

Liens, Estate Recovery and the Special Recovery Unit

**Minnesota Department of Human Services
Benefit Recovery Section
Special Recovery Unit
Saint Paul, Minnesota
September 30, 2014**

**Greg Lulic & Denise Meyer
Lien Specialists**



Minnesota Department of **Human Services**

OVERVIEW

- Introduction
- Special Recovery Unit – Newest Team Members
- New Lien Worksheet
- Lien Process
- NPC's
- Special Needs Trusts
- Annuities
- Questions



LIENS

- Two types of liens are used in MN
 - TEFRA/pre-death liens: Known in MN as MA liens. Allowed to encumber real property while the recipient is alive and in a LTC facility. Certain restrictions apply
 - Post-death lien: In MN known as NPCs. Created to recover against real estate that would be outside of probate (life estate, joint tenancy). Can be filed post death, up to one year for claims of MA received after age 55, if the individual was in a LTC facility, or GAMC. (Cannot file NPCs to recover Alternative Care)
 - Send in worksheet (DHS-3203)



MA Liens

- Covered under Minnesota Statute §514.980-§514.985.
 - Filed by DHS Special Recovery Unit after a request is sent by the County
- Allowed when a person received MA and owns property in Minnesota on or after the time when recipient was:
 - Institutionalized in an LTCF for longer than 6 months
 - Inpatient in a hospital
 - In an ICF-MR



New MA Lien / Notice of Potential Claim (NPC) Worksheet

Revised MA Lien worksheet (DHS-3203)

- Can be used to request a Lien or an NPC
- Now contains the proper fields that are needed when an NPC is requested
- Is in edocs or get a copy from the financial worker





Minnesota Health Care Programs (MHCP)

Medical Assistance Lien and Notice of Potential Claim (NPC) Worksheet

PART I. Recipient Information/Attending Physician Information

LAST NAME		FIRST NAME		MI	MAXIS CASE #	PMI #
SOCIAL SECURITY NUMBER	DATE OF BIRTH	MARITAL STATUS	MA START DATE	IS RECIPIENT DECEASED <input type="checkbox"/> No <input type="checkbox"/> Yes		IF YES, DATE OF DEATH (Skip to Part III)
LONG TERM CARE FACILITY					PHONE NUMBER	
ATTENDING PHYSICIAN NAME					PHONE NUMBER	
PHYSICIAN STREET ADDRESS			CITY	STATE	ZIP CODE	

PART II. Homestead Property (Submit even if Homestead is excluded for eligibility)

Is the property Homestead or was homestead immediately prior to entering an LTC facility?

☐ Yes ☐ No (If no, skip to Part III)If yes, is ownership interest in ☐ Life Estate ☐ Joint Tenancy ☐ Tenants in Common ☐ Sole OwnershipDoes homestead exemption apply? ☐ No ☐ Yes If yes, mark all applicable exemptions below:

Exemptions – Property occupied by:

- ☐ Spouse
- ☐ Child under 21 years of age OR child of any age who is blind or permanently disabled according to the Supplemental Security Income (SSI) Program or State Medical Review Team SMRT)
- ☐ Child who resided in the homestead for at least two years before the date the recipient received MA medical institution services, provided care that permitted the recipient to live without medical institution services AND said child continues to reside in home
- ☐ Sibling who has ownership interest

Comments:

PART III. Non-Homestead Property (No MA Lien/NPC exemptions for non-homestead)

Does the recipient have ownership interest in non-homestead property? ☐ Yes ☐ No (If no, skip to Part IV)If yes, is ownership interest in ☐ Life Estate ☐ Joint Tenancy ☐ Tenants in Common ☐ Sole Ownership

Comments:

PART IV. Protected Asset Under LTC Partnership

Has the recipient designated this property as a protected asset under LTC Partnership? ☐ No ☐ Yes

If yes, value of asset protection: \$

Send a copy of this worksheet AND
required attachments to:

Minnesota Department of Human Services
Special Recovery Unit, MA Liens
PO Box 64995
St. Paul, MN 55164-0995
Phone: 651-431-3204
Fax: 651-431-7431

FINANCIAL WORKER	PHONE NUMBER
COUNTY AGENCY	DATE

REQUIRED ATTACHMENTS: Attach a copy of at least one of the following: deed, current tax statement, parcel number, legal description or address with name of county. Required for both homestead and non-homestead property.

New MA Lien / NPC Worksheet



MA Lien Process

The process:

- SRU (recovery unit) receives a lien work sheet (DHS-3203) indicating a lien should be filed and the recipient owns interest in real property in MN. Include either or both:
 - Copy of the deed
 - Tax statement



Parcel / Tax Information

Parcel Search Results

Page 1 of 1

As of :
9/24/2012

Parcel Number: 23-1359-000

Payable Year: 2012



[General Info](#) | [Tax Info](#) | [Current Receipts](#) | [Special Asmts](#) | [Unpaid Tax](#) | [History](#) [E-payment](#)

Taxpayer/Owner Information

Taxpayer #2220

504 HENSON LANE APT 201

Township of Lincoln

City of Lincoln

State of Michigan

Zip 48150

General

MP #23-1359-000 Re/Mh: REAL ESTATE

Twp/City	School	Water	Fire	Debt	Agri
23	777	0	0	0	0

Description

Sect	Twp	Range	Lot	Block
5	121	39	0	0

BENSON-ACRE LOTS 40%

PT NE1/4 OF NW1/4 BEG AT A PT 833.6 FT N
FROM THE NW COR OF BK 9, 2ND RY ADDN THEN
E 300 FT THEN S 60 FT, THEN E 20.1 FT,
THEN N 212.9 FT, THEN W 111.4 FT, THEN S
18.1 FT, THEN W 208.7 FT, THEN S 134.8 FT
TO THE PT OF BEG

Property Address

1004 13TH STREET N

Escrow

0

Deeded Acres: 0.00

[Another Search](#) | [Back to ParcelList](#)



EXHIBIT A
MEDICAL ASSISTANCE LIEN # 15756

Legal description
from 4 deeds
that correspond
with the Parcel Info.

