Chapter 182-527 WAC
ESTATE RECOVERY AND PRE DEATH LIENS

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WAC

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182-527-2733 Estate liability. [Statutory Authority: RCW 41.05.021. WSR 13-19-038, § 182-527-2733, filed 9/11/13, effective 10/12/13. WSR 12-19-070, recodified as § 182-527-2733, filed 9/17/12, effective 10/1/12. Statutory Authority: RCW 74.08.090 and 2008 Medicare Improvements for Patient and Providers Act (which amended Section 1917 (b)(1)(B)(ii) of the Social Security Act); Deficit Reduction Act of 2005 (incorporating language regarding LTC partnership agreements). WSR 10-08-110, § 388-527-2733, filed 4/7/10, effective 5/8/10. Statutory Authority: RCW 43.17.240, 43.20B.80 [43.20B.080], 74.08.090, 74.34.090, Section 1917(b) of the Social Security Act and 2001 2nd sp.s. c 7, Part II. WSR 04-10-060, § 388-527-2733, filed 4/30/04, effective 6/1/04. Statutory Authority: RCW 43.20B.080, 74.08.090 and 74.34.010. WSR 99-11-076, § 388-527-2733, filed 5/18/99, effective 6/18/99.] Repealed by WSR 16-05-054, filed 2/12/16, effective 3/14/16. Statutory Authority: RCW 41.05.021, 41.05.160.

182-527-2737 Deferring recovery. [Statutory Authority: RCW 41.05.021. WSR 13-19-038, § 182-527-2737, filed 9/11/13, effective 10/12/13. WSR 12-19-070, recodified as § 182-527-2737, filed 9/17/12, effective 10/1/12. Statutory Authority: RCW 74.08.090 and 2008 Medicare Improvements for Patient and Providers Act (which amended Section 1917 (b)(1)(B)(ii) of the Social Security Act); Deficit Reduction Act of 2005 (incorporating language regarding LTC partnership agreements). WSR 10-08-110, § 388-527-2737, filed 4/7/10, effective 5/8/10. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, and chapter 26.60 RCW. WSR 09-07-038, § 388-527-2737, filed 3/10/09, effective 4/10/09. Statutory Authority: 2005 c 292, RCW 43.20B.080, 74.39A.170, 42 U.S.C. Section 1396p. WSR 06-17-075, § 388-527-2737, filed 8/14/06, effective 9/14/06. Statutory Authority: RCW 43.20B.080, 74.08.090 and 74.34.010. WSR 99-11-076, § 388-527-2737, filed 5/18/99, effective 6/18/99.] Repealed by WSR 16-05-054, filed 2/12/16, effective 3/14/16. Statutory Authority: RCW 41.05.021, 41.05.160.

182-527-2754 Assets not subject to recovery and other limits on recovery. [Statutory Authority: RCW 41.05.021. WSR 13-19-038, § 182-527-2754, filed 9/11/13, effective 10/12/13. WSR 12-19-070, recodified as § 182-527-2754, filed 9/17/12, effective 10/1/12. Statutory Authority: RCW 74.08.090 and 74.09.520. WSR 12-18-010, § 388-527-2754, filed 8/23/12, effective 9/23/12. Statutory Authority: RCW 74.08.090 and 2008 Medicare Improvements for Patient and Providers Act (which amended Section 1917 (b)(1)(B)(ii) of the Social Security Act); Deficit Reduction Act of 2005 (incorporating language regarding LTC partnership agreements). WSR 10-08-110, § 388-527-2754, filed 4/7/10, effective 5/8/10. Statutory Authority: RCW 43.17.240, 43.20B.80 [43.20B.080], 74.08.090, 74.34.090, Section 1917(b) of the Social Security Act and 2001 2nd sp.s. c 7, Part II. WSR 04-10-060, § 388-527-2754, filed 4/30/04, effective 6/1/04. Statutory Authority: RCW 43.20B.080, 74.08.090 and 74.34.010. WSR 99-11-076, § 388-527-2754, filed 5/18/99, effective 6/18/99. Statutory Authority: 1995 1st sp.s. c 18 and RCW 74.08.090. WSR 95-19-001 and 95-24-037 (Orders 3893 and 3893A), § 388-527-2754, filed 9/6/95 and 11/29/95, effective 10/7/95 and 12/30/95.] Repealed by WSR 16-05-054, filed 2/12/16, effective 3/14/16. Statutory Authority: RCW 41.05.021, 41.05.160.

