



**Judge Kutscher's
County Court Policy Regarding
Muniments of Title and Medicaid Benefits**

Most attorneys are aware that probating a will as a muniment of title is a useful alternative for some clients, provided that the decedent did not owe any debts other than those secured by liens on real estate. However, many attorneys are not aware that if the decedent applied for and received Medicaid benefits on or after March 1, 2005. The State-run Medicaid Estate Recovery Program could affect whether their clients can proceed with a muniment application. **Texas has not adopted a Medicaid-lien approach to Medicaid recovery. Consequently, claims for Medicaid recovery in Texas are debts of the estate.**

It is imperative that attorneys consult with their clients about whether the deceased received Medicaid benefits. If the deceased applied for Medicaid benefits after March 1, 2005 and received any Medicaid benefits, attorneys need to thoroughly investigate whether the Medicaid Estate Recovery Program has any claim against the estate. If so, the decedent's will cannot be probated as a muniment of title until that debt is paid.

The Texas Department of Aging and Disability Services (DADS) is the state agency in charge of the Medicaid Estate Recovery Program (MERP). Information regarding the Medicaid Estate Recovery Program is available at https://www.dads.state.tx.us/services/estate_recovery/
The Department's general web address is <http://www.dads.state.tx.us/>

Changing your documents for Muniment of Title proceedings:

To satisfy the Court that a muniment proceeding is appropriate, we request that attorneys add the following sentence to the form most commonly known as Proof of Death and Other Facts and Order (when probating a will as a muniment of title):

"The Decedent did not apply for and receive Medicaid benefits on or after March 1, 2005."