All that part of the Northeast Quarter of the Northwest Quarter (NE $\frac{1}{4}$ -NW $\frac{1}{4}$) of Section Five (5), Township One Hundred Twenty-one (121), Range Thirty-nine (39), described as follows, to-wit: Commencing at the Northwest corner of Block Nine (9), Second Railway Addition to the City of Benson; thence from said point in a Northerly direction along the East line of 13th Street in the City of Benson for a distance of 968.6 Feet; thence Easterly at a right angle to said 13th Street a distance of 320 Feet more or less, to the West line of 12th Street in the City of Benson; thence Southerly along the West line of said 12th Street a distance of 194.8 Feet; thence Westerly at a right angle to said 12th Street for a distance of 320 Feet more or less to the East line of said 13th Street; thence Northerly along the West line of 13th Street a distance of 194.8 Feet to the point of beginning.

AND

That part of the Northeast Quarter of the Northwest Quarter (NE $\frac{1}{4}$ -NW $\frac{1}{4}$) of Section Five (5), Township One Hundred Twenty-one (121), Range Thirty-nine (39), described as follows, to-wit: Beginning at a point 773.8 Feet Northerly from the Northwest corner of Block Nine (9), Second Railway Addition to the City of Benson, Swift County, Minnesota, on a prolongation of the West line of said Block Nine (9), being the same line as the East boundary line of 13th Street in said City of Benson; thence Easterly at a right angle to said 13th Street for a distance of 320 Feet more or less to the West line of 12th Street in the City of Benson; thence in a Northerly direction along the West line of said 12th Street for a distance of 194.8 Feet; thence at right angle to said 12th Street in a Westerly direction for a distance of 320 Feet more or less to the East line of said 13th Street; thence in a Southerly direction along the East line of said 13th Street for a distance of 194.8 Feet to the point of beginning.

EXCEPT THESE 2 PARCELS BELOW:

That part of the Northeast Quarter of the Northwest Quarter (NE $\frac{1}{4}$ -NW $\frac{1}{4}$) of Section Five (5), Township One Hundred Twenty-one (121), Range Thirty-nine (39), described as follows, to-wit: Beginning at a point 773.8 Feet Northerly from the Northwest corner of Block Nine (9), Second Railroad Addition to the City of Benson, Minnesota, on a prolongation of the West line of said Block Nine (9), being the same line as the East boundary line of 13th Street in the City of Benson; thence Easterly at right angles for a distance of 300 Feet, more or less, to the West boundary line of 12th Street in the City of Benson; thence Northerly at right angles for a distance of 60 Feet; thence Westerly at right angles for a distance of 300 Feet, more or less, to the East boundary line of 13th Street in the City of Benson; thence Southerly at right angles along the East boundary line of 13th Street a distance of 60 Feet to the point of beginning.

That part of the Northeast Quarter of the Northwest Quarter (NE $\frac{1}{4}$ -NW $\frac{1}{4}$) of Section Five (5), Township One Hundred Twenty-one (121), Range Thirty-nine (39), described as follows: Commencing at the Northeast corner of Block Nine (9), Second Railway Addition to the City of Benson, Minnesota; thence Northward on the West boundary line of 12th Street a distance of 673.8 Feet to a point which is the point of beginning, to-wit: Starting at the last above mentioned point and continuing on the last above mentioned line a distance of 294.8 Feet; thence at a right angle, to the right a distance of 20 Feet; thence at a right angle to the right on a line parallel to the West line of 12th Street a distance of 294.8 Feet; thence at a right angle to the right a distance of 20 Feet to the point of beginning, containing .14 acres more or less.



Form No. 27-M

No delinquent taxes and transfer entered; Certificate of Real Estate Value () filed (☒) not required.

Certificate of Real Estate Value No. _____

February 13, 2003 Date

County Auditor
by Wendy S. Peterson
Auditor/Treasurer Deputy

DEED TAX DUE: \$ 1.65

Date: February 6, 2003

A 142569

Scanned ☒

COUNTY RECORDER
DODGE COUNTY, MN

Certified, filed and/or recorded
on 02/13/2003 at 3:45 pm

Return to: GULLICKSON PETERSON ZIEBL
Receipt #: 11187

Sue A. Alberts
Dodge County Recorder
by WGA Deputy



(reserved for recording data)

QUIT CLAIM DEED

Individual(s) to Individual(s)

FOR VALUABLE CONSIDERATION, LELAND and CECILE husband and wife

Grantor(s), hereby conveys and quitclaims to LESLIE LINDA CHRISTINE RODNEY and BRENDA (marital status)

Grantee(s), real property in DODGE County, Minnesota, described as follows:
The North 799.90 feet of the West 927.00 feet of the Northwest Quarter of the Northwest Quarter (NW1/4 ^{east} NW1/4), Section Twenty-Four (24), Township One Hundred Five (105) North, Range Sixteen (16) West, Dodge County, Minnesota.

EXCEPT RESERVING UNTO GRANTOR A LIFE ESTATE FOR AND DURING HIS/HER NATURAL LIFE.

Ownership
Interest



Ownership Interest

Sam Modderman

County Auditor

by Michelle Hanson

Deputy

40-375-0150

APR 14 2014

SP0010510023

(reserved for recording data)

STATE DEED TAX DUE HEREON: \$ 72.60

Date: May 22, 1998

FOR VALUABLE CONSIDERATION, Mabel a single person, Grantor, hereby conveys and warrants to Katie, Grantee, real property in Kandiyohi County, Minnesota, described as follows:

The N½ of Lots 7, 8, 9, 10 and 11 in Block 3, Palm's Addition to the City of Atwater, reserving unto Grantor a life estate in and to said premises during the life of the Grantor

together with all hereditaments and appurtenances belonging thereto, subject to the following exceptions:

THE SELLER CERTIFIES THAT THE SELLER DOES NOT KNOW OF ANY WELLS ON THE DESCRIBED REAL PROPERTY.

DATE June 1, 1998



NO DELINQUENT TAXES AND TRANSFER
ENTERED THIS 28th DAY OF May 1999

CRV FILED N/A # -
A. Reichel

COUNTY AUDITOR
J. Larsson, Deputy

OFFICE OF COUNTY RECORDER
STATE OF MINNESOTA
COUNTY OF ISANTI

This is to certify that this instrument was filed in
this office on the 28th day of May
1999 A.D. at 9:30 o'clock A.M.
and was recorded as Document No.

