

**AMOUNT DURATION AND SCOPE OF MEDICAL AND REMEDIAL CARE AND SERVICES PROVIDED
CATEGORICALLY NEEDY**

A. A lien may be filed and enforced against the real property of a recipient who is an inpatient in a nursing facility, ICF/MR or other medical institution in certain instances after notice and opportunity for a hearing has been provided.

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1. No lien may be filed on the home property if the client's family includes any of the following:

- a. A surviving spouse residing in the home, or
- b. A child or children age 20 or less lawfully residing in the home, or
- c. A disabled child or children lawfully residing in the home, or
- d. A brother or sister of the recipient who has an equity interest in the home and has been residing in the home for at least one (1) year immediately prior to the recipient's admission to the nursing facility and who has continued to live there on a continuous basis since that time.

2. A lien may be filed only after it has been determined, after notice and opportunity for a hearing, that the recipient cannot reasonably be expected to be discharged and return to the home. To return home means the recipient leaves the nursing facility and resides in the home on which the lien has been placed for a period of at least 90 days without being readmitted as an inpatient to a medical or nursing facility.

3. When enforcing a lien would create an undue hardship, it will not be enforced. Undue hardship exists when enforcing the lien would deprive the individual of medical care such that his/her life would be endangered. Undue hardship does not exist, however, where the individual or his/her family is merely inconvenienced or where their lifestyle is restricted because of the lien or estate recovery being enforced.

4. The lien filed by the Agency for medical assistance correctly received may be enforced before or after the death of the recipient. But it may be enforced only:

- a. After the death of the surviving spouse of the recipient,
- b. When there is no child of the recipient, natural or adopted, who is twenty (20) years of age or less residing in the home,



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- c. When there is no adult child of the recipient, natural or adopted, who is blind or disabled residing in the home.
- d. When no brother or sister of the recipient is lawfully residing in the home, who has resided there for at least one (1) year immediately before the date of the recipient's admission to the nursing facility, and has resided there on a continuous basis since that time.

The lien remains on the property even after transfer of the title by conveyance, sale, succession, inheritance or will unless one of the following events occur:

- a. It remains until the lien is satisfied. The recipient or recipient's representative may discharge the lien at any time by paying the amount of lien to the Agency. By statute, a fine may be levied against the lien holder if it is not released in a timely manner.
- b. After a lien is filed against the real property, it will be dissolved if the client leaves the nursing facility and resides in the property to which the lien is attached for a period of more than 90 days without being readmitted as an inpatient to a medical or nursing facility, even though there may have been no reasonable expectation that this would occur. If the recipient is readmitted to a nursing or medical facility during this period, and does return to his/her home after being released, another 90 days must be completed before the lien can be dissolved.

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- 6. If a recipient was age 55 or older when the nursing care was received, adjustment or recovery may be made only after the death of the individual's spouse, if any, and at a time when there are no surviving children age 20 or less and no surviving disabled children of any age living in the home.
- 7. The estate consists of all real and personal property and other assets included in recipient's estate as defined by Title 58 of the Oklahoma statutes and any other real and personal property and other assets in which the recipient has any legal title or interest at the time of death (to the extent of that interest), including such assets conveyed to survivor, heir or any other party through joint tenancy, tenancy in common, survivorship, life estate, living trust or other arrangements.

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