§ 369. Application of other provisions. 1. All provisions of this chapter not inconsistent with this title shall be applicable to medical assistance for needy persons and the administration thereof by the social services districts.

2. (a) Notwithstanding any inconsistent provision of this chapter or other law, no lien may be imposed against the property of any individual prior to his or her death on account of medical assistance paid or to be paid on his or her behalf under this title, except:

(i) pursuant to the judgment of a court on account of benefits incorrectly paid on behalf of such individual, or

(ii) with respect to the real property of an individual who is an inpatient in a nursing facility, intermediate care facility for individuals with developmental disabilities, or other medical institution, who is not reasonably expected to be discharged from the medical institution and to return home, and who is required, as a condition of receiving services in such institution under the state plan for medical assistance, to spend for costs of medical care all but a minimal amount of his or her income required for personal needs; provided, however, any such lien will dissolve upon the individual's discharge from the medical institution and return home; in addition, no such lien may be imposed on the individual's home if one of the following persons is lawfully residing in the home:

(A) the spouse of the individual;

(B) a child of the individual who is under twenty-one years of age or who is blind or permanently and totally disabled; or

(C) a sibling of the individual 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 individual's admission to the medical institution.

(b) (i) Notwithstanding any inconsistent provision of this chapter or other law, no adjustment or recovery may be made against the property of any individual on account of any medical assistance correctly paid to or on behalf of an individual under this title, except that recoveries must be pursued:

(A) upon the sale of the property subject to a lien imposed on account of medical assistance paid to an individual described in clause (ii) of

paragraph (a) of this subdivision, or from the estate of such individual; and

(B) from the estate of an individual who was fifty-five years of age or older when he or she received such assistance, provided that for individuals whose eligibility for medical assistance was based on paragraph (b) of subdivision one of section three hundred sixty-six of this title, recovery shall be limited to medical assistance consisting of nursing facility services, home and community-based services, and related hospital and prescription drug services.

(ii) Any such adjustment or recovery shall be made only after the death of the individual's surviving spouse, if any, and only at a time when the individual has no surviving child who is under twenty-one years of age or is blind or permanently and totally disabled, provided, however, that nothing herein contained shall be construed to prohibit any adjustment or recovery for medical assistance furnished pursuant to subdivision three of section three hundred sixty-six of this chapter.

(iii) In the case of a lien on an individual's home, any such adjustment or recovery shall be made only when:

(A) no sibling of the individual who was residing in the individual's home for a period of at least one year immediately before the date of the individual's admission to a medical institution referred to in subparagraph (ii) of paragraph (a) of subdivision two of this section, and is lawfully residing in such home and has lawfully resided in such home on a continuous basis since the date of the individual's admission to the medical institution, and

(B) no child of the individual who was residing in the individual's home for a period of at least two years immediately before the date of the individual's admission to a medical institution referred to in subparagraph (ii) of paragraph (a) of subdivision two of this section, and who establishes to the satisfaction of the state that he or she provided care to such individual which permitted such individual to reside at home rather than in an institution, and is lawfully residing in such home and has lawfully resided in such home on a continuous basis since the date of the individual's admission to the medical institution.

(c) Nothing contained in this subdivision shall be construed to alter or affect the right of a social services official to recover the cost of medical assistance provided to an injured person in accordance with the

provisions of section one hundred four-b of this chapter.

(d) Where a recovery or adjustment is made pursuant to this title with respect to a case in a federally-aided category of medical assistance, a part of the net amount resulting from such recovery or adjustment shall be paid or credited to the federal government pursuant to federal law and the regulations of the federal department of health and human services.

3. The department and any social services district is hereby authorized to maintain an action subject to sections one hundred one and one hundred four of this chapter to collect from either a trustee, creator, or creator's spouse any beneficial interest of either the creator or creator's spouse in any trust, other than a testamentary trust, to reimburse such department or district for the costs of medical assistance furnished to, or on behalf of, a creator or creator's spouse. For the purpose of this subdivision, the beneficial interest of the creator or creator's spouse includes the income and any principal amounts to which the creator or creator's spouse would have been entitled by the terms of such trust by right or in the discretion of the trustee, assuming the full exercise of discretion by the trustee for the distribution of the maximum amount to either the creator or the creator's spouse.

4. Any inconsistent provision of this chapter or other law notwithstanding, all information received by social services and public health officials and service officers concerning applicants for and recipients of medical assistance may be disclosed or used only for purposes directly connected with the administration of medical assistance for needy persons.

5. The requirements of this section with respect to adjustments and recoveries of medical assistance correctly paid shall be waived in cases of undue hardship, as determined pursuant to the regulations of the department in accordance with criteria established by the secretary of the federal department of health and human services.

6. For purposes of this section, the term "estate" means all real and

personal property and other assets included within the individual's estate and passing under the terms of a valid will or by intestacy.

7. Notwithstanding any provision of law to the contrary, the department shall, when it determines necessary program features are in place, assume sole responsibility for commencing actions or proceedings in accordance with the provisions of this section, sections one hundred one, one hundred four, one hundred four-b, paragraph (a) of subdivision three of section three hundred sixty-six, subparagraph one of paragraph (h) of subdivision four of section three hundred sixty-six, and paragraph (b) of subdivision two of section three hundred sixty-seven-a of this chapter, to recover the cost of medical assistance furnished pursuant to this title and title eleven-D of this article. The department is authorized to contract with an entity that shall conduct activities on behalf of the department pursuant to this subdivision. Prior to assuming such responsibility from a social services district, the department of health shall, in consultation with the district, define the scope of the services the district will be required to perform on behalf of the department of health pursuant to this subdivision.