



Protecting the people of Maine for over 100 years

MEDICAID ESTATE RECOVERY

Will the state take my house?

There is a lot of misinformation and confusion regarding the Maine Medicaid (MaineCare) long-term care benefit. One of the biggest fears we hear from aging Mainers is, "I don't want the State to take my house." That only happens in the context of a process called estate recovery and only after the death of a MaineCare recipient.



Our office often works with individuals who never relied on public benefits in their younger years. But when a health care crisis strikes and they need expensive long-term care, they are turning to MaineCare long-term care benefits which can pay for an individual's care in a nursing home, in a residential care/assisted living facility, and for some nursing services at home through the Home and Community Based Services waiver.

When applying for MaineCare long-term care benefits, the applicant's primary residence will be an excluded asset if:

- They are living in the home or intend to return home; and
- The equity in the home is less than or equal to \$750,000

The home will also be excluded if:

- The applicant's spouse resides in the home;
- A child under the age of 18 resides in the home; or
- A child who is blind or disabled resides in the home.

This means that an individual can keep their home and receive MaineCare benefits.

Although certain assets (like the home) may be exempt while the individual who is receiving MaineCare is living, the exempt assets will likely be exposed to Medicaid estate recovery after the MaineCare recipient dies. Pursuant to estate recovery law in Maine, the definition of "estate" is very broad. If the MaineCare recipient has a legal interest in the home at the time of death, then it may be an asset subject to creditor claims, including a claim by the State of Maine for reimbursement of MaineCare benefits.

There is no estate recovery against real estate that is owned jointly with another individual. There is also no estate recovery if there is a surviving spouse or child with a disability. Certain planning strategies may also be available prior to an application for MaineCare benefits in order to avoid MaineCare's claim for recovery against the home. These planning strategies should be discussed with an elder law attorney and should include a discussion of your overall financial circumstances and estate planning objectives.

Learn more online at www.rudmanwinchell.com