

# Bulletin

June 15, 2007

Minnesota Department of Human Services □ P.O. Box 64941 □ St. Paul, MN 55164-0941

## OF INTEREST TO

- County Directors
- Social Services Supervisors and Staff
- Financial Assistance Supervisors and Staff
- Mille Lacs Tribal TANF
- Case Managers
- MinnesotaCare Operations Managers, Supervisors and Workers

## ACTION/DUE DATE

Please read and implement policy for transfers reported or discovered on or after July 1, 2007.

## EXPIRATION DATE

June 30, 2008

## DHS Announces Changes to Transfer Penalty Period Begin Date Policy for Medical Assistance (MA) Enrollees Receiving Payment of Long-Term Care (LTC) Services

### TOPIC

Transfer penalty period begin date for MA enrollees receiving Medical Assistance (MA) payment of long-term care services (LTC).

### PURPOSE

Provide new policy and instructions for determining the transfer penalty period begin date for MA enrollees receiving MA payment of LTC services.

### CONTACT

MinnesotaCare Operations, Counties and Tribal Agencies should submit policy questions to HealthQuest.

All others should direct questions to:

Health Care Eligibility and Access (HCEA)  
P.O. Box 64989  
540 Cedar Street  
St. Paul, MN 55164-0989

### SIGNED

BRIAN J. OSBERG  
Assistant Commissioner  
Health Care Administration

## **A. Background and Introduction**

On February 8, 2006, the Federal Deficit Reduction Act of 2005 (DRA) (Public Law 109-171) was signed into law. The DRA includes several provisions related to Medical Assistance (MA) policy on uncompensated transfers by people who request MA payment of long term care (LTC) services. The 2006 Minnesota Legislature passed legislation bringing State law into compliance with the DRA.

DHS subsequently issued bulletin #06-21-13, Medical Assistance (MA) Policy Changes for Uncompensated Transfers, dated September 12, 2006, regarding the implementation of the DRA changes for uncompensated transfers made on or after February 8, 2006. The bulletin provided instructions to county agencies regarding the transfer penalty period begin date for applicants making uncompensated transfers during the lookback period. However, pending further clarification from the Centers for Medicare and Medicaid Services (CMS), county agencies were instructed not to make any changes to the process when applying transfer penalties to enrollees receiving MA payment of LTC services. In December 2006, Minnesota received CMS approval of the state plan amendment changing the policy on when to begin transfer penalties for MA enrollees.

This bulletin provides new policy and instructions on when to begin a transfer penalty period for MA enrollees receiving payment of LTC services who are subject to a transfer penalty due to an uncompensated transfer made on or after February 8, 2006, and reported to or otherwise discovered by the county agency on or after July 1, 2007.

## **B. Current Policy**

HCPM 19.40.35, Applying the Transfer Penalty, provides instruction to begin a transfer penalty period for an MA enrollee receiving payment of LTC services on the first day of the month following the month in which an uncompensated transfer was made. It also instructs workers to close MA payment of LTC services for the first day of the next available month for which a 10-day notice can be provided.

### **Example 1**

Alice has been an MA enrollee with payment of LTC services since August 2006. She made an uncompensated transfer in December 2005 that is discovered on April 2, 2007, resulting in a 24-month transfer penalty.

#### **Action Required:**

Begin the transfer penalty period on January 1, 2006, the month after the transfer was made. Alice is ineligible for MA payment of LTC services for May 1, 2007 (the next available month providing 10-day notice). The transfer penalty period will continue through December of 2007 (24 months). LTC services will not be paid until January 2008.

This policy continues to remain in effect for uncompensated transfers made **either**:

1. Prior to February 8, 2006, regardless of the date the transfer was reported or otherwise discovered.

Or

2. On or after February 8, 2006, but reported or otherwise discovered by the county agency **before** July 1, 2007.

### **C. New Policy**

Continue to follow current policy for uncompensated transfers made on the dates described above. The new policy that follows is in addition to the current policy. The new policy applies to MA enrollees receiving payment of LTC services when an uncompensated transfer is made on or after February 8, 2006, and reported to or otherwise discovered by the county agency on or after July 1, 2007.

1. Begin the transfer penalty period on the first day of the next available month following a 10-day notice of the transfer penalty.

#### **Example 2**

Burke is receiving MA payment of LTC services. On July 5, 2007, Burke reports he refused an inheritance on April 30, 2007. The transfer penalty is 15.80 months.

