



**Commonwealth of Massachusetts**  
**Executive Office of Health and Human Services**  
**Office of Medicaid**  
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MassHealth  
Eligibility Letter 124  
July 1, 2004

**TO:** MassHealth Staff  
**FROM:** Beth Waldman, Medicaid Director *BW*  
**RE:** Changes to the Estate Recovery Program

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The effective date of the state law that had expanded the definition of “estate” for purposes of the MassHealth Estate Recovery Program to include a person’s interest immediately prior to death in assets that pass outside of the probate estate has changed. This expansion of the MassHealth Estate Recovery Program was to apply to persons who died on or after July 1, 2003. Because of recent action by the Massachusetts legislature, it will now apply only to persons who die on or after July 1, 2004.

These regulations are issued as emergency regulations, effective July 1, 2004.

#### MANUAL UPKEEP

<u>Insert</u>	<u>Remove</u>	<u>Trans. By</u>
501.010	501.010	E.L. 113
515.011 (1 of 2)	515.011 (1 of 2)	E.L. 113

**Trans. by E.L. 124****MASSHEALTH  
GENERAL POLICIES****Chapter 501  
Page 501.010**

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**Rev. 07/01/04**501.010: Responsibilities of Applicants and Members

(A) Responsibility to Cooperate. The applicant or member must cooperate with MassHealth in providing information necessary to establish and maintain eligibility, and must comply with all the rules and regulations of MassHealth, including recovery and obtaining or maintaining available health insurance.

(B) Responsibility to Report Changes. The applicant or member must report to MassHealth, within 10 days or as soon as possible, changes that may affect eligibility. Such changes include, but are not limited to, income, the availability of health insurance, and third-party liability.

(C) Cooperation with Quality Control. The Quality Control Division will periodically conduct an independent review of eligibility factors in a sampling of case files. When a case file is selected for review, the member must cooperate with the representative of Quality Control. Cooperation includes, but is not limited to, a personal interview and the furnishing of requested information. If the member does not cooperate, MassHealth benefits may be terminated for the family group.

501.011: Referrals to Investigative Units

Intentional false statements or fraudulent acts made in connection with obtaining medical benefits or payments under MassHealth are punishable under M.G.L. c. 118E, § 39 by fines, imprisonment, or both. In all cases of suspected fraud, MassHealth staff will make a referral to the Bureau of Special Investigations, or other appropriate agencies.

501.012: Recovery of Overpayment of Medical Benefits

MassHealth has the right to recover payment for medical benefits to which the member was not entitled, regardless of who was responsible and whether or not there was fraudulent intent. No provision under 130 CMR 501.012 will limit MassHealth's right to recover overpayments.

501.013: Estate Recovery

(A) Introduction.

(1) MassHealth will recover the amount of payment for medical benefits correctly paid from the estate of a deceased member. Recovery is limited to payment for all services provided while the member was aged 55 or older.

(2) The estate includes all real and personal property and other assets in the member's probate estate and, for persons who die on or after July 1, 2004, any other real and personal property and other assets in which the member, immediately prior to death, had any legal title or interest, to the extent of such interest.

(B) Deferral of Estate Recovery. Recovery will not be required until after the death of a surviving spouse, if any, or while there is a surviving child who is under 21 years of age, or a child of any age who is blind or permanently and totally disabled.

Trans. by E.L. 124

MASSHEALTH  
GENERAL POLICIES

Rev. 07/01/04

Chapter 515  
(1 of 2) Page 515.011

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515.011: Estate Recovery

(A) Introduction.

(1) MassHealth will recover the amount of payment for medical benefits correctly paid from the estate of a deceased member. Recovery is limited to payment for all services that were provided:

(a) while the member was 65 or older; except, on or after October 1, 1993, while the member was aged 55 or older; or

(b) on or after March 22, 1991, while the member, regardless of age, was institutionalized, and MassHealth determined that the member could not reasonably be expected to return home.

(2) The estate includes all real and personal property and other assets in the member's probate estate and, for persons who die on or after July 1, 2004, any other real and personal property and other assets in which the member, immediately prior to death, had any legal title or interest, to the extent of such interest.

(B) Exception. No recovery for nursing facility or other long-term-care services may be made from the estate of any person who:

(1) was institutionalized;

(2) notified MassHealth that he or she had no intent of returning home; and

(3) on the date of admission to the long-term-care institution, had long-term-care insurance that met the requirements of 130 CMR 515.014 and the Division of Insurance regulations at 211 CMR 65.09(1)(e)(2).

(C) Deferral of Estate Recovery. Recovery will not be required until after the death of a surviving spouse, if any, or while there is a surviving child who is under 21 years of age, or a child of any age who is blind or permanently and totally disabled.

(D) Waiver of Estate Recovery Due to Hardship.

(1) For claims presented on or after November 15, 2003, recovery will be waived if:

(a) a sale of real property would be required to satisfy a claim against the member's probate estate; and

(b) an individual who was using the property as a principal place of residence on the date of the member's death meets all of the following conditions:

(i) the individual lived in the property on a continual basis for at least one year immediately before the now-deceased member became eligible for MassHealth or other assistance and continues to live in the property at the time MassHealth first presented its claim for recovery against the deceased member's estate;