182-527-2790 Filing liens. [Statutory Authority: RCW 41.05.021, 41.05.160. WSR 15-05-047, § 182-527-2790, filed 2/12/15, effective 3/15/15. Statutory Authority: RCW 41.05.021. WSR 13-19-038, § 182-527-2790, filed 9/11/13, effective 10/12/13. WSR 12-19-070, recodified as § 182-527-2790, filed 9/17/12, effective 10/1/12. Statutory Authority: RCW 74.08.090 and 2008 Medicare Improvements for Patient and Providers Act (which amended Section 1917 (b)(1)(B)(ii) of the Social Security Act); Deficit Reduction Act of 2005 (incorporating language regarding LTC partnership agreements). WSR 10-08-110, § 388-527-2790, filed 4/7/10, effective 5/8/10. Statutory Authority: 2005 c 292, RCW 43.20B.080, 74.39A.170, 42 U.S.C. Section 1396p. WSR 06-17-075, § 388-527-2790, filed 8/14/06, effective 9/14/06. Statutory Authority: RCW 43.17.240, 43.20B.80 [43.20B.080], 74.08.090, 74.34.090, Section 1917(b) of the Social Security Act and 2001 2nd sp.s. c 7, Part II. WSR 04-10-060, § 388-527-2790, filed 4/30/04, effective 6/1/04. Statutory Authority: RCW 74.08.090. WSR 01-02-076, § 388-527-2790, filed 12/29/00, effective 1/29/01. Statutory Authority: RCW 43.20B.080, 74.08.090 and 74.34.010. WSR 99-11-076, § 388-527-2790, filed 5/18/99, effective 6/18/99. Statutory Authority: 1995 1st sp.s. c 18 and RCW 74.08.090. WSR 95-19-001

and 95-24-037 (Orders 3893 and 3893A), § 388-527-2790, filed 9/6/95 and 11/29/95, effective 10/7/95 and 12/30/95.] Repealed by WSR 16-05-054, filed 2/12/16, effective 3/14/16. Statutory Authority: RCW 41.05.021, 41.05.160.

182-527-2810 Life estates and joint tenancy. [Statutory Authority: RCW 41.05.021. WSR 13-19-038, § 182-527-2810, filed 9/11/13, effective 10/12/13. WSR 12-19-070, recodified as § 182-527-2810, filed 9/17/12, effective 10/1/12. Statutory Authority: 2005 c 292, RCW 43.20B.080, 74.39A.170, 42 U.S.C. Section 1396p. WSR 06-17-075, § 388-527-2810, filed 8/14/06, effective 9/14/06.] Repealed by WSR 16-05-054, filed 2/12/16, effective 3/14/16. Statutory Authority: RCW 41.05.021, 41.05.160.

182-527-2820 Liens prior to death. [Statutory Authority: RCW 41.05.021. WSR 13-19-038, § 182-527-2820, filed 9/11/13, effective 10/12/13. WSR 12-19-070, recodified as § 182-527-2820, filed 9/17/12, effective 10/1/12. Statutory Authority: RCW 74.08.090 and 2008 Medicare Improvements for Patient and Providers Act (which amended Section 1917 (b)(1)(B)(ii) of the Social Security Act); Deficit Reduction Act of 2005 (incorporating language regarding LTC partnership agreements). WSR 10-08-110, § 388-527-2820, filed 4/7/10, effective 5/8/10. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, and chapter 26.60 RCW. WSR 09-07-038, § 388-527-2820, filed 3/10/09, effective 4/10/09. Statutory Authority: 2005 c 292, RCW 43.20B.080, 74.39A.170, 42 U.S.C. Section 1396p. WSR 06-17-075, § 388-527-2820, filed 8/14/06, effective 9/14/06.] Repealed by WSR 16-05-054, filed 2/12/16, effective 3/14/16. Statutory Authority: RCW 41.05.021, 41.05.160.

182-527-2830 Request for notice of transfer or encumbrance. [Statutory Authority: RCW 41.05.021. WSR 13-19-038, § 182-527-2830, filed 9/11/13, effective 10/12/13. WSR 12-19-070, recodified as § 182-527-2830, filed 9/17/12, effective 10/1/12. Statutory Authority: 2005 c 292, RCW 43.20B.080, 74.39A.170, 42 U.S.C. Section 1396p. WSR 06-17-075, § 388-527-2830, filed 8/14/06, effective 9/14/06.] Repealed by WSR 16-05-054, filed 2/12/16, effective 3/14/16. Statutory Authority: RCW 41.05.021, 41.05.160.

182-527-2840 Termination of request for notice of transfer or encumbrance. [Statutory Authority: RCW 41.05.021. WSR 13-19-038, § 182-527-2840, filed 9/11/13, effective 10/12/13. WSR 12-19-070, recodified as § 182-527-2840, filed 9/17/12, effective 10/1/12. Statutory Authority: 2005 c 292, RCW 43.20B.080, 74.39A.170, 42 U.S.C. Section 1396p. WSR 06-17-075, § 388-527-2840, filed 8/14/06, effective 9/14/06.] Repealed by WSR 16-05-054, filed 2/12/16, effective 3/14/16. Statutory Authority: RCW 41.05.021, 41.05.160.

