

# IOWA MEDICAID ESTATE RECOVERY

BEN CHATMAN, DIRECTOR  
ESTATE RECOVERY PROGRAM  
Revenue Collections Unit  
Iowa Medicaid Enterprise  
P.O. BOX 36445  
Des Moines IA 50315  
[bchatma@dhs.state.ia.us](mailto:bchatma@dhs.state.ia.us)  
Phone: 515/725-1042  
Toll-free: 877/463-7887

Health Management Systems  
1011 Locust, Suite 200  
Des Moines IA 50309-2813  
[www.iowa-estates.com](http://www.iowa-estates.com)  
[estates@sumogroup.com](mailto:estates@sumogroup.com)  
[bchatman@sumogroup.com](mailto:bchatman@sumogroup.com)  
[bchatman@hmsy.com](mailto:bchatman@hmsy.com)  
Phone: 515/246-9841  
Fax: 515/246-0155  
Toll-free 888/513-5186

## Iowa Medicaid Estate Recovery

- I. History of the Estate Recovery Program in Iowa
- II. Estate Recovery – Iowa Code Section 249A.5(2)
  - A. When is there a debt? --249A.5(2)
  - B. When is the debt waived (deferred)?
    1. Waiver for spouse or child -- 249A.5(2)(a)(1)
    2. Waiver for undue hardship – 249A.5(2)(a)(2)
  - C. Assets -- 249A.5(2)(c) and 42 U.S.C. 1396p(b)(4)(B)
    1. Bank accounts – 633.356(8)(b)
    2. Excess burial funds -- 523A.303
    3. Real estate
      - a. Probate -- 633.410; 633.231; 633.304A; 635.4  
Estate of Scrimsher, 728 NW2d 852 (Iowa 2007)
      - b. Life estates – Estate of Laughead 696 NW2d 312 (Iowa 2005)
    4. Household goods and personal effects
    5. Jointly held property – Estate of Kirk 591 NW2d 630 (Iowa 1999)  
Estate of Serovy, 711 NW2d 290 (Iowa 2006)
    6. Litigation -- 633.336 and 147.136
    7. Annuities
    8. Trusts -- In re Barkema Trust, 690 N.W.2d 50 (Iowa 2004)
    9. Miller Trusts and Supplemental Needs Trusts – Chapter 633C
    10. Life Insurance -- 633.5
    11. Bankruptcy Issues – Post-petition debt
  - D. Expenses --633.425
    1. Court costs and administrative expenses
    2. Funeral and medical expenses
    3. Taxes
    4. Labor claims, Child Support, and other allowed claims
  - E. Other provisions
    1. Interest – 249A.5(2)(e)
    2. Reporting and referrals – 249A.5(2)(f)(1)
    3. Liability for personal representatives – 249A.5(2)(f)(2)
- III. Estate Recovery Procedure
  - A. Referral process
  - B. History process and Initial Contact to Representative
  - C. Deposit process and other matters

## **I. History**

Congress passed the first Estate Recovery law for Title XIX medical assistance in 1982. Many states, including Iowa, refused to implement estate recovery. However, the federal Budget Reconciliation Acts of 1993 and 1994 mandated that states recoup Medicaid payments from the estates of recipients. See 42 U.S.C. 1396p. States who failed to implement an estate recovery program would lose federal funds. Iowa amended Iowa Code Section 249A.5 to comply with the federal mandate effective July 1, 1994. The Iowa Department of Human Services has contracted with Health Management Systems, Inc. to administer the program, and Health Management Systems, Inc. has subcontracted with SUMO Group, Inc., an Iowa corporation, to run the Estate Recovery Program since 1995.

Prior to July 1, 1994, only medical assistance that was incorrectly paid was recoverable as a debt due the State, and it was classified as a claim with taxes. See Section 249A.5(1). The legislature retained the language of this section, but also added the words, "except as provided in subsection 2". Estate Recovery was then established by statute in Section 249A.5(2), with the medical assistance debts being due to the Iowa Department of Human Services.

