

# IRA M. LEFF

AND ASSOCIATES

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ATTORNEYS AT LAW

1800 CENTURY PLACE, N.E.  
SUITE 100  
ATLANTA, GEORGIA 30345

FACSIMILE: (404) 634-4300

IRA M. LEFF

DIRECT DIAL: (404) 633-1801

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## ELDER LAW MINUTE

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Last week, I wrote about the exemptions for cars and homeplaces for purposes of the Medicaid resource test. Several of you responded confused about the difference between eligibility and Estate Recovery.

In order to qualify for Medicaid, the applicant/recipient ("A/R") must meet the basic eligibility criteria *e.g.* age, citizenship, residency, length of stay and level of care. A/R also must pass the resource test, the income test and the transfer test. For purposes of the resource test, A/R can own a home worth up to \$500,000 or more if certain qualifying people are residing in the home.

When the A/R dies, Estate Recovery becomes effective. Estate Recovery is the process of paying the state and federal governments back for the assistance provided. In Georgia, Estate Recovery reaches back to May 3, 2006. That means that reimbursement is expected for all Medicaid funds expended from that date forward.

The exceptions to Estate Recovery are not the same as used for the resource test. For Estate Recovery purposes, exemptions are provided if the total estate is worth less than \$25,000 or if recovery would cause undue hardship. *Undue hardship* is established if the asset to be recovered is an income producing farm of one or more of A/R's heirs and the annual gross income is \$25,000 or less, or if the recovery of assets would result in the heir becoming eligible for public assistance himself.

Estate recovery is deferred if A/R is survived by a spouse, child under 21, or a blind or disabled child. So, as you can see, you can own a home and qualify for Medicaid, but that does not mean that your home is exempt for Estate Recovery purposes.

What do you do if you are a single homeowner on Medicaid and you want to avoid Estate Recovery? If you have any suggestions, please let me know. Next week I will offer mine plus any others that I receive.

*Member of the National Academy of Elder Law Attorneys*