

Legal Assistance of Western New York, Inc. ®



We provide free legal aid to people with civil legal problems in western New York.

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Public Assistance and Liens

What is a lien?

A lien is a claim against property that may be used to repay a debt. If you sell property that has a lien against it, the lien must be repaid before you get any money from the sale.

Can the Department of Social Services (DSS) force me to put lien on my home before I can get public assistance?

Yes. DSS can require you to sign a lien if you own a home. They do this to make sure that when your home is sold or transferred, they will be repaid for any of the cash public assistance benefits they provided to you. However, if you own a mobile home, but not the lot it is on, DSS cannot require you to give them a lien. See below to learn what happens if you refuse to sign a lien on your home.

Do I have to sign a lien to receive food stamps, HEAP, Emergency Assistance to Adults, or child care assistance?

No. You do not have to sign the lien to receive these benefits.

Do I have to sign a lien to receive Medicaid?

As a general rule, no you do not. There are some very narrow exceptions. For instance, after your death, the County can try to recover from your estate, the amount of money given if you received medical care while you were over 55 and the care was paid by Medicaid.

Will I lose my house if I sign the lien?

As long as you or your spouse lives in your house, DSS has no right to sell the house or force you to move. However if you sell or transfer your house, DSS must be repaid for the public assistance they provided to you. If there is money left after DSS and any other lien holders are repaid, you may keep that money.

What happens to the lien after I sign it?

DSS files the lien with the County Clerk's office. You should ask for a copy of the lien.

Will DSS help me pay the costs of owning my own home while I am on public assistance?

Yes. DSS must pay you a shelter allowance up to the maximum allowed to help you pay for some of the costs of owning your home (such as mortgage payment, real property taxes and homeowner's insurance).

What happens if I refuse to sign the lien?

DSS will not give you or your spouse any cash assistance. However, if there are children in the household, DSS must provide a public assistance grant for the children.

What if DSS made me work in order to receive public assistance?

If you had to work in a work program sponsored by DSS in order to receive assistance, the amount of public assistance that you received for that period of time should be deducted from the amount of the lien.

What if DSS collected and kept child support for my children while I was on public assistance?

If DSS collected child support payments for your children while they were on public assistance, the amount they kept should be deducted from the lien.

What if I receive SSI benefits after I was on public assistance?

If you were found eligible for SSI benefits and some of these benefits were sent directly to DSS to pay them back for the public assistance you received, that amount should be deducted from the lien.

How will I know how much is owed on the lien?

DSS must send to you, every other year no later than February 1, a statement about the debt owed and any credits for the amount you owe. Some credits include child support collected and kept by DSS, or money collected by DSS if you win the lottery. Again, you should seek a deduction for the number of hours worked as part of the DSS sponsored work programs.

What if I disagree with DSS about a lien?

You do not have the right to ask for a fair hearing if you disagree with the amount of the lien taken by DSS. A petition would need to be filed on your behalf in Supreme Court.

Legal Help

If you have a lien problem you cannot solve with DSS, you can contact your local legal services office for possible help. If you get a notice from DSS it will have contact information for legal

assistance.

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This article provides general information about this subject. Laws affecting this subject may have changed since this article was written. For specific legal advice about a problem you are having, get the advice of a lawyer. Receiving this information does not make you a client of our office.

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