

**OTHER ELIGIBILITY REQUIREMENTS**

**LIENS**

**NOTE:** The extent to which liens may be imposed and recoveries pursued with respect to Medicaid recipients who are Qualified Partnership Policyholders (QPPs) depends on the type of plan chosen by the QPP.

Total Asset Protection Plans (TAP) - No liens may be imposed against the real property of a permanently institutionalized individual who is a TAP QPP nor may recoveries made from the estate of a TAP QPP.

Dollar-for-Dollar Asset Protection (DDAP) Plans - Since homes of DDAP QPPs must be evaluated for their exempt/countable status, a lien shall be placed on the real property of the permanently institutionalized individual DDAP QPP in an amount equivalent to his/her unprotected resources, if any.

**References:**

- SSL Sect.      104  
                      106  
                      366.3(a)  
                      369
- Dept. Reg.      360-7.11
- ADMs            09 OHIP/ADM-3  
                      02 ADM-03  
                      92 ADM-53

**Interpretation:**

When a recipient is anticipating a court award, settlement, or claim that resulted from a personal injury, a lien is placed against it. Such awards, settlements or claims may result from, but are not limited to insurance payments and law suits. A lien may not be imposed against Workers' Compensation, Social Security, SSI or other such benefits. The lien is for the cost of medical care provided to treat the personal injury for which the payment is intended.

Incorrectly paid Medicaid is any Medicaid furnished to a recipient at a time when s/he was ineligible. Only by instituting a court action can a district place a lien on a recipient's real property to recover Medicaid incorrectly paid.

The institutionalized individual is given an opportunity to transfer his/her homestead to a specified relative, before a lien is imposed. (See **RESOURCES TRANSFER OF ASSETS ALL CATEGORIES** for a list of who an A/R may transfer his/her homestead to without penalty.) Generally, the transfer is made within 90 days of the

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eligibility determination. A longer period may be allowed if necessitated by delays beyond the institutionalized individual's control.

If an institutionalized individual is discharged and returns to the community, any liens against his/her real property are removed. If the individual wants to continue Medicaid coverage, his/her eligibility is determined based on his/her new circumstances.