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# PROTECT THE HOMES OF SENIORS AND DISABLED PEOPLE ON MASSHEALTH

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H1246/S749 Representative Barber and Senator Comerford

## INTENT OF THE BILL:

This bill makes changes to the parts of the statute that establish estate recovery rules for MassHealth, to make the statute more equitable for low-income enrollees and families.

## Estate Recovery Background

Medicaid is the only public benefit program that requires correctly paid benefits to be recouped from a deceased MassHealth enrollee's family member, called estate recovery.

Estate recovery for nursing home costs is federally mandated, but Massachusetts law requires estate recovery for the costs of all medical services after a MassHealth enrollee turns age 55, which is not mandated.

Medicaid estate recovery is triggered by turning age 55. Most MassHealth members have income well under 100% of the poverty level (\$12,888 in 2021) and those 65 and over have countable assets of \$2000 or less (\$3000/couple). Yet it is these low-income individuals for whom affordable health insurance is just a loan repayable by their families.

## Problem

In determining eligibility, MassHealth does not count the family home. But, when a MassHealth recipient passes away, the agency aggressively seeks repayment of all the medical expenses paid for that individual. In many cases, repayment must come from sale of the family home.

Because MassHealth is not required to inform applicants or members about estate recovery upon enrollment, many individuals and families are unaware of the burden they will bear upon the death of their family member to pay back the cost of medical care, possibly well over \$100k.

Estate recovery has contributed to perpetuating poverty, especially in communities of color and people with disabilities, by forcing families to relinquish a home that can be instrumental in addressing intergenerational poverty and wealth inequality.

## What the bill does

- Establishes that MassHealth can recover only for medical assistance which is federally mandated.
- Limits recovery for capitated payments to managed care entities to the actual cost of services received.
- Requires notice to MassHealth applicants and enrollees that explains estate recovery.
- Establishes criteria for when MassHealth will grant undue hardship waivers from estate recovery.
- Expands the obligation of MassHealth to provide information regarding limitations on estate recovery.
- Exempts CommonHealth, a MassHealth work incentive program for disabled adults, from MassHealth estate recovery.

**This legislation is supported by MassNAELA, Mass Law Reform Institute and Disability Policy Consortium**  
**For more information, contact Nomita Ganguly MassNAELA (781-354-2444),**  
**Vicky Pulos MLRI (617-357-0700 Ext 318) or Charlie Carr DPC (978-361-6682)**