**Section 10.310 Estate Claims**

a) The Department's claim against the estate of a deceased recipient or against the estate of the recipient's deceased spouse, regardless of the order of death, shall encompass:

1) All income maintenance assistance paid out at any time; and

2) All medical assistance paid out:

A) at any time for a permanently institutionalized recipient whose real property is subject to the Department's lien; or

B) All medical assistance paid out, except the costs of Community Care Program (CCP) services, prior to October 1, 1993, for a recipient while 65 years of age or older; or

C) All medical assistance paid out on or after October 1, 1993, for a recipient while 55 years of age or older; or

D) All medical assistance paid out for Medicare cost sharing expenses of a Qualified Medicare Beneficiary (QMB).

b) The claim shall apply to assistance provided to or in behalf of a recipient on or after the following dates:

|  |  |
| --- | --- |
| Assistance Program | Effective Date |
| AABD (Aged) (AABD(A)) | 1963 |
| AABD (Blind) and (Disabled) (AABD(B) and (D)) | November 1963 |
| MANG (Aged), (Blind), and (Disabled) (MANG(A), (B), and (D)) | January 1, 1996 |

c) The Department shall not enforce a claim for medical assistance against any property, real or personal, of a deceased recipient while one or more of the following relatives survives: spouse of decedent, child under 21, or child over 21 who is blind or permanently and totally disabled.

d) The Department shall not enforce a claim for income maintenance assistance against homestead property of a deceased recipient while the homestead is occupied by one or more of the surviving relatives previously specified.

e) To avoid undue hardship, the Department will waive its right to recover from a decedent's estate to the extent a court approves an award for a surviving spouse or dependent child under the Illinois Probate Act [755 ILCS 5]. The amount of the recovery waived is equal to the amount of the award or awards. Individuals seeking to obtain an award must file a petition with the probate court having jurisdiction over the decedent's estate. The procedure for providing notice to the survivors of the decedent consists of the filing of the claim. Any appeal action taken by the survivors would be with the probate court.

f) The Department may defer or waive enforcement of its claim for income maintenance assistance if it determines that:

1) The deceased recipient is survived by a dependent spouse and minor child or children; or

2) Rehabilitative training for employment or other means of self-support for the surviving spouse or children is feasible, and deferment or waiver will facilitate achievement of self-support status and prevent or reduce the likelihood of return to dependency on public assistance of the spouse or children.