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Objectives for Section 1500

1. Define Liens, Adjustments and Recoveries;
2. Provide in detail Restrictions on the Imposition of a Lien;
3. Explain the Medical Review Process.

1500.1 Introduction- Liens, Adjustment and Recoveries

The Department has the right to make a claim against a recipient's income and/or resources under several circumstances. These circumstances are:

- A court order exists which permits the Department to take such action.
- MA benefits have been paid pending an appeal hearing.
- A third party may be responsible for medical expenses as a result of a lawsuit or other legal action.
- The recipient is deceased and received MA benefits at 55 or over.
- A recipient voluntarily reimburses the Program for expenditures.
- Health insurance coverage is available to cover expenses paid by the Department.
- An institutionalized person owns real property against which a lien may be placed.

The Department may not seek recovery from the estate of the deceased individual for Medical Assistance payments of Medicare premiums, co-payments, or deductibles as a Qualified Medicare Beneficiary (QMB) or Specified Low Income Medicare Beneficiary (SLMB).

Claims against a recipient's income and/or resources are made by the Division of Recoveries and Financial Services (Recoveries). This unit is responsible for carrying out all activities to make claims and recoveries on behalf of the Department; however, the activities of Recoveries must be coordinated with those of the LDSS. The LDSS is responsible for reporting complete information to Recoveries to enable that unit to pursue claims and recoveries. The extent to which claims and recoveries are made and the appropriateness of certain legal actions are the responsibility of Recoveries.

Address:

**Medical Care Compliance Administration, Division of Medical Assistance Recoveries,
201 West Preston Street
Rm 204
Baltimore, MD 21201**

Phone number: 410-767-6614

1500.2 Court Order

A court order permitting recovery may exist because of a determination that the Program has paid benefits on behalf of a person that should not have been paid or would have been paid in a lesser amount had the A/R or representative accurately provided required information and reported changes in a timely manner.

It is the responsibility of the LDSS to report any incident in which income, resources or other factors that could affect eligibility have been:

- unreported,
- reported in an untimely manner, or
- Erroneously reported.

The LDSS must report such incidents on the DHMH 4243, Referral for Investigation. The DHMH Office of the Inspector General (OIG) will decide what action is appropriate based on its findings. Criminal or Civil action may be indicated, or an agreement may be reached between the Department and the recipient for reimbursement of incorrectly paid funds. The OIG may also decide that no action is warranted. However, prompt reporting on the DHMH 4243, and clear, accurate, complete case records are essential for the effectiveness of recoveries by the OIG.

The LDSS should also report any suspected provider fraud or abuse, or recipient abuse of the card to OIG for appropriate action. These may be reported by telephone call or memo to the OIG.

1500.3 Benefits Paid Pending Appeal Decision

Regulations require that each case of a person receiving extended benefits pending a hearing decision be referred to the MACA Division of Recoveries via form DHMH 1169 if the hearing officer upholds the decision of the LDSS.

The Division of Recoveries will initiate steps to recover the cost of expenditures made on behalf of the recipient during the appeal process. Exempt from this provision is a person who requests a hearing with a bona fide belief that the LDSS' action to cancel Medical Assistance benefits was incorrectly based; for example, on the misapplication of policy, an error in the amount of income and/or resources considered incorrect application of disregards or exclusions, or an otherwise incorrect calculation. The basis for the appeal should be indicated on the DHMH form letter or other written notice requesting appeal.

The Division of Recoveries will decide, on the basis of the stated factors, if the exemption is applicable.

1500.4 Liability

The MA Program will obtain reimbursement in any case in which a MA recipient has a cause of action against another party if the Program has paid out benefits for medical care

for which the other party was responsible. In any case where a third party may be liable for medical expenses, complete an 1169 reporting such a situation to the Division of Recoveries.

Liability cases may involve personal injuries resulting from automobile accidents, malpractice suits, lead paint poisonings, or accidental injuries sustained on the premises of another individual. The Legal Liabilities Section will contact the recipient, his attorney, and the insurance company to request reimbursement from any settlement funds. The amount of reimbursement requested will not exceed the amount of the accident related services paid by the MA Program.

Workmen's Compensation cases are a specialized type of Liability case in which an injury has occurred as a result of the person's job or at his place of employment. If the MA Program has paid for the cost of treatment for any work related injuries, the Legal Liabilities Section will seek to recover the pertinent costs from the Workmen's Compensation insurance carrier or the self- insured employer.

If a recipient has been criminally assaulted by another person, the Legal Liabilities Section will attempt to recover for the Program the cost of all assault related treatment from the involved third party, i.e., the defendant.

The LDSS must report any cases involving legal liability, lawsuits, paternity, support orders, Workmen's Compensation, assault or accidental injuries to the Division of Recoveries via the DHMH 1169. It is essential to supply complete and accurate information on the 1169, and it is the responsibility of the A/R to provide this information to the LDSS. The cases involving lawsuits and potential settlements must be flagged for review as appropriate, and the results of the review reported to the Division of Recoveries.

1500.5 Estates

The Division of Recoveries will pursue recovery from the estates of deceased recipients when legally possible. Recovery is usually pursued by filing a claim against the open estate of the deceased. For MA recipients, the Division of Recoveries will seek to recover all payments made on behalf of the recipient after the recipient became age 65, unless the recipient is survived by:

- A spouse (even if separated);
- A unmarried child under 21; or
- A blind or disabled child of any age.

The Division may waive its right to recover in "hardship" cases.

If there are recoverable resources, the LDSS must refer the case to the Division of Recoveries via Form 1169. Recoverable resources include the \$2,500 resources limit or any portion, thereof for an individual's if left in an estate and not used for other purposes. If is not

necessary for the LDSS to complete a Form 1169 for the sole purpose of reporting a death. This information is now provided to the Division of Recoveries by means of a monthly computer list from the Division of Vital Statistics.

Note: No recovery for recipients of QMB, SLMB only effective 03/03.

1500.6 Voluntary Reimbursement

The Program will accept any reimbursement when voluntarily offered by a current or former recipient or someone acting on the recipient's behalf for correct and incorrect payments made on a person's behalf.

