**Section 102.210 Estate Claims**

a) Definitions in this Section are as follows:

1) "Estate" – all real and personal property within an individual's estate as provided in the Probate Act of 1975 [ 755 ILCS 5]. For a decedent who received benefits under a qualified long term care insurance policy in connection with which assets were disregarded (see subsection (f), the term "estate" includes all real and personal property in which the individual had legal title or interest at the time of death (to the extent of that interest), including assets conveyed to a survivor, heir or assignee of the deceased person through joint tenancy, tenancy in common, survivorship, life estate, living trust or other arrangement.

2) "Beneficiary" – any person nominated in a will to receive an interest in property other than in a fiduciary capacity.

3) "Heir" – any person entitled under the statutes to an interest in property of a decedent.

b) The Department's claim against the estate of a deceased recipient or against the estate of the recipient's deceased spouse, regardless of the order of death, shall encompass:

1) All income maintenance assistance paid out at any time; and

2) All medical assistance paid out:

A) at any time for a permanently institutionalized recipient whose real property is subject to the Department's lien; or

B) except the costs of Community Care Program (CCP) services, prior to October 1, 1993, for a recipient 65 years of age or older; or

C) on or after October 1, 1993, for a recipient 55 years of age or older; or

D) for Medicare cost sharing expenses (Part A and B premiums, deductibles, coinsurance and copayments) made on behalf of persons described in 42 U.S.C. 1396a(a)(10)(E), when a request for payment of those expenses was received by the Department prior to January 1, 2010. Requests for payment of Medicare cost sharing expenses made after January 1, 2010 are exempt from estate recovery.

c) The claim shall apply to assistance provided to or on behalf of a recipient on or after the following dates:

|  |  |  |  |
| --- | --- | --- | --- |
| Assistance Program | | Effective Date | |
|  | |  | |
| 1) | AABD (Aged) | 1) | 1963 |
|  | (AABD(A)) |  |  |
|  |  |  |  |
| 2) | AABD (Blind) | 2) | November 1963 |
|  | and (Disabled) |  |  |
|  | (AABD(B) and (D)) |  |  |
|  |  |  |  |
| 3) | MANG (Aged), | 3) | January 1, 1966 |
|  | (Blind), and (Disabled) |  |  |
|  | (MANG(A),(B), and (D)) |  |  |

d) The Department shall not enforce a claim for medical assistance against any property, real or personal, of a deceased recipient while one or more of the following relatives survives: spouse of decedent, child under 21, or child over 21 who is blind or permanently and totally disabled.

e) The Department shall not enforce a claim for income maintenance assistance against homestead property of a deceased recipient while the homestead is occupied by one or more of the surviving relatives previously specified.

f) The Department shall not enforce a claim against the estate of a decedent to the extent assets were disregarded because the person was covered under a qualified long term care policy as provided under 89 Ill. Adm. Code 120.382(c).

g) To avoid undue hardship, the Department will waive its right to recover from a decedent's estate if pursuing recovery would cause an heir or beneficiary of the estate to become or remain eligible for a public benefit program, such as SSI, TANF or SNAP. The Department may limit the scope of its waiver to that portion of the estate that the heir or beneficiary would receive and pursue recovery against the balance of the estate, if any. The Department will not waive recovery despite undue hardship if payment of the claims of other estate creditors that are equal or inferior in priority to the Department's claim will exhaust the estate and defeat the purpose of the waiver. The Department will provide written notice to heirs and beneficiaries known to the Department of the opportunity, time frame and method to request a waiver of estate recovery based on undue hardship.

h) For decedents dying on or after July 1, 2022, to prevent substantial and unreasonable hardship, the Department shall:

1) Waive any claim against the first $25,000.00 of an estate; and

2) Consider the gross assets in the estate, including, but not limited to, the net value of real estate less mortgages or liens with priority over the Department's claims.

i) The Department may defer or waive enforcement of its claim for income maintenance assistance if it determines that:

1) The deceased recipient is survived by a dependent spouse and minor child or children; or

2) Rehabilitative training for employment or other means of self-support for the surviving spouse or children is feasible, and deferment or waiver will facilitate achievement of self-support status and prevent or reduce the likelihood of return to dependency on public assistance of the spouse or children.

(Source: Amended at 47 Ill. Reg. 18017, effective November 21, 2023)