

Bulletin

September 15, 2008

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

OF INTEREST TO

- County Directors
- Financial Assistance Supervisors and Staff
- Mille Lacs Tribal TANF
- Tribal Social Service Directors
- Social Services Supervisors and Staff
- Case Managers
- County Attorneys
- County Collection Officers

ACTION/DUE DATE

Please implement policy in this bulletin upon receipt. Effective date of the policy is May 6, 2008.

EXPIRATION DATE

September 15, 2010

Revised Criteria for Home Maintenance Needs Allowance Deduction in Medical Assistance (MA) Long-Term Care Facility Income Calculation

TOPIC

Criteria under which Medical Assistance (MA) allows the Home Maintenance Needs Allowance deduction from the income of a person who resides in a long-term care facility (LTCF).

PURPOSE

Provide policy information and instructions for implementing the revised criteria for the deduction of a home maintenance needs allowance from the income of a person residing in a LTCF.

CONTACT

Counties and tribal agencies should submit policy questions to HealthQuest.

All others should direct questions to:

Health Care Eligibility and Access (HCEA) Division
P.O. Box 64989
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SIGNED

BRIAN J. OSBERG
Assistant Commissioner
Health Care Administration

I. Background and Introduction

Medical Assistance (MA) requires people to pay the balance of their monthly income, after certain deductions, toward the cost of care in a long-term care facility (LTCF). The home maintenance needs allowance deduction is allowed for a limited time for the purpose of maintaining a home in the community when certain criteria are met. On May 6, 2008, the State of Minnesota Court of Appeals affirmed a Roseau County District Court decision reversing the County's determination of when the home maintenance needs allowance deduction is allowed.

The Court of Appeals ruled that the home maintenance needs allowance deduction should be allowed for a person who, in addition to meeting other criteria, is expected to continue residing in the LTCF for three calendar months or less from the month in which MA payment of long-term care (LTC) services is **requested to begin**, rather than three calendar months or less from the date of admission to a LTCF. As a result of this ruling, the Department of Human Services (DHS) revised the criteria related to the timeframe in which the home maintenance needs allowance deduction is allowed.

The revised criteria is effective for requests for MA payment of LTC services made by people who are residing in a LTCF on or after the date of the court decision on May 6, 2008. This bulletin contains information and instructions for implementing the revised criteria.

A long-term care facility (LTCF) is defined as a nursing facility, intermediate care facility for persons with mental retardation or related conditions (ICF/MR), medical hospital, or an MA-covered bed in a regional treatment center (RTC).

Note: Group Residential Housing (GRH) and assisted living facilities are **not** long-term care facilities.

II. Home Maintenance Needs Allowance Policy

A. Home Maintenance Needs Allowance Deduction Prior to May 6, 2008

Prior to May 6, 2008, the home maintenance needs allowance deduction in the LTC income calculation for a person who resides in a LTCF was allowed for up to three consecutive calendar months from the date of admission. This deduction was not allowed when using a LTC income calculation to determine a LTC spenddown or waiver obligation of an Elderly Waiver (EW) enrollee.

A person who had resided in the LTCF for more than three calendar months at the time of the request for MA payment of LTC services did not qualify for the home maintenance needs allowance.

B. Home Maintenance Needs Allowance Deduction On or After to May 6, 2008

Effective May 6, 2008, the home maintenance needs allowance deduction is available in the LTC income calculation for a person who resides in a LTCF if the criteria below are met. This deduction is not allowed when using a LTC income calculation to determine a LTC spenddown or waiver obligation of an Elderly Waiver (EW) enrollee.

1. A home maintenance needs allowance deduction from income equal to 100% of the federal poverty guidelines (FPG) standard for a household size of one is allowed for up to three consecutive months when a person:
 - a. resides in a long-term care facility (LTCF); and
 - b. is expected to reside in the LTCF for three full calendar months or less (based on a physician's statement) from the date the person is eligible for MA payment of LTC services; and
 - c. has expenses to maintain a residence (owned or rented) in the community; and
 - d. was not living with a spouse, child under age 21, or certain tax dependents (children over age 21, parents, or siblings of the person or person's spouse) at the time of admission to the LTCF.
2. The Physician's Certification Form (DHS-1503) may not contain the information needed to determine if the enrollee is anticipated to be discharged within three calendar months of the date of the person is eligible for MA payment of LTC services. Contact the LTCF if it is not clear when the enrollee will be discharged.

