or waive any such claim in whole or

397 in part in the interest of the MO HealthNet program.
398 Notwithstanding any provision in this section to the
399 contrary, the department of social services, MO HealthNet
400 division is not required to seek reimbursement from a liable
401 third party on claims for which the amount it reasonably
402 expects to recover will be less than the cost of recovery or
403 for which recovery efforts will not be cost-effective. Cost-
404 effectiveness is determined based on the following:

- 405 (1) Actual and legal issues of liability as may exist
406 between the participant and the liable party;
407 (2) Total funds available for settlement; and
408 (3) An estimate of the cost to the division of
409 pursuing its claim.

473.398. 1. **This section shall apply to estates of
2 persons whose deaths occur on or after April 1, 1995, but
3 not on or after August 28, 2026.**

4 2. Upon the death of a person, who has been a
5 participant of aid, assistance, care, services, or who has
6 had moneys expended on his behalf by the department of
7 health and senior services, department of social services,
8 or the department of mental health, or by a county
9 commission, the total amount paid to the decedent or
10 expended upon his behalf after January 1, 1978, shall be a
11 debt due the state or county, as the case may be, from the
12 estate of the decedent. The debt shall be collected as
13 provided by the probate code of Missouri[,] in chapters 472,
14 473, 474, and 475.

15 [2.] 3. Procedures for the allowance of such claims
16 shall be in accordance with this chapter, and such claims
17 shall be allowed as a claim of either the sixth or eighth
18 class under subdivisions (6) and (8) of section 473.397.

19 [3.] 4. Such claim shall not be filed or allowed if it
20 is determined that:

21 (1) The cost of collection will exceed the amount of
22 the claim;

23 (2) The collection of the claim will adversely affect
24 the need of the surviving spouse or dependents of the
25 decedent to reasonable care and support from the estate.

26 [4.] 5. Claims consisting of moneys paid on the behalf
27 of a participant as defined in 42 U.S.C. Section 1396 shall
28 be allowed, except as provided in subsection [3] 4 of this
29 section, upon the showing by the claimant of proof of moneys
30 expended. Such proof may include but is not limited to
31 computerized records maintained by any governmental entity
32 as described in subsection [1] 2 of this section of a
33 request for payment for services rendered to the
34 participant, which shall be deemed to be competent and
35 substantial evidence of payment.

36 [5.] 6. The provisions of this section shall not apply
37 to any claims, adjustments, or recoveries specifically
38 prohibited by federal statutes or regulations duly
39 promulgated thereunder. Further, the federal government
40 shall receive from the amount recovered any portion to which
41 it is entitled.

42 [6.] 7. Before any probate estate may be closed under
43 this chapter, with respect to a decedent who, at the time of
44 death, was enrolled in MO HealthNet, the personal
45 representative of the estate shall file with the clerk of
46 the court exercising probate jurisdiction a release from the
47 MO HealthNet division evidencing payment of all MO HealthNet
48 benefits, premiums, or other such costs due from the estate
49 under law, unless waived by the MO HealthNet division.

473.399. 1. **This section shall apply to estates of persons whose deaths occur on or after April 1, 1995, but not on or after August 28, 2026.**

2. As used in this section, the following terms mean:

(1) "Assistance", funds expended by a state agency to or on behalf of a person in the form of aid, care, or services, except that for the purposes of this section, aid to families with dependent children shall not be considered assistance;

(2) "Obligor estate", the estate against which an obligation under this section arises;

(3) "Recipient", a person to whom or on whose behalf assistance is provided;

(4) "State agency", the department of social services, department of health and senior services and department of mental health of the state of Missouri.

[2.] 3. For the purposes of this section, the providing of assistance shall create an obligation which may be recovered by filing a claim in the probate division of the circuit court against the decedent estate of the spouse of the deceased recipient upon such spouse's death as provided by the probate code of Missouri[,] in chapters 472, 473, 474, and 475. The amount of the state debt shall be the full amount of assistance without interest provided to the recipient during the marriage of such recipient and spouse; provided that the liability of the obligor estate shall not exceed the value of the combined resources of the recipient and the spouse of the recipient on the date of death of the recipient.

[3.] 4. The state agency providing the assistance may initiate a claim on the debt against the obligor estate.

32 [4.] 5. The obligor estate may assert as a defense to
33 the state agency's claim that more than two years prior to
34 the providing of assistance, the recipient voluntarily
35 abandoned the spouse.

36 [5.] 6. An obligor estate shall have the right of
37 setoff against the state debt for any amounts recovered by
38 the state agency from the estate of the deceased recipient
39 pursuant to section 473.398.

40 [6.] 7. Claims shall not be filed under this section
41 when collection of the state debt would be contrary to
42 federal statutes for assistance programs in which federal
43 funds are received.

