

10-144 Chapter 101
MAINECARE BENEFITS MANUAL
CHAPTER VII

SECTION 5

ESTATE RECOVERY

Established: 9/18/95

Last Updated: 11/30/20

5.08 WAIVERS (cont.)

1. The applicant requesting the care given exemption provided health maintenance activities or personal care services as defined herein to the decedent during part or all of the two (2) years immediately prior to the Member's death or institutionalization, enabling the decedent to remain at home and avoid institutionalization for an equivalent period of time. The person requesting the exemption must provide corroborating statements from the decedent's primary care physician or other approved medical care provider acceptable to MaineCare.
2. Any care given exemption granted will not exceed the value of MaineCare benefits paid on the behalf of the Member, which would otherwise be subject to Estate Recovery. Following the approval of the undue hardship waiver based on a care given exemption, the Department will use one of the following formulas to determine the exempt amount:
 - a. If the decedent received 24 hour a day care including health maintenance and personal care activities defined in Sections 5.02-6 and 5.02-12, that enabled the decedent to remain at home and avoid placement in institutionalized care as described in Section 5.02-8, and MaineCare was not paying for in home services at the time, the Department may grant an exemption not to exceed thirty-two thousand dollars (\$32,000) per year, prorated for each month of approved care given*; or
 - b. If the decedent received care including personal care services and/or health maintenance activities less than those services he or she would have received in institutionalized care as described in Section 5.02-8, the Department may grant an exemption not to exceed twelve thousand dollars (\$12,000) per year, pro-rated for each month of approved care given; or
 - c. If the decedent received approved care for three (3) or more health maintenance or personal care activities defined in Section 5.02 everyday, the maximum exemption of twelve thousand dollars (\$12,000) per year may be granted; or
 - d. If the decedent received approved care for three (3) or more health maintenance or personal care activities defined in Section 5.02 at least three (3) times per week, a maximum exemption of six thousand dollars (\$6,000) per year may be granted.

These allowances are in place to assist the Member in maintaining independent living at home and reduce overutilization of institutional services. In circumstances where an applicant may qualify for more than one level of care, the highest amount for one application will be granted.*