182-527-2850 Notice of transfer or encumbrance. [Statutory Authority: RCW 41.05.021. WSR 13-19-038, § 182-527-2850, filed 9/11/13, effective 10/12/13. WSR 12-19-070, recodified as § 182-527-2850, filed 9/17/12, effective 10/1/12. Statutory Authority: 2005 c 292, RCW 43.20B.080, 74.39A.170, 42 U.S.C. Section 1396p. WSR 06-17-075, § 388-527-2850, filed 8/14/06, effective 9/14/06.] Repealed by WSR 16-05-054, filed 2/12/16, effective 3/14/16. Statutory Authority: RCW 41.05.021, 41.05.160.

182-527-2860 Interest assessed on past due debt. [Statutory Authority: RCW 41.05.021. WSR 13-19-038, § 182-527-2860, filed 9/11/13, effective 10/12/13. WSR 12-19-070, recodified as § 182-527-2860, filed 9/17/12, effective 10/1/12. Statutory Authority: 2005 c 292, RCW 43.20B.080, 74.39A.170, 42 U.S.C. Section 1396p. WSR 06-17-075, § 388-527-2860, filed 8/14/06, effective 9/14/06.] Repealed by WSR 16-05-054, filed 2/12/16, effective 3/14/16. Statutory Authority: RCW 41.05.021, 41.05.160.

182-527-2870 Serving notices on the office of financial recovery (OFR). [Statutory Authority: RCW 41.05.021. WSR 13-19-038, § 182-527-2870, filed 9/11/13, effective 10/12/13. WSR 12-19-070, recodified as § 182-527-2870, filed 9/17/12, effective 10/1/12. Statutory Authority: 2005 c 292, RCW 43.20B.080, 74.39A.170, 42 U.S.C. Section 1396p. WSR 06-17-075, § 388-527-2870, filed 8/14/06, effective 9/14/06.] Repealed by WSR 16-05-054, filed 2/12/16, effective 3/14/16. Statutory Authority: RCW 41.05.021, 41.05.160.

WAC 182-527-2730 Definitions. The following definitions apply to this chapter:

"Contract health service delivery area (CHSDA)" means the geographic area within which contract health services will be made available by the Indian health service to members of an identified Indian community who reside in the area as identified in 42 C.F.R. Secs. 136.21(d) and 136.22.

"Estate" means all property and any other assets that pass upon the client's death under the client's will or by intestate succession under chapter 11.04 or 11.62 RCW. The value of the estate will be reduced by any valid liability against the client's property when the client died. An estate also includes:

(1) For a client who died after June 30, 1995, and before July 27, 1997, nonprobate assets as defined by RCW 11.02.005, except property passing through a community property agreement; or

(2) For a client who died after July 26, 1997, and before September 14, 2006, nonprobate assets as defined by RCW 11.02.005.

(3) For a client who died on or after September 14, 2006, nonprobate assets as defined by RCW 11.02.005 and any life estate interest held by the client immediately before death.

"Heir" means a person entitled to inherit a deceased client's property under a valid will accepted by the court, or a person entitled to inherit under the Washington state intestacy statute, RCW 11.04.015.

"Life estate" means an ownership interest in a property only during the lifetime of the person owning the life estate.

"Lis pendens" means a notice filed in public records warning that title to certain real property is in litigation and the outcome of the litigation may affect the title.

"Long-term care services (LTC)" means, for the purposes of this chapter only, the services administered directly or through contract by the department of social and health services (DSHS) for clients of the home and community services division of DSHS and the developmental disabilities community services division of DSHS including, but not limited to, nursing facility care and home and community services.

"Property" means everything a person owns, whether in whole or in part.

(1) **"Personal property"** means any movable or intangible thing a person owns, whether in whole or in part;

(2) **"Real property"** means land and anything growing on, attached to, or built on it, excluding anything that may be removed without injury to the land;

(3) **"Trust property"** means any type of property held in trust for the benefit of another.

"Qualified long-term care insurance partnership" means an agreement between the Centers for Medicare and Medicaid services (CMS) and the Washington state insurance commission which allows for the disregard of any assets or resources in an amount equal to the insurance benefit payments that are made to or on behalf of a person who is a beneficiary under a long-term care insurance policy that has been determined by the Washington state insurance commission to meet the requirements of section 1917 (b)(1)(C)(iii) of the act.