**473.402. 1. This section shall apply to estates of
2 persons whose deaths occur on or after August 28, 2026.**

3 2. As used in this section, the following terms mean:

**4 (1) "Assistance", medical assistance provided under MO
5 HealthNet;**

6 (2) "Department", the department of social services;

**7 (3) "Estate", the estate of the deceased recipient,
8 exclusive of any real or personal property transferred by a
9 nonprobate transfer in accordance with chapter 461;**

**10 (4) "Heir", a person who inherits or receives an
11 interest in the deceased recipient's estate;**

**12 (5) "Recipient", a person to whom or on whose behalf
13 assistance is provided.**

**14 3. There may be no adjustments or recovery of
15 assistance correctly paid except for recovery from the
16 estate of a recipient who was:**

**17 (1) Regardless of age, a resident in a nursing
18 facility or other medical institution within the meaning of
19 42 U.S.C. Section 1396p(a)(1)(B) when the recipient received
20 such assistance; provided, however, that recovery of such**

21 assistance shall be limited to assistance provided on or
22 after March 22, 1991; or

23 (2) Fifty-five years of age or older when the
24 recipient received such assistance, where such assistance
25 was for services provided on or after October 1, 1993, but
26 only for medical assistance consisting of nursing facility
27 services, home and community-based services, and related
28 hospital and prescription drug services for which estate
29 recovery is mandated in 42 U.S.C. Section 1396p(b)(1)(B)(i)
30 or other federal law.

31 4. Any recovery allowable under subsection 3 of this
32 section may be made only after the death of the surviving
33 spouse, if any, and only at a time when the recipient has no
34 surviving child who is:

35 (1) Under the age of twenty-one; or

36 (2) A person who is blind or a person with a
37 disability.

38 5. Upon the death of a recipient, recovery allowable
39 under subsection 3 of this section may be collected as
40 provided by the probate code of Missouri in chapters 472,
41 473, 474, and 475.

42 6. Recovery against a recipient's estate may be made
43 only when recovery would meet all of the following criteria:

44 (1) Recovery would not create an undue hardship. An
45 undue hardship includes the following circumstances:

46 (a) Heirs would be eligible for public or medical
47 assistance following the execution of the recovery claim;

48 (b) The Medicaid recipient received medical assistance
49 because the recipient was the victim of a crime, as defined
50 by Missouri law;

51 (c) Recovery is pursued against real property that
52 meets any one of the following criteria:

53 a. The property subject to recovery is the sole income-
54 producing asset of heirs or legatees, such as a family farm
55 or other family business, and recovery by the state would
56 affect the property and result in the heirs losing their
57 primary source of income;

58 b. The value of the property is less than fifty
59 percent of the average price of homes in the county where
60 the property is located or is less than two hundred thousand
61 dollars, which amount shall be annually adjusted on January
62 first of each year by the department for inflation based on
63 the cost of living adjustment, as provided and officially
64 recorded by the United States Social Security
65 Administration. The director of the department shall
66 furnish the value to the secretary of state for publication
67 in the Missouri Register on the first business day following
68 January first. The value of the real property is the value
69 assessed by the county in which the property is located,
70 minus any debt owed; or

71 c. An heir was using the property as a principal place
72 of residence on a continual basis for at least six months
73 prior to the recipient's death and meets all of the
74 following conditions:

75 (i) The heir continues to live in the property at the
76 time the notice of claim is filed; and

77 (ii) The heir is not being forced to sell the property
78 by other heirs and legatees by a partition action;

79 (d) Any heir, evaluated separately from other heirs,
80 has a family income below three hundred percent of the
81 United States Department of Health and Human Services
82 federal poverty level guidelines as published annually in
83 the Federal Register. As used in this paragraph, the phrase
84 "family income" means that each person will be considered

85 separately. Heirs will not be aggregated into one family
86 unless the heirs are minor children who are siblings. An
87 adult heir's family will be limited to the heir, the heir's
88 spouse, and the heir's biological or legally adopted minor
89 children and stepchildren residing in the household. A
90 minor heir's family will be the heir, their parent or
91 parents, or stepparent residing in the household, and the
92 heir's minor siblings residing in the household, including
93 half-siblings, stepsiblings, and legally adopted siblings; or

94 (e) Any other compelling circumstances exist that
95 would result in placing an unreasonable financial burden on
96 an heir;

97 (2) Recovery is cost effective. Collection of a claim
98 is cost effective only if the department determines, prior
99 to initiating a claim or lien, that the potential recovery
100 amount would be at least twice the administrative and legal
101 cost of pursuing the claim. In assessing the net value of
102 the estate, the department will account for allowances, all
103 encumbrances on property, and all other claims against the
104 estate having precedence under state statute. As used in
105 this subdivision, the phrase "administrative and legal
106 costs" includes the costs of:

107 (a) Advertising, filing, and exercising a lien;

108 (b) Legal representation of the state;

109 (c) Tracking property with potential for a lien and
110 then tracking its subsequent recovery;

111 (d) Repair of property to bring it into saleable
112 condition;

113 (e) Insurance to protect property;

114 (f) Advertising, listing, and selling property,
115 including all applicable closing fees; and

116 (g) Any other applicable administrative or legal costs.

117 In no event shall collection be considered cost effective if
118 the net value of the estate is at or below fifty thousand
119 dollars as of December 31, 2026, which amount shall be
120 annually adjusted by the department for inflation based on
121 the cost of living adjustment, as provided and officially
122 recorded by the United States Social Security Administration.

123 The department's accounting and all supporting documents
124 shall be filed by the department concurrently with any claim
125 for recovery of public assistance funds from the estate; and

126 (3) Recovery does not violate any of the limitations
127 set forth in 42 U.S.C. Section 1396.

128 7. The department shall make information about estate
129 recovery and hardship exemptions easily accessible. The
130 department shall maintain information about how to request a
131 hardship exemption on its website, including a short guide
132 and simple form to facilitate requesting hardship
133 exemptions. On an annual basis, the department shall
134 publicly report on the number of estate recovery cases that
135 are pursued and the number of undue hardship exemptions
136 granted, including demographic data and zip code of the
137 deceased beneficiaries if available.

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