

+-----+
 | INFORMATIONAL LETTER |
 +-----+

TRANSMITTAL: 99 INF-10

TO: Commissioners of
 Social Services

DIVISION: Temporary
 Assistance

DATE: July 01, 1999

SUBJECT: Domestic Violence Waiver of Temporary Assistance Lien
 Requirements; Recovery of Temporary Assistance from
 Legally Responsible Batterers

SUGGESTED

DISTRIBUTION: Temporary Assistance Directors; Food Stamp Directors;
 Medical Assistance Directors; Employment
 Coordinators; Child Support Enforcement Units;
 Directors of Services; Child Welfare Staff;
 Domestic Violence Service Providers; Domestic
 Violence Liaisons; CAP Coordinators; Accounting
 Supervisors; Staff Development Coordinators

CONTACT PERSON: See Attachment A

ATTACHMENTS: Attachment A: Contact Persons
 (available on-line)

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
98 ADM-3		Part 352	Article 6A-	PASB XXII-	97 LCM-28
97 ADM-23			SSL; Chap.	B-all	96 LCM-59
94 ADM-11			53 of the	FSSB IV-C-	94 LCM-153
93 ADM-24			Laws of 91 and 92; 62.5-SSL 131-u-SSL 349-a-SSL 459-h-SSL	3 X-B-7-all V-D-1.2- 1.3, 2.2- 2.3; 3.4	92 LCM-104

Waivers of Liens on Real Property

98 ADM-3, dated March 13, 1998, introduced the concept of waiving program requirements under the Family Violence Option (FVO). The purpose of this release is to clarify policy regarding the requirement to sign a lien on real property as it relates to waivers under the FVO.

Waivers are a temporary suspension of temporary assistance (TA) program, i.e., Family Assistance and Safety Net Assistance, requirements including, but not limited to, child support cooperation, alcohol and substance abuse treatment, work activity, Learnfare and minor parent eligibility requirements. Since the implementatin of the FVO, local social services districts (SSDs) have raised questions relating to waivers and the lien requirement on real property.

Social Services Law and regulations allow SSDs to establish local policies that require the signing of liens on real property as a condition of eligibility for both recurring and for emergency temporary assistance. If the SSD establishes a lien requirement for recurring assistance, it must apply the requirement to all applicants/recipients of recurring assistance in the same manner. Likewise, if it establishes the policy for emergency assistance, it must also apply the requirement to all applicants/recipients of emergency assistance in the same manner. The SSD must not determine to apply it in one case and not in another. Most SSDs have established such lien policies. This means that when real property is owned by the victim, or jointly by the victim and the batterer, SSDs can require that the victim sign a lien on the property as a condition of eligibility. When the property is eventually sold, the lien must be paid off with the proceeds of the sale. A person who signs a lien can enter into an agreement with the SSD to pay off the lien at any time prior to the sale of the property if he or she desires and is able to.

Our initial statements regarding liens and the FVO indicated that liens may not be waived under the FVO. Following a number of questions, and based upon further legal and program analysis, we have determined that liens may be waived under the FVO. This means that if the domestic violence liaison determines that signing the lien on real property that is owned jointly with the batterer will put the victim at further risk or make it more difficult for the victim to escape from domestic violence, the requirement to sign the lien may be waived. This waiver would be treated the same as any other domestic violence waiver. It would be a temporary suspension of the SSD's lien requirements and would be classified as "other" when data entering it.

Recovery from Legally Responsible Batterer

We also have received questions regarding the SSD's pursuit of recovery from a legally responsible batterer for the cost of the TA per diem paid on behalf of the victim to a residential program for victims of domestic violence. We strongly discourage such action. Seeking reimbursement is likely to jeopardize the safety of the victim as the batterer may retaliate and cause further harm to the victim. Furthermore, to the extent that seeking reimbursement would require disclosure of the fact that the victim has sought residential services, a breach of confidentiality would result.

Medicaid Implications

For Medicaid-Only A/Rs, liens are filed only under certain circumstances such as when an A/R is either in a medical facility and not expected to return home or anticipating a personal injury suit or claim, or there is a court judgement for Medicaid incorrectly paid.

As stated previously in 98 ADM-3, Medicaid will honor any waivers granted by PA for temporary suspension of program requirements that also apply to medicaid (i.e., child support, paternity cooperation and alcohol and substance abuse as a result of a domestic violence assessment) including waiver of lien requirements.

Patricia A. Stevens
Deputy Commissioner
Division of Temporary Assistance

Contact Person:

Temporary Assistance:

Call 1-800-343-8859 and ask for the following Regional Team:
Team I, 3-0332; Team II, 4-9344; Team III, 4-9307;
Team IV, 4-9300; Team V, 3-1469; Team VI, 212-383-1658

Children and Family Services Regional Office Director:

Albany - Bill McLaughlin - (518) 486-7078
Buffalo - Linda Brown - (716) 847-3145
NYC - Fred Levitan - (212) 383-1788
Rochester - Linda Kurtz - (716) 238-8201
Buffalo - Jack Klump - (315) 423-1200
Yonkers - Patricia Sheehy (914) 377-2080

Medical Assistance:

Upstate: (518) 473-5536 - Bureau of Local Support
NYC: (212) 613-4330