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# PROTECT THE HOMES OF SENIORS AND DISABLED PEOPLE ON MASSHEALTH

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Ask your legislators to support [H1168/S726](#) (Rep. Barber & Sen. 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 "probate estate", this is 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 (\$14,580 in 2023) 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 after death.

## Problem

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.

In May 2021, MassHealth made some improvements to this harsh policy. It will no longer file claims against some small estates (without a house), and more surviving family members may be able to qualify for hardship waivers. It also began mailing notices informing its members about estate recovery. People receiving these notices are worried and confused: What does a "probate estate" mean? Should I drop my benefits rather than risk leaving my family unprotected after I'm gone? No one should face choices like these. Estate recovery is unfair. It 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. Fear of estate recovery may lead people age 55 or older to drop their benefits and undo the Commonwealth's success covering the uninsured.

## What the bill does

- Limits MassHealth to only federally mandated recovery for nursing home care & home-and-community-based-services & some related services—not all services received after age 55.
- Limits recovery for managed care premiums to the lesser of the premium or the actual cost of services.
- Establishes broader criteria and a fairer process for when MassHealth will grant undue hardship waivers from estate recovery.
- Waives estate recovery for CommonHealth, a MassHealth work incentive program for disabled adults.

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