**Section 102.235 Liens on Property of Institutionalized Recipients**

a) Definitions in this Section are as follows:

1) "Institutionalized individual" – individual of any age who is an inpatient in a nursing facility or other medical institution and who must, as a condition of receiving services in the institution, apply his or her income to the cost of care.

2) "Individual's home" – dwelling with adjoining and related real estate which the individual owns and occupies, or when temporarily absent, dwelling in which the individual maintains an intent to return.

3) "Equity interest in the home" – current market value of the home less all encumbrances.

4) "Residing in the home for at least one or two years on a continuous basis" – occupancy of an individual's home by a sibling or child of the individual as a primary place of residence. During the one or two year period, the individual's home address was used by the sibling or child as his or her mailing address, or his or her address used for driver's license or voter registration purposes, and the address remained unchanged.

5) "Discharge from the medical institution and return home" – the attending physician has signed an order for discharge from the medical institution, following which the individual has returned to reside in his or her own home.

6) "Lawfully residing" – use of the property of an individual in a medical institution as the home of a spouse or a minor, blind or disabled child, or a sibling with an ownership interest in the home. Such property must be the spouse's child's or sibling's mailing address, or his or her address used for driver's license or voter registration purposes.

b) Except as provided in subsection (c) of this Section, the Department shall file a lien on all real property, including the home of a recipient of MANG(A), (B) or (D) who it determines to be permanently institutionalized, that is, cannot reasonably be expected to be discharged and return home from a medical institution.

c) The Department will not file a lien on the home if it is occupied by the permanently institutionalized recipient's spouse, minor or disabled or blind child, or sibling who has an equity interest in the home and has legally resided in it continuously for at least one year immediately before the date the recipient was admitted to a medical institution.

d) There shall be a rebuttable presumption of permanent institutionalization when a recipient has resided for at least 120 calendar days in one or more medical institutions.

e) The Department shall provide the recipient with at least 10 calendar days advance notice of its intention to file a lien on the recipient's real property, based on its determination that the recipient is permanently institutionalized, and of the recipient's right to request and obtain a fair hearing on this determination.

(Source: Amended at 21 Ill. Reg. 619, effective January 1, 1997)