"Recover" or **"recovery"** means the agency or the agency's designee's receipt of funds to satisfy the client's debt.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 25-22-083, s 182-527-2730, filed 11/4/25, effective 12/5/25; WSR 16-05-054, § 182-527-2730, filed 2/12/16, effective 3/14/16. Statutory Authority: RCW 41.05.021. WSR 13-19-038, § 182-527-2730, filed 9/11/13, effective 10/12/13. WSR 12-19-070, recodified as § 182-527-2730, filed 9/17/12, effective 10/1/12. Statutory Authority: RCW 74.08.090 and 2008 Medicare Improvements for Patient and Providers Act (which amended Section 1917 (b)(1)(B)(ii) of the Social Security Act); Deficit Reduction Act of 2005 (incorporating language regarding LTC partnership agreements). WSR 10-08-110, § 388-527-2730, filed 4/7/10, effective 5/8/10. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, and chapter 26.60 RCW. WSR 09-07-038, § 388-527-2730, filed 3/10/09, effective 4/10/09. Statutory Authority: 2005 c 292, RCW 43.20B.080, 74.39A.170, 42 U.S.C. Section 1396p. WSR 06-17-075, § 388-527-2730, filed 8/14/06, effective 9/14/06. Statutory Authority: RCW 43.17.240, 43.20B.80 [43.20B.080], 74.08.090, 74.34.090, Section 1917(b) of the Social Security Act and 2001 2nd sp.s. c 7, Part II. WSR 04-10-060, § 388-527-2730, filed 4/30/04, effective 6/1/04. Statutory Authority: RCW 43.20B.080, 74.08.090 and 74.34.010. WSR 99-11-076, § 388-527-2730, filed 5/18/99, effective 6/18/99. Statutory Authority: 1995 1st sp.s. c 18 and RCW 74.08.090. WSR 95-19-001 and 95-24-037 (Orders 3893 and 3893A), §

388-527-2730, filed 9/6/95 and 11/29/95, effective 10/7/95 and 12/30/95.]

WAC 182-527-2734 Liens during a client's lifetime. For the purposes of this section, the term "agency" includes the agency's designee.

(1) **When the agency may file.**

(a) The agency may file a lien against the property of a Washington apple health client during the client's lifetime if:

(i) The client resides in a skilled nursing facility, intermediate care facility for individuals with an intellectual disability, or other medical institution under WAC 182-500-0050;

(ii) The agency determines that a client cannot reasonably be expected to return home because:

(A) The agency receives a physician's verification that the client will not be able to return home; or

(B) The client has resided for six months or longer in an institution as defined in WAC 182-500-0050; and

(iii) None of the following people lawfully reside in the client's home:

(A) The client's spouse or state-registered domestic partner;

(B) The client's child who is age twenty or younger, or is blind or permanently disabled as defined in WAC 182-512-0050; or

(C) A client's sibling who has an equity interest in the home and who has been residing in the home for at least one year immediately before the client's admission to the medical institution.

(b) If the client returns home from the medical institution, the agency releases the lien.

(2) **Amount of the lien.**

(a) The agency may file a lien to recoup the cost of all non-MAGI-based and deemed eligible services under WAC 182-503-0510 it correctly purchased on the client's behalf, regardless of the client's age on the date of service.

(b) Services provided under the medicaid transformation project, defined in WAC 182-500-0070, are excluded when determining the amount of the lien.

(3) **Notice requirement.**

(a) Before the agency may file a lien under this section, it sends notice via first class mail to:

(i) The client's last known address;

(ii) The client's authorized representative, if any;

(iii) The address of the property subject to the lien; and

(iv) Any other person known to hold title to the property.

(b) The notice states:

(i) The client's name;

(ii) The agency's intent to file a lien against the client's property;

(iii) The county in which the property is located; and

(iv) How to request an administrative hearing.

(4) **Interest assessed on past-due debt.**

(a) Interest on a past-due debt accrues at a rate of one percent per month under RCW 43.17.240.

(b) A lien under this section becomes a past-due debt when the agency has recorded the lien in the county where the property is located and:

(i) Thirty days have passed since the property was transferred; or

(ii) Nine months have passed since the lien was filed.

(c) The agency may waive interest if reasonable efforts to sell the property have failed.

(5) **Administrative hearing.** An administrative hearing under this section is governed by WAC 182-527-2753.

[Statutory Authority: RCW 41.05.021 and 41.05.160, 2016 1st sp.s. c 36 § 213 (1)(e), section 1115 of the Social Security Act, and 42 C.F.R. §§ 431.400 through 431.428. WSR 17-12-019, § 182-527-2734, filed 5/30/17, effective 7/1/17. Statutory Authority: RCW 41.05.021, 41.05.160. WSR 16-05-054, § 182-527-2734, filed 2/12/16, effective 3/14/16.]

