

Liens and the Alabama Medicaid Program

When an applicant (or recipient) has excess resources or property, liens are an option that makes it possible for an applicant to qualify for Medicaid's Nursing Home, Hospital or ICF/MR (Intermediate Care Facility for the Mentally Retarded) programs with minimal delay. Without the lien, the applicant or his/her family would have to pay for the applicant's medical care or sell the property and spend the money for the applicant's care until funds are exhausted and then reapply for Medicaid.

Medicaid must be reimbursed the amount expended in benefits on behalf of the recipient or the current taxed appraised value of the property, whichever is less. However, if the property sells for more than the tax appraised value, Medicaid is entitled to the entire proceeds (minus reasonable closing costs) up to the amount paid in benefits for the recipient.

When applying for Medicaid in the Nursing Home, Hospital or Intermediate Care Facility for the Mentally Retarded, an applicant may not have more than \$2,000 in resources (assets) on the first day of the month. Resources include cash, savings accounts, mineral and timber rights, mortgages, mutual funds, stocks and bonds, CDs and annuities, real estate, promissory notes or loans.

Some resources are not counted. These include: household goods and personal effects, life insurance with total combined face value of \$5,000 or less, or a burial fund or contract valued no more than \$5,000, burial space items (e.g. casket, vault, plot, marker and opening/closing fees excluded from total), one automobile, if used by the household member, and certain excluded property.

Property is not counted as a resource when the applicant intends to return home from the medical institution, when a bona fide effort is being made to sell the property, if a spouse, other dependent relative, or joint owner is living on the property, if the property (valued at less than \$6,000) is income producing, or if the property interest is a life estate.

Signing a lien in favor of Medicaid does not necessarily mean that an applicant will lose his property. A person can reside in a long-term care facility for two months or two years, return home and live there for the requisite amount of time, and Medicaid will release its lien. However, if the recipient (or applicant) returns to a nursing facility, Medicaid would have to take another lien.

When a lien is held by Medicaid, Medicaid becomes a creditor, not an owner of the property. This means that the property is still under the control of the owner (or his/her heirs) who is responsible for its upkeep, taxes and other responsibilities of ownership.

Medicaid does not always take a lien against a property. A lien is not taken if a spouse is living in the home, a child under 21 or one who is blind or medically disabled lives in the home, a sibling with an equity interest in the property was residing in the home for at least one year before the person was admitted to a nursing home, or if the applicant/recipient owns a life estate in the property.

When attempting to recover a portion (or all, in some cases) of Medicaid's expenditures, the Agency's policies require the lesser of the amount Medicaid spent on the recipient or the tax appraised value of the property less reasonable closing costs. If the sponsor feels that the property is overpriced, generally based on the condition of the structure, he/she can

appeal the figure to the County Board of Equalization or hire a licensed appraiser to reappraise the property. Once Medicaid receives a copy of the new appraisal, an acceptable and more accurate amount may be negotiated.

Properties on which Medicaid holds liens

Medicaid does not maintain a list of homes or properties that are offered for sale nor does the Agency seize properties and put them up for sale. Properties encumbered by Medicaid liens are not always available for sale. Medicaid policies and individual circumstances determine whether or not a parcel of property will be marketed for sale. For example, a qualified family member may reside in the home or the Medicaid beneficiary may intend to return home after a period of rehabilitation.

At the point in time that a lien becomes due and payable, which occurs upon the death of the recipient (and spouse, if there is one) or the sale/disposition of the property, Medicaid has the authority to force a sale of the property. However, since Medicaid is not a mortgage company and foreclosure transactions are lengthy and time-consuming, Agency staff prefer to work with the families of recipients and allow ample time for them to satisfy the lien or sell the property and pay the amount due.

The Agency often receives inquiries regarding the sale of specific parcels of property that would qualify for foreclosure. Some individuals are interested in obtaining property through the purchase of Medicaid's lien. In such cases, Medicaid reduces the amount of the lien to cover the cost of foreclosure expenses. The Agency advises interested parties to consult an attorney before making a decision to purchase our lien.

Liens are managed by the Agency's Third Party Division. In FY12, a total of 8,423 liens were in force.

For more information about Medicaid's Liens Program: Go to www.medicaid.alabama.gov to view Chapter 33 - Recoupments and Liens; also access to Social Security Act §1917 [42 U.S.C. 1396P] (a)(1).