264022
Karen Anderson
By Marie Swaid Dep.

QUIT CLAIM DEED

Individual(s) to Individual(s)

STATE DEED TAX DUE HEREON: \$ 1.65

Date: May 28th, 1999

FOR VALUABLE CONSIDERATION, Lorraine _____ as Attorney-In-Fact for Ruby _____
single Grantor, hereby conveys and quitclaims unto Lorraine _____ Robert _____, Kenneth _____
Arnold A. _____ and Leland _____ as Tenants-In-Common, Grantees, real property in
ISANTI County, Minnesota, described on Exhibit A attached hereto.

Reserving, however unto Ruby M. Johnson, a life estate interest in and to the above-described
property.

Ownership
Interest



Ownership Interest

NO Delinquent taxes or
Transfer Entered
Cert. of Real Estate Value
() Filed () Not Required

Zoning Ordinance #20
() Approved - Permit #
() Not Required

November 29, 2005

Paul C. Cassett Carlton County Auditor

Dally W. Jenz Deputy

66-016-4104
Quit Claim Deed

Individual(s) to Joint Tenants

State Deed Tax Due Hereon: \$ 1.65

FOR VALUABLE CONSIDERATION, Ronald and Roxanne husband and wife, Grantors,
hereby convey and quit claim to Peter P. and Elaine husband and wife, Grantees as Joint
Tenants, real property in CARLTON County, Minnesota, described as follows:

The North 442.68 feet of the West 295.20 feet of the NW1/4 of SW1/4, Section Twenty-four (24), Township
Forty-six (46), Range Twenty (20).

The sole purpose of this deed is to convey back to the Vendors, the Vendees' interest in that certain Contract for
Deed dated the 1st day of May, 1999, between the above-named parties and recorded in the office of Carlton
County Recorder on the 12th day of July, 1999, as Document No. 334336.

The entire consideration for this conveyance is less than \$500.00.

Together with all hereditaments and appurtenances belonging thereto.

CERTIFIED, FILED, AND
RECORDED ON
11/29/2005 02:50PM
REC FEE: \$46.00
PAGES: N 1
KRISTINE BASILICI
CARLTON COUNTY RECORDER

BY [Signature] Dep
A000367498

FIRST NATL BK MOOSE LAKE
400 ELM AVENUE
PO BOX 429
MOOSE LAKE MN 55767

Date: September 30th, 2005



MA Lien Process (continued)

- SRU reviews and verifies all recipients' personal information and investigates if a lien can be recorded against the recipient's interest in real property.
 - If property interest is confirmed, all information is entered into SRUs database and a file is created.
 - If no lien can be recorded, a letter of “No Lien” is sent to the case manager with the original paperwork.





Minnesota Department of **Human Services**

NOTICE: NO MA LIEN OR NPC PLACED

(to)

RE: MA/NPC Lien worksheet for
Maxis #

Dear :

The Department of Human Services (Department) has received the Medical Assistance Lien and Notice of Potential Claim Worksheet for the above-referenced individual on . At this time, the Department is unable to process the worksheet because of the following:

- _____ The recipient does not have an interest in the referenced real property
- _____ Recipient is no longer permanently institutionalized
- _____ The life estate or joint tenancy interest was created prior to August 1, 2003 and the following individual lives in the home:
 - _____ Spouse, disabled child or child under 21
 - _____ Child who lives in the home provided care 2 years before the date of institutionalization of the recipient.
 - _____ Sibling with equity interest in the property and resided in the property 1 year before the date of institutionalization of the recipient
- _____ Other:

If you believe the above conclusion was reached in error or you have additional information to provide please contact me at the number below. You may also re-submit the Worksheet should circumstances change.

Sincerely,

Denise M. Meyer
DHS SRU
P.O. Box 64995
St. Paul, MN 55164-0995
651-431-3158

cc:

Letter of
“No Lien”



MA Lien Process (continued)

Exceptions:

- It is a homestead of the recipient's spouse;
- It was the homestead of the recipient and the following people reside in the property:
 - Recipient's child who is under 21;
 - Recipient's child who is permanently disabled, regardless of age;
 - Recipient's child who is blind, regardless of age



MA Lien Process (continued)

Exceptions (continued):

It was the homestead of the recipient and the following people reside in the property:

- A sibling who lived in the decedent MA recipient's home at least one year before the decedent's was institutionalized and continuously since; or
- A child who lived in the recipient's home for at least two years immediately before the recipient's was institutionalized and continuously since and who establishes that they provided care to the recipient and that the care was provided prior to institutionalization and permitted the recipient to remain in the home rather than the institution.



MA Lien Process (continued)

- If it is an MA lien:
 - A letter and DHS physician verification form must be sent to the recipient's attending physician to verify that the recipient is not expected to return home. Once that verification is returned to DHS a lien is created and 1st notice of lien imposition is sent out by certified mail to the recipient and/or authorized representative. A copy is sent to the county case manager.
 - If the form is returned "might go home" the Department continues to follow up with the physician. No lien can be created until DHS has verification the recipient is not expected to return home.



MA Lien Process (continued)

- If it is an MA lien (continued):
 - If the form is returned “might go home” DHS continues to follow up with the physician. No lien can be created until DHS has verification the recipient is not expected to return home.





Minnesota Department of **Human Services**

General Letter of Explanation

To Whom It May Concern:

This letter summarizes how Medical Assistance (MA) Lien recoveries may or may not be made on certain types of property for recipients of paid MA benefits. The Department of Human Services (DHS) is permitted to file a lien against real property located within the State of Minnesota when interest is held by a recipient who is institutionalized and receives MA benefits. The purpose of the lien is to recover the State's cost of these MA benefits provided for the recipient. The State's Special Recovery Unit handles these recoveries.

Life Estates

DHS may make a recovery if there is a real estate transaction during the life estate holder's lifetime once an MA Lien is recorded against a life estate interest. The recovery is limited to the lesser of MA benefits paid or the value of the life estate interest. Life Estate interest is calculated based on the age of the recipient using the Social Security Administration's Life Estate Mortality Table.

