

MEDICAL ASSISTANCE ESTATE RECOVERY

Health & Human Services Board

04/26/2022

WHAT IS ESTATE RECOVERY?

- Medical Assistance (MA) Estate Recovery is a program that the federal government requires Minnesota to administer in order to receive Medicaid funds (MN Statute §256B.15).
- Estate recovery occurs only after an MA member dies. Local agencies cannot collect from an MA member's assets for repayment of MA services while the member is alive.
- Medical Assistance claims are against the estate of the decedent and not the personal representative, family members or heirs.

WHAT IS CONSIDERED AN ASSET OF AN ESTATE?

- A person's probate estate contains all ownership and interests that the MA member had in any form of real or personal property at the time of their death, assets included in the 'estate':
 - Real property (all ownership & certain interests as a life tenant/life estate/joint tenant)
 - Accounts (sole owner and interests in joint accounts, multiple-party accounts, pay-on-death accounts, brokerage accounts, investment accounts, or proceeds of those accounts)
 - Assets conveyed to a survivor, heir, or assigned of the person through survivorship, living trust, or other arrangements
 - Assets the person transferred to his/her spouse before death
 - Life insurance policies (only if without a living designated beneficiary listed)

WHEN DOES ESTATE RECOVERY HAPPEN?

- Generally, estate recovery happens after an MA member dies. But there are some exemptions that could delay recovery:
 - Surviving Spouse
 - Child that is blind or permanently disabled
 - Child who is under 21 years old
- Once a deceased MA member's surviving spouse passes away, local agencies are required to recover from the spouse's estate. Recovery could be delayed further if a child under 21, blind or permanently disabled is still living in the home when the surviving spouse dies.



WHO IS AFFECTED BY ESTATE RECOVERY?

ESTATE RECOVERY APPLIES TO:

- 55 years old or older and receives MA long-term services and supports (LTSS)
 - LTSS services include:
 - Nursing Home Services
 - Home and Community-Based Services
 - Hospital and prescription drug services
- At any age permanently residing in a medical institution and receives MA services
- Alternative Care (AC) enrollees
 - Recovery is limited to AC paid on or after 7/1/2003
- People who were enrolled in General Assistance Medical Care (GAMC)
 - GAMC that was received at any age is recoverable

HOW WE CAN RECOVER ON AN MA CLAIM?

- Before we start any collections on a claim against the estate, a determination needs to be made to figure out which category the case is, as that regulates how we can collect:
 - If total estate is less than \$75,000 and no real property (land)
 - If total estate is less than \$75,000 with real property (land)
 - If total estate is more than \$75,000

HOW WE CAN RECOVER ON AN MA CLAIM?

- If total estate is less than \$75,000 and no real property (land)
 - Send Affidavits of Collection of Personal Property (MN Statute §524.3-1201) to any financial institution, funeral home, nursing home and other agencies we have in our file that could hold assets belonging to the estate.
 - Once we have heard from all organizations letters/affidavits were sent to, we have done our due diligence to recover any funds of the estate and will close our file.
 - However, the MA claim never goes away until paid in full, in our closing letter to families we state that 'pending discovery of additional assets of the estate, our case is now closed'. This allows us to collect on the MA claim if assets become known to the agency at a later date.



HOW WE CAN RECOVER ON AN MA CLAIM?

- If total estate is less than \$75,000 with real property (land)
 - Send Affidavits of Collection of Personal Property (MN Statute §524.3-1201) to any financial institution, funeral home, nursing home and others we have in our file that could hold assets belonging to the estate
 - Obtain the property deed to determine ownership i.e. sole owner, life estate, joint tenant, if appropriate, request DHS record a Notice of Potential Claim (NPC) on the property. This allows us to collect on the property if sold or transferred.
 - Encourage family members to initiate a probate case, if a case is opened we file a Written Statement of Claim into the court case – MA claim is a priority claim over others, following MN Statute §524.3-805

HOW WE CAN RECOVER ON AN MA CLAIM?

