

Are there any exceptions to estate recovery?

TennCare will not recover from an estate when recovery would create an undue hardship. An undue hardship may exist when:

1. The property is the sole income-producing asset of the heirs, like a family farm;
2. A sibling was living in the patient's home at least 1 year before the patient went to the nursing home, provided care to the patient for at least a year, and has continued to live in the home since the patient went to the nursing home;
3. An adult child lived in the patient's home for at least 2 years before the patient went to the nursing home, provided care to the patient for at least 2 years, and has continued to live in the home since the patient went to the nursing home.

For #2 and #3 above, the undue hardship no longer exists when the sibling or adult child of the patient no longer lives in the home. After they move out, TennCare can start estate recovery. You can ask for an undue hardship exception by filling out a Request for Release form and sending it to TennCare. If TennCare finds an undue hardship it will send a release to the probate court.



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Estate Recovery

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WTLS EEOC Officer
210 W. Main Street
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What is estate recovery?

Tennessee's Medicaid program, called TennCare, helps pay for nursing home or in-home nursing care. If a patient is medically and financially eligible for TennCare, the State helps pay for the care the patient can't afford.

TennCare uses estate recovery after the death of anyone who is age 55 or older and for whom TennCare paid for nursing home or in-home nursing care.

TennCare does not put a lien against the patient's real estate. TennCare does not collect while the patient is alive. Estate recovery only happens after the patient's death.

After the patient dies, TennCare uses estate recovery to get back some of the money it spent for the care. If the patient has a surviving spouse, a child under 21 years old, or a blind or disabled adult child, then TennCare must wait until the death of those family members too. You can ask for this delay by filling out a Request for Release form and sending it to TennCare.

How does estate recovery work?

TennCare can only recover money from property that is in a probate court. Since TennCare patients do not have much money, there may not be any property left when the patient dies.

Sometimes a TennCare patient has a home, bank account, business, or other property that is only in the patient's name. After the patient dies, an estate may need to be filed so the court can decide who owns this property.

If the patient owed debts at their death (including TennCare), the property may need to be sold to pay the debts. Creditors, including TennCare, file a claim against the estate for any debts the patient owed. Before property can pass to heirs, estate debts must be paid. If there is no property or money, then there is no estate that can pay TennCare. TennCare does not get paid back when there is no estate.

Is an estate filed every time someone dies?

No, an estate is not always filed when someone dies. Sometimes, property changes owners automatically. For example, a bank account with a "payable on death" provision does not go through an estate. It automatically passes to the named person when the patient dies. Sometimes, a home is owned jointly with "right of survivorship." This property passes automatically to the joint owner at the patient's death. Even if the patient's family does not file an estate, TennCare can file an estate for the deceased patient. TennCare may do this if the patient owned a home when they died.



What happens if TennCare files a claim that is wrong?

Once TennCare files its claim, the executor, or person in charge of the estate, can file an exception to the claim. An exception is an argument that the claim is wrong or asks for too much money. The judge decides whether the claim must be paid. TennCare can only get back what it spent. If the estate has more money than TennCare spent, then the rest of the money goes to the heirs.

How do I find out if the estate owes money to TennCare?

The probate court cannot close the estate until your lawyer or executor gets a release from TennCare. A release says the estate does not owe TennCare any money.

To find out if the estate owes money to TennCare, send a Request for Release form to TennCare. You can get the form on the TennCare's website. You can also get the form by mailing a letter to Division of TennCare, RFR Processing Unit, 310 Great Circle Road, 3rd Floor, Nashville, TN 37243 or faxing a letter to (615) 413-1941.

If the estate does not owe TennCare money, TennCare will send the release. If the estate owes money to TennCare, TennCare will send a statement of the debt. If a debt is owed, TennCare will file a claim against the estate. The estate must pay TennCare before TennCare will provide a release.