

10-144 Chapter 101
MAINECARE BENEFITS MANUAL
CHAPTER VII

SECTION 5

ESTATE RECOVERY

Established: 9/18/95

Last Updated: 11/30/20

5.01 STATUTORY AUTHORITY

The following statutory authorities govern the definitions and rules defined under this Section of the *MaineCare Benefits Manual*:

22 M.R.S. §§ 14 (2-I), 42, 3173

22 M.R.S. § 3174-GG

42 U.S.C. § 1396a (a) (18)

42 U.S.C. § 1396p (b)

CMS, Medicaid State Plan Amendment (Maine), TN-06-006 (approved Feb. 15, 2007)

5.02 DEFINITIONS

5.02-1 **Assets** means property, real or personal, tangible or intangible, or any interest therein, and anything that may be the subject of ownership. It includes assets conveyed to a survivor, heir or assignee of the deceased Member through a tenancy in common, survivorship, life estate, living trust, joint tenancy in personal property or other similar arrangement.

5.02-2 **Department** is the Department of Health and Human Services.

5.02-3 **Dependent** is:

A. A surviving spouse; or

B. A surviving child who is under age twenty-one (21); or

C. A surviving adult child who is blind or permanently and totally disabled.

5.02-4 **Disability** exists when an individual has been determined to be disabled using the Supplemental Security Income standards by the Social Security Administration or has been determined to be disabled pursuant to the Maine State Retirement System.

5.02-5 **Estate** includes:

A. All real and personal property and other assets included in the Member's estate, as defined in 18-C M.R.S. § 1-201; and

B. Any other real and personal property and other assets in which the Member has any legal interest at the time of death, to the extent of that interest, including assets conveyed to a survivor, heir or assign of the deceased through tenancy in common, survivorship, life estate, living trust, joint tenancy in personal property or other arrangement, but not including joint tenancy in real property.