

BOLHOUSE, BAAR & LEFERE, P.C.
ATTORNEYS AT LAW

NEW LAW IN TOWN

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July 2011

There's a new law in town. Effective July 1, 2011, Michigan will implement its Estate Recovery Act, a law required by the federal government since 1993, and passed in Michigan in 2007, but never implemented until now.

Estate recovery simply means that a state can seek to recover payments made on behalf of an individual receiving Medicaid from that individual's property after he or she dies.

Federal law requires certain provisions to be included in all estate recovery legislation. First, estate recovery must be pursued against Medicaid recipients who permanently reside in a long-term care facility, those over 55 who receive certain Medicaid benefits, and those who receive Medicare as well as Medicaid. Second, estate recovery must be pursued against a Medicaid recipient's probate estate. Third, estate recovery usually occurs upon the death of the Medicaid recipient but must be delayed if there is a surviving spouse, disabled child or child under 21 years old. Finally, estate recovery legislation must include a hardship waiver provision.

At this time, Michigan's estate recovery legislation only applies to a Medicaid recipient's probate estate. Consequently, estate recovery can be avoided by planning to insure nothing will be included in a Medicaid recipient's probate estate upon death. There are several Medicaid planning tools that can be used to accomplish this.

If you or a loved one are receiving Medicaid benefits but also have an interest in your home, have a vehicle or other assets that would be included in your probate estate, contact us to see if we cannot preserve these remaining assets for your family.