

Section 1917 of the Social Security Act, 42 U.S.C. 1396p, authorizes Medicaid to take liens on properties of Medicaid applicants/recipients when eligibility criteria, policies and regulations permit.

Liens are taken by the Agency's District Office staff at the time of application or when a change occurs requiring a lien to be taken. The original liens are sent, with supporting documentation, to the Liens Office in Montgomery. The Liens staff is responsible for filing, executing, and releasing the liens held by the Alabama Medicaid Agency.

**THE LIEN IS AN OPTION**

The signing of the lien enables an applicant/recipient to become eligible for Nursing Home Medicaid, Hospital Medicaid or in an Intermediate Care Facility for the Mentally Retarded, even if the value of the property exceeds the resource limits for the program; and as long as the property can be excluded as a resource due to: a dependent relative living in the homestead property, the applicant/recipient intends to return home, there is a bona fide effort to sell the property, or one of the other property exclusions. Without the lien, the applicant or his family would have to pay for his/her medical assistance OR he would have to sell the property, spend down the money, and reapply.

Signing a Lien to Medicaid does not necessarily mean that an applicant will lose his property.

A recipient can stay in the nursing home for 2 months or 2 years, go back home, stay there for the requisite amount of time, and Medicaid will release its lien.

Medicaid does not always take a lien against the property. We do not take a lien if:

- A spouse is living in the home;
- If a child under 21 or one who is blind or totally, medically disabled lives in the home;
- If a sibling, with an equity interest in the home, was residing there for one year before the person was admitted to a nursing home; OR
- If the applicant/recipient owns a life estate interest in the property.

When the lien is recorded, it appears in the chain of title like any other lien, mortgage or judgment filed against the property. Liens remain active until further action is taken. When a lien is held by Medicaid, the Agency becomes a creditor, not an owner of the property. Responsibility for the property remains with the owner or the heirs.

**DETERMINING LIEN AMOUNTS AND NOTIFICATION**

- Medicaid notifies the appropriate individual in writing regarding the amount needed to satisfy the lien by calculating total medical charges expended by Medicaid during the eligibility period, and determining current property value.
- Medicaid must be reimbursed the amount expended on behalf of the recipient or the current tax appraised value of the property, whichever is less.
- If the property sells for more than the tax appraised value, Medicaid is entitled to all proceeds (minus reasonable closing costs) up to the amount paid in benefits for the recipient.
- If property cannot be sold at the tax appraised value, families can appeal the figure to the County Board of Equalization for the TAV to be lowered, or hire a licensed appraiser for a new appraisal of the property.

**OPTIONS FOR SATISFYING MEDICAID'S LIEN**

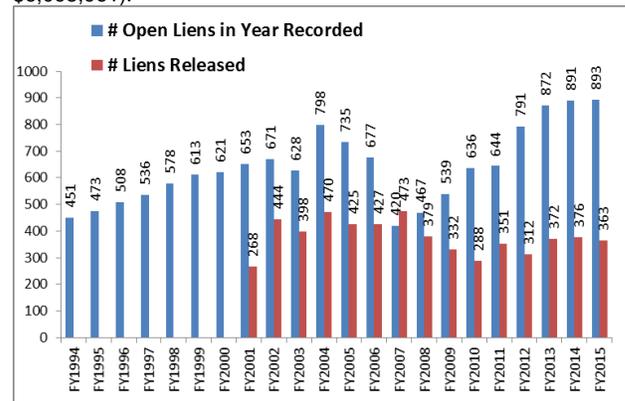
- Pay amount in full
- Sell property and pay amount due
- Sign Promissory Note and make payments (24 months at 12 % interest)
- Risk foreclosure (historically not done due to regulatory limitations and cost-effectiveness)

When Medicaid receives the amount necessary to satisfy the lien, the Agency executes a Lien Release and forwards it to the individual who remits the funds to Medicaid.

**PROGRESS OF LIENS PROGRAM FY 1994 –2015**

The chart below shows liens recorded from FY 1994 – FY 2015. Liens recorded have increased from 451 in 1994 to 893 in 2015.

The collections chart below reflects revenue recovered through Medicaid's property liens from 1994 through 2014 (\$2,019,969 - \$6,098,961).



\* No "Liens Released" data available for FY 1994 – FY2000

