MEDICAID ESTATE RECOVERY COLLECTIONS

This policy brief is one of six commissioned by the Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation on Medicaid eligibility policies for long-term care benefits. This brief summarizes the estate recovery mandate, discusses variations in mechanisms employed by states to implement the mandate, and presents a state-by-state analysis of collections from 2002 through 2004. The remaining briefs address: Medicaid Treatment of the Home; Spouses of Medicaid Long-Term Care Recipients; Medicaid Liens; Medicaid Estate Recovery programs; and A Case Study of the Massachusetts Medicaid Estate Recovery Program.

State Medicaid programs are administered within broad federal guidelines and are financed jointly by states and the Federal Government. Since the 1993 enactment of the Omnibus Budget Reconciliation Act (OBRA 93), federal law has required states to recover Medicaid spending on behalf of beneficiaries from their estates after death.[1] This issue brief summarizes the estate recovery mandate, discusses variations in mechanisms employed by states to implement the mandate, and presents a state-by-state analysis of collections from 2002 through 2004.

National Overview of Estate Recovery Collections

Over $361.7 million was collected by all states in 2004, an increase of 12.4% over 2002.[2] This amount, while substantial, represents only a small percentage of the total Medicaid spending for nursing home services in 2004. Since nursing home spending is the program component that is the focus of Medicaid estate recovery, when analyzing and evaluating collection data, it may be more relevant to express collections as a percentage of Medicaid nursing home spending. As shown in the table below, estate

[1] The mandate was imposed by Section 13612 of P.L. 103-66 (OBRA 93), which amended Section 1917 of the Social Security Act, accessible at: http://www.ssa.gov/OP_Home/ssact/title19/1917.htm. Detailed federal guidance to states is in the State Medicaid Manual, Chapter 3, Section 3810 at: http://www.cms.hhs.gov/manuals/45_smm/sm_03_3_3800_to_3812.asp.

[2] Data on state Medicaid spending, including "probate collections," reported by the Centers for Medicare and Medicaid Services (CMS), appear in the MEDSTAT analysis of the CMS-64. Earlier years are accessible at: http://www.cms.hhs.gov/medicaid/msis/mstats.asp. The accuracy of state reported numbers has not been systematically examined or verified.

recovery collections are dwarfed by the overall Medicaid spending for nursing homes -- $45,835.6 million in 2004.[3] The percentage of Medicaid nursing home spending recovered in 2004 was 0.789%, an increase from 0.693% recovered in 2002.

Summary of National Collections				
	FY 2002	**FY 2003**	**FY 2004**	**Percent Change (2002-2004)**
Estate Recovery Collections	$321,725,993	$330,337,483	$361,766,396	12.4
Medicaid Nursing Home Spending	$46,439,880,813	$45,578,649,736	$45,835,646,786	-1.3%
Collections as % of Nursing Home Spending	0.693%	0.725%	0.789%	13.9%

Overview of the Medicaid Estate Recovery Mandate[4]

Whose estates are affected?

- Persons who received Medicaid services after age 55; and
- Persons who, regardless of age, were determined under procedures established by the state to be permanently institutionalized.

How is "estate" defined?

- At a minimum, states must pursue recoveries from the "probate estate," which includes property that passes to the heirs under state probate law.
- Alternatively, states can expand the definition of estate to allow recovery from property that bypasses probate – for example, property owned in joint tenancy with rights of survivorship, life estates, living trusts, annuity remainder payments, or life insurance payouts.

How much is subject to recovery?

- At a minimum, states must recover amounts spent by Medicaid for long-term care and related drug and hospital benefits, including any Medicaid payments for Medicare cost sharing related to these services.
- At their option, states may recover costs of all Medicaid services paid on the individual's behalf.

---

[3] Nursing home spending during this time period was artificially increased by changes in state use of Upper Payment Level (UPL) programs to generate additional federal matching dollars.

[4] The estate recovery mandate is described in greater detail in *Medicaid Estate Recovery*, a policy brief prepared for the HHS Office of the Assistant Secretary for Planning and Evaluation, at: http://aspe.hhs.gov/daltcp/reports/estaterec.htm. For a survey of state practices, see Karp, N., Sabatino, C.P. and Wood, E.F. (June 2005). *Medicaid Estate Recovery: A 2004 Survey of State Programs and Practices*. The AARP Public Policy Institute, Washington, D.C. #2005-06, accessible at: http://assets.aarp.org/rgcenter/il/2005_06_recovery.pdf.