## **II. Estate Recovery -- Iowa Code Section 249A.5(2)**

### A. When is there a debt?

A debt is due for medical assistance upon the recipient's death 1) when the recipient was age 55 or older; or 2) when the recipient was under 55 and a

resident of a nursing facility, intermediate care facility for persons with mental retardation, or mental health institute, who cannot reasonably be expected to be discharged and returned to the individual's home. Title XIX medical assistance is often known as Medicaid, and includes several programs such as Medically Needy, and Elderly Waiver programs. Any funds expended on behalf of the recipient are treated very similarly to a loan or a line of credit that must be repaid at the time of death from any assets the recipient had at that time.

Title XIX medical assistance, or Medicaid, is often confused with Medicare, which is similar to an insurance program for the elderly. Unlike Medicare, Medicaid is only for indigent individuals who qualify for medical assistance by having less than the required amounts of assets. Medicaid recipients must make proper application with the Iowa Department of Human Services to be approved for assistance.

#### B. When is the debt waived?

If there is a surviving spouse, minor child, or child who was blind or disabled at the time of the recipient's death, the debt is waived, but only until the death of the surviving spouse, or the blind or disabled child, or until the minor child reaches the age of 21. The debt is only waived to the extent the collection of the debt would result in a reduction of the amount received by the spouse or child. The debt is not waived with regard to any assets received by other parties.

This is the most common waiver, which is in effect a deferral of the debt, and is found in Sections 249A.5(2)(a)(1) and (b)(1). When the debt is rekindled

upon the death of the spouse or disabled child or the minor child reaching the age of 21, it is only collectible to the extent that the spouse or child received assets from the deceased medical assistance recipient. The recovery from a minor child after reaching 21 is found in 249A.5(2)(b)(2).

Often, questions are raised as to whether the "lien" of the waived debt will affect the transfer of real estate. Other states have allowed liens to be placed on real estate, but Iowa has not adopted this approach. Ordinarily, there is no real estate lien for a medical assistance debt, as Iowa law does not authorize the Department to place liens on real estate by this statute. The real estate may be sold during this period when the collection of the debt is waived, and in fact, real estate is often sold to pay for the care of the spouse or disabled child. There is no estate recovery during the lifetime of the surviving spouse or disabled child.

The second type of waiver which is for undue hardship is found in Section 249A.5(2)(a)(2). To be eligible for a hardship waiver, the income level of the heir or beneficiary must be less than 200% of the poverty level, he or she must have less than \$10,000 in resources, not including the house; and the application of estate recovery would deprive the person of food, shelter, clothing, or medical care such that life or health would be endangered. The most frequent application of this section is when the sale of a house of a deceased medical assistance recipient will deny a son or daughter a place to live. The undue hardship waiver is only applicable if the waiver for a spouse or child does not apply. The debt returns at the

time of the waiver recipient's death, just as in the waiver for a spouse or disabled child, or when the hardship no longer exists.

### C. Assets

Assets of the estate for purposes of estate recovery are defined as "any real property, personal property, or other asset in which the recipient, spouse or child had any legal title or interest at the time of the recipient's, spouse's, or child's death." See Section 249A.5(2)(c), which was adopted in Iowa to implement 42 U.S.C. 1396p(b)(4)(B). The reference to the assets of the spouse or child pertains to those debts that have returned after a waiver. Medical assistance recipients must have less than a certain amount of assets to be eligible for assistance. These assets are then determined to be exempt for eligibility purposes, but at death these exemptions are no longer available. The most common types of assets are the funds in bank accounts, excess burial trust funds, and real estate. The Estate Recovery Program must analyze the assets of the decedent as if a snapshot was taken of net worth at the time of death. If there is no real estate, there is usually no probate estate opened.

