

## Debt After Death: Who's Responsible?

If you were to draw up a list of topics most Americans are uncomfortable talking about, debt and death are likely to show up at the top of the list. Yet both subjects are facts of life and we all need to know what our obligations and responsibilities are when a family member dies. According to financial guru and talk show host, Dave Ramsey, the average American has about \$29,800 in debt not counting a mortgage. "And while you might think that all your financial problems will die with you, it's possible your family could inherit your debt. Talk about unfinished business!"

The first principle of debt after death is that any debt that is in the deceased's name only gets paid by their estate. (An estate is all the assets that exist at the time of death—homes, cars, bank accounts, stocks and bonds, and so on.)

The person tabbed to settle an estate, the executor, will be responsible for overseeing the sale of the estate assets and paying off any creditors. But what if the debts are greater than the liquidated value of the estate (in legal terms the estate is insolvent)? Then the settlement of the estate can get more complicated.

For insolvent estates there is a pecking order for who gets paid and how they get paid depending on which of two categories of debt apply. For secured debt like a home mortgage or car loan, the debt is backed (secured) by an asset (a home or a car, for example) which is sold and the proceeds go directly to the lender. Unsecured debt such as credit cards, medical bills, or personal loans will most likely go unpaid if there is no money in the estate.

Heirs should not distribute assets from an estate until all debts have been settled. If assets are disbursed and then the estate does not enough money to cover its debts, those heirs could be on the hook for the unpaid debt. So don't be too quick to give away grandma's jewelry or grandpa's boat.

Now let's take a look at the specifics for some common types of debt.

**Home Mortgages.** "Home co-owners or inheritors are responsible for the remaining mortgage," Ramsey reports. "But they are only required to keep up the monthly payments and do not have to pay back the full mortgage all at once.



If there is no joint account holder on a credit card account and the estate is insolvent, the credit card company will typically just write off the debt.

They can also choose to sell the house to keep it from going into foreclosure."

**Home Equity Loans:** If someone inherits a house that is encumbered with a home equity loan, the lender can demand immediate payment. If the heirs are unable or unwilling to pay off the loan or continue to make the monthly payments, then the house will most likely have to be put up for sale to settle the obligation.

**Car Loans:** As mentioned above, a car loan is in the secured debt category, that is the car itself is collateral. If the owner dies one of three things will happen—the heirs can continue to make the loan payments, the car can be sold with the proceeds used to pay off the loan, or the lender may repossess the car.

**Medical Debt.** Unsecured medical debt is easily the thorniest kind of debt to deal with. In most states medical debt has a priority position for payment when an

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### IN THIS *Issue*

- 1 Debt After Death: Who's Responsible?
- 2 Comfort Food: Celebrate (Sensibly) Punch
- 3 Question of the Month
- 3 Game Zone: Find-a-Word

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Debt After Death...cont.

estate is settled. If the deceased received Medicaid benefits at any time after they turned 55, the state may pursue repayment from the estate. Because medical debt is so complex, it is best to seek the advice of an attorney.

**Credit Card Debt.** For credit card debt, joint account holders are generally fully responsible for all that is owed on the credit card account even if all the charges were made by only one of them. If there is no joint account holder and the estate is insolvent, the credit card company will typically just write off the debt. It is worth noting that if a person is just an authorized user of the card, they are not obligated for the credit card debt.

**Student Loans.** Federal student loans are erased if the borrower dies. However, private student loans are not wiped clean. The unpaid principal and interest on a private student loan have to be covered by the deceased's estate. But like credit card debt if there's not enough in the estate to cover the student loans, they usually go unpaid.

**Long Term Care Costs.** Some states have enacted filial responsibility laws, meaning children can be obligated to pay their deceased parents' long-term care costs for expenses like hospitals and nursing homes. Although neither Nebraska nor Iowa have filial responsibility laws, if you have parents living elsewhere you need find out what the law is where they live. The good

news is that filial responsibility laws are not often enforced; nevertheless you don't want to risk being caught off guard.

