

Date: April 19, 2013

To: All Texas Agents

From: Tim Redding, Vice President/Underwriting Counsel

RE: Medicaid Liens

Medicaid is a federally funded program for medical payments for patients who are not on welfare but unable to pay for necessary medical expenses. The federal law establishes a lien for such payments on property owned by a decedent over 55 years of age who dies after receiving Medicaid assistance. This is not associated with Medicare.

Texas law established the Medicaid Estate Recovery Program (MERP) that is administered through the Texas Department of Aging and Disability Service (DADS). The lien administration is handled through a third party contractor. There are circumstances where a decision may be made not to claim a lien on a decedent's property depending on various facts usually involving value of the property, recoverable amount, surviving spouses, or children who remain in the house.

General rules for establishing a lien include the estate of a decedent or the devisees or heirs are attempting to sell property owned by the decedent where the decedent was more than 55 years of age or older and died after March 1, 2005, the effective date of the law. The decedent must have been dead less than four years and had received Medicaid assistance.

When an examination of title reveals that there is a possibility that the facts above could apply, we would require that the following language be inserted into Schedule C of your commitment.

**Company has been advised that a record owner died after March 1, 2005. Company should be furnished evidence that the party did not receive Medicaid benefits after March 1, 2005, or evidence the party's estate is not subject to a claim under the Medicaid Estate Recovery Plan.**

There is a procedure where the estate or parties attempting to sell the property may request a determination from the MERP contractor to determine if the property would be subject to the lien. More information and the request form may be obtained from the following link:

[http://www.dads.state.tx.us/services/estate\\_recovery/](http://www.dads.state.tx.us/services/estate_recovery/)