

# Alabama Medicaid Lien Procedures

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## TEFRA LIENS

- Established under federal law, a TEFRA (pre-death) lien may be placed against the real property of certain applicants/recipients who are an inpatient in a nursing facility, Intermediate Care Facility for the Intellectually Disabled, or other long-term medical institutions **AND** have been determined eligible for the Nursing Home Medicaid Program or other institutional care based on Medicaid eligibility criteria, regulations, and policies.
- Liens are taken by the appropriate Medicaid staff at the time of application or when a change occurs requiring a lien to be taken. The Estate Recovery/Liens Section, located in Montgomery, is responsible for filing, executing, and releasing the liens held by the Alabama Medicaid Agency.
- 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 the owner of the property**. Responsibility for the property remains with the owner or the heirs.
- The value of the property may exceed the resource limits for the program if a lien is signed **AND** as long as the property can be excluded as a resource due to:
  - a) A dependent relative living in the homestead property;
  - b) The applicant/recipient intends to return home;
  - c) There is a bona fide effort to sell the property; **OR**
  - d) One of the other property exclusions.
- Without the lien, the applicant or his/her family would have to pay for his/her medical assistance **OR** he/she would have to sell the property, spend down the money, and reapply.
- Signing a lien to Medicaid does not necessarily mean that an applicant/recipient will lose his/her property.
- A recipient can stay in the nursing home for 2 months or 2 years, return to the property Medicaid holds a lien against, stay there for the requisite amount of time, and Medicaid will release its lien. The recipient may be asked to provide documentation to support their return to the property if requested.
- Medicaid does not always take a lien against the property. We do not take a lien if:

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- a) A spouse is living in the home;
  - b) If a child under 21 or one who is blind or totally, medically disabled lives in the home;
  - c) 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
  - d) If the applicant/recipient owns a life estate interest in the property.
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### HOW MEDICAID DETERMINES THE LIEN AMOUNT

- Medicaid must be reimbursed the amount expended on behalf of the recipient (total medical charges expended by Medicaid during the eligibility period) 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 (this amount would be sales price minus approved closing costs or other expenses) up to the amount paid in benefits for the recipient.
  - If the property cannot be sold at the tax appraised value, the recipient (or his/her responsible party) can appeal the figure to the County Board of Equalization for the tax appraised value to be lowered. A licensed appraiser may be hired for a new appraisal of the property as well. If a licensed appraiser is hired, the cost of the appraisal charged by the licensed appraiser will be at the requestor's expense. The Agency will not allow this expense to be reimbursed at closing.
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### NOTIFICATION OF THE LIEN (After Death)

- Medicaid notifies the appropriate individual (usually the Medicaid sponsor) in writing regarding the amount needed to satisfy the lien. This letter (called a billing letter) will state the amount expended by Medicaid on the recipient's behalf as well as the current tax appraised value. This letter is mailed approximately 60 days after the date of death to ensure all medical charges have been processed.

**Please note:** The Notice of Termination, sent by the Medicaid District Office, also states "If the above mentioned Medicaid recipient was required to sign a TEFRA (property) lien in order to qualify for Medicaid benefits, please contact the Liens Division at (334) 242-5304 or (334) 242-5305."

### OPTIONS FOR SATISFYING MEDICAID'S LIEN

- There are several options available to satisfy Medicaid's lien:
  - a) Pay amount in full;

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- b) Sell property and pay amount due (Medicaid must be contacted at least 3 days prior to the closing by the closing attorney to obtain a Medicaid payoff);
  - c) Sign promissory note and make monthly payments to Medicaid; OR
  - d) Risk foreclosure.
- Once Medicaid has received the amount necessary to satisfy the lien, the Agency will execute a Lien Release and send it to the individual who remits the funds to Medicaid.
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You may also visit the link provided below for additional information regarding Estate Recovery and Liens.

[https://medicaid.alabama.gov/content/7.0\\_Providers/7.1\\_Third\\_Party/7.1.1\\_Estate\\_Recovery.aspx](https://medicaid.alabama.gov/content/7.0_Providers/7.1_Third_Party/7.1.1_Estate_Recovery.aspx)