

ACT 65

H.B. NO. 1718

A Bill for an Act Relating to Recovery of Payments.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 346-29.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The department may place a lien against the real property of any recipient receiving medical assistance who is an inpatient in a nursing facility, intermediate care facility for the mentally retarded, or other medical institution, after a state determination, pursuant to notice and hearing requirements of chapter 91, that the recipient cannot reasonably be expected to be discharged from the medical institution and returned home. There is a rebuttable presumption that the recipient cannot reasonably be expected to be discharged from the facility and return home if the recipient or a representative of the recipient declares that there is no intent to return home or if the recipient has been institutionalized for six months or longer without a discharge plan.

- (1) The department may not place a lien on the recipient’s home if the recipient’s:
 - [(1)] (A) Spouse;
 - [(2)] (B) Minor, blind, or disabled child; or
 - [(3)]¹ Sibling who has an equity interest in the home and who was residing in the home for a period of at least one year immediately before the date of the recipient’s admission to the medical institution; is lawfully residing in the home.
- (2) The department shall not recover funds from the lien on the recipient’s home when:
 - [(1)] (A) A sibling who was residing in the home for a period of at least one year immediately before the date of the recipient’s admission to the medical institution; or
 - [(2)] (B) A son or daughter who was residing in the recipient’s home for a period of at least two years immediately before the date of the recipient’s admission to the medical institution, and who establishes to the satisfaction of the State that he or she provided care to the recipient which permitted such recipient to reside at home rather than in an institution; lawfully resides in the home and has lawfully resided in the home on a continuous basis since the date of the recipient’s admission to the medical institution.

ACT 65

- (3) The department also shall not recover funds from the lien if the recipient has a surviving spouse; or surviving minor, blind, or disabled child.
- (4) Any lien imposed with respect to this subsection shall be dissolved upon the individual's discharge from the medical institution and return home."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 23, 1997.)

Note

- 1. So in original.