WAC 182-527-2738 Estate recovery—General right to recover. For the purposes of this section, the term "agency" includes the agency's designee.

(1) **When the agency may file.** After a Washington apple health client has died, the medicaid agency may file liens to recover the cost of services subject to recovery that were correctly paid on the client's behalf.

(2) **Notice requirement.**

(a) Before the agency may file a lien under this section, it sends notice via first class mail as follows:

(i) If the estate has a personal representative, the agency sends notification to:

(A) The personal representative; and

(B) Any known title holder.

(ii) If the estate has known heirs but no personal representative, the agency sends notification to:

(A) Any known heir; and

(B) Any known title holder.

(iii) If the estate has no personal representative and no known heirs, the agency sends notification to:

(A) The address listed on the title; and

(B) Any known title holder.

(b) The notice states:

(i) The agency's intent to file a lien against the deceased client's property;

(ii) The amount the agency seeks to recover;

(iii) The deceased client's name, identification number, date of birth, and date of death;

(iv) The county in which the property is located; and

(v) How to request an administrative hearing.

(3) The agency may not recover from the client's estate so long as there remains:

(a) A surviving spouse; or

(b) A surviving child who:

(i) Is age twenty or younger; or

(ii) Is blind or disabled as defined in WAC 182-512-0050.

(4) **Interest assessed on past-due debt.**

(a) Interest on a past-due debt accrues at a rate of one percent per month under RCW 43.17.240.

(b) A lien under this section becomes a past-due debt when the agency has recorded the lien in the county where the property is located and nine months have passed since the lien was recorded or a creditor's claim was filed, whichever is sooner.

(c) The agency may waive interest if reasonable efforts to sell the property have failed.

(5) **Administrative hearing.** An administrative hearing under this section is governed by WAC 182-527-2753.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 16-05-054, § 182-527-2738, filed 2/12/16, effective 3/14/16.]

WAC 182-527-2740 Estate recovery—Age-related limitations. For the purposes of this section, the term "agency" includes the agency's designee.

(1) **Liability for medicaid services.**

(a) Beginning July 26, 1987, a client's estate is liable for medicaid services subject to recovery that were provided on or after the client's 65th birthday.

(b) Beginning July 1, 1994, a client's estate is liable for medicaid services subject to recovery that were provided on or after the client's 55th birthday.

(2) **Liability for state-only-funded long-term care services.**

(a) A client's estate is liable for all state-only-funded long-term care services provided by the home and community services division of the department of social and health services (DSHS) on or after July 1, 1995.

(b) A client's estate is liable for all state-only-funded long-term care services provided by the developmental disabilities community services division of DSHS on or after June 1, 2004.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 25-22-083, s 182-527-2740, filed 11/4/25, effective 12/5/25; WSR 16-05-054, § 182-527-2740, filed 2/12/16, effective 3/14/16. Statutory Authority: RCW 41.05.021. WSR 13-19-038, § 182-527-2740, filed 9/11/13, effective 10/12/13. WSR 12-19-070, recodified as § 182-527-2740, filed 9/17/12, effective 10/1/12. Statutory Authority: RCW 43.17.240, 43.20B.80 [43.20B.080], 74.08.090, 74.34.090, Section 1917(b) of the Social Security Act and 2001 2nd sp.s. c 7, Part II. WSR 04-10-060, § 388-527-2740, filed 4/30/04, effective 6/1/04. Statutory Authority: RCW 43.20B.080, 74.08.090 and 74.34.010. WSR 99-11-076, § 388-527-2740, filed 5/18/99, effective 6/18/99. Statutory Authority: 1995 1st sp.s. c 18 and RCW 74.08.090. WSR 95-19-001 and 95-24-037 (Orders 3893 and 3893A), § 388-527-2740, filed 9/6/95 and 11/29/95, effective 10/7/95 and 12/30/95.]

WAC 182-527-2742 Estate recovery—Service-related limitations. For the purposes of this section, the term "agency" includes the agency's designee.

The agency's payment for the following services is subject to recovery:

(1) State-only funded services, except:

(a) Adult protective services;

(b) Offender reentry community safety program services;

(c) Supplemental security payments (SSP) authorized by developmental disabilities community services (DDCS);

(d) Volunteer chore services; and

(e) Guardianship and conservatorship assistance program services.

