

Medicaid Estate Recovery
ASSET FORM for NON-PROBATED ESTATES
INSTRUCTIONS

Before completing or submitting the "**ASSET FORM for NON-PROBATED ESTATES**," please take whatever time, within reason, is necessary to grieve and finalize all issues regarding the decedent's matters. This includes sufficient time to liquidate assets, receive/resolve outstanding bills and refunds of the decedent as well as settle other matters that affect the financial status of the decedent's estate. Also remember that DHHS is a creditor of the estate (probated or non-probated) and like most creditors, is subject to the claims payment order prescribed at Neb. Rev. Stat. §30-2487 prior to the distribution of assets even though prescribed in the decedent's will or their last wishes. To that end, please know that **you will be notified in writing** when DHHS has completed its review of the Asset Form and apprise you of the amount to be recovered by DHHS, if any.

DECEDENT'S INFORMATION

Decedent's Personal Information: Self-explanatory

Marital Status (at death)/Spouse's Personal Information: Federal and State laws require that DHHS recover the decedent's debt only after the death of the recipient's spouse, if any. DHHS may make recovery attempts for the total amount paid for medical assistance on behalf of both recipients/decedents but only after both spouses have passed away.

INDIVIDUAL COMPLETING ASSET FORM

Demographic Information: Self-explanatory.

Relationship to Decedent: Enter the individual completing the Asset Form's family relationship to the decedent, if any.

Role in Proceeding: Note your role in the proceeding but know that Power of Attorney (P.O.A.) ends with the subject's death.

PENDING ACTION or LITIGATION

1. **...third party lawsuits or settlements...?:** This is in reference to any actions involving third party liability (Insurance companies; Medicare; Medicaid; Veteran's Admin.; et cetera) as well as any other court proceeding that may be applicable.
2. **...petition to probate...?:** DHHS does not make this determination. "To Probate" is the decision of the family, their legal counsel and others in accordance with Nebraska's Probate Code (Neb. Rev. Stat. Chapter 30 et al).

FAMILY/HEIRS

3. **Is the decedent survived by a child...under the age of 21?** If yes, send a copy of the child's birth certificate (copy only).
4. **Is the decedent survived by a child who is blind...as defined by SSI criteria?** If yes, please send a copy of the child's birth certificate (copy only) and documentation (copies only) verifying that a child (regardless of age) of the decedent is blind.
5. **Is the decedent survived by a child who is disabled as defined by SSI criteria?** If yes, please send a copy of the child's birth certificate (copy only) and documentation (copies only) verifying that a child (regardless of age) of the decedent is totally and permanently disabled as defined by Supplement Security Income [SSI] criteria.

NOTE: Federal and State laws preclude DHHS from recovering the decedent's debt when any condition 3-5 exists.

6. **Is the decedent survived by a legal spouse?** Self-explanatory

STOP: If any situation described in questions 2-6 applies (Yes), follow instructions on page 1 and DO NOT proceed to PAGE 2.

ASSETS

A1a & A1b. Enter the balance in the account at the time the decedent passed away. Activity outstanding at that time as well as any subsequent activity will be accounted for below. **Please submit a copy of ALL pages of bank statement(s) that include(s) the date of death (copies only). Include copies of pages with check copies.** Subsequent statements are also welcome.

Note: Disregarding \$4,000 for Medicaid eligibility determination only applies during the life of the recipient. Upon death, funds not used by the recipient are assets of the estate (probated or non-probated) and subject to Medicaid Estate Recovery.

See Jointly-owned property (**A5**) for comments regarding accounts with multiple names/owners.

A1c. Enter the amount of "Cash" in the possession of the decedent that belongs to him/her at the time of his/her passing.

A1d. Enter the amount remaining in the decedent's Nursing Home Resident Trust Account.

A1e. Enter funds not otherwise listed such as refunds or payments received after passing. Do not include memorials received.

A2. Enter the current value of Certificates of Deposit (CD's), Stocks and/or Bonds owned by the decedent when they passed.

A3. Enter the amount owed to the decedent from any Land contract, Loan, Promissory Note or other receivable.

A4. Enter the value of Licensed Vehicles and Trailers considered "Personal Property" and should or do have a Certificate of Title.

A5. Please note the decedent's percentage share as well as the monetary value of that share. It is the determination of DHHS that funds maintained in a "Joint" banking account are solely those of the decedent if additional named parties do not contribute to the deposits of the account. In effect, funds belong to the decedent if the "co-owner" does not "commingle" his/her everyday funds with those of the recipient/decedent for daily activity but instead is a named owner/signee solely for the convenience of performing activities on behalf of the recipient/decedent in order to settle and handle the recipient's financial matters.

A6. Enter the current value of any "Real Property" owned by the decedent at the time of their passing. Medicaid eligibility regulations prohibit the transfer or gifting of property that deprives the recipient of funds/assets that could otherwise have been used to satisfy their obligation for medical related procedures and products. Include "Mobile" or "Trailer" homes here if they are considered "Real Property" as opposed to Licensed Trailers considered "Personal Property" (See **A4**).

ASSETS (cont.)

