

Can I Collect from a Patient's Estate?

- An Innovation Lab FAQ -

In recent months a number of our [MedCollect](#) clients have asked whether they can attempt to collect from a patient's estate after the patient has passed and, if so, how to go about it. Whether to attempt to collect a patient's account balance after their passing is a business decision every healthcare organization must make, and if yours has decided to pursue these balances there are a few key regulations to consider.

Please note that the regulations discussed in this article are part of the [Fair Debt Collections Practices Act \(FDCPA\)](#) and therefore apply to third-party debt collectors, like your medical collection agency.

When Can You Attempt to Collect?

Depending on the value of a decedent's assets, an estate may be opened in Probate Court. Not all estates are probated, and for those that are, not all assets become part of the estate. However, if an estate is opened your organization can file a claim against the estate.

It is important to note that you can only attempt to collect from the estate and not from the estate's representative or the patient's family members. They have no personal financial responsibility to pay any debts of their relative.

Who Can You Contact?

[Section 805\(b\) of the FDCPA](#) prohibits debt collectors from contacting individuals other than the debtor to collect a debt, unless the individual is the debtor's spouse, executor or

administrator. If an estate is being probated the family may be working with an attorney, and it is recommended that you reach out to them directly. If there is no legal counsel involved, then you must speak with the executor or administrator of the estate. Try asking for “the person handling the final affairs” or the “person who has the authority to pay the decedent’s debts” to locate the right person.

Once you locate the executor or administrator best practices dictate that you should obtain documentation that they are the proper party to communicate with about the debt. They will have court documents regarding their appointment, like a Letter of Testamentary. Often this person will also be listed in the patient’s will.

How Can You Resolve the Account?

With the agreement of the family or estate attorney you can obtain payment and process insurance. Again, it is important to note that the family does not have any financial responsibility for the deceased patient’s debts. To avoid implying this in your communications it is a good practice to state that you are “seeking payment from the assets of the decedent’s estate” and that you “are not seeking payment from any joint assets or personal assets of the representative.”

Collecting from an estate is delicate business and must be handled properly to ensure you are not breaching federal debt collection regulations. Even obtaining confirmation that the patient has passed can be challenging because state reporting data is not public information, and without the cooperation of the family or estate administrator the process can be lengthy and expensive. If your healthcare organization has a significant amount of A/R tied up in estates, consider partnering with a revenue cycle company.

Look for a medical debt collection agency that monitors and scrubs accounts for deceased consumers. These agencies have the procedures in place to accurately and efficiently work the legal process to recover more on your behalf.

[Get Your Copy of the Collecting from Patients eBook Here](#)

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