Voluntary reimbursements are often made in order to properly reduce excess resources. If a recipient is found to have excess resources, timely notice of the case closing must be given. During the timely notice period, the person may reduce resources by voluntarily reimbursing the program and eligibility may continue uninterrupted. Case closing may not be delayed beyond the timely notice period to allow for reimbursement.

In addition to excess resource situations, voluntary reimbursement may be made to the Program for services covered during a period of ineligibility. This situation may occur as a result of either client or agency error.

Voluntary reimbursements may not be regarded as an eligibility requirement. A recipient's intent to make voluntary reimbursement does not change the requirement that the LDSS take appropriate action, e.g. closing, notification of ineligibility, referral to OIG, or Division of Recoveries, etc. In the case of excess resources, verification that the reimbursement has been made must be received in order to prevent the case closing or to reopen the case at reapplication.

1500.7 Health Insurance

(CM) need to aware of the possibility of health insurance through a place of employment, a union or trade association, a separated spouse or an absent parent. The coverage may be carried by a non-assistance unit member.

Health insurance information is collected by the LDSS and reported on CARES. By signature on the application, an applicant agrees to assign to the Program all health insurance or other third party payments to the extent that the Program will pay for his/her medical services. Eligibility may not be denied to an eligible person who cannot legally assign his own rights when the person who can legally assign his rights refuses to make any assignment of benefits to the Program. The Insurance Recovery section of MACA is responsible for maintaining health insurance coverage information on MA recipients and assuring payments by insurance before program payments are made.

When an applicant applies for Medical Assistance, the CM must ascertain whether there is any insurance which may be used to cover any medical services. (This includes any potential insurance from a former employer within the last 2 months prior to the month of application.) Information on insurance should be ascertained and referred to the Division of Medical Assistance Recoveries via the Form 2583.

1500.8 Lien, Institutionalized Persons

(a) Applicability

This section and the following sections apply to:

1. An institutionalized person who owns excluded home property and has met all other factors of eligibility, including resource eligibility, but who has not been certified; and
2. A current institutionalized recipient (including and SSI recipient) who owns excluded home property which has not been evaluated base on the revised definition of “home” and the home exclusion provision, (Regulation.08 B, G, H, and H-1), or in terms of the lien provision, Regulation 15.

This section and the sections which follow do not apply to a person who is not eligible for MA, including one who has excess resources.

(b) Explanation of Lien

Under certain circumstances, the Department may impose a lien on the excluded home and other real property of an institutionalized person including that which is located out of State. (Refer to Chapter 8, Policy Alert, and Evaluation of the Home Property of the Institutionalized Person). A lien is a claim on the property of a person as security for the payment of a debt. The lien enables the Program to recover Program expenditures for medical expenses paid on behalf of the person when property is sold.

The lien provision applies to excluded home property of an eligible institutionalized person. If a lien applies to the home property, it also applies to the following other real properties:

1. Other real property which meets the \$6,000/6% equity value exclusion;
2. Non-excluded real property the value of which, together with other countable resources, is within the applicable resources standard; and
3. Real property which is deeded as Tenancy by the Entireties. Tenancy by the Entireties means:
 - Each owner has an undivided, one- half share of the property;
 - Only the entire interest may be transferred to a third party;

- The co-owners are husband and wife (Tenancy by the Entireties lasts only so long as the co owners are married); and
- When one co-owner dies, the co owner's interest passes automatically to his or her spouse.

If the resource evaluation, based on Regulation .08, revealed that the institutionalized person owns no home property, the lien provision does not apply and no further action is required under this section. Neither does the lien provision apply to home property which is not excluded.

(c)When Home Property May be Subject to a Lien

The circumstances under which a lien may be imposed on the home property of an institutionalized person are as follows:

1. The person is a patient in an Long Term Care Facility(LTCF);
2. The person owns excluded home property;
3. The person has been determined eligible for Medical Assistance, including resources eligibility, with countable and excluded real property within the specified limits; and
4. The Department has determined, after notice and opportunity for a hearing, that there is no reasonable expectation that the person can be discharged from the LTCF and return to live in his home property. (The fact that the person's home property has been excluded for eligibility purposes based on his/her expressed intent to return to it does not preclude the imposition of a lien if the requirements of the lien provision are met.)

The LDSS must refer to MACA via DHMH Form 1159C, Lien Worksheet, all cases of persons meeting all of the conditions indicated above. Complete LDSS referral procedures are included in this chapter.

1500.9 Restrictions on the Imposition of a Lien

There are some restrictions on imposing a lien on the excluded home of an institutionalized person. The Department may not impose a lien on the home of an institutionalized person if any of the following relatives reside in the home with the permission of the owner (or, if under guardianship, the permission of the owner's legal guardian). For purposes of the lien procedures, these relatives are referred to as "specified relatives":

- The person's spouse;
- The person's unmarried child younger than 21 years old;
- The person's son or daughter who is blind or disabled (as determined by the Social Security Administration (SSA), or State Review Team(SRT) as a part of an MA eligibility determination process); or

- The person’s sibling (full, half, step, or adoptive), who has an equity interest in the home and who was residing in the home for a period of at least one year immediately before the date of the institutionalized person’s admission to a LTCF. (Equity interest in the home means co-ownership of the home which is not the result of a transfer of the property for less than the fair market value within two years prior to the person’s institutionalization).

(a) LDSS Lien Procedures

This section describes the procedures for determining if the Program may impose a lien on a person’s home property and/or other real property. The procedures apply to all eligible persons residing in a LTCF who own an excluded home. The lien implementation process (if applicable) takes place after the eligibility determination process has been completed. The person must have been determined eligible for MA and own excluded home property in order for the CM to apply the lien procedures. Certification of the eligible person is discussed in STEP 6 of this section.

