To say that nursing home costs are high would be a gross understatement. Monthly fees and added expenses can quickly deplete the savings of people in almost any situation. For that reason, it is not surprising that people take advantage of assistance from Medicaid to help cover the costs of their estate plan.

Families need to be aware, however, that there are strings attached. It is important to understand how the Texas Medicaid Estate Recovery Program works and the effect it can have after a recipient of Medicaid funds passes away.

The Concept Behind Medicaid Recovery

Medicaid is designed to pay for medical services for individuals with virtually no financial resources. So the basic idea with the Medicaid Recovery Program (MERP) is that if you received Medicaid benefits but still have resources left after you die, the government has the right to ask to be reimbursed for money that it paid through Medicaid. This program only applies to funds paid after the age of 55 for long-term care.

The reimbursement comes from the Medicaid recipient’s estate, which is the property that person leaves behind after death. In most cases, no one can receive Medicaid without using up or giving away most of their property except for their house. So the MERP program usually involves selling the recipient’s house after death and the Texas government collecting proceeds that equal the amount the state paid for long-term care benefits.

Exceptions Apply

The government will not commandeer the house or other assets in every situation. Some notable exceptions apply. First, if the Medicaid recipient is survived by a spouse, then the state will not ask for Medicaid reimbursement. Texas government will also not seek to recover amounts paid for long-term care if:

- The recipient left a child under the age of 21 or who is totally disabled
- The value of the estate (including the home) is not more than $10,000
- Medicaid paid no more than $3,000
- An unmarried adult child lived full-time in the recipient's home for at least one year at the time of death
- The cost to sell the home exceeds the value of the home

Additionally, the government will not require the estate to provide reimbursement if doing so would cause "undue hardship" for the recipient's heirs.

Requesting an Exception for Undue Hardship

It is important for family members to understand that if they want to stop the state from selling the home and recovering reimbursement on the grounds of undue hardship, they must specifically request this exception. Moreover, they must also demonstrate why the recovery of funds would cause hardship.

Some ways heirs can prove undue hardship include showing that they would need financial assistance from the government if the state files a MERP claim or that they would be able to stop seeking financial assistance if they can inherit property without a MERP claim. They could also demonstrate that the recipient's property was a family business or farm that provides the main source of income for the heirs.

An Estate Planning Attorney Can Help Prepare for the Impact of MERP

The impact of MERP in Texas will be unique in every situation. What every family has in common, however, is the need to consider the impact as part of the estate planning process.

To talk to an experienced attorney at The Nordhaus Firm about long-term care planning or needs, call us at 214-726-1450 or contact us online today.