

(a) **Medical Review Process For Determining That A Person Cannot Reasonably Be Expected To Be Discharged From The Medical Institution and Return Home**

The Medical Review Process is performed for the Maryland Department of Health Mental and Mental Hygiene (DHMH) by the contractual Utilization Control Agent (UCA) that conducts utilization reviews in nursing facilities and other long term care facilities.

1. The applicant's attending physician completes Part II of the DHMH Form 4245 (LTC), Physician Report (see facsimile on page 3 of this Attachment). The physician returns the form to the applicant who in turn forwards it to the local department of social services (LDSS) or the Bureau for Long Term Care Eligibility (BLTCE). The LDSS or BLTCE forwards a copy of the Physician Report to the UCA.
2. Using the medical information provided with the request for medical eligibility (on file with the UCA), the Physician Report, and other information obtained from the facility, the UCA completes a medical review to determine if there is a reasonable expectation that the applicant/recipient will resume living in the community. The UCA notifies the applicant/recipient of the decision and his/her right to a hearing via Form 4246 (LTC), Notice of Medical Review Decision. (See facsimile on page 4-5 of this attachment).
3. If the applicant/recipient appeals the UCA decision, the Office of Health Services (OHS) reviews the case, either affirms or reverses the UCA decision. If OHS reverses the UCA decision, OHS notifies the recipient, the UCA, the LDSS/BLTCE, and the Division of Recoveries of the result of the review. If OHS affirms the UCA decision, OHS requests that the Office of Administrative Hearings schedule a hearing on the matter. When the appeal decision is rendered after the hearing, the OAH notifies the recipient, the LDSS/BLTCE, OHS, the Division of Recoveries, and the UCA of its decision.
4. An explanation of a lien is provided to an applicant by way of form DHMH 4244 (LTC). See page 6-7 of this Attachment for a facsimile of this form.

(b) **Definitions:**

1. **Individual's home** means any shelter which the institutionalized person used as his principal place of residence immediately preceding admission to the long term care facility. The home includes the parcel of land on which the shelter is situated and any related outbuildings necessary to its operation. One residence may be considered home property.
2. **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 fair market value within 2 years before institutionalization.

3. **Residing in the home for at least 1 (or 2) years(s) on a continuous basis means** using the home as the principal place of residence for 1 (or 2) year(s).
 4. **Discharge from the medical institution and return home** means the release of a person from the institution for the purpose of returning to the home for permanent residence.
 5. **Lawfully residing** means residing in the home with the permission of the owner or, if under guardianship, the owner's legal guardian.
- (c) A son or daughter can establish that he or she provided care by submitting to the Program convincing evidence establishing the provision of care for his or her parent.

MARYLAND MEDICAL ASSISTANCE PROGRAM
PHYSICIAN REPORT

Date _____

PART I. APPLICANT /RECIPIENT IDENTIFICATION
(To be completed by the local Department of Social Services)

1. _____
Applicant/Recipient Name Case Number

2. _____
Name of Facility Date of Admission To Long Term Care Telephone Number

Address

3. _____
Representative Name Telephone Number

Address

4. _____
Eligibility Technician 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 _____ is:
Applicant/Recipient

Remainder of Life From _____ to _____

2. The medical reasons for this expectation are :

(use back for additional space)

3. This person's ability to resume living in the community 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 person named 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 Telephone Number

DHMH 4245 (LTC)

Summary of Procedures for Hearing

If you are dissatisfied with the Medical Review decision you have the right to appeal that decision to the Maryland Office of Administrative Hearings. Send your written request for a hearing to:

Executive Director
Office of Health Services
201 West Preston Street
Baltimore, Maryland 21201-2399
Attention: Appeals

The appeal must be filed within 90 days from the date of this letter. Please include a copy of this notice with your appeal. Prior to the hearing, an Administrative Review of the decision of the Utilization Control Agent will be conducted. You will be notified of the result of the Administrative Review and if the decision of the Utilization Control Agent is affirmed, a hearing will be scheduled. The hearing will be conducted by the Office of Administrative Hearings. You may be represented by yourself, your designated representative, legal counsel, or any other person chosen. Any witnesses or additional medical information or documents may be presented to help establish pertinent facts and circumstances. You have the right to examine the information on which the decision was based. The Administrative Law Judge will decide whether or not the decision of the Utilization Control Agent was correct. This decision will be sent to you as soon as possible.

You may obtain free legal aid through the Legal Aid Bureau in many areas of the State. Consult your telephone directory for the address and telephone number of the Legal Aid office nearest you, or contact your worker at the Local Department of Social Services for this information.

DHMH 4246

TN # 13-06

Supersedes TN # 86-17

Approval Date

~~JUL 02 2013~~

Effective Date

~~APR 01 2013~~

MARYLAND MEDICAL ASSISTANCE PROGRAM
NOTICE OF MEDICAL REVIEW DECISION – HOME PROPERTY

Date _____

Re _____
Name

Case Number

Dear _____:

This is to notify you that a medical review was held on _____ to decide if there is a 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 named 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

DHMH 4246(LTC) Revised 04/13

TN # 13-06
Supersedes TN # 86-17

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JUL 02 2013

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APR 01 2013

MARYLAND MEDICAL ASSISTANCE PROGRAM
EXPLANATION OF A LIEN

Date _____

RE: _____
Name Case Number

Dear _____,

This is to notify you that, based on the application filed on _____, the above named person owns real property against which the Medical Assistance Program may place a lien. This is based on COMAR 10.09.24.15A-2(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's medical care while he/she is residing in a Long Term Care Facility. A lien is placed on the person's 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, there is no reasonable expectation that the person will be discharged from the Long Term Care Facility and resume living in the community.

When a lien is imposed on the person's real property including the home 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 living in the community.

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 Division of Medical Assistance Recoveries, P.O. Box 13045, Baltimore, Maryland 21203 or call _____.

Sincerely,

Eligibility Technician

Department of Social Services

Telephone Number

DHMH 4244 (LTC)

TN # 13-06
Supersedes TN # 86-17

Approval Date JUL 02 2013

Effective Date APR 01 2013

Additional Information Concerning Liens

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

Selling, giving away or otherwise disposing of the home or any other real property 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 age 21, or blind or disabled child of any age, or a brother or sister who has an equity interest in the home property and who has resided in the property for a period of at least one year immediately before the date of the person's admission to a Long Term Care Facility.

Should the Medical Review Process or imposition of a lien against the person's real property be delayed because of the person's mental incompetence, conditional Medicaid Assistance eligibility may be granted by the Local Department pending the appointment of a legal representative for the person. The effective date of the lien will be the date conditional eligibility was granted.