

10-144 Chapter 101
MAINECARE BENEFITS MANUAL
CHAPTER VII

SECTION 5

ESTATE RECOVERY

Established: 9/18/95
Last Updated: 11/30/20

5.03 **ELIGIBILITY** (cont.)

- A. The Member owned undisclosed property or other assets during the period when MaineCare benefits were paid for the Member and disclosure of the property or assets at the time benefits were being paid would have rendered the Member ineligible to receive the benefits; or
- B. The Member was fifty-five (55) years of age or older when the Member received MaineCare benefits; or
- C. The Member received or was entitled to receive benefits for nursing facility services, long-term care services, or other institutional care services under a long-term-care insurance policy and MaineCare paid for those services on behalf of the Member. This paragraph shall not apply in the case of an individual who was entitled to receive benefits under an insurance policy meeting the requirement of the Long-term Care Insurance Partnership Program described in Section 5.02-10 to the extent that payments are made under that policy.

The Department's claim is limited to the amount paid by MaineCare on behalf of the Member.

5.04 **RECOVERY PROCEDURE**

Assets subject to recovery pursuant to this section will be identified primarily through the MaineCare eligibility process. This method is not intended to be exclusive and assets may be identified through any legal means.

5.04-1 Processing Claims against Assets

When it is determined that a MaineCare Member's estate is subject to recovery, the Department may file:

- A. A claim in Probate Court against all assets included in the deceased Member's estate. The process for filing such a claim is governed by existing provisions of the Probate Code regarding creditors' claims. See 18-C M.R.S. Article 3, Part 8.
- B. A claim in any court of competent jurisdiction against real and personal property and other assets in which the Member had any legal interest at death to the extent of that interest.
- C. A claim in any court of competent jurisdiction or any other legal means to recover the cost of medical services provided during a period of inaccurate eligibility. A notice of intent to recover shall be provided prior to filing suit.