

COMMONWEALTH OF PENNSYLVANIA
Department of Public Welfare

OPERATIONS MEMORANDUM

Medicaid

SUBJECT: Disqualification for Payment of Long Term Care Services
for Individuals With Substantial Home Equity

TO: Executive Directors

FROM: Joanne Glover
Director
Bureau of Operations

PURPOSE

To inform County Assistance Office (CAO) staff of recently passed Federal legislation that prohibits payments for Long Term Care (LTC) services for individuals with substantial home equity. This legislation affects individuals receiving LTC services whether in an institutional setting or Home and Community-Based Services (HCBS) program.

The information provided in this Operations Memorandum takes precedence over any previous policy clarifications that have been issued or the policies and procedures that may be currently listed in the LTC Handbook. To ensure all CAOs receive and apply the same policy and procedures on these topics, this information is issued by an Operations Memorandum versus a Policy Clarification.

BACKGROUND

Previously, Federal regulations excluded the home which was used as the principal place of residence when determining eligibility for both Medicaid (Step 1) and payment of LTC services (Step 2). Section 6014 of the Deficit Reduction Act of 2005 prohibits payment of LTC services to an individual with an equity interest in his/her home of more than \$500,000. The intent of this legislation is to encourage the use of the individual's home equity to finance his/her LTC expenses. Regulations continue to exclude the home in the Medicaid eligibility determination (Step 1). However, an individual will no longer be eligible for payment of LTC services (Step 2) under the Medicaid Program if the individual's equity interest in his/her home exceeds \$500,000.

DISCUSSION

To determine eligibility for payment of LTC services, the CAO is required to determine if an individual has equity interest of more than \$500,000 in his/her home.

The limitation of \$500,000 equity value in the home applies to:

- Applicants who apply and former recipients who reapply for payment of LTC services on or after March 5, 2007; and
- Recipients at each subsequent redetermination **only** if they had applied for LTC services on or after March 5, 2007.

The limitation of \$500,000 equity value in the home does **not** apply to:

- Applicants and recipients with a spouse who lives in the home;
- Applicants and recipients with a child who is under the age of 21 who lives in the home;
- Applicants and recipients with a child who is blind or who meets Social Security’s definition of permanently and totally disabled (defined in 42 U.S.C. 1382c(a), Section 1614, of the Social Security Act), who lives in the home;
- Recipients who were receiving LTC services prior to March 5, 2007 and who have remained continuously eligible for LTC services after March 5, 2007; and
- Applicants and recipients who were granted a hardship waiver by the Department of Public Welfare (DPW).

Old Policy:

If	Then
An individual applying for LTC owned a home,	The CAO would exclude the home from consideration of LTC eligibility if: <ul style="list-style-type: none"> • The home was the principal place of residence and an intent to return home was noted in the case record; or • The home was the principal place of residence of the community spouse or dependent relative;

New Policy:

If	Then
An individual applying for LTC owns a home with equity interest exceeding \$500,000,	The CAO must deny the applicant's application for payment of LTC services due to excess home equity unless: <ul style="list-style-type: none"> • The home is the residence of the community spouse; or • The home is the residence of a child who is under 21 or a child who is blind or totally disabled.

Note: If the home is the residence of a child under 21, the CAO must complete a renewal when the child turns 21 in order to determine if the equity value in the home exceeds \$500,000.

New Policy Guidelines

- This policy applies to applicants who file an application for Medicaid/LTC services, either in an LTC facility or under a HCBS Program on or after March 5, 2007.
- For those individuals who applied on or after March 5, 2007, this policy applies to the initial eligibility decision as well as at renewals.
- This policy does not apply to applicants who file an application for Medicaid/LTC before March 5, 2007.
- This policy does not apply to recipients of LTC services who applied for and were determined eligible prior to March 5, 2007 and have remained continuously eligible for LTC services after March 5, 2007.
- This policy applies only to the determination of eligibility for payment of LTC services.
- Individuals found ineligible for payment of LTC services due to excess home equity continue to be reviewed for Medicaid eligibility in an LTC category. They remain eligible for all other services except LTC services.
- The Third Party Liability (TPL) carrier code (903 Q) is to be used to reflect the ineligibility for payment of LTC services.

- An individual's home is property in which the individual has an ownership interest that is the principal place of residence. It may include:
 - The actual shelter;
 - The land on which the shelter is situated; and
 - Related buildings on such land.

Note: It may not be necessary that the individual own the shelter itself. For example, if an individual owns land and resides on that land in a trailer owned by another person, the land is considered the home.

- Equity value is the current market value of the property less any encumbrances on the property, such as mortgages or other loans that are recorded as encumbrances against the property.
- If the ownership of the home is shared by co-owners, equity interest is determined by dividing the total equity by the number of owners of the property.
- In the event that an individual cannot access home equity due to a demonstrated hardship, an undue hardship waiver may be granted by DPW.

