

10-144 Chapter 101
MAINECARE BENEFITS MANUAL
CHAPTER VII

SECTION 5

ESTATE RECOVERY

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

5.05 NOTICE

- A. Reasonable efforts to give notice of Estate Recovery requirements to Members will be made at the time of application for MaineCare.
- B. Reasonable efforts to give notice will be provided pursuant to the relevant provisions of the Probate Code or to the legally authorized representative of the Member's estate when recovery is being sought. If there is no legally authorized representative, the State shall make reasonable efforts to notify known family Members or heirs. If no one comes forward on the Member's behalf to settle the estate, the State may seek appointment as personal representative as a creditor pursuant to the Probate Code. Notice shall include the action the State intends to take, the basis for the action, the amount sought to be recovered and a copy of these rules.
- C. Lack of notice pursuant to this section does not bar application of Estate Recovery.

5.06 TIME OF CLAIM

A claim will not be enforced until the deceased Member has no surviving dependent.

5.07 GENERAL REQUIREMENTS FOR ALL WAIVERS

A claim under 5.03(B) may be waived if enforcement of the claim would cause an undue hardship for the person, providing that the person holds a beneficial interest in the Member's estate, as defined in this Section, and properly requests a hardship waiver. An applicant may request an undue hardship waiver because the applicant is reliant upon the assets of the estate or an undue hardship waiver based upon care given to the Member. The specific requirements for each type of waiver are set forth below. To qualify for a waiver, a person who is not a son or daughter of the deceased member must also be an adult, aged eighteen (18) or over. If a determination is made that an undue hardship exists, the Department may waive all or a portion of its claim.

Only one (1) waiver, undue hardship, or undue hardship based on care given will be granted per estate.

- A. **Application process:** A person applying to the Department for consideration of a undue hardship waiver ("the applicant") must comply with the following:
 - 1. An applicant must file an application on a form prescribed by the Department; and
 - 2. The request for an undue hardship waiver must be made within six (6) months from the Member's death or within sixty (60) days from the notice of the Department's claim, whichever is later; and