**Timeshares.** Most timeshare contracts include a "perpetuity clause" covering maintenance fees. This means that the obligation to pay the timeshare maintenance fees can pass on to those who inherit a timeshare. Heirs can, of course, decline to pay the fees, but it may not stop a timeshare company from pestering them for payment.

By law, creditors must be notified when a debtor passes on. Either the executor of the estate or a family member must take on this task. Then creditors have specific time limits to file their claims. In Nebraska if the executor has notified creditors by publishing a Notice of Death, a creditor has only 2 months from the date of the first notice publication to file a claim. If a creditor should have received an individual notification but did not, they can apply to the court for an extension if they do so within 60 days of the notice deadline. If no Notice of Death is published, creditors have 3 years from the decedent's death to file a claim against the estate. In Iowa creditors have six months after a death to submit a claim against that person's estate.

**The Bottom Line.** Creditors can file to collect from an estate, but unless a deceased person's relatives are co-signers or are in some other way legally responsible, it is illegal for creditors to try to squeeze family members for money.

This article provides general information only. It is not a substitute for a qualified legal opinion. We recommend consulting an attorney about the specifics of your situation.



### Comfort Food

From the kitchen of Janet Cuddigan

#### Celebrate (Sensibly) Punch

After the year we all have had in 2020, we deserve to celebrate a little as we welcome in 2021. Here is a delicious and sensibly non-alcoholic punch recipe. (Makes 32 servings.)

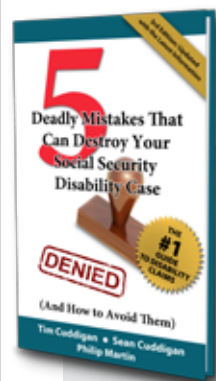
- 5 cups double strength brewed tea
- 3/4 cup white sugar
- 2-1/2 cups orange juice
- 1-1/2 cups grapefruit juice
- 2/3 cup lemon juice
- 1/4 cup lime juice
- 6 cups ginger ale, chilled



Brew tea for 3 minutes. Stir in sugar; set aside to cool.

When tea is cool, stir in orange juice, grapefruit juice, lemon juice, and lime juice. Just before serving stir in chilled ginger ale.

Adapted from allrecipes.com



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**"5 Deadly Mistakes That Can Destroy Your Social Security Disability Case" is the #1 guide to improving the odds of winning a disability case.**

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### Question of the Month: Do Multiple Health Problems Improve the Odds of Receiving Benefits?

It is a common misconception that when applying for Social Security disability benefits your application should only be for one disabling impairment. This is just not true.



If you have more than one medical condition, the Social Security Administration must take into consideration all of your impairments when deciding whether or not you qualify for disability benefits.

For example, let's say you have a disease like arthritis which causes chronic pain, and another illness that affects your respiratory system like asthma. Or you have carpal tunnel syndrome, as well as panic disorder. While the symptoms of these diseases, on their own, may not prevent you from working, when they act together, they may be disabling.

The number of specific diagnoses or illnesses is less important than how the actual impairments limit your ability to function on a day-to-day basis. Even mild conditions—say, like anxiety around people or occasional incontinence—must be considered during a Social Security Residual Functional Capacity evaluation. For this reason, any health condition which could affect your ability to work should be included in your disability application and you should receive treatment for all of your conditions, as well.



### Find-a-Word

- |          |         |          |          |
|----------|---------|----------|----------|
| Aisle    | Despots | Mouses   | Sissy    |
| Balmiest | Dines   | Mouth    | Sleekest |
| Barbaric | Dresser | Needs    | Sphere   |
| Blind    | Ferries | Outlying | Subsides |
| Bracket  | Fossil  | Parodies | Treating |
| Clocks   | Goons   | Petal    | Wield    |
| Combs    | Grape   | Plane    | Zoned    |
| Commends | Insane  | Polled   | Zooms    |
| Compared | Marts   | Qualms   |          |
| Cored    | Mobbed  | Relent   |          |
| Daisy    | Model   | Roams    |          |
| Decrease | Month   | Safer    |          |

G N I Y L T U O K W F U D R  
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 B S Q M L A T E P L A N E C

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