(b) Resource Evaluation

Property which meets the definition of “home” must be identified to determine if the lien provision applies. Others residing in the person’s home property must be identified to determine if the Program is restricted from imposing a lien on the home property because of its occupancy by a “specified relative.” If the institutionalized person’s home property is subject to a lien, then the person’s other real property is also subject to a lien. If the home property is not subject to a lien, then the person’s other real property is not subject to a lien either.

The LDSS must refer all lien cases including those with out-of-State property to MACA.

(c) Lien Procedures

When the resource evaluation revealed that the eligible institutionalized person owns excluded home property, follow the procedures detailed below:

STEP 1

Complete Part 1 of DHMH Form 1159C, Lien Worksheet. On the worksheet, classify all real property that the person owns as either “home property” or “other real property”.

STEP 2

Complete DHMH Form 4244 (LTC), Explanation of Lien. Give the original copy of the form to the person or the person’s representative. An additional copy is provided as needed. Explain the following points:

- That a lien is a claim against a person's property as security for payment of a debt. For MA recipients, this means, when the property is sold, the Program will be entitled to an amount up to that which has been expended on recipient's behalf.
- That a lien does not affect ownership interest in a property until it is sold, at which time the Program will be entitled to reimbursement for expenditures paid on behalf of the recipient.
- That if the home is occupied by a "specified relative", the lien will not be imposed. (Refer to Restriction on the Imposition of a Lien).

NOTE: The fact that a "dependent relative" lives in the home which may result in the exclusion of the home as a resource, does not preclude imposition of a lien. (Refer to Chapter 8, Evaluation of the Home Property of an Institutionalized Person for a listing of "dependent relatives").

- That a medical review will be conducted to determine if there is a reasonable expectation that the person will be able to return to live in his/her home property. If the person is expected to return, the lien will not be imposed. If the person is not expected to return, the lien will be imposed.
- That if a lien is imposed and the person is discharged from the LTCF and resumes living in his/her home property, the lien will be lifted. If the person is discharged but does not resume living in the home property, the lien may not be lifted.
- That disposal of the home property for less than fair market value within 60 months prior to or subsequent to the month of application may result in ineligibility. This applies even if the institutionalized person was living in the home at the time of disposal. Transfer of the home to the spouse, unmarried child under 21, or a blind or disabled son or daughter of any age will not affect eligibility. (Refer to Chapter 8, Disposal of Resources).

STEP 3

Determine if the home property is occupied by the person's spouse, unmarried child under 21, blind or disabled son or daughter of any age, or brother or sister, who satisfy the conditions specified under the section Restrictions on the Imposition of a Lien.

- a. If the home is occupied by anyone of these "specified relatives listed above, the lien will not be imposed. Inform the representative that any change in occupancy must be reported. **GO TO STEP 4a**
- b. If the home is not occupied by anyone of these "specified relatives", the home and other real property may be subject to a lien. **GO TO STEP 4b**

STEP 4

Is the Physician Report (DHMH Form 4245 LTC) required?

- a. The Physician Report is not required when the home is occupied by "specified relatives", (Step 3 a). File the Explanation of Lien and Lien Worksheet in the case

record and complete the case. Certify the eligible person. COMPLETE OTHER CASE ACTIVITY.

- b. The Physician Report is required when there are no restrictions on the imposition of a lien on the home property (Step 3 b). Complete Part I of the Physician Report and give the Report to the representative to have the person's attending physician complete Part II. Require return of the completed Physician Report within an adequate period of time to allow for timely Medical Review. GO TO STEP 5

STEP 5

Upon receipt of the completed Physician Report, forward the original of the report to UCA.

- a. If there is no objection to the imposition of the lien, complete the case. Certify the eligible person. Once MA has been accepted, the person no longer has the option of objecting to the imposition of the lien, GO TO STEP 6
- b. If there is objection to the imposition of the lien, delay certification until the Medical Review decision has been received. GO TO STEP 6

STEP 6

Upon receipt of the Medical Review decision (DHMH Form 4246 (LTC) - Notice of Medical Review Decision Home Property) from UCA, take the appropriate actions:

- a. If, based on the Medical Review decision, discharge from the institution and returning to live in the home property can be reasonably expected, no lien will be imposed. Complete the following activities:
 - Complete and file the Lien Worksheet and the Notice of Medical Review Decision- Home Property in the case record.
 - If certification was delayed under step 5b, complete the case.
 - Certify the eligible person.
 - If the person has already been certified under step 5b, complete the case.
 - COMPLETE OTHER CASE ACTIVITY.
- b. If, based on the medical review decision, discharge from the institution and returning to live in the home property cannot be reasonably expected, the Program will impose a lien on the home property and other real property. Complete the following activities:

No Objection to Lien

For the person who does not object to the imposition of a lien:

- Complete the Lien Worksheet and forward the original and copies of the deed(s) and tax assessment(s) for the home property to MACA, Division of Recoveries. File copy of the Lien Worksheet and the Notice of Medical Review Decision-Home Property in the case record.
- Certify the eligible applicant or continue certification for the eligible recipient.
COMPLETE OTHER CASE ACTIVITY.

Objection to Lien

A person who objects to the imposition of a lien is ineligible for MA. Ineligibility is based on the person's objection to the imposition of the lien, which impedes the Program's ability to implement its lien requirements. The basis for this action is COMAR 10.09.24.15A-3(l). The specific reason to be stated on the ineligibility or termination notice is: "You did not wish to subject your home property to the lien requirements of the Program."

- Deny eligibility to an applicant.
- In the case of a recipient, immediate action (termination) in accordance with timely and adequate notice requirements, Regulation .13, is required to avoid erroneous payments
- Complete the Lien Worksheet and file it and the Notice Medical Review Decision Home Property in the case record.
- COMPLETE OTHER CASE ACTIVITY.

1500.10 Explanation of the Medical Review Process

To determine if the program will impose a lien on home property, a Medical Review is required. This process is called the "Medical Review" and is conducted for the Program by the Utilization Control Agent (UCA). Through this process, UCA determines if there is a reasonable expectation that the person can be discharged from the institution and resume living in his/her home property. If reasonable expectation is not determined to exist, a lien will be imposed on the home property irrespective of the person's expressed intent to return.

