No Pooled Trust Tool!

NYC
Human Resources Administration
Department of Social Services

Medical Insurance and Community Services Administration (MICSA)
MEDICAID ALERT

December 16, 2013

Spousal Impoverishment and Transfer of Assets Rules for Certain Individuals Enrolled in Managed Long Term Care

The purpose of this Alert is to advise Managed Long Term Care (MLTC) plans, Homecare Agencies, Client Representatives, Hospitals, Community Based Organizations and Certified Home Health Agencies(CHHA) of the expansion of spousal impoverishment budgeting for persons enrolled in Managed Long Term Care plans. There are three types of MLTC plans: Partially Capitated Plans, Program of All-Inclusive Care for the Elderly (PACE), and Medicaid Advantage Plus. Additionally this Alert advises of the requirement for local districts to apply institutional eligibility rules, including transfer of assets provisions, when an MLTC enrollee is in receipt of long term nursing facility services or is an institutionalized spouse.

Pursuant to federal approval under the State's 1115 waiver, all individuals enrolled in a MLTC with a spouse residing in the community who is not participating in a home and community-based services (HCBS) waiver or enrolled in MLTC "community spouse", must have Medicaid eligibility determined under the spousal impoverishment rules that apply to HCBS waiver participants if that is the most favorable budgeting. Spousal impoverishment treatment of income includes a post-eligibility deduction from the MLTC enrollee's income for a community spouse monthly income allowance (up to a maximum of $2,898 for 2013), a family member allowance (up to $647 for 2013), if applicable, and a personal needs allowance (PNA), ($375 in 2013). If it is more advantageous to budget only the MLTC enrollee's total net income, after applying all appropriate community SSI-related income disregards, and compare it to the Medicaid income level for one, this option is available. This budgeting methodology will continue to apply to couples with a spouse participating in PACE.

MLTC enrollees who have a pooled trust will have to choose between remaining in the pooled trust or accepting spousal impoverishment budgeting. HRA will review the applicant/recipient's information and offer the most favorable option to the client.

As of April 1, 2013, certain Long Term Home Health Care Program (LTHHCP) waiver participants began transitioning into MLTC. For couples with a "community spouse," spousal impoverishment rules will continue to apply as they transition to MLTC. Therefore, the transition to MLTC should not result in a change in eligibility.

NOTE: When the MLTC enrollee is subject to eligibility under spousal impoverishment rules, the special income standard described in the Medicaid Alert, dated February 22, 2013, "Special Income Standard for Housing Expenses for Individuals Discharged from a Nursing Facility who Enroll into the Managed Long Term Care (MLTC) Program" does not apply.

If an individual with a "community spouse" was enrolled in an MTLC prior to April 1, 2013 eligibility will be re-determined using spousal impoverishment budgeting at the next client contact, case maintenance or renewal whichever occurs first.

Monthly Surplus

Medicaid recipients with a monthly surplus are eligible for participation in a MLTC. When HRA is informed an applicant with excess income is intending to enroll in a MLTC, HRA will establish provisional coverage for the consumer. This allows the coverage to be seen on ePaces/EMedNY. Once the LDSS receives verification that an individual is eligible for enrollment in a MLTC plan, community coverage with community based long term care coverage will be authorized to allow the processing of the MLTC enrollment by Maximus. The MLTC plan is responsible to collect the amount of the surplus from the enrollee. The surplus amount is included on the MLTC rosters.

Nursing Facility Admissions, Institutional Eligibility Rules, NAMI

The local district must be notified by the MTLC plan when an enrollee is in receipt of long term nursing facility services (more than 29 days of short-term rehabilitation) or the person is an institutionalized spouse. When an enrollee is to receive more than 29 days of short-term rehabilitation or the person is an institutionalized spouse, the LDSS must conduct a 60 month resource "look back" to determine whether a prohibited transfer of assets was made that may affect eligibility. If the individual is also determined to be permanently institutionalized or the person is an institutionalized spouse, chronic care budgeting rules are applied to determine the institutionalized individual's Net Available Monthly Income (NAMI). Responsibility for collection of the NAMI for any MLTC enrollee is the responsibility of the MLTC plan.

If the LDSS determines that the enrollee has transferred assets within the 60 month look-back period and as a result, is not eligible for Medicaid coverage of nursing facility services, the district must notify the plan that the enrollee is ineligible for payment of nursing facility services. The enrollee must be involuntarily disenrolled by the district. The effective date of the disenrollment will be the first day of the month following the 29th day, or the first day of the month in which the person was permanently placed or became an institutionalized spouse. Upon disenrollment, the coverage will be changed to the appropriate coverage code based on the specific case circumstances

NOTE: For a permanently institutionalized spouse whose eligibility was determined under spousal impoverishment rules while in the community, the nursing home budget will be changed to include a $50 PNA instead of a PNA of $375.

PLEASE SHARE THIS ALERT WITH ALL APPROPRIATE STAFF