

TO: Local Commissioners, Medicaid Directors

FROM: Betty Rice, Director
Division of Consumer and Local District Relations

SUBJECT: Medicaid Long-Term Care Eligibility Changes

EFFECTIVE DATE: Immediately

CONTACT PERSON: Local District Liaison
Upstate (518)474-8887 NYC (212)417-4500

Pursuant to the enactment of the Governor's Budget Bill for 2006 - 07, local departments of social services (LDSS) have been advised of a number of eligibility changes regarding Medicaid coverage of long-term care services. Further changes have been made as a result of recent legislative enactments. This GIS advises LDSS of these changes and of a new implementation date of August 1, 2006. Eligibility changes were initially anticipated to be implemented on July 1, 2006.

Provisions regarding a transfer penalty for non-institutionalized long-term care services, elimination of spousal/parental refusal and the expanded definition of "estate" have been rescinded and will not be implemented.

For applications for Medicaid coverage of nursing facility services filed on or after August 1, 2006, the following changes will be implemented:

- The look-back period for transfers made on or after February 8, 2006, is increased from 36 to 60 months.
- In the case of a transfer of assets made on or after February 8, 2006, the begin date of the period of ineligibility is the first day of the month after which assets have been transferred for less than fair market value, or the date on which the otherwise eligible individual is receiving nursing facility services, **whichever is later**, and which does not occur during any other penalty period.
- Multiple transfers made during the look-back period, including transfers that would otherwise result in a fractional penalty, are accumulated into one total amount to determine the penalty period.
- The applicant/recipient (A/R) must provide documentation of any interest the A/R or the A/R's spouse has in an annuity, regardless of whether the annuity is irrevocable or treated as an asset. For annuities purchased on or after February 8, 2006, the A/R must be informed of the right of the State to be named remainder beneficiary. In addition, if an A/R or the A/R's spouse purchased an annuity on or after February 8, 2006, and the A/R is seeking Medicaid coverage for nursing facility services, the State must be named as a remainder beneficiary or the purchase of the annuity will be considered an uncompensated transfer of assets. In addition, when an annuity is purchased by or on behalf of an A/R, the

purchase will be treated as a transfer of assets for less than fair market value unless the annuity meets certain criteria (i.e. no deferral or balloon payments).

- Funds used to purchase a promissory note, loan or mortgage on or after February 8, 2006, will be treated as an uncompensated transfer of assets unless the note, loan or mortgage meets specific criteria.
- The purchase of a life estate interest in another individual's home is treated as an uncompensated transfer of assets unless the purchaser resided in the home for a period of at least one year after the date of purchase.
- An A/R will not be eligible for Medicaid coverage of nursing facility services or other long-term care services if the individual's equity interest in his or her home exceeds \$750,000. This provision does not apply if the individual's spouse, minor, certified blind or certified disabled child is residing in the individual's home. This provision is effective for applications for such services made on or after January 1, 2006.
- An A/R with a contract for admission to a State licensed, registered, certified or equivalent continuing care retirement community (CCRC) or life care community may be required to spend on his/her care resources declared for purposes of admission before applying for Medicaid. Under certain circumstances an A/R's paid entrance fee to a CCRC or life care community will be considered a resource when determining Medicaid eligibility.

An Administrative Directive (ADM) detailing the required actions necessary to implement these changes will be forthcoming. LDSS are reminded that these changes must not be implemented until the ADM is issued.