- Recoveries may not exceed the total amount spent by Medicaid on the individual's behalf, nor the amount remaining in the estate after the claims of other creditors delineated in state law have been satisfied.

Exceptions and special cases:

- Estate recovery must be deferred (or waived, at the state's option) if the recipient is survived by certain close relatives – a spouse or a child under the age of 21, blind, or permanently disabled.
- States must waive estate recoveries that would cause hardship.[5]
- States may pass laws that exempt certain types of property from estate recovery (for example the family homestead).
- States participating in the Partnership for Long-Term Care, a project to encourage more reliance on private insurance coverage for long-term care,[6] may exempt some or all assets of policyholders from Medicaid estate recovery.

Collections by State

Amounts collected by individual states are show in Table 1 and Table 2 below. Collections resulting from estate recovery activities vary widely from state to state, and changes in the amounts collected by individual states over time are highly irregular.

2004 High and Low State Collection Rates

- The three states that recouped the largest share of their nursing home spending are Arizona (10.4%),* Oregon (5.8%), and Idaho (4.5%).
- Five additional states recouped ≥2.0% of nursing home spending: Iowa (2.9%), Minnesota (2.8%), Wyoming (2.7%), Maine (2.5%), and Massachusetts (2.0%).
- Three states reported minimal recoveries (rounding out to 0%): Louisiana, New Mexico, and Utah.
- Four states did not report any estate recoveries: Alaska, Georgia, Michigan, and Texas.

* Arizona's estate recovery collections, as a percentage of nursing home spending, are not comparable to any other state because comprehensive prepaid managed care contracts dominate that state's Medicaid program. Nursing home care provided under these contracts is not identified separately for reporting purposes.

[5] The hardship exemption is described in greater detail in *Medicaid Estate* Recovery, a policy brief prepared for the HHS Office of the Assistant Secretary for Planning and Evaluation, at: http://aspe.hhs.gov/daltcp/reports/estaterec.htm. See also Section 3810.C. of the State Medicaid Manual.

[6] See http://www.hhp.umd.edu/AGING/PLTC/index.html for a description of the Partnership Program and links to individual state programs and data. For overviews of current program activities in the four Partnership states (California, Connecticut, Indiana and New York), as well as actions taken by states wishing to participate in the program, see http://www.hhp.umd.edu/AGING/PLTC/partnership_post.pdf.

Most of the higher recovery states have more mature programs and long experience with estate recovery.

Changes in Collection Rates Between 2002 and 2004*

- National collections rose by over $40 million (12.4%).
- State-specific changes in collections were roughly similar to the average change nationally in only four states: California, Massachusetts, New York and South Dakota. Though their rates of increase were close to the national average (12-13%), the increases in funds they collected comprised nearly one-third (30.1%) of the total increase in national collections. Similarly, their share of total collections in 2004 was just under one-third (30.0%).
- All other state collections between 2002 and 2004 departed significantly from the national average.
- Thirty-five states increased their collections between 2002 and 2004. The five states with the highest percent increases were Kentucky (184.7%), Louisiana (100.0%), New Mexico (100.0%), Wyoming (90.8%), and Tennessee (85.1%).
- Twelve states collected less in 2004 than in 2002. The five with the largest percent decreases were: Utah (-97.7%), Pennsylvania (-74.7%), West Virginia (-64.6%), Nevada (-64.3%) and Mississippi (-57.4%).
- Factors explaining volatile rates of change within a given state over time are speculative and include: programs in early and unsettled states of implementation; gains or declines in a small number of relatively large estates (which can have disproportionate effects on rates of change, especially in smaller states); and errors or inconsistencies in reporting.

* See Table 1, Table 2, and Table 3.

Reasons for Wide State Variations in Reported Estate Recovery Activities

Variations in implementation of federal recovery options:

States can choose to implement the minimal estate recovery guidelines mandated by OBRA 93, or they can implement a variety of options permitted by federal law to expand their estate recovery activities to reach more people and include more types of assets (see Table 4, below). For example, they can: use liens to secure Medicaid's right to recover; recover from recipient assets that bypass probate; or recover Medicaid spending for additional services beyond the required minimum of long-term care and related services.

