

10A.108 Improper human services entitlement benefits or provider payments — debt, lien, collection.

1. *a.* If a person refuses or neglects to repay benefits or provider payments inappropriately obtained from the department of human services, the amount inappropriately obtained, including any interest, penalty, or costs attached to the amount, constitutes a debt and is a lien in favor of the state upon all property and any rights or title to or interest in property, whether real or personal, belonging to the person for the period established in subsection 2, with the exception of property which is exempt from execution pursuant to chapter 627.

b. A lien under this section shall not attach to any amount of inappropriately obtained benefits or provider payments, or portions of the benefits or provider payments, attributable to errors by the department of human services. Liens shall only attach to the amounts of inappropriately obtained benefits or provider payments or portions of the benefits or provider payments which were obtained due to false, misleading, incomplete, or inaccurate information submitted by a person in connection with the application for or receipt of benefits or provider payments.

2. *a.* The lien attaches at the time the notice of the lien is filed under subsection 3, and continues for ten years from that date, unless released or otherwise discharged at an earlier time.

b. The lien may be extended, within ten years from the date of attachment, if a person files a notice with the county recorder or other appropriate county official of the county in which the property is located at the time of filing the extension. From the time of the filing of the notice, the lien period shall be extended for ten years to apply to the property in the county in which the notice is filed, unless released or otherwise discharged at an earlier time. The number of extensions is not limited.

c. The director shall discharge any lien which is allowed to lapse and may charge off any account and release the corresponding lien before the lien has lapsed if the director determines, under uniform rules prescribed by the director, that the account is uncollectible or collection costs involved would not warrant collection of the amount due.

3. To preserve the lien against subsequent mortgagees, purchasers, or judgment creditors, for value and without notice of the lien, on any property located in a county, the director shall file a notice of the lien with the recorder of the county in which the property is located at the time of filing of the notice.

4. The county recorder of each county shall prepare and maintain in the recorder's office an index of liens of debts established based upon benefits or provider payments inappropriately obtained from and owed the department of human services, containing the applicable entries specified in sections 558.49 and 558.52, and providing appropriate columns for all of the following data, under the names of debtors, arranged alphabetically:

- a.* The name of the debtor.
- b.* "State of Iowa, Department of Human Services" as claimant.
- c.* The time that the notice of the lien was filed for recording.
- d.* The date of notice.
- e.* The amount of the lien currently due.
- f.* The date of the assessment.
- g.* The date of satisfaction of the debt.
- h.* Any extension of the time period for application of the lien and the date that the notice for extension was filed.

5. The recorder shall endorse on each notice of lien the day and time filed for recording and the document reference number, and shall preserve the notice. The recorder shall index the notice and shall record the lien in the manner provided for recording real estate mortgages. The lien is effective from the time of the indexing.

6. The department shall pay, from moneys appropriated to the department for this purpose, recording fees as provided in section 331.604, for the recording of the lien, or for satisfaction of the lien.

7. Upon payment of a debt for which the director has filed notice with a county recorder,

the director shall file a satisfaction of the debt with the recorder and the recorder shall enter the satisfaction on the notice on file in the recorder's office.

8. The department of inspections and appeals, as provided in this chapter and chapter 626, shall proceed to collect all debts owed the department of human services as soon as practicable after the debt becomes delinquent. If service has not been made on a distress warrant by the officer to whom addressed within five days from the date the distress warrant was received by the officer, the authorized investigators of the department of inspections and appeals may serve and make return of the warrant to the clerk of the district court of the county named in the distress warrant, and all subsequent procedures shall be in compliance with chapter 626.

9. The distress warrant shall be in a form as prescribed by the director, shall be directed to the sheriff of the appropriate county, and shall identify the debtor, the type of debt, and the delinquent amount. The distress warrant shall direct the sheriff to distrain, seize, garnish, or levy upon, and sell, as provided by law, any real or personal property belonging to the debtor to satisfy the amount of the delinquency plus costs. The distress warrant shall also direct the sheriff to make due and prompt return to the department or to the district court under chapter 626 of all amounts collected.

10. The attorney general, upon the request of the director of inspections and appeals, shall bring an action, as the facts may justify, without bond, to enforce payment of any debts under this section, and in the action the attorney general shall have the assistance of the county attorney of the county in which the action is pending.

11. The remedies of the state shall be cumulative and no action taken by the director of inspections and appeals or attorney general shall be construed to be an election on the part of the state or any of its officers to pursue any remedy to the exclusion of any other remedy provided by law.

94 Acts, ch 1112, §1; 96 Acts, ch 1052, §2; 97 Acts, ch 23, §2, 3; 2002 Acts, ch 1113, §1; 2009 Acts, ch 27, §1; 2010 Acts, ch 1061, §180

Subsection 1 internally redesignated pursuant to Code editor directive