

Overly-Aggressive State Bill Collectors
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The California Department of Health Care Services,' Recovery Unit, is at it again. Every few months it distributes *Important Notice Regarding the Medi-Cal Estate Recovery Program*. The notice recites in relevant part, "However, the Department can seek repayment upon the death of the spouse."

As regular readers of this organ recall, benefits paid by the state for long term nursing home care and in-home supportive services may be recovered from the estate of the participant on his or her death. If the estate is insufficient to satisfy the claim, the state may seek recovery from anyone who inherited from the decedent. The estate from which the state may satisfy the claim is anything distributed from the decedent's probate estate, his or her trust, joint tenancy assets, and revocable life estates.

In a properly-crafted Medi-Cal eligibility plan, the gift transfers are made from the Medi-Cal participant to the spouse or children are *irrevocable* and are made *during life*. The spouse or children receive nothing by distribution from or survival of the decedent. As a consequence, the state has no right or power to collect benefit payments from the survivor who holds the former property of the decedent.

So, do not be misled. While the law could change, right now there is no right or power in the state to recover benefit payments from the estate of a deceased spouse who received the property by lifetime gift.