

WAC 182-527-2742 Estate recovery—Service-related limitations.

For the purposes of this section, the term "agency" includes the agency's designee.

The agency's payment for the following services is subject to recovery:

- (1) State-only funded services, except:
 - (a) Adult protective services;
 - (b) Offender reentry community safety program services;
 - (c) Supplemental security payments (SSP) authorized by the developmental disabilities administration (DDA); and
 - (d) Volunteer chore services.
- (2) For dates of service on and after January 1, 2014:
 - (a) Basic plus waiver services;
 - (b) Community first choice (CFC) services;
 - (c) Community option program entry system (COPES) services;
 - (d) Community protection waiver services;
 - (e) Core waiver services;
 - (f) Hospice services;
 - (g) Intermediate care facility for individuals with intellectual disabilities services provided in either a private community setting or in a rural health clinic;
 - (h) Individual and family services;
 - (i) Medicaid personal care services;
 - (j) New Freedom consumer directed services;
 - (k) Nursing facility services;
 - (l) Personal care services funded under Title XIX or XXI;
 - (m) Private duty nursing administered by the aging and long-term support administration (AL TSA) or the DDA;
 - (n) Residential habilitation center services;
 - (o) Residential support waiver services;
 - (p) Roads to community living demonstration project services;
 - (q) The portion of the managed care premium used to pay for ALT-SA-authorized long-term care services under the program of all-inclusive care for the elderly (PACE); and
 - (r) The hospital and prescription drug services provided to a client while the client was receiving services listed in this subsection.
- (3) For dates of service beginning January 1, 2010, through December 31, 2013:
 - (a) Medicaid services;
 - (b) Premium payments to managed care organizations (MCOs); and
 - (c) The client's proportional share of the state's monthly contribution to the Centers for Medicare and Medicaid Services to defray the costs for outpatient prescription drug coverage provided to a person who is eligible for medicare Part D and medicaid.
- (4) For dates of service beginning June 1, 2004, through December 31, 2009:
 - (a) Medicaid services;
 - (b) Medicare premiums for people also receiving medicaid;
 - (c) Medicare savings programs (MSPs) services for people also receiving medicaid; and
 - (d) Premium payments to MCOs.
- (5) For dates of service beginning July 1, 1995, through May 31, 2004:
 - (a) Adult day health services;
 - (b) Home and community-based services;

- (c) Medicaid personal care services;
 - (d) Nursing facility services;
 - (e) Private duty nursing services; and
 - (f) The hospital and prescription drug services provided to a client while the client was receiving services listed in this subsection.
- (6) For dates of service beginning July 1, 1994, through June 30, 1995:
- (a) Home and community-based services;
 - (b) Nursing facility services; and
 - (c) The hospital and prescription drug services provided to a client while the client was receiving services listed in this subsection.
- (7) For dates of service beginning July 26, 1987, through June 30, 1994: Medicaid services.
- (8) For dates of service through December 31, 2009. If a client was eligible for the MSP, but not otherwise medicaid eligible, the client's estate is liable only for any sum paid to cover medicare premiums and cost-sharing benefits.
- (9) For dates of service beginning January 1, 2010. If a client was eligible for medicaid and the MSP, the client's estate is not liable for any sum paid to cover medical assistance cost-sharing benefits.
- (10) For dates of service beginning July 1, 2017, long-term services and supports authorized under the medicaid transformation project are exempt from estate recovery. Exempted services include those provided under:
- (a) Medicaid alternative care under WAC 182-513-1600;
 - (b) Tailored supports for older adults under WAC 182-513-1610;
 - (c) Supportive housing under WAC 388-106-1700 through 388-106-1765; or
 - (d) Supported employment under WAC 388-106-1800 through 388-106-1865.

[Statutory Authority: RCW 41.05.021, 41.05.160, 2016 1st sp.s. c 36 § 213 (1)(e), section 1115 of the Social Security Act, and 42 C.F.R. §§ 431.400 through 431.428. WSR 17-12-019, § 182-527-2742, filed 5/30/17, effective 7/1/17. Statutory Authority: RCW 41.05.021, 41.05.160. WSR 16-05-054, § 182-527-2742, filed 2/12/16, effective 3/14/16. Statutory Authority: RCW 41.05.021, 41.05.160 and Public Law 111-148, Patient Protection and Affordable Care Act. WSR 14-20-091, § 182-527-2742, filed 9/29/14, effective 10/30/14. Statutory Authority: RCW 41.05.021. WSR 13-19-038, § 182-527-2742, filed 9/11/13, effective 10/12/13. WSR 12-19-070, recodified as § 182-527-2742, filed 9/17/12, effective 10/1/12. Statutory Authority: RCW 74.08.090 and 2008 Medicare Improvements for Patient and Providers Act (which amended Section 1917 (b)(1)(B)(ii) of the Social Security Act); Deficit Reduction Act of 2005 (incorporating language regarding LTC partnership agreements). WSR 10-08-110, § 388-527-2742, filed 4/7/10, effective 5/8/10. Statutory Authority: 2005 c 292, RCW 43.20B.080, 74.39A.170, 42 U.S.C. Section 1396p. WSR 06-17-075, § 388-527-2742, filed 8/14/06, effective 9/14/06. Statutory Authority: RCW 43.17.240, 43.20B.80 [43.20B.080], 74.08.090, 74.34.090, Section 1917(b) of the Social Security Act and 2001 2nd sp.s. c 7, Part II. WSR 04-10-060, § 388-527-2742, filed 4/30/04, effective 6/1/04. Statutory Authority: RCW 43.20B.080, 74.08.090 and 74.34.010. WSR 99-11-076, § 388-527-2742, filed 5/18/99, effective 6/18/99. Statutory Authority: RCW 74.08.090 and 1995 1st

sp.s. c 18. WSR 95-19-001 (Order 3893), § 388-527-2742, filed 9/6/95,
effective 10/7/95.]