

DMA ADMINISTRATIVE LETTER NO: 09-05, LIFE ESTATE SUBJECT TO ESTATE RECOVERY

DATE: May 2, 2005

SUBJECT: Life Estates

DISTRIBUTION: County Directors of Social Services
Medicaid Eligibility Unit

The purpose of this letter is to provide additional information for life estates that are measured by the life of someone other than the life estate owner.

I. BACKGROUND

MA-2230, Financial Resources, in the Aged, Blind and Disabled Medicaid Manual, excludes life estate interest in real property as a countable resource. However, life estates are subject to estate recovery when the Medicaid recipient owned a life estate measured by someone other than the recipient.

When a life estate is measured by the life of someone other than the recipient who owns the life estate, the life estate does not end at the time of death of the recipient, but continues until the death of the person by whose life the life estate is measured. As a result, the life estate is an asset that is subject to claims against the estate of the recipient.

The income maintenance caseworker is responsible for reporting this asset to the Third Party Recovery Section for possible estate recovery.

EXAMPLE: Medicaid recipient, Jane, owns a home. Jane transfers her home to her son, Jim, but retains a life estate interest for herself. Jane also has a daughter, Ann. The life estate is measured by the life of her daughter, Ann.

When Jane dies, her life estate interest still exists because it is not measured by her life, but by the life of her daughter, Ann. The life estate is an asset and is subject to claims against the recipient's estate. Third Party Recovery must evaluate for estate recovery.

Note: The same policy applies for a life estate that was purchased and the life estate is measured by the life of someone other than the purchaser of the life estate.

II. EVALUATION AND REFERRAL PROCEDURES

A. To evaluate a life estate for estate recovery referral, you need to know the following:

1. Date the remainder interest was transferred/purchased;
2. Name(s) of the owner(s) who transferred/sold the property;
3. Name(s) of the new owner(s) of the remainder interest;
4. Name(s) and date of birth of the life estate owner(s);
5. Name and date of birth of person by whose life the life estate is measured.

B. When the life estate is measured by the life of someone other than the recipient who owns the life estate, you must:

1. Complete [DMA-5056](#), Estate Recovery Information Form, to inform Third Party Recovery about the recipient's situation. Attach a copy of the life estate document.
2. File a copy of the life estate [DMA-5056](#), Estate Recovery Information Form, and the life estate document in the case record.

C. Evaluate for transfer of assets;

If the remainder interest property of a life estate is transferred for less than fair market value (FMV), evaluate for possible sanction according to procedures in [MA-2240](#), Transfer of Resources.

If you have any questions regarding this information, please contact your Medicaid Program Representative.

Mark Benton
Interim Director

(This material was researched and written by Charlotte Gibbons, Policy Consultant, Medicaid Eligibility Unit.)