1. *Bank Accounts* – Most medical assistance recipients are allowed to have a bank account of no more than \$2,000, and this is often the only remaining asset of the recipient, after a burial fund is used to pay for funeral and burial expenses. The remaining amounts in the bank account are then often paid to the Department of Human Services through the Estate Recovery Program by a joint account holder whose name is on the account for convenience; by an affidavit pursuant to Section

633.356(8)(b); or through a probate of the estate along with other assets. A bank account with a pay-on-death clause may transfer to another person as a joint bank account does, but the funds remain subject to the medical assistance debt as these funds were an asset of the recipient at the time of death in accordance with Section 249A.5(2)(c).

Occasionally, memorial money will be placed in a bank account. Heirs of a decedent may receive money as a memorial to pay for the funeral, luncheon expenses, or other items in memoriam of the decedent. Since these funds are neither an asset of the decedent at the time of death, nor is there any obligation to pay these funds, the estate does not have an interest in these funds at the time of death. Memorial money is not recoverable by the Estate Recovery Program. The family may pay expenses out of the decedent's bank account until no further funds remain for the Estate Recovery Program, and then use memorial money if necessary. The family may keep memorial money, as it is not a recoverable asset.

2. *Excess burial funds* -- Often a recipient will have a non-guaranteed irrevocable burial trust fund at the time of death. Pursuant to Iowa Code Section 523A.303 the "Seller," which is generally the funeral home, must provide notice to the Director of the Department of Human Services if funds remain in the trust account after payment of reasonable funeral expenses. Since the Department automatically forwards these notices to the Estate Recovery Program, it is preferable to forward these notices directly to the Estate Recovery Program. If a

probate estate is not opened, the seller must remit the excess funds to the Estate Recovery Program up to the amount of the claim of medical assistance.

The seller may retain up to \$50.00 for administering these funds, and should forward the funds to the Estate Recovery Program after receiving confirmation that a debt is due. This confirmation must be made within 60 days of the notice to the Estate Recovery Program, or the seller may disburse the funds to the next of kin. Section 523A.303 protects the seller from liability if the funds are disbursed to the next of kin pursuant to this Section. However, the funds are still an asset of the estate and may be recovered from next of kin pursuant to Section 249A.5(2).

### 3. *Real estate*

a. All assets of the estate of a medical assistance recipient are subject to probate in accordance with Iowa Code Section 249A.5(2)(d), but the amount of remaining assets often do not justify opening an estate. A probate estate is generally opened to transfer real estate when the deceased medical assistance recipient has title to, or an interest in, real estate at the time of death, and there are no other surviving owners. As stated above, Iowa law does not authorize placing liens on real estate for the recovery of medical assistance debts.

The attorney probating the estate "shall" send a Notice of Probate to the Estate Recovery Program on the forms as prescribed in Iowa Code 633.231 and 633.304A. Iowa Code 633.410 provides that the medical assistance debt may only be barred after the *later to occur* of four months after the date of second publication of the notice *and* six months mailed notice to the Estate Recovery

Program, if a claim has not been filed and the proper notice was given. See Estate of Scrimsher, 728 N.W. 2d 852 (Iowa Ct. App. 2007), where the Court held that the statute requires notice both by publication and by service of notice by ordinary mail before a claim can be barred as untimely.

Claims are generally filed as soon as practicable after a probate notice is received. However, since medical providers often submit claims after death to be paid by Title XIX, the final amount of the claim must be obtained after at least four months after the date of death, if there are sufficient assets to pay the debt. (Medical providers actually have up to twelve months after death to file claims with Medicaid, which has another month to pay those claims, so the actual final debt amount is not known until thirteen months after death, but in consideration of winding up probate estates without delay, the Department will consider the debt as "final" as of the last report run at least four months after death). If a notice of disallowance is filed, a hearing will be requested on the claim if assets remain to pay the claim. A disallowance is unnecessary if there are no assets.

b. One real estate issue that arises often is the recovery of a life estate interest. A life estate interest owned by a person at the time of death is recoverable pursuant to both Iowa Code 249A.5(2)(c) and 42 U.S.C. Section 1396p(4)(B). Congress intended the definition of "estate" to be broader under 42 U.S.C. Section 1396p than common law definitions and therefore non-probate transfers of assets on death are subject to estate recovery.