SPECIFIC STEPS

1. Review the Medicaid/LTC application for ownership of resident property.
2. Determine whether the applicant or recipient is exempt from the \$500,000 limitation.
3. Determine current market value of the property if the applicant or recipient is not exempt. The CAO may request a certified appraisal to verify the fair market value.
4. Determine the equity value in the property if current market value exceeds \$500,000. The CAO must request documentation of all encumbrances.
5. Determine eligibility for Medicaid/LTC and provide appropriate notice if equity value in the property is \$500,000 or less.
6. Review eligibility for Medicaid if equity value in the property exceeds \$500,000.

7. Authorize Medicaid in the appropriate LTC category, provide appropriate eligibility notice and complete TPL screens if eligible for Medicaid by using Step 1 procedures.
8. Provide the applicant, the representative and the provider with a Notice to Applicant of ineligibility or Advance Notice to the recipient, the representative and the provider, of termination of eligibility for payment for LTC services due to excess home equity.
9. Enter the begin date of ineligibility for payment of LTC services in the TPL carrier code (903 Q). There will not be an end date. The individual remains ineligible for payment of LTC services until the home equity value in the property does not exceed \$500,000 unless a hardship waiver is granted.
10. Notify the individual and the representative that the denial of payment of LTC services may be waived if denial of LTC services creates an undue hardship.
11. In the event that an individual cannot access home equity due to a demonstrated hardship, an undue hardship waiver may be granted by DPW.

Example 1: Excess Home Equity

- Mr. Brown, a 68 year old widower, was admitted to a nursing facility on January 1, 2007. Mr. Brown submitted an application for Medicaid/LTC on March 5, 2007 requesting benefits be effective March 5, 2007. The application indicated home ownership and intent to return.
- Mr. Brown has gross monthly income of \$2,000.
- The CAO requested and received a tax assessment indicating the market value of the home was \$600,000.
- The CAO requested and received a statement from Mr. Brown's mortgage company indicating there was an outstanding mortgage due of \$75,000. Therefore the equity interest in the home was \$525,000.
- The CAO determined Mr. Brown ineligible for LTC and provided appropriate notice.
- The CAO reviewed the application and found Mr. Brown otherwise eligible for Medicaid and authorized benefits in TAN category.

- The CAO completed the appropriate entry for the 903 Q TPL screens.
- Mr. Brown requested a waiver of the denial of payment for LTC services due to undue hardship, stating that he would not have the funds to pay for his LTC services. Mr. Brown was unable to substantiate that he could not access the equity interest in his home. Mr. Brown could not provide substantiation that denial of payment of LTC services created an undue hardship for him.
- Mr. Brown remains ineligible for payment of LTC services as long as the equity interest in the property exceeds \$500,000.

Example 2: Reducing Excess Equity

- Mr. Green, a 68 year old widower, was admitted to a nursing facility on January 1, 2007. Mr. Green submitted an application for Medicaid/LTC on March 5, 2007 requesting benefits be effective March 5, 2007. The application indicated home ownership and intent to return.
- Mr. Green has gross monthly income of \$2,000.
- The CAO requested and received a tax assessment indicating the market value of the home was \$600,000.
- The CAO requested and received a statement from Mr. Green's mortgage company indicating there was an outstanding mortgage due of \$75,000. Therefore the equity interest in the home was \$525,000.
- The CAO determined Mr. Green ineligible for LTC and provided appropriate notice.
- The CAO reviewed the application and found Mr. Green otherwise eligible for Medicaid and authorized benefits in TAN category.
- On March 1, 2008, Mr. Green submitted an application, requesting eligibility for LTC be effective March 1, 2008. Mr. Green provided the CAO with documentation indicating that on February 25, 2008, he had taken out a home equity loan, for \$60,000 and used the entire loan to pay the facility for his LTC services for the prior 12 months.
- The CAO requested and received a tax assessment indicating the market value of the home was currently \$610,000.

- The CAO requested and received statements from the lending institutions verifying the outstanding balances on the loans. The outstanding mortgage is currently \$70,000 and the balance on the home equity loan is currently \$60,000. Therefore the equity interest in the home is \$480,000.
 - $\$610,000 - \$70,000 - \$60,000 = \$480,000$
- The CAO reviewed the application and found Mr. Green otherwise eligible for LTC, authorized benefits, completed the appropriate entry for the 903 Q TPL screens, and issued a PA 162 Notice to Applicant indicating eligibility for LTC services effective March 1, 2008.

NEXT STEPS

1. Review this Operations Memorandum with appropriate staff.
2. Contact your Area Manager if you have questions.
3. This Operations Memorandum will become obsolete upon release of the revised Handbook pages.