Joint Ownership

DHS may make a recovery if there is a real estate transaction during the lifetime of the joint interest holder named in the MA Lien once an MA Lien is recorded against the jointly owned interest. The recovery is based on MA benefits paid against the value of the joint interest (E.G.: 2 equal joint interests = 50% interest, 3 equal joint interests = 33.33% interest). DHS may recover the lesser of the amounts.

Prior to August 1, 2003

MA Liens of record, against life estates and jointly owned interests in property established prior to August 1, 2003, become unenforceable and are no longer liens on those interests when the recipient named in the recorded lien dies.

After August 1, 2003

MA Lien Laws from the 2005 legislative session continue life estates and jointly owned interests after the death of the interest holder if that interest was established after August 1, 2003. In those situations, DHS will make its recovery.

If you have any questions regarding the enclosed information, please contact me at the number below.

Denise

Denise M. Meyer
MA Lien Administrator Sr.
Special Recovery Unit
651-431-3158
denise.meyer@state.mn.us



***MINNESOTA MEDICAL ASSISTANCE PROGRAM
NOTICE OF LIEN IMPOSITION***

Minnesota Statutes 1993, sections 514.980 to 514.985

***John Johnson
Country Manor
520 – 1st St. NE
Sartell, Mn 56377***

***Date: June 29, 2012
Lien No. 15647
Social Security: 5792***

Dear Mr. Johnson:

This is to notify you that the Minnesota Department of Human Services will place a lien on your real property. This is based on your receipt of medical assistance payments made for your benefit by the Minnesota Medical Assistance Program beginning **November 1, 2011**. It is also based on medical verification from your attending physician that you are not reasonably expected to be discharged from the medical institution you are in.

Your interest in the real property you own, and that of your spouse, if still living, is subject to or affected by the rights of this agency to be reimbursed for medical assistance benefits.

The Medical Assistance lien will be filed against your real property 30 days from receipt of this notice. Following is/are the legal description (s) of your real property subject to a lien:

COUNTY: **Hennepin** ABSTRACT: X TORRENS: ☐ Ctf. No. ☐

All of your right, title and interest in and to:



APPEAL RIGHTS:

If you do not agree with this action, you may appeal. To initiate an appeal, send a very short letter to the Appeals Office stating your disagreement with the state filing a lien on your real property. You must submit this letter within 30 days of receiving this notice. (The agency can accept your appeal for up to 90 days after the date of this notice if you show good cause for not appealing within the 30-day limit.)

If you do not appeal within 30 days (or 90 days if you have good cause), you may not appeal anything concerning this lien later on.

If you decide to appeal, send your letter to this address:

Appeals Office
Minnesota Department of Human Services
444 Lafayette Road
St. Paul, MN 55155-3813

An appeal hearing will be held in your county or over the telephone. You will receive a notice telling you the date, time, and place of the hearing.

THIS LIEN FILED BY:

On behalf of the MINNESOTA DEPARTMENT OF HUMAN SERVICES

THIS FORM DRAFTED BY:

Denise M. Meyer
Minnesota Department of Human Services
P.O. Box 64995
St. Paul, MN 55164-0995
651-431-3158

CERTIFICATE OF MAILING AND OF NO APPEAL

I, Denise Meyer, hereby certify that on the _____ day of _____, 2012, I mailed copies of the Notice above to the Medical Assistance recipient named and to the named authorized representative of the Medical Assistance recipient (if any) by certified mail to the last known address (es) set out above:

I further certify that the applicable time to appeal the imposition of this lien has expired and no appeal has been taken, or that all appeals have been decided in favor of the State's imposition of this lien.

Dated this _____ day of _____, 2012.

(Signature)

(Printed Name) Denise M. Meyer

(Title) MEDICAL ASSISTANCE LIEN ADMINISTRATOR SR.

MA Lien
(back)



MA Lien Process (continued)

- If it is an MA lien:
 - After the certified mail card is returned, the file gets dated 30 days from receipt. Interested parties have 30 days to appeal the lien.
 - When the 30 days have passed with no appeal, the lien is mailed to the county recorder for recording.



APPEAL RIGHTS:

If you do not agree with this action, you may appeal. To initiate an appeal, send a very short letter to the Appeals Office stating your disagreement with the state filing a lien on your real property. You must submit this letter within 30 days of receiving this notice. (The agency can accept your appeal for up to 90 days after the date of this notice if you show good cause for not appealing within the 30-day limit.)

If you do not appeal within 30 days (or 90 days if you have good cause), you may not appeal anything concerning this lien later on.

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Appeals Office
Minnesota Department of Human Services
444 Lafayette Road
St. Paul, MN 55155-3813

An appeal hearing will be held in your county or over the telephone. You will receive a notice telling you the date, time, and place of the hearing.

THIS LIEN FILED BY:

On behalf of the MINNESOTA DEPARTMENT OF HUMAN SERVICES

THIS FORM DRAFTED BY:

Denise M. Meyer
Minnesota Department of Human Services
P.O. Box 64995
St. Paul, MN 55164-0995
651-431-3158

CERTIFICATE OF MAILING AND OF NO APPEAL

I, Denise Meyer, hereby certify that on the _____ day of _____, 2012, I mailed copies of the Notice above to the Medical Assistance recipient named and to the named authorized representative of the Medical Assistance recipient (if any) by certified mail to the last known address (es) set out above:

I further certify that the applicable time to appeal the imposition of this lien has expired and no appeal has been taken, or that all appeals have been decided in favor of the State's imposition of this lien.

Dated this _____ day of _____, 2012.

(Signature)

(Printed Name) Denise M. Meyer

(Title) MEDICAL ASSISTANCE LIEN ADMINISTRATOR SR.

MA Lien
(back side)



NPC Process

- If the lien specialist determines that an NPC is required instead of a MA lien OR an NPC is requested then the following process is completed:
 - The NPC is created and a copy of the NPC along with a cover letter is mailed to the recipient, the authorized representative and county case manager. The original is sent to the county recorders office for recording. (There is not a 30 day wait period.)



NPC Process (continued)

- The NPC becomes a lien only upon the death of the recipient and can be filed up to one year from the recipient's death.
- The NPC is governed by Statute 256B.15 and has a much greater potential for exceptions than the MA Lien, including being subordinate to a county claim.