Iowa Code 249A.5(2)(c) was amended on April 5, 2002, to include “retained life estates” as a specific type of asset that is recoverable, and a definition is provided for retained life estates in Iowa Code 249A.2(11) that includes property that was previously owned by a spouse of the recipient. If the life estate interest is not “retained” as defined in Iowa Code 249A.2(11), then there is no recovery from that interest.

In Estate of Laughead, 696 N.W.2d 312 (Iowa 2005), the Court held that a life estate may be included in the probate estate of a deceased medical assistance recipient, and that the estate is therefore liable for the payment of the medical assistance debt from the value of the life estate. The Court also found that “the phrase ‘at the time of death’ means the time immediately before the Medicaid recipient’s death”.

The Department of Human Services allows the Estate Recovery Program to use the Iowa Department of Revenue life estate remainder table for deaths after April 5, 2002, and this table was revised effective July 1, 2004, but the DHS uses the federal life estate remainder tables for eligibility considerations. All three tables can be found on the Estate Recovery website: [www.iowa-estates.com](http://www.iowa-estates.com).

Often, if there is a “retained life estate” owned by the recipient at the time of death, the real estate must be sold or the remaindermen must pay the value of the life estate before they can obtain clear title to the property. Also, depending on the date and circumstances surrounding the transfer, the entire value of the real estate

may be recoverable if the transfer was within five years prior to the application for medical assistance. See Section 249F.2(2).

If the recipient owns the real estate at the time of death, but the will grants the spouse a life estate with a remainder interest to the children, the entire value of the property is a recoverable asset. The life estate portion is waived from the collection of the medical assistance pursuant to Section 249A.5(2)(a)(1) for the lifetime of the spouse. The remainder interest is recoverable from the estate of the recipient at the time of the recipient's death. The property may be sold and apportioned according to the table, or the remainder interest may be assigned to the Department of Human Services to the extent of the debt and the spouse may reside in the premises.

4. *Household goods and personal effects* – All personal property is recoverable pursuant to Section 249A.5(2)(c). However, the value of the remaining items often does not justify the costs of the sale of this property. While the value of these items is recoverable, the personal representative is responsible to value these items just as if an estate was opened and there was no medical assistance debt.

5. *Jointly held property* – Iowa Code 249A.5(2)(c) specifically includes jointly held property as an asset of an estate for the purposes of the recovery of the medical assistance debt. In Estate of Serovy 711 N.W. 2<sup>nd</sup> 290 (Iowa 2006), the Court held that a deceased recipient's one-third jointly held interest in a home was subject to probate and could be sold to pay the medical assistance debt. The Court

required a partition action or a buyout figure to settle the claim, rather than selling the entire house within the estate proceedings.

In Estate of Kirk, 591 N.W. 2<sup>nd</sup> 630 (Iowa 1999), the Court held that as to the jointly held property in the case, the executor could not disclaim the recipient's proportional interest in the joint tenancy property, which must become part of the decedent's estate. The only interest available for the recipient to disclaim was the accretive interest that would have passed to her upon the predeceased spouse's death. The Court held that a disclaimer only applies to property that passes upon death to the disclaimant, not to property owned by the disclaimant prior to the death. This is consistent with Section 249A.5(2)(c), which includes interests in jointly held property as an asset of the decedent.

The court further held in Kirk that the Iowa Code disclaimer provisions found in Iowa Code 633.704 (now found in Chapter 633E) can be used to frustrate the collection of Medicaid claims, since a disclaimer is merely viewed as a refusal to accept property from another. The Kirk case and disclaimers do not apply to eligibility issues as the Iowa Code was amended subsequent to Kirk, which limited the case's potential applicability. See Iowa Code 633E.15 and 249A.3(11)(c).