(2) For dates of service on and after January 1, 2014:

(a) Basic plus waiver services;

(b) Community first choice (CFC) services;

(c) Community option program entry system (COPES) services;

(d) Community protection waiver services;

(e) Core waiver services;

(f) Hospice services;

(g) Intermediate care facility for individuals with intellectual disabilities services provided in either a private community setting or in a rural health clinic;

(h) Individual and family services;

(i) Medicaid personal care services;

(j) New Freedom consumer directed services;

(k) Nursing facility services;

(l) Personal care services funded under Title XIX or XXI;

(m) Private duty nursing administered by the home and community living administration (HCLA);

(n) Residential habilitation center services;

(o) Residential support waiver services;

(p) Roads to community living demonstration project services;

(q) The portion of the managed care premium used to pay for HCLA-authorized long-term care services under the program of all-inclusive care for the elderly (PACE); and

(r) The hospital and prescription drug services provided to a client while the client was receiving services listed in this subsection.

(3) For dates of service beginning January 1, 2010, through December 31, 2013:

(a) Medicaid services;

(b) Premium payments to managed care organizations (MCOs); and

(c) The client's proportional share of the state's monthly contribution to the Centers for Medicare and Medicaid Services to defray the costs for outpatient prescription drug coverage provided to a person who is eligible for medicare Part D and medicaid.

(4) For dates of service beginning June 1, 2004, through December 31, 2009:

(a) Medicaid services;

(b) Medicare premiums for people also receiving medicaid;

(c) Medicare savings programs (MSPs) services for people also receiving medicaid; and

(d) Premium payments to MCOs.

(5) For dates of service beginning July 1, 1995, through May 31, 2004:

(a) Adult day health services;

(b) Home and community-based services;

(c) Medicaid personal care services;

(d) Nursing facility services;

(e) Private duty nursing services; and

(f) The hospital and prescription drug services provided to a client while the client was receiving services listed in this subsection.

(6) For dates of service beginning July 1, 1994, through June 30, 1995:

(a) Home and community-based services;

(b) Nursing facility services; and

(c) The hospital and prescription drug services provided to a client while the client was receiving services listed in this subsection.

(7) For dates of service beginning July 26, 1987, through June 30, 1994: Medicaid services.

(8) For dates of service through December 31, 2009. If a client was eligible for the MSP, but not otherwise medicaid eligible, the client's estate is liable only for any sum paid to cover medicare premiums and cost-sharing benefits.

(9) For dates of service beginning January 1, 2010. If a client was eligible for medicaid and the MSP, the client's estate is not liable for any sum paid to cover medical assistance cost-sharing benefits.

(10) For dates of service beginning July 1, 2017, long-term services and supports authorized under the medicaid transformation project are exempt from estate recovery. Exempted services include those provided under:

(a) Medicaid alternative care under WAC 182-513-1600;

(b) Tailored supports for older adults under WAC 182-513-1610;

(c) Supportive housing under WAC 388-106-1700 through 388-106-1765; or

(d) Supported employment under WAC 388-106-1800 through 388-106-1865.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 25-22-083, s 182-527-2742, filed 11/4/25, effective 12/5/25; WSR 24-12-011, § 182-527-2742, filed 5/23/24, effective 6/23/24. Statutory Authority: RCW 41.05.021 and 41.05.160, 2016 1st sp.s. c 36 § 213 (1)(e), section 1115 of the Social Security Act, and 42 C.F.R. §§ 431.400 through 431.428. WSR 17-12-019, § 182-527-2742, filed 5/30/17, effective 7/1/17. Statutory Authority: RCW 41.05.021, 41.05.160. WSR 16-05-054, § 182-527-2742, filed 2/12/16, effective 3/14/16. Statutory Authority: RCW 41.05.021, 41.05.160 and Public Law 111-148, Patient Protection and Affordable Care Act. WSR 14-20-091, § 182-527-2742, filed 9/29/14, effective 10/30/14. Statutory Authority: RCW 41.05.021. WSR 13-19-038, § 182-527-2742, filed 9/11/13, effective 10/12/13. WSR 12-19-070, recodified as § 182-527-2742, filed 9/17/12, effective 10/1/12. Statutory Authority: RCW 74.08.090 and 2008 Medicare Improvements for Patient and Providers Act (which amended Section 1917 (b)(1)(B)(ii) of the Social Security Act); Deficit Reduction Act of 2005 (incorporating language regarding LTC partnership agreements). WSR 10-08-110, § 388-527-2742, filed 4/7/10, effective 5/8/10. Statutory Authority: 2005 c 292, RCW 43.20B.080, 74.39A.170, 42 U.S.C. Section 1396p. WSR 06-17-075, § 388-527-2742, filed 8/14/06, effective 9/14/06. Statutory Authority: RCW 43.17.240, 43.20B.80 [43.20B.080], 74.08.090, 74.34.090, Section 1917(b) of the Social Security Act and 2001 2nd sp.s. c 7, Part II. WSR 04-10-060, § 388-527-2742, filed 4/30/04, effective 6/1/04. Statutory Authority: RCW 43.20B.080, 74.08.090 and 74.34.010. WSR 99-11-076, § 388-527-2742, filed 5/18/99, effective 6/18/99. Statutory Authority: RCW 74.08.090 and 1995 1st sp.s. c 18. WSR 95-19-001 (Order 3893), § 388-527-2742, filed 9/6/95, effective 10/7/95.]