(stay tuned, more to come)





Minnesota Health Care Programs (MHCP)

Medical Assistance Lien and Notice of Potential Claim (NPC) Worksheet

PART I. Recipient Information/Attending Physician Information

LAST NAME	FIRST NAME	MI	MAXIS CASE #	PMI #
SOCIAL SECURITY NUMBER	DATE OF BIRTH	MARITAL STATUS	MA START DATE	IS RECIPIENT DECEASED <input type="checkbox"/> No <input type="checkbox"/> Yes
				IF YES, DATE OF DEATH (Skip to Part II)
LONG TERM CARE FACILITY			PHONE NUMBER	
ATTENDING PHYSICIAN NAME			PHONE NUMBER	
PHYSICIAN STREET ADDRESS		CITY	STATE	ZIP CODE

PART II. Homestead Property (Submit even if Homestead is excluded for eligibility)

Is the property Homestead or was homestead immediately prior to entering an LTC facility?

☐ Yes ☐ No (If no, skip to Part III)If yes, is ownership interest in ☐ Life Estate ☐ Joint Tenancy ☐ Tenants in Common ☐ Sole OwnershipDoes homestead exemption apply? ☐ No ☐ Yes If yes, mark all applicable exemptions below:

Exemptions – Property occupied by:

- ☐ Spouse
- ☐ Child under 21 years of age OR child of any age who is blind or permanently disabled according to the Supplemental Security Income (SSI) Program or State Medical Review Team SMRT)
- ☐ Child who resided in the homestead for at least two years before the date the recipient received MA medical institution services, provided care that permitted the recipient to live without medical institution services AND said child continues to reside in home
- ☐ Sibling who has ownership interest

Comments: _____

PART III. Non-Homestead Property (No MA Lien/NPC exemptions for non-homestead)

Does the recipient have ownership interest in non-homestead property? ☐ Yes ☐ No (If no, skip to Part IV)If yes, is ownership interest in ☐ Life Estate ☐ Joint Tenancy ☐ Tenants in Common ☐ Sole Ownership

Comments: _____

PART IV. Protected Asset Under LTC Partnership

Has the recipient designated this property as a protected asset under LTC Partnership? ☐ No ☐ Yes

If yes, value of asset protection: \$ _____

Send a copy of this worksheet AND required attachments to:

Minnesota Department of Human Services
Special Recovery Unit, MA Liens
PO Box 64995
St. Paul, MN 55164-0995
Phone: 651-431-3204
Fax: 651-431-7431

FINANCIAL WORKER	PHONE NUMBER
COUNTY AGENCY	DATE

REQUIRED ATTACHMENTS: Attach a copy of at least one of the following: deed, current tax statement, parcel number, legal description or address with name of county. Required for both homestead and non-homestead property.

When requesting an NPC, usually some or all of these fields are completed





Minnesota Department of **Human Services**

NPC Cover Letter (front)

Re: [REDACTED]

Notice of Potential Claim # [REDACTED]

Dear Recipient or Authorized Representative:

Enclosed is a copy of the Notice of Potential Claim the Department of Human Services (DHS) has filed in this matter.

The Minnesota Legislature has authorized DHS to file a Notice of Potential Claim (Notice) against real estate located in the state of Minnesota when a claim would be valid under Minn. Stat. §256B.15. This Notice applies to the interests in real estate in Minnesota persons receiving Medical Assistance own. This law is effective August 1, 2003, and applies to persons in this program who die on and after that date.

This Notice may be filed in the real estate records of the county where a recipient's real estate is located while they are alive. However, the Notice does not take effect until the recipient dies. Recipients can deal with their interests in the real estate described in the Notice as though it had not been filed while they are alive. The Notice may also be filed up to one year after the recipient's death. In that case the Notice takes effect on the date it is filed.

If a Notice is on file when a recipient dies, it automatically becomes a lien against the interest they owned in the real estate described in the Notice on the date of their death. The lien remains in effect for 20 years from the date of a recipient's death. If a Notice is on file when a recipient dies:

1. Their life estate and joint tenancy interests in the property described in the Notice do not end with their death but continue to exist and are subject to the lien;
2. Their interests in the real estate described in the Notice, including their life estate and joint tenancy interests, may become part of their probate estate and may be used to pay claims filed with the estate to recover alternative care or medical assistance payments DHS made on their behalf while they were alive.



NPC Cover Letter (front)

- (1) Shall, in the case of life estates and joint tenancies, continue to exist for purposes of The Statute and be subject to liens and claims as provided for under the Statute;
- (2) Shall be subject to a lien in favor of DHS upon the Recipient's death and dealt with as provided for under The Statute;
- (3) May be included in their estate, as defined under The Statute;
- (4) May be subject to administration and all other provisions of Minnesota Statutes, Chapter 524, and may be sold, assigned, transferred, or encumbered free and clear of the interests or encumbrances of certain others to satisfy claims arising under The Statute.

Dated: 7/23/2014

BY: Denise M. Meyer

_____, AN AUTHORIZED
REPRESENTATIVE OF THE MINNESOTA DEPARTMENT OF HUMAN SERVICES

THIS FORM DRAFTED BY:

Denise M. Meyer
Special Recovery Unit
Minnesota Department of Human Services
P.O. Box 64995
St. Paul, Minnesota 55164-0995
651-431-3158

**RECORDER/REGISTRAR: AFTER FILING OR RECORDING RETURN
THIS INSTRUMENT TO DRAFTER AT ABOVE ADDRESS**



Notice of Potential Claim (NPC) Front

NOTICE OF POTENTIAL CLAIM

Minnesota Statutes Section 256B.15, Subd. 1c

NPC# 00001

RECIPIENT

Name: WALLACE S.

Last 4 SSN: 1111

Date of Death: Living: X

PREDECEASED SPOUSE

Name:

Last 4 SSN:

Date of Death:

The Legal Description of the real property subject to this Notice is:

COUNTY: ITASCA ABSTRACT: X TORRENS: Cfd. No. _____

All of your right, title and interest in and to:

LOT 5, BLOCK 6, THIRD ADDITION TO COLERAINE.