6. *Litigation* – Most litigation regarding Medicaid recipient's claims against third parties falls within the provisions of Section 249A.6 for living recipients, and not Section 249A.5(2). The proceeds of any settlement or judgment are distributed pursuant to Section 249A.6(4) and not in accordance with normal subrogation rules. The term "subrogation" was deleted from this Code section apparently in response

to Hill v. State, Department of Human Services, 493 N.W. 2<sup>nd</sup> 803 (Iowa 1992), and replaced with the word "lien."

If, however, the Medicaid recipient dies, the estate recovery provisions of Iowa Code 249A.5(2) and 633.425(7) will apply if the estate of the recipient has an interest in recovering in the litigation. The deceased recipient's interest in the litigation then becomes an asset of the estate and must be distributed in accordance with Iowa Code 633.425, as any other asset.

If the wrongful death statute as found in Iowa Code 633.336 is applicable and there is a surviving spouse, child, or parent, the recoverable medical assistance from the litigation is reduced to the amount of medical assistance provided between the time of the injury and the time of death. However, if there is no surviving spouse, parent, or child, the assets are distributed as personal property of the estate. See Iowa Code Section 633.336.

When a decedent has a pending action for personal injuries pursuant to Iowa Code 147.136, more than one Iowa District Court has held that the Medicaid debt does not replace or indemnify the loss, because it is, in substance, a loan to be repaid from the assets of the decedent to the extent such assets exist. Iowa Code 147.136 therefore does not restrict the collection of damages paid by medical assistance.

7. *Annuities* – An annuity is not life insurance but is rather an investment to create income by payments over fixed intervals of time. Although there may be a

“beneficiary” designation, the “beneficiary” is not entitled to the funds as in an insurance policy.

The funds in an annuity are subject to the medical assistance debt just as a bank account or other investment. A pay-on-death clause does not alter the status of these funds since an investment is an asset of the recipient at the time of death pursuant to Section 249A.5(2)(c). An annuity may be assigned to the Iowa Department of Human Services and received by the Estate Recovery Program or a commuted value may be used for reimbursement of medical assistance.

8. *Trusts* – Interests in trusts are specifically included as an asset for Estate Recovery in Iowa Code 249A.5(2)(c). Generally, a pure discretionary trust in which the recipient has no interest at the time of death will not be subject to Estate Recovery. Also, a trust that provides for only the net income to be paid to the recipient will only be recoverable to the extent of the net income to which the recipient was entitled.

However, a trust that provides for the support of a recipient, also known as a support trust, will be subject to Estate Recovery. In certain trusts, there is an element of discretion drafted into the terms of the support trust. In *In re Barkema Trust*, 690 N.W. 2d 50 (Iowa 2004), the Court held that if the recipient had an interest in a trust, pursuant to Iowa Code 249A.5(2)(c), then there will be recovery from the trust to the extent of the recipient’s interest in the trust.

9. *Miller Trusts and Special Needs Trusts* – A Miller Trust takes its name from the federal case of *Miller v. Ibarra*, 746 F. Supp. 19 (Co. 1990). The holding has

since been codified in 42 U.S.C. 1396p(d)(4)(B). A Miller Trust is also known as a Medical Assistance Income Trust, and both Miller Trusts and Special Needs Trusts are referenced in Iowa Code Chapter 633C. The Estate Recovery Program is under contract with the Department of Human Services, to recover these types of assets after death, even though the debt may not fall within the definition of estate recovery pursuant to Iowa Code 249A.5(2). The primary difference between the assets from a Miller Trust or Special Needs Trust and other assets is that the residual beneficiary of the trust is the Department of Human Services. Consequently, these funds are not subject to any waivers or higher priority debts and are payable in accordance with the terms of the trust and not in accordance with the estate recovery statute.

10. *Life insurance* – Life insurance policies are typically not property of the estate of a decedent pursuant to Iowa Code Section 633.5. Life insurance benefits are payable to the named beneficiary and are neither property of the estate nor recoverable in most circumstances. However, the funds are recoverable if the beneficiary is the estate of the recipient; if there are no surviving beneficiaries; or if the policy is assigned or made payable to a funeral home pursuant to Iowa Code 523A.303; or if it was not reported to the Department when obtaining eligibility, and the insurance policy would have made the person ineligible.

