

Department of Public Health
and Human Services

Section:
LIENS & ESTATES RECOVERY

MEDICAL ASSISTANCE

Subject:
Liens

Supersedes: MA 1402-1 (07/01/05)

References: MCA 53-6-165, -171, -174, -175 and ARM 37.82.101 and .438

GENERAL RULE--The Medicaid Program will place a lien against real property owned by a Medicaid recipient who is residing in:

1. A nursing home;
2. An intermediate care facility for the mentally retarded; or
3. An institution for mental disease; **and**

who is not likely to be discharged to return home.

NOTE: If the recipient has been institutionalized for at least six months without a discharge plan or if the recipient or his/her representative states there is no intention to return home, it is presumed the individual is not likely to be discharged.



All institutional residents must complete Form HCS-121, "Real Property Liens for Nursing Home Residents". (This policy does not apply to waiver recipients.)

1. Mail the white copy to: Estates Recovery Unit; PO Box 202953; Helena, MT 59620-2953.

NOTE: Mail the white copy to the Estates Recovery Unit regardless of whether or not the applicant has ownership interest in real property.

2. Retain the yellow copy in the county file; and
3. Give the pink copy to the applicant/recipient.

NOTICE: Written notice will be provided 30 days prior to filing a lien. Recipients or their personal representatives will have an opportunity to present any objections during a hearing process.

LIEN: A lien:

1. does **not** affect property ownership;

2. represents a debt against a specific piece of real property;
3. is filed with the County Clerk & Recorder's Office in the county where the property is located;
4. must be paid when the:
 - a. property is sold;
 - b. property title is transferred to another; or
 - c. recipient dies and probate is settled.

LIEN EXEMPTIONS: A lien filed against a Medicaid recipient's home may not be enforced when the home is occupied by a:

1. spouse;
2. child under age 21;
3. blind or disabled child according to Social Security Administration criteria;
4. sibling **who has ownership interest in the home** and has resided in the home for at least 12 continuous months immediately prior to the recipient's admittance to the long-term care facility; or
5. sibling who has resided in the home for at least 18 continuous months immediately prior to the recipient's admittance to the long-term care facility.

LIEN AMOUNT: The total lien amount will be calculated upon the recipient's death. The amount will include the following expenses paid by Medicaid:

1. long-term care services;
2. hospital services;
3. prescription drug services;
4. home and community based services;
5. health insurance premiums (including Medicare); and
6. all other Medicaid covered services.

NOTE: The total recovered amount cannot exceed the total value of the lien property. For example, if the lien amount was \$75,000 and the property was valued at \$50,000, the recovered amount would be \$50,000.

RETURN HOME: A lien will be dissolved upon receipt of a written request from a Medicaid recipient who:

1. was discharged from a long-term care facility; and
2. returned home.

Dissolution will occur within 30 days after receipt of the request.

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