The LDSS completes Part I of the Physician Report and gives it to the representative to have the attending physician complete Part II. The physician will return the report to the representative, who in turn will forward it to the LDSS.

The LDSS will forward the Physician Report to UCA. UCA, using the medical information provided on the Level of Care Determination (on file with UCA) and the Physician Report, will complete a Medical Review to determine if there is any reasonable expectation that the person will be discharged from the LTCF and resume living in the home property. UCA will notify the person of the decision and his/her right to an appeal hearing via DHMH Form 4246 (LTC), Notice of Medical Review Decision- Home Property. The LDSS will receive a copy of this notice.

1500.11 Appeal of the Medical Review Decision

A person has a right to appeal the Medical Review decision made by a UCA within 90 days of the date of the notice of the decision.

(a) Administrative Review

If an appeal is filed, the first step of the appeal process involves an administrative review of UCA's decision by MACA, Division of Long Term Care. MACA may affirm or reverse UCA's decision. MACA will notify the person, the person's representative, UCA, the Office of Hearings, the LDSS, and the Division of Recoveries of the result of the administrative review.

If the Administrative Review affirms UCA's decision, MACA will forward the case to the Office of Hearings for an appeal hearing. If the Administrative Review reverses UCA's decision, that there is a reasonable expectation the person can resume living in his/her home, the lien, if already imposed, will be lifted. If not yet imposed, it will not be imposed.

(b) Appeal Hearing

If the case is forwarded to the Office of Hearings by MACA, an appeal hearing will be held and a decision rendered concerning the Medical Review decision made by UCA and MACA. When the appeal decision is rendered, the Office of Hearings will notify the person, the person's representative, the LDSS, the Division of Recoveries, and UCA of the decision.

If the Hearing Officer reverses the Medical Review decision made by UCA and MACA, that there is a reasonable expectation that the person can resume living in his home, the lien, if already imposed, will be lifted. If not yet imposed, it will not be imposed.

(c) Summary

Although the administrative review or appeal hearing decision does not affect MA eligibility, they do affect applicability of the lien provision.

If the administrative review or the appeal hearing determined that a lien will not be imposed on the institutionalized person's home property and a lien was imposed, the LDSS must notify MACA, Division of Recoveries, via the DHMH Form 4242, Lien Memorandum, to lift the lien. The memorandum must include the date of hearing or administrative review.

1500.12 MACA, Division of Recoveries Activity

The Division of Recoveries will take the appropriate action to impose a lien on home property, including out of State property, and notify the person (or representative) and the LDSS using DHMH Form 4249 (LTC), Notice of Lien Imposition, of the action.

In addition, via DHMH Form 4242, Lien Memorandum, the Division of Recoveries will notify the LDSS of the details of the sale of a property on which a lien has been imposed, including the amount recovered, and the amount remaining, if any, so that the LDSS can make a determination of continued eligibility.

1500.13 Termination of a Lien Based on Discharge from a Long Term Care Facility (LTCF)

Any lien imposed against a person's property must lift if the person is discharged from a LTCF and returns to his/her home property. The LDSS must determine that the person has in fact returned to his/her home property. This applies only to a person who has been discharged from an LTCF and who returns to his/her property for permanent residence.

The LDSS must notify MACA, Division of Recoveries, via the DHMH Form 4242, Lien Memorandum, when an institutionalized person has been discharged from a LTCF and resumes permanent residence in his/her home property. The memorandum must include the person's date of discharge, the home address and telephone number and the name, address, and telephone number of a contact person. The Division of Recoveries will process termination of the lien. If the person is discharged to a residence other than his/her home property, the lien will not be lifted.

1500.14 Treatment of Home and Other Real Property upon Discharge from an Institution

When a person is permanently discharged from an LTCF, a redetermination of eligibility is required. As part of that redetermination, the LDSS must reevaluate the home property in relation to the person's non-institutional status, (Regulation .08) and make a complete determination relative to the person's continued eligibility.

In relation to the lien provision, if the former institutionalized person did not resume living in the home property, the lien will not be lifted. If the person did resume living in the home property, the lien will be lifted.

Appendix A: Medical Assistance Forms and Notices

The following forms and notices are used in activities associated with liens, adjustments and recoveries. Some of the notices are used only for institutional (LTC) cases and are identified by the abbreviation- “LTC” following the form number. Others are used for both institutional and non institutional cases.

For the purpose of explaining the usage of these forms, the term “recipient” includes persons who have been determined eligible but the card has not yet been authorized.

(a) Notice of Potential MA Payment Recovery- DHMH 1169

This form is completed by the LDSS to report to MACA, Division of Recoveries, all potential third party recoveries for recipients in areas including:

- Liability (e.g., an automobile accident, malpractice suit, or an accidental injury sustained on the premises of another individual);
- Workmen’s Compensation;
- Assault;
- Recoverable Resources;
- Paternity;
- Child Support;
- Estates; and
- Improper payments due to LDSS error.

(b) Referral for Investigation-DHMH 4243

This form is completed by the LDSS to refer to MACA, Division of Field Investigation, for investigation of all cases involving client or representative error associated with not reporting, delayed reporting, or erroneous reporting of information that may have resulted in improper Program payments.

(c) Explanation of Lien-DHMH 4244 (LTC)

The LDSS completes and provides this notice to all institutionalized recipients who own home property. It explains the meaning of a lien and the circumstances under which the Program will impose a lien on the home and other real property.

(d) Physician Report- DHMH 4245 (LTC)

This is a two purpose form which is used to request medical information required for a Medical Review to determine an institutionalized person’s ability to resume living in his/her home property. The CM completes Part I and gives the form to the representative to have Part II completed by the person’s attending physician. The representative must return this form to the LDSS. Upon receipt, the LDSS forwards the original to the UCA for a Medical Review.

NOTE: It is also used to obtain a physician's statement as to the person's ability to be discharged from an LTC facility within 6 months from the month of admission and, therefore, to determine the person's entitlement to a residential maintenance allowance. UCA review is not required for determining entitlement to this allowance.