There appears to be only a weak connection between a state's reported collections and the policy options it has chosen. Although states that exercise the fewest estate recovery policy options (e.g., Arkansas, Mississippi, New Mexico, North Carolina, Pennsylvania, Vermont, and West Virginia) tend to have the lowest rates of collection, some states have relatively low collection rates (e.g., Delaware or Oklahoma), despite having chosen a broad range of options to maximize collection opportunities. Clearly, factors other than a state's chosen policy options are also at work.

Other state policy choices:

States have broad flexibility to exempt assets from Medicaid estate recovery (for example, they might exclude certain types of real property or an amount to allow for burial of the deceased Medicaid recipient), reducing, possibly substantially, the amount of assets remaining for the state to recover.[7]

Effect of Federal Medicaid Matching Percentage (FMAP) rate:[8]

A state's estate recovery program might also be influenced by how much of the total amount recovered represents federal match and, therefore, must be returned to the Federal Government. Some observers speculate that states with the highest FMAPs receive the greater share of their Medicaid funding from the Federal Government and, therefore, may have the least incentive to pursue recoveries when the lion's share of the monies recovered must be returned to the Federal Government. However, there does not appear to be a direct relationship between FMAPs and collection rates. States with high FMAPs do not necessarily have poor collection rates, and low FMAP states do not always recover the most.

Individual state political considerations:

Estate recovery engenders considerable political controversy and resistance in some regions of the country, which can compromise collaboration between Medicaid estate recovery programs and state legislatures and executive officials to implement effective policies and procedures.[9]

Interaction of Medicaid with other state laws:

Effective Medicaid estate recovery requires coordination and compatibility with state probate laws and procedures. For example, some states put certain homestead property beyond the reach of Medicaid estate recovery or other claimants against the estates of deceased persons.[10]

---

[7] For example, see *The Heartland Model for Long-Term Care Reform: The Nebraska Model* (December 2003). The Center for Long-Term Care Financing, available at: http://www.centerltc.com/pubs/Nebraska.pdf.

[8] FMAPs are based on a matching formula that takes into account each state's average per capita income relative to the national average. States with lower average per capita income have a higher matching rate and receive a higher proportion of their Medicaid financing from the Federal Government. Further information about FMAPs is available at: http://www.statehealthfacts.kff.org/cgi-bin/healthfacts.cgi?action=compare&category=Medicaid+%26+SCHIP&subcategory=Medicaid+Spending&topic=Federal+Matching+Rate+%28FMAP%29.

[9] For example, see the criticism of estate recovery practices and advice for potential Medicaid recipients on how to protect their assets from estate recovery provided by the West Virginia Attorney General: McGraw, D.V., Jr. (March 2005). *Medicaid Estate Recovery. What Seniors Should* Know, available at: http://www.wva.state.wv.us/wvag/. For an in-depth examination of how estate recovery works in one state, see *Medicaid Liens and Estate Recovery in Massachusetts*, an issue brief commissioned by the HHS Office of the Assistant Secretary for Planning and Evaluation, available at: http://aspe.hhs.gov/daltcp/reports/MAliens.htm.

[10] Florida provides broad protection for the homestead against creditors' claims. See Article X, Section 4 of the Constitution of the State of Florida at: http://www.flsenate.gov/Statutes/index.cfm?Mode=Constitution&Submenu=3&Tab=statutes#A10S04. Texas probate law (section 322 of the Texas Probate Code) protects the homestead from Medicaid claims. See Texas estate recovery guidelines proposed on January 26, 2004 at: http://www.hhsc.state.tx.us/medicaid/EstateRecovery/Framework.html.

Administrative systems:

An effective estate recovery program requires a commitment by the state to provide adequate administrative resources, such as integrated information systems and/or trained staff.

Actions taken by individuals to shelter their estates:

The more individuals in a state engaged in estate planning before death to protect their assets for heirs, ensure an income stream from retirement savings during life, or avoid inheritance taxes after death, the more they reduce the portion of their estate subject to recovery by claimants (including Medicaid) after their death.

Frequency and Size of Individual Recoveries

Data about the size and numbers of estates affected are exceedingly thin. Given the small amounts recovered compared to total Medicaid spending, it is reasonable to surmise that Medicaid estate recovery is a relatively infrequent occurrence. A study conducted in Massachusetts (a state with a higher than average collection rate, a total Medicaid population of over one million, and a Medicaid nursing home population of over 33,000)[11] reports completion of the claims process for just over 1,600 claims on estates in 2003.

