My parent is in a nursing home and Medicaid put a lien on the house. How do we sell?

By Rust Belt Cash Offer · Published October 19, 2026 · Updated November 8, 2026

You can sell it. Because your parent is alive, there's no estate, no Surrogate's Court and no Letters to wait for. Your parent signs, or their agent under a power of attorney, or a court-appointed guardian. The lien doesn't take the house away; the state's standard notice says it "does not affect your ownership." When the house sells, Medicaid is repaid from the sale money for what it has paid for your parent's care up to the date of the sale (OMIG TEFRA FAQ).

The part families miss: whatever money is left counts toward your parent's Medicaid eligibility, and the county will look at it again. We strongly suggest talking with an elder law attorney about your parent's Medicaid case. The rules on sale money and gifts are strict.

Facts checked as of October 2026. General information, not legal or Medicaid advice.

What this lien is

New York generally can't put a Medicaid lien on someone's property while they're alive. One exception covers a person's real property when they're an inpatient in a nursing home or other medical institution, aren't reasonably expected to be discharged and return home, and must spend all but a small amount of their income on their care (Social Services Law §369(2)(a)(ii); 18 NYCRR §360-7.11(a)(3)). People often call it a TEFRA lien, after the 1982 federal law that allows it.

- **When it's used.** The state's Office of the Medicaid Inspector General (OMIG) describes it as a lien on the home of someone who has been in a medical facility for at least six consecutive months with no expectation of returning home, when the home's value wasn't counted as a resource for Medicaid eligibility.

- **Who puts it on.** The county's social services district: here, the Erie County Department of Social Services or the Niagara County Department of Social Services (18 NYCRR §360-7.11(a)). Your parent and their representative get a copy, and the lien is filed with the County Clerk (OMIG TEFRA FAQ).
- **What it doesn't do.** It doesn't change who owns the house, and it doesn't force a sale. The state's notice form says "You are not required to sell the property."
- **If your parent comes home.** The lien dissolves if your parent is discharged and returns home (Social Services Law §369(2)(a)(ii)).
- **If you think it's wrong.** The notice gives the right to a conference with the county and to a state fair hearing. The state's notice form gives 60 days from the notice date to ask for a fair hearing, so check the notice your parent got for the exact deadline.

When the county can't put a lien on the home

No lien can be put on the home while any of these people lawfully lives there (Social Services Law §369(2)(a)(ii); 18 NYCRR §360-7.11(a)(3)(ii)):

- your parent's spouse
- a child under 21, or a child of any age who is blind or permanently and totally disabled
- a brother or sister of your parent who has an ownership (equity) interest in the home and lived there for at least a year right before your parent was admitted

Two more protections stop Medicaid from recovering on a home lien even after it's filed (18 NYCRR §360-7.11(b)(3)):

- a sibling who lived in the home at least a year before the admission and has lived there continuously since

- a child who lived there at least two years before the admission, gave care that let your parent stay home instead of going into a facility, and has lived there continuously since

If one of these fits your family, tell the county and your elder law attorney. It may mean the house doesn't have to be sold at all.

Who signs the sale

- **Your parent,** if they can understand and sign.
- **Their agent under a power of attorney.** A New York statutory short form power of attorney that grants authority over real estate transactions includes the power to sell and convey real property (General Obligations Law §5-1502A). The title company will usually want to see the document.
- **A court-appointed guardian,** if there's no power of attorney and your parent can't sign. Under Mental Hygiene Law Article 81, the court decides which powers the guardian has (Mental Hygiene Law §81.21). That takes a court case, so start early.

Brothers and sisters don't sign just because they're family. Only the owner, or the person with legal authority for the owner, signs.

How the lien gets paid at closing

1. **Find the lien and the office behind it.** The notice your parent received names the county office and a phone number. In Erie County, the Department of Social Services Nursing Home Unit handles Medicaid for people in nursing homes, (716) 858-1901 (Erie County DSS handbook, January 2026). In Niagara County, it's the Nursing Homes and Chronic Care unit at 20 East Avenue in Lockport, (716) 439-7728 (niagaracounty.gov).

2. **Ask for the amount in writing.** Medicaid recovers what it has paid for your parent's care up to the date of the sale, from the sale proceeds (OMIG TEFRA FAQ). That number keeps growing every month your parent is in care, so the title company will need a current figure close to closing.
3. **It's paid from the sale money.** Like other recorded liens, it comes out of the proceeds at closing so the buyer gets clean title, and the lien is then released.
4. **The rest goes to your parent.** Not to the children. It's your parent's money, and that's where the next section matters.

What the sale money does to Medicaid

While the house was under the lien, its value wasn't counted as a resource for your parent's Medicaid. Cash is different.

- **The county looks again.** The state's notice form says that if the sale brings in more than Medicaid has paid, the county "will redetermine your Medical Assistance eligibility based on your income and resources at that time." The same form says changes in resources must be reported to the county right away.
- **The resource limit is low.** For 2026, the Medicaid resource level for one person in this category is $33,038 (NYS Income and Resource Standards, effective January 1, 2026). Money above the limit generally affects coverage until it's used. Your county may show a different figure on its own page, so confirm the current number with them.
- **A spouse at home has more room.** If your parent's spouse lives somewhere other than the house, the spouse can generally keep resources equal to the greater of $74,820 or half the couple's countable resources, up to $162,660 in 2026 (NYS Income and Resource Standards, 2026).