(e)Lien Worksheet- DHMH 1159c (LTC)

The LDSS completes this form only for institutionalized recipients who own home property to determine if the Program may impose a lien. The DHMH 1159B (LTC), Worksheet for Institutionalized Persons, makes this point clear. If the lien worksheet (Part II) indicates the lien provision is not applicable, file it in the MA case record. If the worksheet (Part IV) indicates the lien provision is applicable, forward a copy of the worksheet to MCCA, Division of Recoveries, for appropriate action relating to the imposition of a lien.

(f)Lien Memorandum-DHMH 4242 (LTC)

This is a multi-purpose memorandum that is used to transmit and exchange information, documents, and forms associated with the lien and recovery process between the LDSS and MACA and its various divisions. Included in its uses are those of MACA, Division of Recoveries, informing the LDSS when the lien has been imposed, when property has been sold and of the proceeds from the sale, and the remaining resource, if any, after the recovery requirement has been satisfied.

(g)Home Exclusion- Statement of Intent -DHMH 4255 (LTC)

This form is used by the LDSS to obtain a statement of an institutionalized person's intent to resume or not to resume living in his/her home property to determine if the home property is an excludable resource. (Refer to Regulation .24, Chapter .08, Policy Alert 08-3, and Evaluation of the Home Property of an Institutionalized Person).

Attachment A

The Insurance Reporting Form- DHMH 2583 (NO longer used- Use the TPL Screen in CARES)

Attachment B Notice of Potential MA Payment Recovery

SECTION I HEADING	STATE OF MARYLAND DIVISION OF MEDICAL ASSISTANCE RECOVERIES P.O. BOX 13045 BALTIMORE, MARYLAND 21203 NOTICE OF POTENTIAL MA PAYMENT RECOVERY DATE: (USE DHMH 2583 INSURANCE REPORTING FORM TO REPORT HEALTH INSURANCE COVERAGE)					
	RECIPIENT LAST NAME FIRST MIDDLE		REPRESENTATIVE LAST NAME FIRST MIDDLE			
	APT. NO. - STREET ADDRESS - P.O. BOX		APT. NO. - STREET ADDRESS - P.O. BOX			
	CITY STATE ZIP CODE		CITY STATE ZIP CODE			
	MA NUMBER	SOCIAL SECURITY NUMBER	RELATIONSHIP TO RECIPIENT	TELEPHONE NUMBER		
SEC. 2 REASON	<input type="checkbox"/> THIRD PARTY ACTION (INJURY) <input type="checkbox"/>		<input type="checkbox"/> DEATH, DATE: <input type="checkbox"/>		<input type="checkbox"/> OTHER <input type="checkbox"/>	
	<input type="checkbox"/> OVERSCALE, \$ DO YOU BELIEVE THAT THE RECIPIENTS ACTION OR IN ACTION WAS INTENTIONAL? <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/>					
COMPLETE THE APPLICABLE SECTIONS						
SECTION III - ASSETS	PROPERTY OWNED (ATTACH PHOTOCOPY OF DEED, IF DECEASED)					
	DESCRIPTION	ADDRESS			APPROX. VALUE	
	BANK ACCOUNTS OWNED					
	TYPE	OWNER (S)	INSTITUTION AND LOCATION	ACCT. NO.	VALUE	
	<input type="checkbox"/> SAVINGS <input type="checkbox"/> INDIV. <input type="checkbox"/> CHECKINGS <input type="checkbox"/> JOINT <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>					
	<input type="checkbox"/> SAVINGS <input type="checkbox"/> INDIV. <input type="checkbox"/> CHECKINGS <input type="checkbox"/> JOINT <input type="checkbox"/>					
	LIFE INSURANCE OWNED					
	COMPANY	ADDRESS	POLICY NO.	NAMED BENEFICIARY?	VALUE	
				YES NO	FACE	
				YES NO	C.V.	
				YES NO	FACE	
				YES NO	C.V.	
	STOCKS / BONDS OWNED					
	TYPE	DESCRIPTION	OWNER (S)	QUAN.	SERIAL NO. (S)	VALUE
	<input type="checkbox"/> STOCK <input type="checkbox"/> INDIV. <input type="checkbox"/> BOND <input type="checkbox"/> JOINT <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>					
<input type="checkbox"/> STOCK <input type="checkbox"/> INDIV. <input type="checkbox"/> BOND <input type="checkbox"/> JOINT <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>						
CASH AND OTHER ASSETS OWNED						
DESCRIPTION	OWNER (S)			VALUE		
IV - INC	SOURCE + EXPLANATION					
	DATE REPORTED	DATE OF INCOME		MONTHLY AMOUNT	TOTAL AMOUNT	

SECT. V - ACCIDENT /ASSUALT	<input type="checkbox"/> AUTO ACCIDENT <input type="checkbox"/> WORKMEN'S COMP., EMPLOYED BY <input type="checkbox"/> PERSONAL ACCIDENT <input type="checkbox"/> ASSUALT <input type="checkbox"/> OTHER <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>		
	DATE OF INJURY	LOCATION OF OCCURRENCE (ADDRESS)	HOSPITAL AND PHYSICIAN PROVIDING TREATMENT
	COMPLETE THE FOLLOWING SECTIONS, AS APPLICABLE		
	VEHICLE DRIVER NAME	VEHICLE DRIVER ADDRESS	VEHICLE DRIVER LIC. #
	VEHICLE OWNER NAME	VEHICLE OWNER ADDRESS	VEHICLE OWNER LIC.#
	INSURANCE COMPANY NAME ADDRESS	POLICY NO.	CLAIM NO.
	LEGAL ACTION? <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/>	ATTORNEY NAME, ADDRESS, TELEPHONE	
	<input type="checkbox"/>		

SECTION VI COMMENTS

To: DHMH Medicaid Program Integrity Recipient Fraud and Abuse Unit 201 West Preston Street, Room 520 Baltimore, Maryland 21201 FAX: 410-333-5326 410-333-7194	From: <u>DSS</u> Case Manager: _____ Telephone: _____
--	--

