

# MESSAGE FROM THE STATE ATTORNEY

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## What Is A MERP Claim, What It Covers, Any Exemptions?



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**H**ard to believe summer is almost over! August is my favorite time of the year. Not for the weather but for FOOTBALL! Gig'em Aggies!

**Question: In prior articles, you have mentioned MERP claims. Please explain what a MERP claim is and what it covers and if there are any exemptions.**

To help pay for these long-term care services, every state must have a Medicaid Estate

Recovery Program (MERP). If you received Medicaid long-term services and supports, the state of Texas has the right to ask for money back from your estate after you die by making a MERP claim against your estate. Sometimes, the state may not ask for anything back, and the state will never ask for more money back than it paid for your services. The program is administered by Texas Health and Human Services (HHS).

The Medicaid recipient's estate, as it relates to a MERP claim, is the real and personal property of a deceased recipient that is subject to probate. Real property may include a home and other real estate. Personal property may include a car, cash and other personal property. A probate estate does not include assets that pass directly to a beneficiary outside of the probate process. Some typical examples of assets that are not usually subject to probate include: insurance policy proceeds;

retirement accounts, such as IRAs; pension plans; accounts at financial institutions, such as banks or credit unions, that are paid on death or accounts or joint accounts with right of survivorship; mutual funds; or deferred compensation plans. (Please note – a recipient's estate typically will only contain their home and maybe a small financial account since most all other assets would have been liquidated prior to applying for Medicaid. A recipient's residence is not counted as a resource for Medicaid eligibility purposes.)

There are several exemptions to a MERP claim. Those exemptions would include: a surviving spouse or child under age 21 or child of any age that is blind or permanently and totally disabled; an unmarried adult child living full-time in the recipient's home for at least one year before death. Other exemptions apply, if the value of your estate is \$10,000 or less, the amount of your Medicaid costs

was \$3,000 or less, or the cost of selling your property is more than the property is worth.

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*State Attorney's note: The information in this column is not intended as legal advice but to provide a general understanding of the law. Readers with legal problems, including those whose questions are addressed here, should consult attorneys for advice on their particular circumstances.*

*Submit your questions for this column via email to [phundl@wphk-law.com](mailto:phundl@wphk-law.com) or via U.S. Mail to Wadler, Perches, Hundl & Kerlick, Philip J. Hundl, KJT State Attorney c/o KJT Legal Column, 101 W. Burlison Street, Wharton, Texas 77488 or at [www.wphk-law.com](http://www.wphk-law.com).*