The change is sometimes leveled that Medicaid estate recoveries selectively target individuals with few assets, while leaving those who have the most unscathed.[12] Given the strict asset limitations for Medicaid eligibility,[13] one might expect the typical deceased recipient's estate to be very small, there is some limited evidence to corroborate that the estates of most Medicaid recipients are small. It also appears that relatively few higher value estates contribute a disproportionately large share to the total estate recovery collections.[14]

The most significant contribution to the high value of some estates is made by the homes of Medicaid recipients, since the real estate equity in a recipient's home during life is not considered during the

---

[11] See *Medicaid Liens and Estate Recovery in Massachusetts*, at: http://aspe.hhs.gov/daltcp/reports/MAliens.htm.

[12] See Schwartz, R.A. and Sabatino, C.P. (November 1994). *Medicaid Estate Recovery Under OBRA '93: Picking the Bones of the Poor?* For the Commission on Legal Problems of the Elderly, the American Bar Association.

[13] Recipients may own $2,000 in general savings ($3,000 for a couple), limited amounts of life insurance, burial funds, household and personal effects, and certain other types of assets. Medicaid rules generally mirror those of the Supplemental Security Income program (SSI). SSI rules on assets ("resources") are available in the Code of Federal Regulations, Title 20, Part 416, Subpart L at: http://www.ssa.gov/supplemental-security-income/law-regs-finder.htm.

[14] The earliest and most detailed evidence is indirect and relates to recipients' attempts to transfer assets before death. See *Medicaid Estate Planning*. Letter from U.S. General Accounting Office to U.S. Senate, Committees on Finance and Aging. GAO/HRD-93-29R. July 1993.

Medicaid eligibility determination, regardless of its value. However, it may be subject to estate recovery after the recipient's death.[15] Therefore, it is conceivable that some Medicaid recipients who have owned homes leave estates that are larger than expected.

It is difficult to assess the importance of the home to individual state Medicaid estate recovery programs because of their wide policy and procedural differences, with real estate accounting for about one-quarter of estate recovery collections in some states to virtually the entire amount collected by others.[16, 17, 18]

Conclusion

Medicaid estate recovery gets to the heart of the issue of who should pay for long-term care – the public through the tax-supported Medicaid program, or users of long-term care through their personal resources, including those remaining after death. Amounts collected from Medicaid recipients' estates are not insignificant in absolute terms. They do, however, pale next to total Medicaid spending for long-term care. This is not surprising, given that Medicaid is available only to those with very limited resources. Nevertheless, the wide state-to-state variation in recovery rates and estate recovery practices suggests that program efficiency could be improved and greater amounts could be recovered.

[15] The home retains an exemption from estate recovery only if the recipient is survived by a spouse, a minor or disabled child or, in limited instances, certain siblings or adult children living in the home. In all other cases, the deceased recipient's equity interest in the home may be subject to estate recovery.

[16] Data on home ownership rates or the value of homes belonging to Medicaid recipients have not been collected systematically. The fact that the Medicaid program typically serves low-income individual means that few recipients can afford to own valuable real estate. However, recipients in nursing homes are not typical of the Medicaid population in general. They may qualify for Medicaid despite having incomes far above the poverty level, which may have enabled them to accumulate significant equity in a home.

[17] *2002 Medicaid Estate Recovery Work Group Report to the Pennsylvania Intra-Governmental Council on Long-Term Care*. See data tables 1 and 2. The results of this study were compromised because the number of states that responded fully was limited and the report failed to address the number of properties involved or the amount collected per property.

[18] Karp, Sabatino, and Wood (May 2005). *Medicaid Estate Recovery: A 2004 Survey of State Programs and Practices*, accessible at: http://assets.aarp.org/rgcenter/il/2005_06_recovery.pdf.