11. *Bankruptcy Issues* – Occasionally, the executor, heirs, or beneficiaries of a deceased medical assistance recipient will claim that the filing of a bankruptcy petition will cut off the claims of a decedent prior to the time the bankruptcy was

filed. Bankruptcy courts have held that since the medical assistance debt does not come due until the death of the decedent, the debt is necessarily a post-petition debt, so the bankruptcy filing does not discharge a medical assistance debt.

#### D. Expenses

Regardless of whether a probate estate is opened, the Estate Recovery Program must use Iowa Code Section 633.425 to determine the distribution of the assets, as this section is incorporated by reference at Iowa Code Section 249A.5(2)(f)(2). In Vandewalker v. Lau, 581 N.W. 2d 644, (Iowa 1998), the Iowa Supreme Court held that the property of an estate must be distributed in accordance with the requirements of this statute.

Court costs and costs of administration fees have top priority, see 633.425(1) and 633.425(2). Costs of administration include attorney's fees and executor's fees, as found in Iowa Code 633.197 et.seq. and may also include the expenses for preparing real estate or other property for sale.

Funeral and burial expenses are next at 633.425(3) and typically include all services provided by the funeral home and the costs of burial as long as the costs are reasonable. Higher priority expenses may include a luncheon; phone calls or postage for notification of death; honorariums for the priest or pastor, organist, or other music; and a headstone or engraving on a headstone. Travel expenses and meals for family members are not allowed as a higher priority expense, nor are donations to charities.

Reasonable and necessary medical and hospital expenses of the last illness are at 633.425(5). Although only expenses of the last illness are allowed by statute, the Estate Recovery Program does not dispute whether medical expenses are of the last illness, or not. For example, nursing home expenses generally take priority over the medical assistance claim. However, care giving by relatives is not a medical or hospital expense as stated in the statute and should not be paid before the medical assistance debt. In accordance with Vandewalker, if the claim does not have a higher priority status, it can not be paid before the medical assistance debt.

Federal taxes are at 633.425(4) and state taxes are at 633.425(6). Property taxes are also paid ahead of the medical assistance debt generally as a cost of administration of selling real estate pursuant to 633.425(2). Also, if an annuity is paid to a beneficiary, the taxes on the proceeds may be paid prior to remitting the balance in repayment of the medical assistance debt.

The medical assistance debt is at 633.425(7), ahead of labor claims at 633.425(8), child support at 633.425(9) and other allowed claims at 633.425(10).

#### E. Other Provisions

*Interest* -- Interest on a medical assistance debt accrues from six months after the date of death at the same rate as interest on judgments pursuant to Section 249A.5(2)(e), which incorporates by reference Section 535.3. This rate is variable based upon the State Court Administrator's rates, and calculated similarly to judgments in personal injury cases, see Section 668.3. The rate used is two points over the rate in effect six months after the date of death.

*Reporting and referrals* – The personal representative and the care facility in which the resident resided are responsible for reporting the death to the Department of Human Services within ten days of the date of death in accordance with Section 249A.5(2)(f)(1). The names are then forwarded to the Central Offices of the Department monthly, which generates lists used by the Estate Recovery Program. Notification to the personal representatives may be six to eight weeks under this process. Referrals from attorneys, family members, funeral homes, and other entities are encouraged to expedite this process.

*Liability* – In accordance with Section 249A.5(2)(f)(2), if a distribution is made from the estate of the decedent, whether that estate is probated or not, prior to the payment of obligations pursuant to Section 633.425, the personal representative or executor may be held personally liable. Liability is for the amount of medical assistance paid on behalf of the recipient to the full value of any property belonging to the estate that was under the control of the personal representative or executor. “Executor” is defined as in Section 633.3 and “personal representative” is defined as a person who filed a medical assistance application on behalf of the recipient or who manages the financial affairs of the recipient. See Section 249A.5(2)(f)(3).