- If total estate is more than \$75,000 (personal and/or real property)
 - Obtain the property deed to determine ownership i.e. sole owner, life estate, joint tenant, if appropriate, request DHS record a Notice of Potential Claim (NPC) on the property. This allows us to collect on the property if sold or transferred.
 - Encourage family members to initiate a probate case, if a case is opened we file a Written Statement of Claim into the court case – MA claim is a priority claim over others, following MN Statute §524.3-805

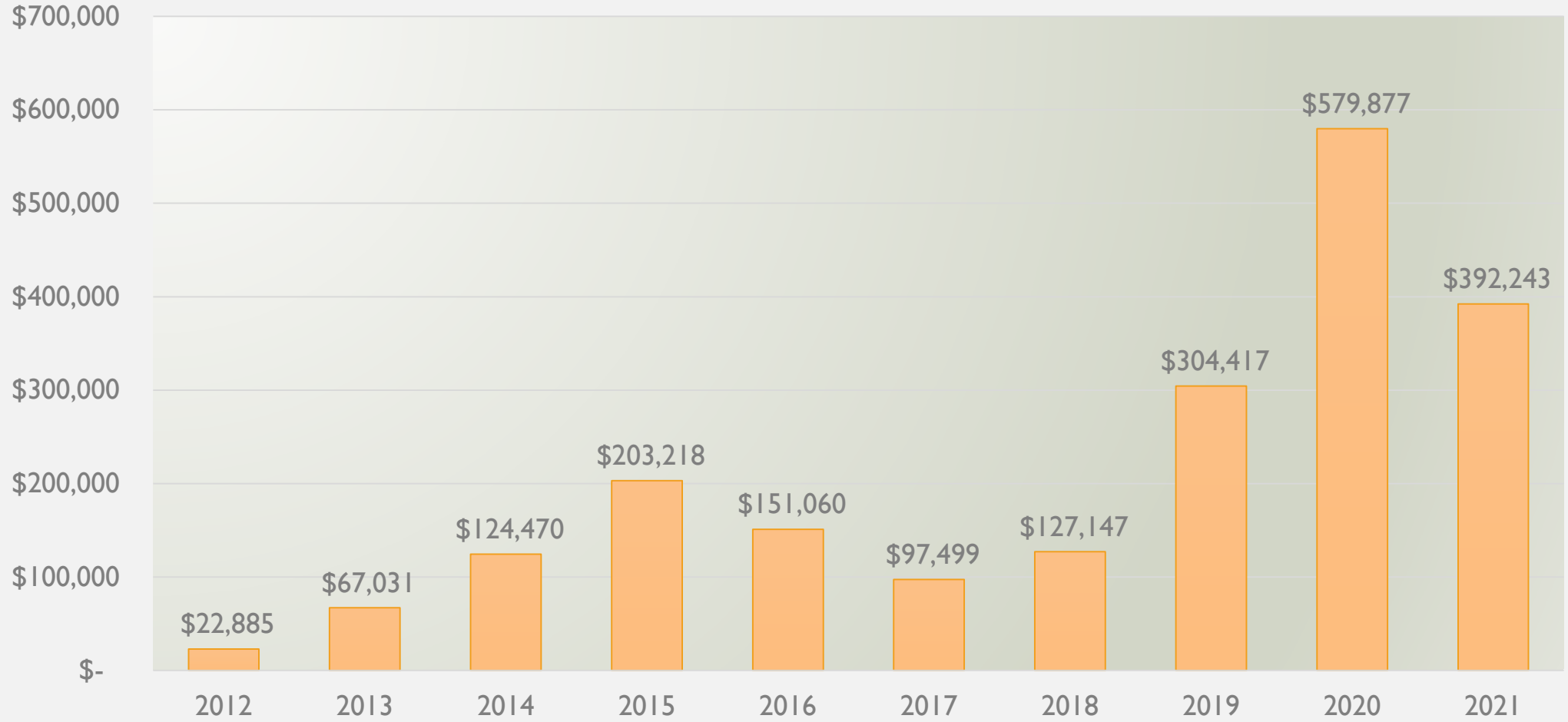
HOW WE CAN RECOVER ON AN MA CLAIM?

- Property that has a recorded Transfer on Death Deed (TODD)
 - With all TODD's filed, in order to transfer the property, the receiver of the property is required to obtain a Medical Assistance Clearance Certificate for a Transfer on Death Deed from the county.
 - This document will state if there is an MA claim on the property that should be satisfied before the transfer of ownership can take place.

CURRENT CASELOAD

- Aitkin County Health & Human Services currently has **121** open Medical Assistance Estate Recovery cases
 - Under \$75,000: **69**
 - Under \$75,000 w/land: **23**
 - Over \$75,000: **29**
- Average Medical Assistance claim: **\$122,699**
- Total amount of open cases with MA claims we are attempting to collect from remaining assets of an estate: **\$14,846,626.53**
- Aitkin County collects on MA claims on behalf of the State of Minnesota, our incentive for recovery is typically 25% of the amount received

MA Estate Recovery for Aitkin County 2012-2021



THANK YOU!

QUESTIONS?

Additional Information:

[Estate recovery / Minnesota Department of Human Services
\(mn.gov\)](#)

[DHS-7273 MHCP Estate Recovery and Liens](#)