III. Action Required

A. Requests for MA Payment of LTC Services Received on or after May 6, 2008

Allow the home maintenance needs allowance deduction for up to three consecutive calendar months when a person meets all of the criteria outlined in Section III.B, above. Contact the LTCF to determine the person's anticipated discharge date.

Note: Contact the LTCF if the DHS-1503 does not provide information necessary to determine if the person is anticipated to remain in the LTCF for less than three calendar months from the date of the request for MA payment of LTC services. The DHS-1503 will be updated to include a field for the LTCF to enter the anticipated discharge date for the current admission. DHS will notify counties when the updated form is available on eDocs.

Example

Susanna was admitted to a LTCF in March 2008, following a hospitalization for a stroke. She anticipated remaining in the LTCF for a nine-month rehabilitation program through November 15, 2008. She intends to return to her home upon discharge from the LTCF. In August 2008, she is no longer able to pay for her LTCF charges and files a Minnesota Health Care Programs Application for Long-Term Care and Waiver Services (DHS-3531) requesting payment of her LTCF services. Susanna lived alone in a house she owns prior to her hospitalization and subsequent admission to the LTCF. She has a mortgage payment that includes her insurance and property tax payments. Susanna meets all requirements for MA payment of LTC services effective August 1, 2008.

Action:

Contact the LTCF and confirm Susanna's anticipated date of discharge is November 15, 2008. Deduct a home maintenance needs allowance of \$867 from Susanna's income for the months of August, September, and October because Susanna:

- a. is expected to be discharged from the LTCF within three calendar months from the date she is eligible for MA payment of LTC services; and
- b. has expenses to maintain a community residence; and
- c. did not reside with a spouse, child under age 21, or certain tax dependents (children over age 21, parents, or siblings or the person or person's spouse) at the time he was admitted to the LTCF.

B. Retroactive LTC Income Calculation Adjustments

DHS compiled a list of MA enrollees who filed a request for MA payment of LTC services on or after May 6, 2008, and who were not given the home maintenance needs allowance but may have been eligible for this deduction under the revised criteria. DHS will provide the list of potentially affected cases to counties in mid-September.

Follow the instructions below to review potentially affected cases on the list that may require an adjustment to the LTC income calculation for prior months. Make retroactive LTC income calculation adjustments if necessary as follows:

1. Confirm the enrollee requested MA payment of LTC services on or after May 6, 2008, by filing one of the following forms:
 - Minnesota Health Care Programs Application for Long-Term Care and Waiver Services (DHS-3531)
 - Minnesota Health Care Programs Application (DHS-3417)
 - Combined Application Form (DHS-3469), along with a New Applicant Request for Payment of Long-Term Care Services (DHS-4803)
 - Request for Payment of Long-Term Care Services (DHS-3543)
2. Determine if the enrollee still resides in a LTCF.
 - a. No further action is required if the enrollee:
 - i. no longer resides in a LTCF and was not anticipated to be discharged in three full calendar months from the first date of eligibility for MA payment of LTC services; or
 - ii. still resides in the LTCF and it has been less than three full calendar months from the first date of eligibility for MA payment of LTC services, but the LTCF reports that the enrollee **is not** anticipated to be discharged within three full calendar months.

- b. Continue to Step 3 if the enrollee:
 - i. no longer resides in a LTCF and was discharged no later than the month following three full calendar months from the first date of eligibility for MA payment of LTC services; or
 - ii. still resides in the LTCF and it has been less than three full calendar months from the first date of eligibility for MA payment of LTC services and the LTCF reports that the enrollee **is** anticipated to be discharged no later than the month following three full calendar months from the date of eligibility for MA payment of LTC services; or
 - iii. still resides in the LTCF and it has been more than three full calendar months from the first date of eligibility for MA payment of LTC services and at the time of the request for MA payment of LTC services the enrollee was anticipated to remain in the LTCF for less than three full calendar months.
- 3. Adjust the LTC income calculation for up to three calendar months to allow the home maintenance needs allowance instead of the personal needs allowance for each month in which the enrollee was eligible to receive the home maintenance needs allowance. This adjustment will reduce the LTC spenddown.

