

### **111-3-8-.05 Recovery of Assistance; Probate.**

(1) After receipt of notice of the death of an affected Member, the Department will file a claim against the estate for the full value of the Medicaid benefits paid on behalf of the Member.

(2) No action to recover a debt due by the deceased Member shall be commenced against the personal representative until the expiration of six (6) months from the date of qualification of the first personal representative to serve.

(3) Notwithstanding any other law, a claim filed for recovery of Medicaid assistance has priority in order of payment from the estate over all other claims, except the following:

(a) Years support for the family;

(b) Funeral expenses in an amount not to exceed five thousand dollars (\$5,000). However, this amount is zero (0) if the deceased Member has prepaid funeral expenses that were excluded as a resource for Medicaid eligibility;

(c) Necessary expenses of administration;

(d) Reasonable expenses of the deceased Member's last illness;

(e) Unpaid taxes or other debts due the state or the United States. The category of Medicaid Estate Recovery is a debt due the state.

(4) The affidavit of a person designated by the Commissioner to administer this action is prima facie evidence of the amount of the claim.

(5) Notwithstanding any statute of limitations or other claim presentation deadline provided by law, a state claim against an estate is not barred for lack of timely presentation if it is presented in the probate proceeding within the time specified in the published notice to creditors.

(6) The personal representative must notify the Department of the Member's death before dispersing assets of the Member. The personal representative is personally liable for any incorrectly paid assets if the Department is not informed of the Member's death and assets are distributed to Heirs and/or creditors.

Authority O.C.G.A. Secs. 49-4-147.1, 53-7-42. **History.** Original Rule entitled "Recovery of Assistance; Probate" adopted. F. July 16, 2004; eff. Aug. 5, 2004. **Amended:** F. Oct. 19, 2006; eff. Nov. 8, 2006.