



State of New Jersey

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

P.O. Box 712
Trenton, NJ 08625-0712

CHRIS CHRISTIE
Governor

JENNIFER VELEZ
Commissioner

KIM GUADAGNO
Lt. Governor

VALERIE HARR
Director

MEDICAID COMMUNICATION NO. 11-01 DATE: January 6, 2011

TO: County Welfare Agency Directors
Institutional Services Section Area Supervisors

SUBJECT: Reform of Resource Rules and the Home Equity Provision Update

PURPOSE: To notify County Welfare Agency (CWA) Directors and Institutional Services Section (ISS) Area Supervisors that under section 6014 of the Deficit Reduction Act (DRA) of 2005, Medicaid will no longer pay for long-term care (LTC) or home and community-based waiver (HCBW) services for individuals whose equity interest in their home exceeds \$750,000.

BACKGROUND: Individuals with substantial equity exceeding the \$750,000 standard have an available resource to utilize for their care prior to LTC medical assistance eligibility. Effective January 1, 2011, these limits are to be increased each year based upon the percentage increase in the Consumer Price Index – Urban (CPIU) and rounded to the nearest \$1,000.

ACTION: The CPIU increased between September 2009 and September 2010 by 1.1 percent. Since 2011 is the first year the excess home equity limits are indexed to the CPIU, those limits will increase by 1.1 percent rounded to the nearest \$1,000 for next year. **Effective January 1, 2011, the excess home equity limit will be \$758,000 in New Jersey.**

This provision shall not apply to an individual if their spouse, children under the age of 21 or disabled children of any age are continuing to lawfully reside in the home or meet the caregiver requirements. Joint tenancy relationships, other than the spouse, children under the age of 21 or disabled children of any age shall not be exempt from the home equity provisions. The joint ownership is subject to the equal fractional equitable interest calculation and the presumption would have to be disputed through rebuttal rules and evidence of ownership other than the equal interest presumption.

Use of bona fide home equity loans or reverse mortgages would reduce an individual's equity in their home, but the funds received through these instruments would impact eligibility as it relates to income and/or resources as addressed in Medicaid Communication No. 87-25. The home equity provisions of the DRA do not amend Medicaid eligibility rules relative to not counting the residential property of a Medicaid individual as a resource.

The home equity provision does not apply to individuals who applied and were determined eligible for these services prior to DRA enactment and who have had no break in their LTC/HCBW services since that determination. Medicaid beneficiaries transitioning from community coverage after the enactment date of February 8, 2006 (such as New Jersey Care...Special Medicaid Programs) to LTC/HCBW services would be subject to this provision as they are new applicants for LTC/HCBW services.

The individuals who are subject to the home equity provision may request consideration for a documented undue hardship. The process for evaluated evidence for an undue hardship waiver would be the same as utilized for transfer of assets undue hardship waiver requests.

If you have any questions regarding this Medicaid Communication, please refer them to the Division's Office of Eligibility Policy field service staff assigned to your Agency at 609-588-2556.

Sincerely,

A handwritten signature in purple ink that reads "Valerie Harr".

Valerie Harr
Director

VH:EJ:m
Attachment

c: Jennifer Velez, Commissioner
Department of Human Services

Kevin Martone, Deputy Commissioner
Department of Human Services

Joseph Amoroso, Acting Director
Division of Disability Services

Jeanette Page-Hawkins, Director
Division of Family Development

Kenneth W. Ritchey, Assistant Commissioner
Division of Developmental Disabilities

Allison Blake, Commissioner
Department of Children and Families

Poonam Alaigh, M.D., Commissioner
Kathleen M. Mason, Assistant Commissioner
Patricia Polansky, Assistant Commissioner
Department of Health and Senior Services

DEFICIT REDUCTION ACT OF 2005
Public Law 109-171 [S. 1932]
CHAPTER 2--LONG-TERM CARE UNDER MEDICAID

SEC. 6014. DISQUALIFICATION FOR LONG-TERM CARE ASSISTANCE FOR INDIVIDUALS WITH SUBSTANTIAL HOME EQUITY.

(a) In General.--Section 1917 of the Social Security Act, as amended by section 6012(a), is further amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f)(1)(A) Notwithstanding any other provision of this title, subject to subparagraphs (B) and (C) of this paragraph and paragraph (2), in determining eligibility of an individual for medical assistance with respect to nursing facility services or other long-term care services, the individual shall not be eligible for such assistance if the individual's equity interest in the individual's home exceeds \$500,000.

"(B) A State may elect, without regard to the requirements of section 1902(a)(1) (relating to statewideness) and section 1902(a)(10)(B) (relating to comparability), to apply subparagraph (A) by substituting for '\$500,000', an amount that exceeds such amount, but does not exceed \$750,000.

"(C) The dollar amounts specified in this paragraph shall be increased, beginning with 2011, from year to year based on the percentage increase in the consumer price index for all urban consumers (all items; United States city average), rounded to the nearest \$1,000.

"(2) Paragraph (1) shall not apply with respect to an individual if--

"(A) the spouse of such individual, or

"(B) such individual's child who is under age 21, or (with respect to States eligible to participate in the State program established under title XVI) is blind or permanently and totally disabled, or (with respect to States which are not eligible to participate in such program) is blind or disabled as defined in section 1614, is lawfully residing in the individual's home.

"(3) Nothing in this subsection shall be construed as preventing an individual from using a reverse mortgage or home equity loan to reduce the individual's total equity interest in the home.

"(4) <<NOTE: Procedures.>> The Secretary shall establish a process whereby paragraph (1) is waived in the case of a demonstrated hardship."

(b) <<NOTE: 42 USC 1396p note.>> Effective Date.--The amendment made by subsection (a) shall apply to individuals who are determined eligible for medical assistance with respect to nursing facility services or other long-term care services based on an application filed on or after January 1, 2006.