

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



August 10, 1987

ALL COUNTY LETTER NO. 87-109

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: AVAILABILITY OF REAL PROPERTY SUBJECT TO NINE MONTH LIENS
(AFDC, RCA, ECA AND RDP)

REFERENCE: MPP SECTION 42-201.1, PROPERTY (AVAILABILITY)
MPP SECTION 42-213.12, REAL PROPERTY TO BE EXCLUDED
MPP SECTION 42-215.11, VALUE OF REAL PROPERTY

The purpose of this letter is to explain how excess real property, which is subject to the nine month lien provisions, is to be treated in certain situations where the availability of the property may be questionable.

This letter addresses two separate issues concerning real property which is subject to a nine month lien in accordance with MPP Section 42-213.12. The first issue is how to treat a lien when the real property on which the lien was placed becomes legally unavailable for the recipient to sell during the nine month lien period. The second issue is how to treat a case when the excess real property has already had a lien placed on it by another state and the client now wants to receive aid in California.

The first issue is illustrated by the following example:

A family applies for assistance. The family has property that is determined to be available and its value exceeds the property limit. A lien is taken and the family is given nine months in which to dispose of the property. After two months the property becomes unavailable. Three months later the county determines that the property is once again available while the family has remained on aid.

In this situation, the nine month exemption period should stop running effective at the end of the month in which the property becomes unavailable. The remainder of the exemption period resumes beginning the first of the month following the month in which the property becomes available again since property is evaluated as of the first of each month. This treatment is derived from MPP Section 42-201.1 which states that real and personal property shall be considered for purposes of this chapter (of the EAS Manual) when it is actually available. In order for the property to be considered unavailable, the recipient must have lost the legal ability to sell the property. This could occur if the property was tied up in litigation.

The second issue is illustrated by the following example:

A family owns excess real property and applies for aid in the state of Washington. As a condition of qualifying for aid in Washington, the family signs a lien agreement on the property. At some future time the family moves to California and applies for aid. The family still owns the same piece of excess property and has the ability to sell it.

In this situation, the assistance unit would be granted a new nine month lien in California in accordance with MPP Section 42-213.12. The lien which was taken by the other state is considered a valid encumbrance on the property, consistent with other types of liens listed in MPP Section 42-215.11. The value of the other state's lien is the amount of aid paid to the recipient during the lien period.

The CA 81 Lien Agreement has been revised in order to make it consistent with the availability factor described in this letter. The reference to nine consecutive months has been changed since the nine months might not be consecutive calendar months if the property becomes legally unavailable for the recipient to sell during the course of the nine month lien period. A reproducible copy of the revised CA 81 is attached.

If you have questions regarding the treatment of property for AFDC, please contact Judy Moore at (916) 324-2017 or ATSS 454-2017.


ROBERT A. HOREL
Deputy Director

Attachment

cc: CWDA