#### **Action Required:**

Provide 10-day notice of ineligibility for MA payment of LTC services for the entire 15.80 month penalty period effective August 1. Payment for other MA services is not affected.

2. The transfer penalty period cannot begin later than the first day of the month following three full calendar months from the date the transfer was reported to or otherwise discovered by the county agency.

If the agency does not send a 10-day notice of the penalty period within the three calendar months, send a 10-day notice as soon as possible imposing any remaining months of the penalty period.

#### **Example 3**

A May 2007 transfer is reported on July 13, 2007, for an MA enrollee receiving payment of LTC services. The transfer was verified on July 23. However, the verified transfer is not acted on until December 10. The transfer penalty is 5.80

months and must start no later than November 1 (three full calendar months from the month the transfer was reported).

**Action Required:**

Provide 10-day notice of ineligibility for MA payment of LTC services effective January 1 for the remaining 3.80 months of the transfer penalty period. Payment for other MA services is not affected.

**D. Action Required**

Apply the new transfer penalty period begin date for MA enrollees receiving payment of LTC services who make an uncompensated transfer for transfers that meet **all** of the following:

1. Made on or after February 8, 2006.
2. Reported to or otherwise discovered by the county agency on or after July 1, 2007.
3. Made within the applicable lookback period or during eligibility for MA payment of LTC services.

**E. System Instructions**

**1. MAXIS**

Follow current MAXIS instructions provided in TE02.14.27, Improper Asset/Income Transfers for MA/GAMC, when approving ineligibility results for payment of LTC services for an MA enrollee. In addition to those instructions:

- a. Review the notice. Add worker comments when **either**:

- 1) Additional comments are needed to clarify the transfer penalty.

Or

- 2) The transfer penalty period begin date is prior to the effective date of the notice.

- b. Enter case notes regarding how the transfer penalty period begin date was applied.

**2. MMIS**

Enter the transfer penalty period reason and begin/end dates on the MMIS RLVA screen. See the MMIS User Manual, County Administered Programs, LTC Services Ineligibility, for instructions.

**Example 4**

Camdyn is an MA enrollee residing in a nursing home. She has been receiving MA payment of LTC services since August 2005. Camdyn reports on her August 2007 annual renewal, received by the county agency July 10, that she received a \$10,000 inheritance on April 15, 2007, and immediately gave the money to her niece.

On July 12, the worker determines the transfer results in a transfer penalty of 2.25 months.

**Action:**

Approve ineligible results for MA payment of LTC services in MAXIS for August 1, the first day of the next available month after giving 10-day notice. Enter the transfer penalty period for MA payment of LTC services on the RLVA screen in MMIS.

**Example 5**

Amir has been an MA enrollee receiving MA payment of LTC services since April 2003. On July 25, 2007, Amir reports transferring ownership of his home to his daughter in March 2006.

The worker requests verification of the value and date of the transfer on July 28 and Amir verifies the information on August 27. The value of the home at the time of the transfer was \$156,000 and the actual date of the transfer was March 12, 2006. The transfer does not meet any of the homestead transfer exceptions in HCPM 19.40.05.

The transfer results in a transfer penalty of 35.15 months.

Because it is too late to send 10-day notice for September, the penalty period will begin October 1.

**Action Required:**

Approve ineligible results for MA payment of LTC services in MAXIS for October 1, the first day of the next available month after giving 10-day notice. Enter the transfer penalty period for MA payment of LTC services on the RLVA screen in MMIS.

**Example 6**

Nadia has been receiving MA payment of LTC services since completing a Request for LTC Services (DHS-3543) in October 2006. On July 26, 2007, she reports she made an uncompensated transfer on January 19, 2007. The verification of the \$5,000 uncompensated value is date stamped at the county agency on July 30, 2007. The verification is inadvertently routed to the wrong county building and is not

returned to the worker until November 12. That same day the worker determines a transfer penalty of 1.12 months.

The transfer penalty period should have begun no later than November 1 - however it is too late to provide timely notice for November 1.

**Action Required:**

Provide timely notice of the partial month penalty period for December.

Complete a thorough case note explaining how the begin date was applied.

## **F. Legal Reference**

Minnesota Statutes, section 256B.0595, subdivision 2, paragraph (c)

## **G. Special Needs**

This information is available in other forms to people with disabilities by contacting us at (651) 431-2283 or toll free at 888-938-3224 or through the Minnesota Relay Service at 1-800-627-3529 (TDD), 711 or 1-877-627-3848 (speech to speech relay service).