In accordance with Minnesota Statutes, Section 256B.15, this is to give notice the Minnesota Department of Human Services (DHS) has a claim or a potential claim for recovery of Medical Assistance against the above named Recipient and/or their Predeceased Spouse. This Notice takes effect on the Recipient's death or the date of filing or recording, whichever is later. Under Minnesota Statutes, Section 256B.15, (The Statute) when this Notice takes effect the Recipient's life estate, joint tenancy, or other interests in the real estate described above:



Notice of Potential Claim (NPC) *Back*

- (1) Shall, in the case of life estates and joint tenancies, continue to exist for purposes of The Statute and be subject to liens and claims as provided for under the Statute;
- (2) Shall be subject to a lien in favor of DHS upon the Recipient's death and dealt with as provided for under The Statute;
- (3) May be included in their estate, as defined under The Statute;
- (4) May be subject to administration and all other provisions of Minnesota Statutes, Chapter 524, and may be sold, assigned, transferred, or encumbered free and clear of the interests or encumbrances of certain others to satisfy claims arising under The Statute.

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**RECORDER/REGISTRAR: AFTER FILING OR RECORDING RETURN
THIS INSTRUMENT TO DRAFTER AT ABOVE ADDRESS**



The Basic Recovery Process when there is an MA Lien

- A title search is done that reveals our lien or the family knows there is a lien.
- Our office is contacted and we ask:
 - What's the purchase price? Is it in line with the estimated market value on the tax statement? If not...
 - Has the property been reassessed?
 - Has there been an appraisal?
 - Have you been in contact with the county for approval of sale price?



The Basic Recovery Process when there is an MA Lien (continued)

- When is it closing?
- Please send us a preliminary HUD or settlement statement for review.
- It is the Departments understanding that the recipient has a “life estate interest,” “joint tenancy interest,” or “tenant-in-common interest”. Is that your understanding?



The Basic Recovery Process when there is an MA lien (continued)

- The HUD is received by email or fax.
- The Unit reviews the HUD (all normal and usual closing costs are allowed).
 - Realtors fees
 - Title / Abstract search
 - Taxes / HOA fees
 - Recording fees / closing fees
 - Mortgage (if recorded before lien)
 - Certain repairs or reimbursements upon review and approval



The Basic Recovery Process when there is an MA Lien (continued)

- Upon approval SRU compares the recipients interest in the net proceeds with the amount paid by MA for the recipient's care and recovers the lesser of the amounts.
- A payoff letter is sent to the realtor, title co., family or attorney. The letter states:
 - To whom to make the check payable
 - Where to mail the check
 - How much the department will accept for a release of lien, and
 - How the release of lien is handled.



The Basic Recovery Process when there is an MA Lien (continued)

- The Department receives the check and verifies that it is correct.
- The SRU generates a release of lien
 - Send a copy of the release to the entity that issued the check
 - Send the original release to the county recorders office



The Basic Recovery Process when there is an MA Lien (continued)

- The SRU notifies the county case manager of the recovery. We send a:
 - Cover letter as to what type of recovery: Total claim, life estate interest, net proceeds, etc.
 - Copy of signed HUD
 - Copy of payoff letter
 - Copy of check
- If no other property, we close our file.



The Notice of Potential Claim (NPC)

- An NPC lien arises when DHS makes MA payments on behalf of the MA recipient.
 - Authority comes from the expanded definition of estate under title 42 USC 1396p(b)(4)(B).
- The NPC may be filed anytime before or up to one year after the MA recipient dies.
 - NPC filed before the recipient's death shall not take effect and shall not be effective as lien until the recipient dies.
 - NPC filed after the recipient dies shall be effective as a lien from the time of filing.



The NPC (continued)

- An NPC applies to all real property the recipient holds interest in; this includes life estate and jointly held interest in land
 - collection after recipient death is only allowed on life estate and jointly owned interest created on or after August 1, 2003
- The NPC constitutes a lien in favor of DHS against the recipient's interests in the real estate it describes for 20 years from the date of filing or the date of the recipient's death, whichever is later.



The NPC (continued)

- **Property Subject to the NPC:**
 - Real property owned by the recipient and the recipient dies single and a claim could be filed under Minn. Stat. §256B.15
- **An NPC may be filed on interest in real property of a deceased recipient survived by:**
 1. a spouse; or
 2. minor child; or
 3. a child of any age who is totally and permanently disabled; or



The NPC (continued)

- **An NPC may be filed on interest in real property of a deceased recipient who has:**

4. A sibling who lived in the decedent MA recipient's home at least one year before the decedent's was institutionalized and continuously since the date of institutionalization; or

5. A child or grandchild who lived in the recipient's home for at least 2 years immediately before the date of institutionalization of the recipient and who established they provided care which permitted the recipient to reside at home rather than the institution.



The NPC (continued)

- The NPC may not be enforced or collected upon until after the previously mentioned 5 exemption(s) no longer apply.



The Basic Recovery Process when there is an NPC

- The SRU is contacted in a couple of ways when an NPC is recorded and is now in question.
 - The county calls and states they have a claim.
 - The title company, attorney, realtor calls and they want to know how to get it released
- Here's where the imperfect world of liens, claims and NPC's begins.



The Basic Recovery Process when there is an NPC

- When DHS has an NPC there can also be a County claim.
- The Personal Representative (PR) or attorney handling the estate are *usually* most interested in satisfying the County claim.
- The Title company is interested in satisfying the NPC or getting a release thereof.



The Basic Recovery Process when there is an NPC

- This is when clear and constant communication between DHS and the county needs to take place.
- Under normal circumstances, if DHS knows this is a probate estate we will contact county collections to find out if there is a claim in the estate.



The Basic Recovery Process when there is an NPC & County Claim

- If the county has a claim, the SRU requires you to fax or email your written statement of claim.
- The Unit will not release its NPC until the county's claim is satisfied.
 - An exception is if the county requests it to be released before the claim is satisfied.



MA Claims

- A claim for MA includes all MA provided for under the MA program 256B, all GAMC under 256D, and AC under 256B.0913
 - » (AC benefits paid after July 1, 2003)
 - » Effective January 1, 2010, exclude QMB, SLMB, QI, QDWI, QMB Plus and SLMB Plus.
- Paid after 55;
- Without regard to age, paid during any stay of 6 months or longer in an institution; or
- Paid GAMC

Minn. Stat. §256B.15, Subd 1a



MA Claims

- **Priority:** An MA claim is considered an expense of last illness and has a fourth priority of payment. Minn. Stat. §524.3-805
- **Assets subject to Claims:**
 - Homestead
 - All probated assets
 - Selected non-probate assets



The Basic Recovery Process when there is an NPC

- If this is not probate property and DHS can make a recovery we ask:
 - When is it closing?
 - Please send us a preliminary HUD or settlement statement for review.
 - It is the Departments understanding that the recipient has a “life estate interest,” “joint tenancy interest,” or “tenant-in-common interest”. Is that your understanding?