TABLE 1: Medicaid Collections and Expenditures -- Fiscal Year 2004				
State	**Collections: Probate FY 2004**	**FY 2004 Medicaid Nursing Home Expenditures**	**Collections as % of Nursing Home Spending**	**State Nursing Home Spending as % of National Nursing Home Spending**
Alabama	$6,204,836	$766,521,275	0.8%	1.7%
Alaska	$0	$107,091,559	0.0%	0.2%
Arizona	$2,403,306	$23,172,901	10.4%	0.1%
Arkansas	$2,104,052	$540,193,697	0.4%	1.2%
California	$44,668,847	$3,033,946,724	1.5%	6.6%
Colorado	$6,241,993	$423,944,387	1.5%	0.9%
Connecticut	$8,204,283	$1,105,579,338	0.8%	2.2%
Delaware	$436,370	$158,840,995	0.3%	0.3%
Florida	$13,478,207	$2,250,455,672	0.6%	4.9%
Georgia	$0	$1,466,092,237	0.0%	3.2%
Hawaii	$1,684,280	$182,705,650	0.9%	0.4%
Idaho	$5,695,851	$126,613,061	4.5%	0.3%
Illinois	$21,254,742	$1,608,092,952	1.3%	3.5%
Indiana	$7,649,409	$948,116,230	1.8%	2.1%
Iowa	$12,194,616	$426,181,610	2.9%	0.9%
Kansas	$4,866,505	$344,645,407	1.4%	0.8%
Kentucky	$5,391,045	$627,317,272	0.9%	1.4%
Louisiana	$103,853	$593,234,878	0.0%	1.3%
Maine	$6,178,845	$248,697,265	2.5%	0.5%
Maryland	$5,456,547	$867,262,512	0.6%	1.9%
Massachusetts	$32,577,301	$1,617,497,416	2.0%	3.5%
Michigan	$0	$1,704,056,909	0.0%	3.7%
Minnesota	$24,999,595	$904,205,889	2.8%	2.0%
Mississippi	$391,933	$563,151,164	0.1%	1.2%
Missouri	$8,597,322	$789,726,442	1.1%	1.7%
Montana	$2,363,322	$164,145,366	1.4%	0.4%
Nebraska	$1,125,970	$359,714,726	0.3%	0.8%
Nevada	$420,429	$141,377,842	0.3%	0.3%
New Hampshire	$4,362,641	$276,085,727	1.6%	0.6%
New Jersey	$8,329,882	$1,479,889,851	0.6%	3.2%
New Mexico	$78,037	$179,818,250	0.0%	0.4%
New York	$29,953,334	$6,486,722,331	0.5%	14.2%
North Carolina	$5,529,652	$1,096,619,059	0.5%	2.4%
North Dakota	$2,000,766	$166,456,173	1.2%	0.4%
Ohio	$13,987,964	$2,722,643,741	0.5%	5.9%
Oklahoma	$1,573,913	$462,935,035	0.3%	1.0%
Oregon	$13,843,592	$238,642,419	5.8%	0.5%
Pennsylvania	$5,888,558	$4,069,955,523	0.1%	8.9%
Rhode Island	$2,792,488	$292,744,235	1.0%	0.6%
South Carolina	$6,206,820	$461,865,198	1.3%	1.0%
South Dakota	$1,222,693	$118,375,810	1.0%	0.3%
Tennessee	$8,895,934	$1,006,485,725	0.9%	2.2%
Texas	$0	$1,781,030,713	0.0%	3.9%
Utah	$47,443	$105,854,730	0.0%	0.2%
Vermont	$402,156	$104,364,396	0.4%	0.2%
Virginia	$776,866	$656,180,320	0.1%	1.4%
Washington	$10,770,875	$593,061,233	1.8%	1.3%
Washington, D.C.	$1,789,570	$188,211,034	1.0%	0.4%
West Virginia	$214,656	$367,149,385	0.1%	0.8%
Wisconsin	$16,772,729	$917,421,595	1.8%	2.0%
Wyoming	$1,632,368	$60,552,927	2.7%	0.1%
United States	**$361,766,396**	**$45,835,646,786**	**0.8%**	**100.0%**