WAC 182-527-2746 Estate recovery—Asset-related limitations. For the purposes of this section, the term "agency" includes the agency's designee.

(1) **Before July 25, 1993.** For services received before July 25, 1993, that are subject to recovery, the agency may exempt:

(a) The first fifty thousand dollars of the estate's value at the time of the client's death; and

(b) Sixty-five percent of the remaining value of the estate.

(2) **July 24, 1993, through June 30, 1994.** For services that are subject to recovery that were received on or after July 25, 1993, through June 30, 1994, the agency exempts two thousand dollars' worth of personal property.

(3) **Life estate.**

(a) The agency may file a lien against a client's life estate interest in real property.

(b) The agency's lien against the property may not exceed the value of the client's life estate. Under this subsection, value means the fair market value of the property multiplied by the life estate factor that corresponds to the client's age on the client's last birthday. For a list of life estate factors, see the life estate and remainder interest tables maintained by the Social Security Administration.

(c) The agency may not enforce a lien under this subsection against any property right that vested before July 1, 2005.

(4) **Joint tenancy.**

(a) The agency may file a lien against property in which a client was a joint tenant when the client died.

(b) The agency's lien against the property may not exceed the value of the client's interest in the property. Under this subsection, value means the fair market value of the property divided by the number of joint tenants on the day the client died.

(c) The agency may not enforce a lien under this subsection against any property right that vested before July 1, 2005.

(5) **Qualified long-term care partnership.**

(a) Assets designated as protected by a qualified long-term care partnership (QLTCP) policy issued after November 30, 2011, may be disregarded for estate recovery purposes if:

(i) The insured person's estate is the recipient of the estate recovery exemption; or

(ii) The insured person holds title to property which is potentially subject to a predeath lien and that person asserts the property is protected under the QLTCP policy.

(b) A person must provide clear and convincing evidence to the office of financial recovery that the asset in question was designated as protected, including:

(i) Proof of a valid QLTCP policy;

(ii) Verification from the LTC insurance company of the dollar amount paid out by the policy; and

(iii) A current department of social and health services QLTCP asset designation form when the QLTCP policy paid out more than was previously designated.

(c) The insured person's estate must provide clear and convincing evidence proving an asset is protected before the final recovery settlement.

(6) **Rules specific to American Indians and Alaska natives.**

(a) Certain properties belonging to American Indians/Alaska natives (AI/AN) are exempt from estate recovery if at the time of death:

(i) The deceased client was enrolled in a federally recognized tribe; and

(ii) The estate or heir documents the deceased client's ownership interest in trust or nontrust real property and improvements located on a reservation, near a reservation as designated and approved by the Bureau of Indian Affairs of the U.S. Department of the Interior, or located:

(A) Within the most recent boundaries of a prior federal reservation; or

(B) Within the contract health service delivery area boundary for social services provided by the deceased client's tribe to its enrolled members.

(b) Protection of trust and nontrust property under subsection (4) of this section is limited to circumstances when the real property and improvements pass from an Indian (as defined in 25 U.S.C. Chapter 17, Sec. 1452(b)) to one or more relatives (by blood, adoption, or marriage), including Indians not enrolled as members of a tribe and non-Indians, such as spouses and stepchildren, that their tribe would nonetheless recognize as family members, to a tribe or tribal organization and/or to one or more Indians.

(c) Certain AI/AN income and resources (such as interests in and income derived from tribal land and other resources currently held in trust status and judgment funds from the Indian Claims Commission and the U.S. Claims Court) are exempt from estate recovery by other laws and regulations.

(d) Ownership interests in or usage rights to items that have unique religious, spiritual, traditional, and/or cultural significance or rights that support subsistence or a traditional life style according to applicable tribal law or custom.

(e) Government reparation payments specifically excluded by federal law in determining eligibility are exempt from estate recovery as long as such funds have been kept segregated and not commingled with other countable resources and remain identifiable.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 16-05-054, § 182-527-2746, filed 2/12/16, effective 3/14/16.]

WAC 182-527-2750 Estate recovery—Delay of recovery for undue hardship. For the purposes of this section, the term "agency" includes the agency's designee.

(1) If an undue hardship exists at the time of the client's death, an heir may ask the agency to delay recovery.