Re: _____ Case Name _____ Case Status:

_____ Address _____ Open, effective: _____

_____ Change, effective: _____

_____ Closed, effective: _____

Case #/Category: _____

Representative/Address: _____

A. Request for an investigation involving an unreported or untimely reporting of:

Resources Income/Increase in Income A Change in Circumstance

A Disposal of Non-Excluded Resources for Less than Fair Market Value

A Request for More than 1 Duplicate Card in a 12 Month Period

Other

B. (Complete if known) Had the information now known been reported in a timely manner, the recipient would have been :

Ineligible effective from _____ to _____ (Excess Income/Resource: \$ _____)

Eligible with Spend-Down amount from \$ _____ to _____ beginning _____ to _____

Total Due State: \$ _____

Eligible with Monthly Available Income increased (Long Term Care recipient only):

from \$ _____ to \$ _____ beginning _____ to _____.

from \$ _____ to \$ _____ beginning _____ to _____.

Total Due State: \$ _____

C. Comments: _____

(Use separate sheets for additional information and check here)

NOTE: Attach one copy of all documents relevant to the referral.

D. Checklist for Completion: Ensure the following are completed before sending this form.

_____ Completed Referral signed by a supervisor citing the case circumstance as well as suspected period of ineligibility.

_____ Copy of application for eligibility period of suspected fraud.

_____ Copy of all other pertinent documents (i.e. bank statements, life insurance policies, etc.) relevant to suspected fraud.

Supervisor's Name

Signature

Date

Telephone Number

DEPT. OF SOCIAL SERVICES NAME	CASE MANAGER	TELEPHONE NUMBER
-------------------------------	--------------	------------------

Attachment C- Referral for Investigation

**MARYLAND MEDICAL ASSISTANCE PROGRAM
INVESTIGATION REFERRAL**

**DHMH 4243 (REVISED 10/06)
WHITE- INVESTIGATOR COPY
COPY**

YELLOW-CASE RECORD

Attachment D Explanation of Lien

**MARYLAND MEDICAL ASSISTANCE PROGRAM
EXPLANATION OF LIEN**

Date: _____

Re _____
Name Case Number

Dear _____,

This is to notify you that, based on the application filed on _____, the above named person owns home and other real property(ies) against which the Medical Assistance Program may place a lien. This is based on COMAR 10.09.24.15A2(2). The real property on which a lien may be placed is:

ADDRESS OR DESCRIPTION

ADDRESS OR DESCRIPTION

A lien is a claim on the property of a person as security for the payment of a just debt. Its purpose in the Medical Assistance Program is to recover Program expenditures paid on behalf of the person while he/she is residing in a Long Term Care Facility. A lien may be placed on the person's home and other real property:

- When the person must pay all but a minimal amount of his/her income for his/her medical care, including Long Term Care; and
- When the Program has determined, based on a Medical Review, that there is no reasonable expectation that the person will be discharged from the Long Term Care Facility and resume living in his/her home property.

When a lien is imposed on the person's home and other real property, the person retains ownership and control of the property to the extent of his/her ownership interest in the property. The lien is imposed on his/her ownership interest and will dissolve if and when the person is discharged from the Long Term Care Facility and resumes permanent residence in his/her property.

Please read the reverse side of this notice for additional information concerning liens.

Specific questions concerning the impact of a lien on the person's real property may be directed to The Medical Care Compliance Administration, Division of Medical Assistance Recoveries, P.O. Box 13045, Baltimore, Maryland 21203 or call:

Sincerely,

Case Manager

Department of Social Services

Telephone Number

DHMH 4244 (LTC) Revised 12/08

Additional Information Concerning Liens

The Medical Review is completed by the MA Program's UCA. The decision of the UCA is based on medical information provided by the person's attending physician and the Long Term Care Facility. You will receive notice of the medical review decision and you will be given the opportunity for a hearing if you do not agree with that decision.

Selling, giving away or otherwise disposing of the home for less than fair market value may cause a person to be ineligible for Medical Assistance.

No lien may be imposed on the person's home property when it is occupied by the person's spouse, or child under 21, or blind or disabled child of any age, or a brother or sister who has at least one immediately before the date of the person's admission to a Long Term Care Facility. A lien will only be imposed on the person's other real property if he owns home property subject to a lien.

Attachment E Physician Report

MARYLAND MEDICAL ASSISTANCE PROGRAM
PHYSICIAN REPORT

Date: _____

PART I. INSTITUTIONALIZED PERSON'S IDENTIFICATION
(To be completed by the Local Department of Social Services)

1. _____
Name CID#

2. _____
Name of Facility Telephone Number

Address

3. _____
Representative Name Telephone Number

Address

4. _____
Case Manager Department of Social Services Telephone Number

Address

PART II. STATEMENT BY ATTENDING PHYSICIAN

1. The anticipated length of stay in a Long Term Care Facility for the above named patient is:
(check the appropriate box)
 Remainder of Life * Six Months or Less * More Than Six Months
* (give expected month and year of discharge _____)

2. The medical reasons for this expectation are:

(use back for additional space)

3. This person's ability to resume community (non-institutional) living requires the following support systems:
 Medical Day Care Home Health Care Personal Care
 Other _____ No support system(s) will be needed
Specify

I certify that I am the attending physician of the above name person and that the statements I have made concerning this person are based on my professional assessment of his/her medical condition and are supported by the person's medical record.

Signature of Physician Printed Name of Physician Date

Address

Notice to Medicaid Applicants

You are providing personal information (Name, Address, Date of Birth, Income History, Employment History, etc.) in this application for Medicaid benefits.

The purpose of requesting this personal information is to determine your eligibility for Medicaid. If you do not provide this personal information, the Medicaid Program may deny your application for benefits. You have a right to inspect, amend, or correct this personal information. The Medicaid Program will not permit inspection of your personal information, or make it available to others, except as permitted by federal and state law.

DHMH 4245 Revised 7/02

Attachment F- Lien Worksheet

MARYLAND MEDICAL ASSISTANCE PROGRAM
LIEN WORKSHEET

NOTE: COMPLETE THIS FORM ONLY IF THE PERSON OWNS HOME PROPERTY.

