



ADMINISTRATIVE RULES OF MONTANA

37.82.437 MEDICAID REAL PROPERTY LIEN, SPOUSE'S LIMITED RECOVERY EXEMPTION

- (1) The department shall provide to the recipient's surviving spouse an exemption from recovery on a lien under 53-6-171 , MCA to the extent and under the conditions specified in 53-6-182 , MCA, according to the procedures and requirements specified in this rule.
 - (a) An exemption may be granted under this rule only to forego, prevent or reduce a recovery under a lien previously imposed under 53-6-171 , MCA. An exemption may not be granted under this rule to forego or prevent imposition of a lien under 53-6-171 , MCA.
- (2) A recipient's spouse may request the exemption by filing an application on the form prescribed by the department. Application forms may be obtained from and must be filed with the Department of Public Health and Human Services, Quality Assurance Division, Lien Recoveries, 2401 Colonial Drive, Helena, P.O. Box 202953, Helena MT 59620-2953. Application forms may also be obtained from county human services or welfare offices, but must be filed with the Quality Assurance Division Office in Helena at the above address.
 - (a) The department may require the applicant to submit any information and documentation regarding the applicant's finances, property, employment, liabilities, expenses, fair market value of assets, and other matters relevant and necessary to determine entitlement to and the amount of any exemption under this rule.
- (3) The department must provide the applicant notice of its determination on an application for the spousal exemption. The notice must inform the applicant of the right to a fair hearing as provided in (4).
- (4) An applicant aggrieved by the department's determination on an application for a spousal exemption under this rule is entitled to a fair hearing according to the provisions of ARM 37.5.304, 37.5.305, 37.5.307, 37.5.310, 37.5.311, 37.5.313, 37.5.316, 37.5.322, 37.5.318, 37.5.325, 37.5.328, 37.5.331, 37.5.334, and 37.5.337. The applicant or recipient must request the hearing within 30 days of receipt of the notice required under (3).
- (5) If a hearing is requested, the department may, subject to order of the hearing officer or a court having jurisdiction of the matter, take action to preserve the security of the lien but may not take further action to recover upon the lien until permitted to do so by order of the hearing officer or a court of law, which may be granted after a determination on the merits or before a determination on the merits upon a demonstration by the department that the lien is necessary to prevent the applicant or another party from disposing of the property to avoid the lien.

Implementing statute(s): 2-4-201, 53-6-182, MCA

History: NEW, 1995 MAR p. 2837, Eff. 12/22/95; TRANS & AMD, from SRS, 2000 MAR p. 1653, Eff. 6/30/00.