

Effective 5/3/2023

26B-3-1015 TEFRA liens authorized -- Grounds for TEFRA liens -- Exemptions.

- (1) Except as provided in Subsections (2) and (3), the department may impose a TEFRA lien on the real property of an individual for the amount of medical assistance provided for, or to, the individual while the individual is an inpatient in a care facility, if:
 - (a) the individual is an inpatient in a care facility;
 - (b) the individual is required, as a condition of receiving services under the state plan, to spend for costs of medical care all but a minimal amount of the individual's income required for personal needs; and
 - (c) the department determines that the individual cannot reasonably be expected to:
 - (i) be discharged from the care facility; and
 - (ii) return to the individual's home.
- (2) The department may not impose a lien on the home of an individual described in Subsection (1), if any of the following individuals are lawfully residing in the home:
 - (a) the spouse of the individual;
 - (b) a child of the individual, if the child is:
 - (i) under 21 years old; or
 - (ii) blind or permanently and totally disabled, as defined in Title 42 U.S.C. Sec. 1382c(a)(3)(F);
or
 - (c) a sibling of the individual, if the sibling:
 - (i) has an equity interest in the home; and
 - (ii) resided in the home for at least one year immediately preceding the day on which the individual was admitted to the care facility.
- (3) The department may not impose a TEFRA lien on the real property of an individual, unless:
 - (a) the individual has been an inpatient in a care facility for the 180-day period immediately preceding the day on which the lien is imposed;
 - (b) the department serves:
 - (i) a preliminary notice of intent to impose a TEFRA lien relating to the real property, in accordance with Section 26B-3-1017; and
 - (ii) a final notice of intent to impose a TEFRA lien relating to the real property, in accordance with Section 26B-3-1018; and
 - (c)
 - (i) the individual does not file a timely request for review of the department's decision under Title 63G, Chapter 4, Administrative Procedures Act; or
 - (ii) the department's decision is upheld upon final review or appeal under Title 63G, Chapter 4, Administrative Procedures Act.

Renumbered and Amended by Chapter 306, 2023 General Session