The Basic Recovery Process when there is an NPC

- The HUD is received by email or fax.
- The Unit reviews the HUD (all normal and usual closing costs are allowed).
 - Realtors fees
 - Title / Abstract search
 - Taxes / HOA fees
 - Recording fees / closing fees
 - Mortgage (if recorded before lien)
 - Certain repairs or reimbursements upon review and approval



The Basic Recovery Process when there is an NPC

- Upon approval the unit compares the recipients interest in the net proceeds with the amount that has been paid by MA for the recipients care and recovers the lesser of the amounts.
- A payoff letter is sent to the realtor, title co., family or attorney. It states:
 - To whom to make the check payable
 - Where to mail the check
 - How much the department will accept for a release of lien, and
 - How the release of lien is handled.



The Basic Recovery Process when there is an NPC

- The Department receives the check and verifies that it is correct.
- The Unit generates a release of lien and sends:
 - A copy of the release to the entity that issued the check
 - The original release to the county recorders office



The Basic Recovery Process when there is an NPC

- The Unit then notifies county collections of the recovery.
- If no other property, we close our file.



Life Estates and Joint Tenancy

- 2005: Legislature amended MA Lien and NPC laws to limit continuation of a life estate or joint tenancy owned interest in land after a recipient's death to life estate and jointly owned interest established on or after August 1, 2003.
- However, recovery is still allowed against life estate or jointly owned interests in land established before August 1, 2003, if it is done during the lifetime of the recipient.



Medicare Improvements for Patients and Providers Act (MIPPA)

- Medicare Cost Sharing: Effective January 1, 2010
 - Claims will no longer include QMB, SLMB, QI
- History: Estate recovery and pre-death liens have included recovery for the cost of services or benefits received by MA recipients who are also enrolled in Qualified Medicare Beneficiaries (QMB), Service Limited Medicare Beneficiaries (SLMB) and Qualified Individuals (QI), or who only receive the QMB, SLMB or QI benefit.



MIPPA

- Medicare Cost Sharing (requirements from the federal agency)
 - Effective January 1, 2010: States must exempt Medicare cost-sharing benefits (i.e., Part A and Part B premiums, deductibles, coinsurance, and co-payments) from estate recovery. Exemption applies to these groups of dual eligibles: QMB, SLMB, QI, QDWI, QMB Plus (QMB with full Medicaid benefits), and SLMB Plus (SLMB with full Medicaid benefits).



MIPPA

- Medicare Cost Sharing
 - MA Liens and SNTs: This new exclusion does not apply to MA liens and Special Needs Trust.
 - Date of death: This new exclusion does not apply to estate recovery for deaths before January 1, 2010.
 - For any person dying on or after January 1, 2010, a claim still can be made against their estate for Medicare cost-sharing benefits received before the effective date.



MIPPA

- Medicare Cost Sharing
 - **Claims for enrollees described below with dates of service on or after January 1, 2010 must be excluded from a probate claim.**
 - Qualified Dual Eligibility—QMB, SLMB, QI, QDWI, QMB+, SLMB+; and (Identified with Major Program = QM, SL, or WD)
 - Age 55 or older at the date of service of the MA benefit;



MIPPA

- Use the following guide when preparing a claim for recovery of MA filed in the probate estate of the above recipients:
 - A. Medicare Cost Sharing benefits —
Paid Under Major Program QM, SL or WD only
 - Dates of service* before 01/01/2010 → Subject to recovery;
 - Dates of service* on or after 01/01/2010 → Exempt from recovery;
 - B. Medicare Premiums--
 - *DOS for premiums defined as “date Medicaid paid the premium”=Warrant Date; Identified with “Warrant Date on or after 01/01/2010” and Provider Name is “Fed SMI Trustee (Buy-In)”
 - C. Medicare Co-pays, deductibles, co-insurance--
 - *DOS for co-pays, etc. defined as “date the request for payment is received by the Medicaid State agency” = Billed Date Identified with “Billed Date” on or after 01/01/2010 and “Claim Type” = T, U, V, or W

See Bulletin #09-21-11



Other Means of Recoveries

- Transfer on Death Deeds
("TODD")
- Revocable Living Trusts



What is a TODD?

- A way to convey real property to one or more grantee beneficiaries upon the death of the grantor(s) without the cost of probate or granting interest prior to death.
 - No interest is transferred until after the death of the grantor.
 - The TODD may be revoked at any time by the grantor owner as long as revocation is recorded prior to death.



Definitions

- Beneficiary or Grantee Beneficiary: Party to whom an owner grants future interest in Minnesota real property.
- Owner: person having an ownership interest in all or part of the real property to be conveyed or transferred by a TODD.
 - Does not include a spouse who joins the deed for the sole purpose of releasing statutory or marital interest.



Who can be a Grantee Beneficiary?

- Spouse
- Children
- Relatives
- Friends
- Charitable Organizations
- Trustee of a Trust
- Corporations



Grantee Beneficiary

- Owner not required to have grantee beneficiary's :
 - Consent
 - Signature
 - Agreement
- The grantee may disclaim his/her interest in the property as provided by Minn. Stat. §501B.86
- Grantor may designate multiple grantees to take title as j/t, t/c, etc....



Rights of Creditors

- The interest transferred to the grantee after the death of the grantor is subject to all encumbrances the property was subject to during the grantor's lifetime.
 - This includes any claim for MA not already satisfied by the grantor's estate.



Certificate of Clearance

- Any person claiming an interest in real property conveyed by a TODD must apply to a county agency in the county where the real estate is located for a clearance certificate to release public assistance claims and liens on real property.
 - County can force the sale by petitioning probate court where the property is located or in the county where a probate is pending for an order allowing sale of real property substituting net sale proceeds so they can pay the MA claim.