- **Giving the money away can backfire.** Transfers for less than fair market value during the look-back period can make a nursing home resident ineligible for a period of months (18 NYCRR §360-4.4(c)). Handing the proceeds to the children, or selling the house to a relative for $1, can trigger that. Some transfers to certain relatives are exempt, which is a question for the attorney.
- **The price gets looked at too.** A cash sale usually brings less than a retail listing. If the price is well under market value, the county can ask whether part of it was a gift. Keep a record of how the price was set, such as comparable sales or a written appraisal, and ask your attorney what the county will want to see.

This is the main reason we strongly suggest an elder law attorney. The sale itself is ordinary. What happens to the money afterward decides whether your parent stays covered. The Bar Association of Erie County's Lawyer Referral Service can refer one if you don't have one.

If your parent dies before the sale

Then the rules change. OMIG says that if the recipient dies before the lien is paid or released, the house becomes part of the estate and is handled under estate recovery. Nothing can be sold until Surrogate's Court issues Letters, and recovery is put on hold while there's a surviving spouse, a child under 21, or a child of any age who is blind or permanently and totally disabled (Social Services Law §369(2)(b)). That's a different process, covered in our posts on selling a parent's house and Medicaid estate recovery and whether a nursing home can take your house in New York.

Should you sell at all?

Not always. Your parent isn't required to sell, the lien goes away if they come home, and a protected relative living there may change the picture. If the house is in good shape and the family can wait, listing it with an agent will likely bring the highest price, and a

full market price is easier to explain to the county. A cash sale fits when the house is empty and needs work, when winter, taxes and insurance are piling up on a vacant house, or when the family lives far away and can't manage it.

Where we fit

A Medicaid lien on the house doesn't rule out a cash sale. A cash offer is our main option, made within 24 hours, usually by phone. We buy as-is, the family can take what they want and leave the rest, we cover all closing costs, and there are no open houses. We don't give Medicaid advice.

We look at a lot of houses, and we can't buy every one. If a cash sale isn't the right move for your parent, we'll say so first.

Once Letters are issued, most closings take 14–30 days. If the title is clear and ready, we can close in as little as 5 days.

We buy in Buffalo, Cheektowaga, Amherst and Niagara Falls, and across Erie and Niagara County. More on liens in general: selling a house with liens or title problems in Buffalo. Want to talk it through? Contact us or call (716) 800-CASH · (716) 800-2274.

Questions families ask

> **Does the lien mean the county owns Mom's house?**

No. The state's notice says the lien "does not affect your ownership of the property." It's a secured claim that gets paid when the house is sold.

> **Will Medicaid take all the money from the sale?**

No. Medicaid recovers what it has paid for your parent's care up to the date of the sale (OMIG TEFRA FAQ). What's left belongs to your parent, and the county will count it when it looks at eligibility again.

> **Dad is in a nursing home but Mom still lives in the house. Can the county put a lien on it?**

No. A lien can't be put on the home while the spouse lawfully lives there (Social Services Law §369(2)(a)(ii)).

> **Can we just put the house in my name instead of selling?**

Possibly not without a penalty. A transfer for less than fair market value during the look-back period can cause a period of Medicaid ineligibility for nursing home care (18 NYCRR §360-4.4(c)). Transfers of the home to a spouse, to a child under 21 or a blind or disabled child, and to certain siblings and caregiver children are exempt (18 NYCRR §360-4.4(c)). Ask an elder law attorney about your parent's case.

> **We got a letter from HMS. Is that real?**

OMIG says it contracts with a vendor, currently HMS, for some casualty and estate recovery work, so a letter from HMS can be real. If you're unsure, call the county office named on your parent's lien notice.

Sources

- NY Social Services Law §369(2)(a)(ii), (2)(b) and (6), liens and recoveries (nysenate.gov, revision 2022-07-29; checked October 2026)
- 18 NYCRR §360-7.11, medical assistance liens and recoveries, subdivisions (a)(3) and (b)(3) (NYS Department of Health regulations; checked October 2026)
- 18 NYCRR §360-4.4(c), transfer of assets for less than fair market value (NYS Department of Health regulations; checked October 2026)
- NYS Office of the Medicaid Inspector General, Casualty and Estate Recovery: Tax Equity and Fiscal Responsibility Act (TEFRA) frequently asked questions (omig.ny.gov; checked October 2026)
- NYS Department of Social Services form DSS-4466, Notice of Intent to Impose a Lien on Real Property (Institutionalized Individual), attachment to GIS 96 MA/036 (health.ny.gov)
- NYS Department of Health, New York State Income and Resource Standards for the Non-MAGI Population, effective January 1, 2026 (GIS 26 MA/05, Attachment 1), and GIS 26 MA/03, 2026 Medicaid Levels, January 23, 2026 (health.ny.gov)
- General Obligations Law §5-1502A, real estate transactions under a statutory short form power of attorney (nysenate.gov, revision 2021-06-18)
- Mental Hygiene Law §81.21, guardian powers over property management (nysenate.gov, revision 2015-10-02)
- Erie County Department of Social Services, Informational Handbook, January 2026, Nursing Home Unit (erie.gov)
- Niagara County Department of Social Services, Nursing Homes and Chronic Care (niagaracounty.gov; checked October 2026)

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