Example

Ozzie was admitted to a LTCF in January 2008. Ozzie resided alone in his own home prior to his admission to the LTCF. He does not have a mortgage payment but is responsible for homeowners insurance, property taxes and utilities. He files a Minnesota Health Care Programs Application (DHS-3417) in June 2008, requesting payment of LTC services retroactive to May 1, 2008. Ozzie meets all eligibility requirements for MA and MA payment of LTC services. The LTCF verifies that Ozzie's physician anticipates he will be discharged in July and will return to his home.

Action:

Allow the home maintenance needs allowance of \$867 as a deduction from Ozzie's LTC income calculation in May and June because he:

- a. is expected to reside in the LTCF for less than three full calendar months from the date he is eligible for MA payment of LTC services; and
- b. has expenses to maintain his home; and
- c. did not reside with a spouse, child under age 21, or certain tax dependents (children over age 21, parents, or siblings of the person or person's spouse) at the time he was admitted to the LTCF.

B. Treatment of Refunds Due to Retroactive Adjustments to the LTC Income Calculation

When retroactive adjustments are made to LTC income calculation in order to deduct the home maintenance needs allowance instead of the personal needs allowance, LTC facilities must refund the overpaid LTC spenddown amounts to MA enrollees.

1. Treat the amount refunded to the MA enrollee by the LTCF as follows:
 - a. Do not count the refund as income or as an asset in the month received.
 - b. Count the amount refunded to the MA enrollee as an asset beginning with the month following the month he or she receives the refund, if it is retained.
 - c. Review the enrollee's assets to determine if the amount of the refund, when added to the enrollee's other available assets, results in the enrollee exceeding the asset limit.
 - d. Enrollees may choose to apply the refunded amount to any past due balance owed to the LTCF. Do not count as an asset any amount of the refund paid to the LTCF as payment for an outstanding balance.
 - e. Notify enrollees that they need to reduce excess assets if receipt of the refund results in the countable assets exceeding the MA asset limit. Follow the instructions in the Health Care Programs Manual (HCPM), Section 19.35.10.
2. DHS notified long-term care facilities of this change and asked them to use the Long-Term Care Spenddown Refund or Non-collection (DHS-4277) (Attachment A) to notify county agencies when the facility has made a refund to an enrollee or has applied the refund to a past due bill. In the past, the DHS-4277 has only been used to notify county agencies when a refund situation has occurred due to Medicare liability being established. Long-term care facilities can now use the updated DHS-4277 for any situation in which they make a refund to an MA enrollee.

IV. Systems Requirements

The long-term care budget is a partially automated budget that allows for adjustments to be made as needed.

A. Long-Term Care Budget

MAXIS allows workers to go into a past benefit month to make retroactive adjustments to the long-term care spenddown.

1. Enter the footer month for the month in which a retroactive adjustment to the long-term care spenddown is needed.
2. Use FIAT to enter the Home Maintenance Allowance amount of \$867.00 on the LTC Budget (LBUD) screen.

B. Notices

1. Approve the new budget so that MAXIS issues a notice.
2. Review the notice and add a worker comment, if needed.

V. Legal Authority

Fish v. Roseau County, 748 N.W.2d 360 (Minn.App., 2008)

42 C.F.R. § 435.733 (d) (2007)

VI. Attachments

Attachment A: Refund or Non-Collection of a Long-Term Care (LTC) Spenddown (DHS-4277)

VII. Special Needs

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



Long-Term Care Spenddown Refund or Non-collection

This form notifies the county or tribal agency financial worker of a refund or non-collection of a long-term care spenddown by a nursing facility and the reason for the refund or non-collection.

TO (COUNTY/TRIBAL AGENCY)		FAX NUMBER	
FROM (NURSING FACILITY)			
ADDRESS OF NURSING FACILITY	CITY	STATE	ZIP CODE
NURSING FACILITY CONTACT		PHONE NUMBER	

Refund or non-collection information

MA ENROLLEE'S NAME	PMI NUMBER
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- ☐ A refund in the amount of \$_____ was issued to the enrollee on _____ because:
- ☐ Medicare liability was established and an excess LTC spenddown was collected.
 - ☐ Enrollee amount was adjusted by the county and an excess LTC spenddown was collected.
- ☐ \$_____ of this refund was applied on _____, as agreed by the enrollee or authorized representative, to pay for a past due amount owed to the nursing facility.
- ☐ \$_____ of the LTC spenddown was not collected from the enrollee for the month(s) of _____ because the nursing facility determined that Medicare liability existed. Medicare liability was established.