PART I. INSTITUTIONALIZED PERSON'S IDENTIFICATION

Name	Case Number	Date
Representative Name	Representative Telephone Number	
Representative Address		

PART II. INSTITUTIONALIZED PERSON'S REAL PROPERTY

HOME PROPERTY Address or Description
Owner(s)
OTHER REAL PROPERTY (Within Eligibility Limits) Address or Description
Owner(s)

Is the home property, listed above, occupied by the institutionalized person's:

a. Spouse? Yes No b. Child under 21? Yes No

c. Blind or Disabled son or daughter? Yes No

d. Brother or sister who has an equity interest in the home property and who has lived in the property at least one year? Yes No

- If any response is YES, the lien provision is not applicable to the institutionalized person's real property. File form in case record.
- If all responses are NO, the medical review process is applicable to the institutionalized person. Go to Part III and Follow the instructions.

PART III. MEDICAL REVIEW PROCESS

The following actions are taken when the medical review process is applicable to the institutionalized person.

1. Complete Part I of form DHMH 4245 (LTC), Physician Report.
2. Give the Report to the person or his/her representative to have the person's attending physician complete Part II.
3. The attending physician completes Part II and returns the Report to the person or representative.
4. The person or representative returns the Report to the Local Department of Social Services (LDSS).
5. The LDSS submits the Report to the Utilization Control Agent for a Medical Review.
6. The Utilization Control Agent will notify the LDSS of the Medical Review decision by form DHMH 4246 (LTC), Notice of Medical Review Decision.
7. When the Notice of Medical Review Decision is received by the LDSS, proceed to Part IV.

PART IV. LIEN APPLICABILITY

Complete the following when the Notice of Medical Review Decision is received by the LDSS.
Based on the form DHMH 4246 (LTC), is the person expected to be able to resume living in his home property?

- Yes. The lien provision is not applicable to the person's real property. File this worksheet and Medical Review Decision in the case record. Instruct the representative to report any changes in home occupancy.
- No. The lien provision is applicable to the person's real property. Submit the original of this form, the Deed(s), and tax assessment(s) for the property(ies) to: Medical Care Compliance Administration, Division of Recoveries, P.O. Box 13045, Baltimore, Maryland 21203.

Signature – Eligibility Technician

Local Department of Social Services

Printed Name – Case Manager

Telephone Number _____
Date

Signature- Supervisor

Telephone Number _____
Date

DHMH 1159C (LTC) Revised 03/09
White-Division of Recoveries Copy

Yellow-Case Record Copy
Attachment G Lien Memorandum

MARYLAND MEDICAL ASSISTANCE PROGRAM
LIEN MEMORANDUM

Date: _____

TO:

FROM:

SUBJECT:

DHMH 4242 (LTC)
Attachment H Home Exclusion

MARYLAND MEDICAL ASSISTANCE PROGRAM

HOME EXCLUSION – STATEMENT OF INTENT

Date: _____

PART I. INSTITUTIONALIZED PERSON'S IDENTIFICATION
(To be completed by the Local Department of Social Services)

1. _____ Client ID
 Name

2. _____ Telephone Number
 Name of Facility

3. _____ Address
 Representative's Name Telephone Number

4. _____ Address
 Case Manager Department of Social Services Telephone Number

Address

PART II. STATEMENT OF INTENT TO RESUME LIVING IN HOME PROPERTY

Read this entire section before answering the question below. The person's representative may answer the question.

If "no" is checked, the equity value of the person's home may be a countable resource which could cause the person to be ineligible for Medical Assistance. If "yes" is checked, the person's home property will not be a countable resource; however, the State may place a lien on the home and other real property.

Does the institutionalized person ever intend to live in his/her home property located at _____ again?

Yes No

Signature of Applicant _____ Date _____
or Representative _____

DHMH 4255 (LTC) Revised 12/08
Attachment I- Notice of Medical Review

MARYLAND MEDICAL ASSISTANCE PROGRAM

NOTICE OF MEDICAL REVIEW DECISION – HOME PROPERTY

Date: _____

Re: _____

Name

Case Number

Dear _____:

This is to inform you that a medical review was held on to decide if there is reasonable expectation that the above named person will be able to resume living in his/her home property. The review was based on medical information provided by his/her attending physician and the Long Term Care Facility. The decision is checked below:

- The above named person can reasonably be expected to be discharged from the Long Term Care Facility to resume living in his/her home property.
- The above name person cannot reasonably be expected to be discharged from the Long Term Care Facility to resume living in his/her home property. The Division of Medical Assistance Recoveries will contact you concerning the placing of a lien on this person's real property.

The person's medical condition will be reviewed every six months or when a change is indicated, and you will be notified if the above decision is changed. The Medical Assistance Program's authority to make this decision is based on COMAR 10.09.24.15A-2(2). If you do not agree with the medical review decision, you have the right to request a hearing. The procedures for requesting a hearing are on the back of this letter.

Sincerely,

Utilization Control Agent

Telephone Number

cc: Recipient
Division of Medical Assistance-Recoveries

Local Department of Social Services

COMAR 10.09.24.15

DHMH 4246 (LTC) Revised 12/08
White-Authorized Representative Yellow-Division of Recoveries Pink-Case Record Blue-Applicant/Recipient

HOW TO HAVE A HEARING IF YOU THINK WE ARE WRONG

What do I do if I think your decision is wrong?

- **Call** the telephone number on the other side of this notice to ask for a conference.
- **Request** a hearing by:
- **Calling** 1-800-332-6347 or the telephone number on the other side of this notice and requesting a hearing; or
- **Visiting** your local department office and requesting a hearing; or
- **Mailing or giving** a request for a hearing in writing to:
- Your local department office; or
- The following address:

DHMH Docketing – Unit A
Office of Administrative Hearings
11101 Gilroy Road
Hunt Valley, Maryland 21031-1301

- Come to your local department office. We will help you.
- Call your case manager at the telephone number on this notice or call 1-800-332-6347.