### **III. Estate Recovery Procedure**

#### **A. Referral process**

There are approximately 750 Title XIX recipients or former recipients that die every month in Iowa. Many of the referrals of these deceased persons are received

by letter, fax, phone, or email. Some are received through the estate recovery website at [www.iowa-estates.com](http://www.iowa-estates.com). A list of deceased recipients is also received monthly from the Iowa Department of Human Services after the deaths are reported to the Central Office from the county offices. Lists are also received from state and national vital statistics records and matched against Medicaid eligibility files.

When writing or calling, the Estate Recovery Program should be advised of the name of the decedent, the date of death, the date of birth, and the social security number. If available, information regarding the spouse must be provided to verify whether there is any debt for a predeceased spouse, or if there is a surviving spouse, who ordinarily receives a waiver.

Often discovering the name of the person who will be winding up the affairs of the recipient is more difficult than identifying a deceased recipient. Sometimes, this information can only be found in the will. The computer generated lists from the Department and from Vital Statistics do not always have the proper person. Consequently, letters are occasionally sent to nursing homes, disinterested heirs, or payees that have no further responsibilities in the matter. Direct referrals from attorneys or personal representatives can be very helpful to prevent delays in recovery. When inherited funds are spent and then must be repaid, the heirs often become upset that they received the funds in the first place. So, notifying the Estate Recovery Program of the death will move the process along more efficiently.

## B. History process and Initial Contact to Representative

When a name, birth date, date of death, and social security number are referred to the estate recovery office, the balance due for medical assistance is obtained. Due to the volume of cases, requests for a history report are made once per week. The history report generally shows a complete list of all medical assistance that was provided to the recipient since July 1, 1994. Medical assistance was not recoverable prior to July 1, 1994, so there should be no items on the report prior to this date. If the recipient turned 55 years of age after July 1, 1994, and they were not in a long- term care facility, the report should start at the 55<sup>th</sup> birthday. If the recipient entered a facility without the expectation of returning home and was under 55, the report should show medical assistance provided from that date forward. Upon receipt of the report, a copy will be sent to the attorney, if an attorney is known, along with a cover letter explaining the Estate Recovery process, and a response form. Letters to the personal representatives generally do not contain the history report, but are provided upon request. If a Probate Notice is received, which is now required in all probate estates pursuant to 633.231, 633.304A, and 635.4, a claim will be filed rather than sending a letter and a form.

Medical assistance providers may submit claims up to one year after the provision of medical assistance. Payment to the providers may be made within 30 days after submission of the claim. Full medical assistance history reports and the final amounts due therefore may not be available for thirteen months after the date of death. However, since there is a strong desire by families, funeral homes,

attorneys, and others to wind up the affairs of a decedent, an initial history report is sent typically within a few weeks of the referral. If assets exceed the amount of the claim, a final amount is provided when the assets are ready to be distributed provided this is at least four months after death.

C. Deposit Process and other matters

After the initial letter, cases are reviewed periodically and follow-up efforts are made, if the Estate Recovery office receives no response. Checks should be made payable to Iowa Department of Human Services. Checks are deposited in an Iowa bank account upon receipt and proof that there is a claim due for the recipient. All payments are acknowledged with a letter. All of the deposited funds are placed in an account of the Iowa Medicaid Enterprise for payment of future medical assistance.

If a waiver is granted, the files are placed in a separate location until the death of the surviving spouse, disabled or blind child, or hardship waiver recipient. Information regarding the assets received by a waiver recipient may limit the collectibility when it becomes recoverable, so it is important to provide that information at the time of the waiver. The debt is only collectible to the extent of the assets received by the waiver recipient. See Section 249A.5(2)(b)

The Estate Recovery Program also engages in public awareness programs by distributing brochures, speaking to organizations regarding the program, placing notices in the Iowa Lawyer, and through a web site. Questions or comments are always welcome regarding the administration of the program.