



## 2021 ASSEMBLY BILL 774

December 9, 2021 - Introduced by Representatives BROSTOFF, NEUBAUER, CABRERA and STUBBS, cosponsored by Senators LARSON, JOHNSON, ROYS and CARPENTER. Referred to Committee on Health.

1     **AN ACT to amend** 49.496 (1) (cm) and 49.849 (1) (d) of the statutes; **relating to:**  
2             limitation of estate recovery for the cost of long-term Medical Assistance to only  
3             a recipient's probate estate.

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### *Analysis by the Legislative Reference Bureau*

Under current law, the Department of Health Services is required to seek repayment for the cost of certain long-term care services paid for on behalf of recipients of Medical Assistance. Recovery is currently made from the estates of decedent recipients, from the estates of their surviving spouses, and from certain other nonprobate property, subject to certain limitations. This bill limits the property that DHS may seek repayment from to only property in the recipient's probate estate that is required to be pursued under federal law. The Medical Assistance program is a joint state and federal program that provides health services to individuals who have limited financial resources.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

4             **SECTION 1.** 49.496 (1) (cm) of the statutes is amended to read:

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## SECTION 1

1           49.496 (1) (cm) "Property of a decedent" means all real and personal property  
2 to which the recipient held any legal title or in which the recipient had any legal  
3 interest immediately before death, to the extent of that title or interest, including  
4 assets transferred to a survivor, heir, or assignee through joint tenancy, tenancy in  
5 common, survivorship, life estate, revocable trust, or any other arrangement,  
6 excluding an irrevocable trust and other assets in the recipient's probate estate that  
7 are required to be subject to a claim for recovery pursuant to 42 USC 1396p (b) (4)  
8 (A).

9           **SECTION 2.** 49.849 (1) (d) of the statutes is amended to read:

10           49.849 (1) (d) "Property of a decedent" means all real and personal property to  
11 which the recipient held any legal title or in which the recipient had any legal  
12 interest immediately before death, to the extent of that title or interest, including  
13 assets transferred to a survivor, heir, or assignee through joint tenancy, tenancy in  
14 common, survivorship, life estate, revocable trust, or any other arrangement,  
15 excluding an irrevocable trust and other assets in the recipient's probate estate that  
16 are required to be subject to a claim for recovery pursuant to 42 USC 1396p (b) (4)  
17 (A).

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(END)