

WHAT IS A LIEN?

A lien is a document filed with the county registry of deeds which alerts anyone who wants to buy your house or land that you have a debt against the property which must be paid when the home is sold or refinanced.

WILL THE STATE FILE A LIEN ON MY HOUSE?

If you receive OAA, ANB, or APTD **cash** assistance, the State will file a lien on your home or land to get paid back for this assistance.

If you live in a nursing home and your house or land is not being lived in by your spouse, minor or disabled child(ren), or sibling with an equity interest, the State will file a lien to get paid back for the OAA, ANB, MEAD, or APTD **medical** assistance (Medicaid) you received after age 55.

IF THE STATE FILES A LIEN ON MY HOUSE, WHAT WILL HAPPEN?

When the State files a lien on your house, it **does not** mean:

- that you must move or sell your house; or
- that the State owns your house or wants to own your house.

What it **does** mean is that when you sell or refinance the property, the State will

collect on the lien that was placed on your house or land.

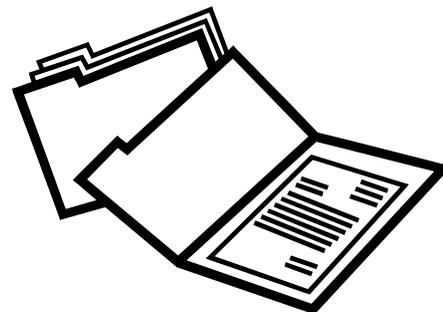
This means that money from the sale goes to the State to pay off the OAA, ANB, MEAD, or APTD assistance you received.

WHAT IF I OWN MY PROPERTY WITH OTHER PEOPLE?

If you receive OAA, ANB, or APTD **cash** assistance and the property is jointly owned with your spouse, when the property is sold or refinanced the State will collect on the full amount of the lien, if the money from the sale is enough to pay off the lien.

If the property is jointly owned with someone other than your spouse, the State will collect on the lien for **cash** assistance only up to the amount that equals your share of the ownership of the property.

If you receive OAA, ANB, MEAD, or APTD **medical** assistance and the property is jointly owned, the State will collect on the lien only up to the amount that equals your share of the ownership of the property.



I AM NO LONGER ON ASSISTANCE. HOW CAN I GET RID OF THE LIEN ON MY PROPERTY?

You can make a *voluntary* payment to the State in an amount equal to the assistance provided. Upon receipt of the payment, the State will remove the lien.

Even if you no longer receive assistance, the State will only act upon the lien if you sell or refinance your property, or die.

WHAT IS AN ESTATE CLAIM?

An estate is all of the property (such as cash, savings, stocks, land, etc.) owned by a person at the time of death. For the purpose of recovery of medical assistance, your estate includes both assets that pass through probate and assets that pass outside the probate process. Your estate includes property held solely or jointly with others on the date of death. This includes assets held in joint tenancy, tenancy in common, life estates and living trusts regardless of when the asset was obtained or divided.

If you owe money to creditors (like the State) when you die, the creditors can file a claim against your estate to get paid back the money owed to them.

Through the probate process, the court makes sure that:

- all debts or claims filed against the estate are paid; and

- after debts are paid, any remaining assets go to the proper people.

For assets passing outside the probate process, the surviving owners or beneficiaries will be sent a notice of the Department's claim.

WILL THE STATE FILE A CLAIM AGAINST MY ESTATE?

When probate is started for someone who received OAA, ANB, MEAD, or APTD **cash** or **medical** assistance, the State may file a claim against the estate for repayment of the assistance received.

The State will file a claim against your estate for the:

- OAA, ANB, or APTD **cash** assistance you received, if the total assistance is more than \$100; and/or
- OAA, ANB, MEAD, or APTD **medical** assistance you received after age 55, if you are unmarried or widowed at the time of your death and do not have any minor or disabled children.
- There is no recovery for Medical Assistance received prior to age 55.

WHAT IF I HAVE A WILL THAT SAYS MY PROPERTY GOES TO SOMEONE OTHER THAN THE STATE?

Probate law provides that creditors, such as the State, must be paid before any directions in a will are followed.

If any assets remain after paying all debts against the estate, the court will follow the directions of the will and allow assets to be given to the heirs in the will.

ARE THERE ANY TIMES WHEN MY ESTATE WON'T HAVE TO REPAY THE STATE?

All **cash** assistance received must be repaid to the State.

The State will only file a claim if you are over the age of 55 and you do not have a surviving spouse, minor or disabled child. If repayment of **medical** assistance received would cause the family to experience a hardship, repayments are sometimes waived.

Your family and/or the administrator of your estate can apply for hardship waiver and have the debt forgiven, if the hardship criteria are met.

THE STATE DIDN'T FILE A LIEN, CAN THEY STILL FILE AN ESTATE CLAIM?

Yes. There are times when the Department does not have the authority to place a lien but may file a claim. Additionally, because a lot can happen between application for assistance and death, there will be situations where a lien is not filed, but an estate claim is appropriate, and vice-versa.

Filing an estate claim is based on circumstances existing at the time of the recipient's death.

You should contact an attorney for more information on how liens and estate claims might apply to your situation.

WHAT IF MY ESTATE DOES NOT HAVE ENOUGH FUNDS TO REPAY THE STATE?

The State will collect on the funds that are available in your estate even if there is not enough to pay the claim in full.

Once your estate is properly probated and closed:

- any remaining debt for OAA, ANB, or APTD **cash** assistance can be collected from your spouse's estate when (s)he dies. If you do not have a spouse when you die, any remaining debt is forgiven; and/or
- any remaining debt for OAA, ANB, MEAD, or APTD **medical** assistance is forgiven. The State will only take the available funds in your estate to pay for a medical assistance debt. The state will not collect from your spouse's estate when (s)he dies.



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WHAT ARE LIENS AND ESTATE CLAIMS?



The law requires all recipients of Old Age Assistance (OAA), Aid to the Needy Blind (ANB), and Aid to the Permanently and Totally Disabled (APTD) cash assistance as well as many recipients of OAA, ANB, APTD, and Medicaid for Employed, Adults with Disabilities (MEAD) medical assistance to repay the State for the benefits they receive. The State collects payment for past assistance in two ways:

- *liens against real property; and/or*
- *estate claims after a recipient dies.*

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