(a) Undue hardship exists only when:

(i) The property subject to recovery is the sole income-producing asset of an heir;

(ii) Recovery would deprive an heir of shelter and the heir cannot afford alternative shelter; or

(iii) The client is survived by a state-registered domestic partner.

(b) Undue hardship does not exist if the client or the heir created circumstances to avoid estate recovery.

(2) If the agency determines recovery would cause an undue hardship for an heir, the agency may delay recovery until the hardship no longer exists.

(3) If the agency denies an heir's request to delay recovery, the agency notifies the heir in writing. The notice includes instructions on how to request a hearing.

(4) If the agency grants a delay of recovery under this section, the heir must:

(a) Timely comply with any agency request for information or records;

(b) Not sell, transfer, or encumber the property;

(c) Reside on the property;

(d) Timely pay property taxes and utilities;

(e) Insure the property for its fair market value;

(f) Name the state of Washington as the primary payee on the property insurance policy;

(g) Provide the agency with a copy of the property insurance policy upon request;

(h) Continue to satisfy the requirements in subsection (1) of this section.

(5) If the heir dies, or violates any provision of subsection (4) of this section, the agency may begin recovery.

(6) If the agency denies the request, the heir may request an administrative hearing under WAC 182-527-2753.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 16-05-054, § 182-527-2750, filed 2/12/16, effective 3/14/16. Statutory Authority: RCW 41.05.021. WSR 13-19-038, § 182-527-2750, filed 9/11/13, effective 10/12/13. WSR 12-19-070, recodified as § 182-527-2750, filed 9/17/12, effective 10/1/12. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, and chapter 26.60 RCW. WSR 09-07-038, § 388-527-2750, filed 3/10/09, effective 4/10/09. Statutory Authority: 2005 c 292, RCW 43.20B.080, 74.39A.170, 42 U.S.C. Section 1396p. WSR 06-17-075, § 388-527-2750, filed 8/14/06, effective 9/14/06. Statutory Authority: RCW 43.17.240, 43.20B.80 [43.20B.080], 74.08.090, 74.34.090, Section 1917(b) of the Social Security Act and 2001 2nd sp.s. c 7, Part II. WSR 04-10-060, § 388-527-2750, filed 4/30/04, effective 6/1/04. Statutory Authority: RCW 74.08.090. WSR 01-02-076, § 388-527-2750, filed 12/29/00, effective 1/29/01. Statutory Authority: RCW 43.20B.080, 74.08.090 and 74.34.010. WSR 99-11-076, § 388-527-2750, filed 5/18/99, effective 6/18/99. Statutory Authority: 1995 1st sp.s. c 18 and RCW 74.08.090. WSR 95-19-001 and 95-24-037 (Orders 3893 and 3893A), § 388-527-2750, filed 9/6/95 and 11/29/95, effective 10/7/95 and 12/30/95.]

WAC 182-527-2753 Hearings. For the purposes of this section, the term "agency" includes the agency's designee.

(1) An administrative hearing to contest action under this chapter determines only:

(a) In the case of a lien filed during the client's lifetime under WAC 182-527-2734:

(i) Whether the client can reasonably be expected to return home from the medical institution;

(ii) Whether the client, or the client's estate, holds legal title to the identified property; and

(iii) Whether the client received services subject to recovery.

(b) In the case of a lien filed after the client's death:

(i) The cost the agency correctly paid for services subject to recovery;

(ii) Whether the client, or the client's estate, holds legal title to the identified property; and

(iii) Whether the agency's denial of an heir's request for a delay of recovery for undue hardship under WAC 182-527-2750 was correct.

(2) A request for an administrative hearing must:

(a) Be in writing;

(b) State the basis for contesting the agency's proposed action;

(c) Be signed by the requestor and include the client's name, the requestor's address and telephone number; and

(d) Within twenty-eight days of the date on the agency's notice, be filed with the office of financial recovery either:

(i) In person at the Office of Financial Recovery, 712 Pear St. S.E., Olympia, WA 98504-0001; or

(ii) By certified mail, return receipt requested, to Office of Financial Recovery, P.O. Box 9501, Olympia, WA 98507-9501.

(3) Upon receiving a request for an administrative hearing, the office of administrative hearings notifies any known titleholder of the time and place of the administrative hearing.

(4) An administrative hearing under this subsection is governed by chapters 34.05 RCW and 182-526 WAC and this section. If a provision in this section conflicts with a provision in chapter 182-526 WAC, the provision in this section governs.

(5) Disputed assets must not be distributed while in litigation.

(6) Absent an administrative or court order to the contrary, the agency may file a lien twenty-eight calendar days after the date the agency mailed notice of its intent to file a lien.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 16-05-054, § 182-527-2753, filed 2/12/16, effective 3/14/16.]