TABLE 2: Medicaid Collections as a Percentage of Nursing Home Expenditures-- Fiscal Year 2004 State Rankings			
State	**Collections as % of Total Nursing Home Spending***	**State**	**Collections as % of Total Nursing Home Spending**
Arizona**	10.4%	**US -- all states**	**0.8%**
Oregon	5.8%	Connecticut	0.8%
Idaho	4.5%	Indiana	0.8%
Iowa	2.9%	Maryland	0.6%
Minnesota	2.8%	Florida	0.6%
Wyoming	2.7%	New Jersey	0.6%
Maine	2.5%	Ohio	0.5%
Massachusetts	2.0%	North Carolina	0.5%
Wisconsin	1.8%	New York	0.5%
Washington	1.8%	Arkansas	0.4%
New Hampshire	1.6%	Vermont	0.4%
California	1.5%	Oklahoma	0.3%
Montana	1.4%	Nebraska	0.3%
Kansas	1.4%	Nevada	0.3%
South Carolina	1.3%	Delaware	0.3%
Illinois	1.3%	Pennsylvania	0.1%
North Dakota	1.2%	Virginia	0.1%
South Dakota	1.0%	Mississippi	0.1%
Rhode Island	1.0%	West Virginia	0.1%
Washington, D.C.	1.0%	Utah	0.0%
Hawaii	0.9%	New Mexico	0.0%
Tennessee	0.9%	Louisiana	0.0%
Kentucky	0.9%	Alaska	0.0%
Alabama	0.8%	Texas	0.0%

* Listed in descending order.
** Arizona's estate recovery collections, as a percentage of nursing home spending, are not comparable to any other state because comprehensive prepaid managed care contracts dominate the state's Medicaid program, and nursing home care provided under these contracts is not identified separately for reporting purposes.

TABLE 3: Changes in Medicaid Estate Recovery Collections 2002-2004*				
State	Collections: Probate 2002	Collections: Probate 2003	Collections: Probate 2004	Change from 2002-2004 (percent)
Alabama	$4,485,886	$4,222,784	$6,204,836	38.3%
Alaska	$0	$0	$0	0.0%
Arizona	$1,790,755	$2,150,260	$2,403,306	34.2%
Arkansas	$1,545,931	$1,730,100	$2,104,052	36.1%
California	$39,335,161	$44,024,077	$44,668,847	13.6%
Colorado	$4,018,129	$4,649,920	$6,241,993	55.3%
Connecticut	$10,243,388	$10,884,820	$8,204,283	-19.9%
Delaware	$655,836	$1,108,545	$36,370	-33.5%
Florida	$9,683,087	$11,474,485	$13,478,207	39.2%
Georgia	$0	$0	$0	0.0%
Hawaii	$1,304,625	$2,255,074	$1,684,280	29.1%
Idaho	$4,034,789	$5,357,412	$5,695,851	41.2%
Illinois	$17,003,820	$16,993,946	$21,254,742	25.0%
Indiana	$6,366,273	$7,366,747	$7,649,409	20.2%
Iowa	$9,145,536	$10,977,823	$12,194,616	33.3%
Kansas	$4,762,300	$6,193,161	$4,866,505	2.2%
Kentucky	$1,893,814	$2,961,800	$5,391,045	184.7%
Louisiana	$0	$104,755	$103,853	100.0%
Maine	$4,760,834	$5,934,701	$6,178,845	29.8%
Maryland	$6,377,662	$6,919,915	$5,456,547	-14.4%
Massachusetts	$28,837,456	$28,524,313	$32,577,301	13.0%
Michigan	$0	$0	$0	0.0%
Minnesota	$18,668,919	$12,899,750	$24,999,595	33.9%
Mississippi	$920,362	$168,735	$391,933	-57.4%
Missouri	$7,368,152	$7,480,548	$8,597,322	16.7%
Montana	$1,663,969	$1,982,288	$2,363,322	42.0%
Nebraska	$878,467	$1,409,277	$1,125,970	28.2%
Nevada	$1,179,014	$1,366,359	$420,429	-64.3%
New Hampshire	$4,964,422	$3,554,466	$4,362,641	-12.1%
New Jersey	$5,311,581	$6,031,496	$8,329,882	56.8%
New Mexico	$0	$0	$78,037	100.0%
New York	$26,878,856	$27,244,711	$29,953,334	11.4%
North Carolina	$4,200,000	$4,053,121	$5,529,652	31.7%
North Dakota	$1,627,014	$1,684,666	$2,000,766	23.0%
Ohio	$10,814,457	$12,382,674	$13,987,964	29.3%
Oklahoma	$1,276,739	$1,873,304	$1,573,913	23.3%
Oregon	$13,738,730	$13,996,362	$13,843,592	0.8%
Pennsylvania	$23,288,044	$23,149,026	$5,888,558	-74.7%
Rhode Island	$4,387,978	$3,559,076	$2,792,488	-36.4%
South Carolina	$3,483,235	$5,150,428	$6,206,820	78.2%
South Dakota	$1,096,932	$1,293,813	$1,222,693	11.5%
Tennessee	$4,805,977	$2,754,258	$8,895,934	85.1%
Texas	$0	$0	$0	0.0%
Utah	$2,047,412	$459,400	$47,443	-97.7%
Vermont	$636,899	$487,029	$402,156	-36.9%
Virginia	$810,533	$953,406	$776,866	-4.2%