How long do I have to request a hearing?

- You must ask for a hearing no later than **90 days** after the date of this notice.

How long can I still get my benefits while I wait for my hearing?

- If you ask for a hearing no later than **10 days** after the date of this notice and you were getting benefits, you can continue to get your benefits while you wait.

Will I owe any money if I get my benefits while I wait?

- If the judge agrees with us and you lose your appeal, you may have to pay back benefits. This might not be required if it is determined that your request for a hearing resulted from a bona fide belief that the department's decision was in error.

When and where will the hearing be?

- The Office of Administrative Hearings will send you a notice telling you the time and place of your hearing.

Do I have to come to the hearing?

- Yes. You will lose if you do not come. If you can't come, tell the Office of Administrative Hearings and they will reschedule your hearing.

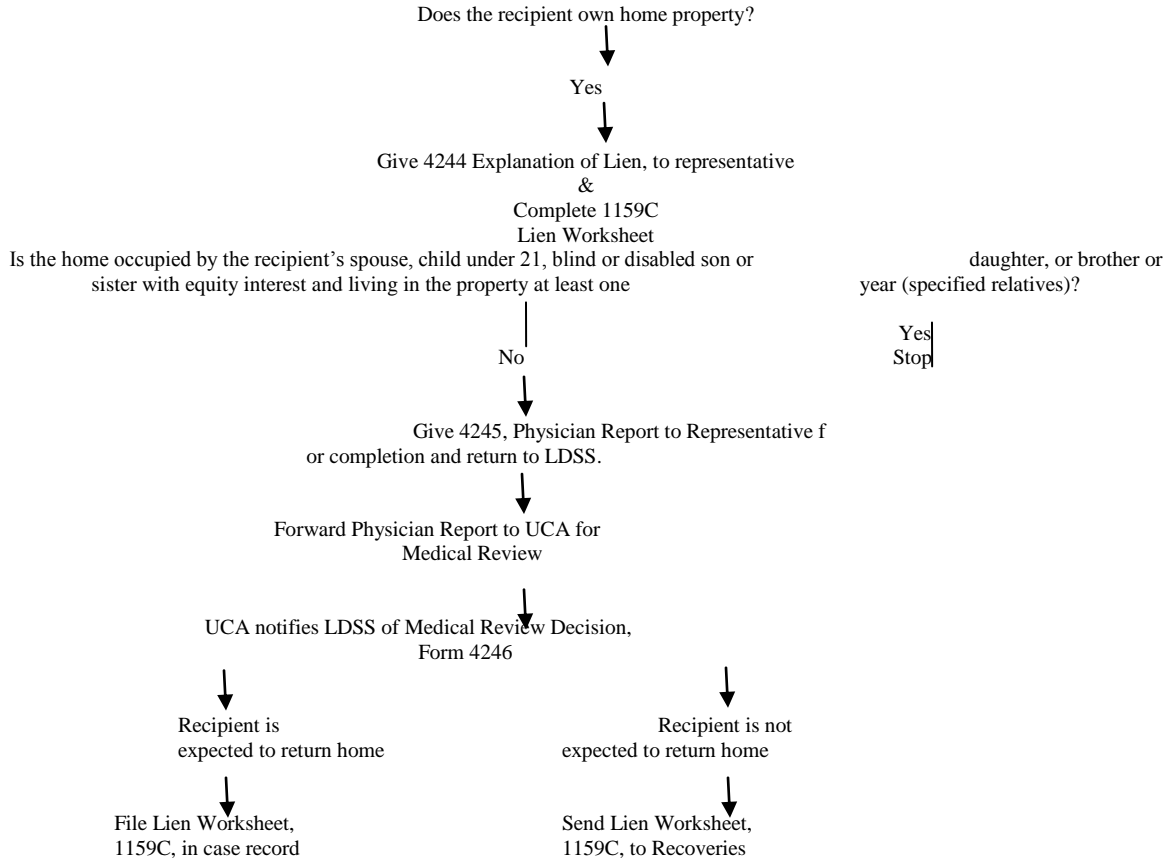
Can I bring someone to help me or speak for me?

- Yes. You can bring a lawyer, friend, or relative. If you want free legal help, call your local department or call Legal Aid at 1-800-999-8904. To see if you qualify for free legal representation, call the Maryland Volunteer Lawyer Services at 1-800-510-0050.

How can I prepare for the hearing?

- You can see your file, including your computer file, at your local department and talk with us about this decision. Please call the telephone number on the other page to make an appointment. We will send you our reasons for the decision that you are appealing, at least 6 days before your hearing.

Lien Process Flow Chart for Institutionalized Persons



NOTE: If a lien is applicable to the home property, it is also applicable to other real property listed on DHMH Form 1159C.

Section 1500 Frequently Asked Questions (FAQs) and Answers Liens, Adjustment and Recoveries

1. Claim against a recipient's income and/or resources are made by what division of DHMH?

The claim is made by the Division of Recoveries and Financial Services (Recoveries).

2. If any incident in which income, resources or other factor that could affect eligibility have been unreported, reported in an untimely manner or erroneously reported, which form is used to report such incidents?

The Case Manager must report such incidents on the DHMH 4243, DHMH Office of the Inspector General (OIG).

3. What are the circumstances which the department has the right to make a claim against income and/or resources?

As followed:

- A court order exists which permits the department to take such action. MA benefits have been paid pending an appeal hearing.
- A third party may be responsible for medical expenses as a result of a lawsuit or other legal action.
- The recipient is deceased and received MA benefits at 55 or over.
- A recipient voluntarily reimburses the Program for expenditures.
- Health insurance coverage is available to cover expenses paid by the Department.
- An institutionalized person owns real property against which a lien may be placed.

4. Should the Department impose a lien on the home of an institutionalized person if any of the following relatives reside in the home with the permission of the owner (or, if under guardianship, the permission of the owner's legal guardian)?

No, the department may not impose a lien in this situation.

5. Who should the LDSS refer all lien cases including those with out-of-State property to?

MACA