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Forget the Estate Tax - What about the Medicaid Death Tax

September 17, 2010 by Deirdre Wheatley-Liss

The estate tax, even at a $1 million exemption amount, applies to only 2% of Americans at death. Medicaid estate recovery can apply to anyone over the age of 55. Jeffrey A. Marshall, CELA* at Marshall Elder & Estate Planning Blog has a great post today "Medicaid Estate Recovery - A Medicaid Death Tax" asking why there is so much noise and media coverage about the estate tax when Medicaid estate recovery rules essentially act as a death tax on the poorest of seniors.

His central arguments:

- Medicaid, not Medicare, is the biggest government source of payment for long term care.
- In a curious exercise of age discrimination, the [estate] recovery program only applies to people who are over age 55.
- Because most assets must be spent before a senior becomes eligible for Medicaid, recovery efforts focus on real estate – mainly the home or family farm.
- In some cases, the fear of losing their home or farm to estate recovery deters seniors from getting the care they may desperately need.

Jeff also gives a great example of how Medicaid estate recovery works.

What really struck me is that I had never really considered before is that estate recovery doesn't apply to everyone - just recipients over 55. *While the state certainly needs to balance the care it offers with payment for that care, why is it only that seniors have to give up their homes to get the care they need?*

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