TABLE 3 (*continued*)				
State	**Collections: Probate 2002**	**Collections: Probate 2003**	**Collections: Probate 2004**	**Change from 2002-2004 (percent)**
Washington	$974,188	$1,658,606	$1,789,570	83.7%
Washington, D.C.	$7,548,849	$5,816,188	$10,770,875	42.7%
West Virginia	$606,746	$1,183,754	$214,656	-64.6%
Wisconsin	$15,447,888	$12,812,864	$16,772,729	8.6%
Wyoming	$855,348	$1,097,240	$1,632,368	90.8%
United States	**#321,725,993**	**$330,337,482**	**$361,766,396**	**12.4%**
* Table prepared by MEDSTAT based on data reported by states to CMS on CMS-64.				

TABLE 4: Scope of Policy Options in Medicaid Estate Recover: State Groupings*		
States Implementing Minimum Required by Federal Law (8)	**States with a Mix of More and Less Expansive Policy Options (29)**	**States Making Maximum Use of Federal Policy Options (9)**
Arkansas	Alaska	Alabama
Mississippi	Arizona	California
New Mexico	Connecticut	Delaware
North Carolina	Florida	Hawaii
Pennsylvania	Idaho	Illinois
South Carolina	Iowa	Indiana
Vermont	Kansas	Minnesota
West Virginia	Kentucky	Montana
	Louisiana	Oklahoma
	Maine	
	Maryland	
	Massachusetts	
	Nebraska	
	Nevada	
	New Hampshire	
	New Jersey	
	New York	
	North Dakota	
	Ohio	
	Oregon	
	Rhode Island	
	South Dakota	
	Tennessee	
	Utah	
	Virginia	
	Washington	
	Washington, D.C.	
	Wisconsin	
	Wyoming	

* Groupings are based on data reported Karp, Sabatino, and Wood, (June 2005). *Medicaid Estate Recovery: A 2004 Survey of State Programs and Practices*. The AARP Public Policy Institute. #2005-06 at: http://assets.aarp.org/rgcenter/il/2005_06_recovery.pdf. States using the fewest options are those that generally follow the minimum federal requirements. Those using the most option are those with more expansive definitions of estate, scope of recoverable services, liens on property of living recipients, and other options.

This policy brief was prepared under contract #HHS-100-03-0022 between the U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation, Office of Disability, Aging and Long-Term Care Policy (DALTCP) and Thomson/MEDSTAT, Inc. For additional information on this subject, or to view the other briefs in this series, you can visit the ASPE home page at http://aspe.hhs.gov or contact the ASPE Project Officer, Hunter McKay, at HHS/ASPE/DALTCP, Room 424E, H.H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201, Hunter.McKay@hhs.gov.

Policy Briefs on Medicaid Eligibility Policies for Long-Term Care Benefits

A total of six Policy Briefs are available from the Office of Disability, Aging and Long-Term Care on this subject:

- **Medicaid Estate Recovery**
  [http://aspe.hhs.gov/daltcp/reports/estaterec.htm] Posted May 2005

- **Medicaid Estate Recovery Collections**
  [http://aspe.hhs.gov/daltcp/reports/estreccol.htm] Posted February 2006

- **Medicaid Liens**
  [http://aspe.hhs.gov/daltcp/reports/liens.htm] Posted May 2005

- **Medicaid Liens and Estate Recovery in Massachusetts**
  [http://aspe.hhs.gov/daltcp/reports/MAliens.htm] Posted May 2005

- **Medicaid Treatment of the Home: Determining Eligibility and Repayment for Long-Term Care**
  [http://aspe.hhs.gov/daltcp/reports/hometreat.htm] Posted May 2005

- **Spouses of Medicaid Long-Term Care Recipients**
  [http://aspe.hhs.gov/daltcp/reports/spouses.htm] Posted May 2005