Certificate of Clearance

- DHS HCPM has links to forms that have copies of the affidavit for certificate of clearance and the actual certificate of clearance to process the TODD clearance request. (HCPM 19.50.05)
- A certified death certificate, affidavit of identity and survivorship and the Certificate of Clearance need to be recorded in the county recorders office.



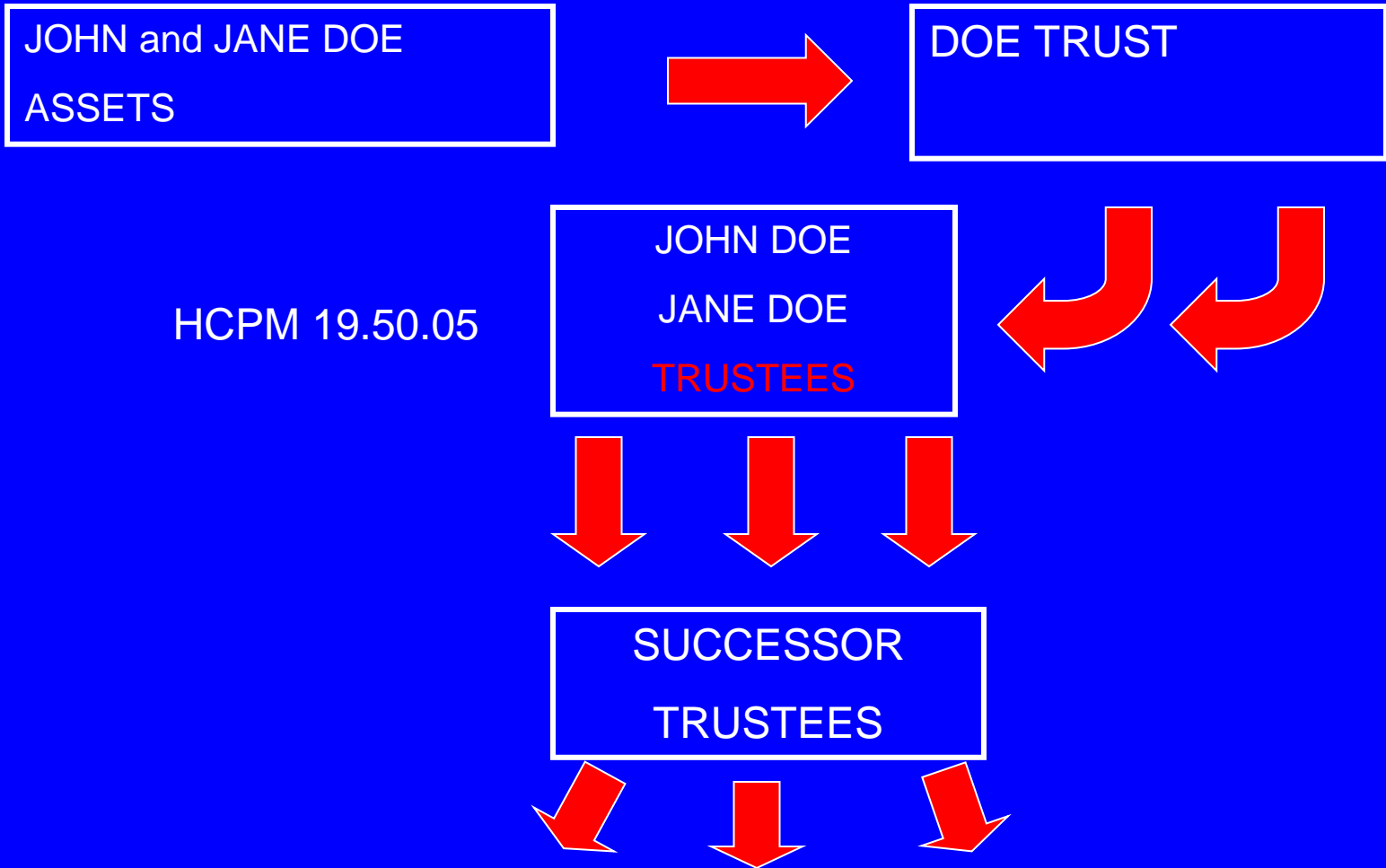
Filing and Collection of Claim

- The grantee beneficiary must record the certified death certificate, affidavit of identity and survivorship and the Certificate of Clearance at the county recorders office.
- If a claim appears on the certificate, recording of the certificate in the county in which the real property is located constitutes a filing of claim.

For detailed reference see Bulletin #09-21-11



HOW A REVOCABLE LIVING TRUST WORKS



Revocable Trust

- Can a Revocable or living trust avoid an MA claim?
 - Restatement (Second) of Trusts, §156 allows creditors to reach these sort of trusts.
 - Minn. Stat. §502.76: When the grantor in a conveyance personally reserves, for the grantor's own benefit, an absolute power of revocation, such grantor is still the absolute owner of the estate conveyed, so far as the rights of creditors and purchasers are concerned.
 - Minn. Stat. 256B.15, Subd 1a(b), the person's estate must consist of:
 - (5) assets conveyed to a survivor, heir, or assign of the person through survivorship, **living trust**, or other arrangements.
 - The venue for such a claim can either be made in probate proceeding (which the county would initiate) or to petition the court for the successor trustee to pay a valid claim against the grantor(s). See Minn. Stat. 501B.16 and 501B.17
- See MN HCPM 19.50 ----- Added section 19.50.05



Special Needs Trusts

Pooled Trusts

Annuities

- Only MN Department of Human Services can be the beneficiary with the right to recover.
- These do not become part of a probate estate.



Other Useful Information

- Newly issued Bulletin #14-21-03
 - MA Estate Claim Recovery and Undue Hardship Waivers
- Bulletin #09-21-11
 - Change to Claims in the Estate of the Surviving Spouse (Barg decision)



Contacts

Property Liens / NPC's / Trusts / Annuities:

A-G	Jan Curran	651-431-3154
H-M	Denise Meyer	651-431-3158
N-R	Greg Lulic	651-431-3152
S-Z	Kelly Buckley	651-431-3115

Policy Questions:

Dale Klitzke	651-431-3108
Kendel Waterkamp-Vomastek	651-431-5805



Questions