- A7a-c.** Enter the value of the asset(s) regardless of the named beneficiary and the beneficiary's name(s) or relationship to the decedent. Depending on the named beneficiary, effective date of the transaction, date of the decedent's passing and the nature of the asset, these assets may be recoverable pursuant to current legislation.
- A8.** Enter the value of any Significant Collectable/Antique owned by the decedent. If these items are sold, enter the net amount realized from the sale/auction, et cetera.
- A9.** At the time of the decedent's death, this is considered an asset of the estate. Therefore, enter the value at the time of the funeral service of any pre-paid funeral/burial plan or policy. This should be the total received by the funeral home including returned/unused funds. Any unused returned funds should also be noted on the line labelled "Refund from prepaid funeral/burial..."
- A10.** Enter the value of all assets remaining in Trusts and submit a copy of each trust's accounting documentation. Recent legislation repealed additional notification and waivers for revocable trusts that become irrevocable upon the trustor's death.
- A11.** Enter the current value of any other asset owned by the decedent at the time of their passing or obtained after death.

LIABILITIES

- L1.** Enter costs and expenses related to the settling of the estate incurred after the recipient's passing such as legal and personal representative fees. Expenditures outstanding (not having cleared the bank) at the time of death as well as utilities and costs for "upkeep" and improvements in preparation of the sale of certain assets of the decedent should be included here.
- L2.** All reasonable costs related to the cremation, funeral and/or burial services including what's covered by any prepaid plan. Additional costs such as amounts paid to/for the Clergy, organists, vocalists, luncheon, food-servers for the luncheon and service/luncheon facility rentals may also be included regardless of who paid for them. **Please submit a copy of the mortuary/funeral home statement prepared after the decedent's death** - not the pre-paid plan at the time the plan was drafted/paid.
- L3.** Include any Federal debts and taxes owed by the decedent at the time of their passing or subsequently incurred. Debts and taxes owed to other jurisdictions (i.e. State gov'ts) have a lower priority as prescribed by Neb. Rev. Stat. §30-2487(5).
- L4.** Include medical, hospital, nursing home and pharmacy expenses and attendant care costs related to last illness that are to be paid by the recipient/decedent (out of pocket costs). Do not include payments made by Medicare, Medicaid, Veterans' Administration (VA), health insurance carrier or any other liable third party.

ADDITIONAL NOTES

The intent of Medicaid Estate Recovery is to determine what amount, if any, is available for recovery of medical payments made by the Nebraska Medicaid program on behalf of the recipient/decedent. As Nebraska's State Medicaid Agency, DHHS is obligated to determine what of the decedent's assets/funds are available, if any and make attempts to recover those amounts pursuant to Neb. Rev. Stat. §68-919, et al. Those attempts are only made in certain circumstances when all creditors with priority have been satisfied and only from those assets belonging to the decedent and/or his/her estate - not from assets of family members or others. DHHS will review submitted information and send notification of the amount deemed recoverable, regardless of the amount deemed available for recovery (\$0 - Total amount of medical assistance provided). Regardless of the outcome, written notification will be sent to the individual completing the "ASSET FORM for NON-PROBATED ESTATES."

ESTATE: DHHS recognizes that an "Estate" usually refers to a legal "Probated" process administered through the legal system. "Estate" herein refers to the "whole of one's possessions." Recent legislation has expanded Nebraska's definition of "Estate" for purposes of Estate Recovery. Probate procedures are governed by Nebraska's Probate Code (Neb. Rev. Stat. Chapter 30, et al). If the estate is probated, only complete the first page. However, notification is required pursuant to Neb. Rev. Stat. §30-2483.

\$\$VALUE\$\$: DHHS also recognizes that the value of any asset is that which someone will pay for it. It is acceptable to postpone completion of the form until assets are liquidated at which time the net proceeds should be entered on the form.

TOTALS: Enter totals from the \$\$VALUE\$\$ column for ASSETS and LIABILITIES, respectively. Then subtract the Total Liabilities from the Total Assets and denote "+" or "-" to indicate the availability of funds for Medicaid Estate Recovery.

ATTACHMENTS: There is no room for detail on the "Asset Form..." Therefore, if multiple amounts make up an item(s) on the form, attach another sheet with column(s) that include amounts and identifying notation. Then enter the column total(s) in the appropriate/corresponding item(s) on page 2 of the Asset Form. **Include documentation/explanation of all entries on the form.**

SUPPORTING DOCUMENTATION: At a minimum, please send a copy of the bank statement that includes the decedent's date of death and the Funeral Statement/Invoice that documents the services provided and their costs as well as those funds received by the mortuary/funeral home. Any additional documentation that supports and/or further explains requested information is welcome. However, other than the completed and signed Asset Form, **DO NOT SEND ORIGINALS**. Please send **COPIES ONLY**. Retain a copy or original of all information submitted including the completed Asset Form for your records.

SUBMIT: Please submit the completed form and all attachments to:

DHHS - Estate Recovery
P.O. Box 95026
Lincoln, NE 68509-5026

Inquire at: Nebraska Medicaid Estate Recovery:

(402) 471-1614; OR

FILLABLE FORM: <http://dhhs.ne.gov/Pages/Medicaid-Estate-Recovery.aspx>

dhhs.medicaidestaterecovery@nebraska.gov