

Deficit Reduction Act of 2005

P.L. 109-171

Transfer of Assets
Limits on Home Equity
Long Term Care Partnerships
Annuities

CMS Presentation/ 2006 National COB-TPL Conference

Transfer of Assets Reform

- New rules apply to transfers made on or after February 8, 2006.
- Look-back period extended to 60 months.
- Penalty period starts when person becomes eligible for Medicaid and is receiving institutional level of care services that would be covered by Medicaid if not for the penalty period.

Transfer of Assets Reform

- States must penalize partial month transfers.
- Specific requirements for granting waivers because of undue hardship.
- Some promissory notes, loans, private mortgages, life estates may be treated as transfers of assets.

Transfer of Assets Reform

Transfer of assets before February 8, 2006	Transfer of assets on or after February 8, 2006
<ul style="list-style-type: none">• Look-back period 36 months• Period of ineligibility = amount of transfer/State's average payment for skilled nursing facility care• POE begins with date of transfer	<ul style="list-style-type: none">• Look-back period 60 months• Period of ineligibility = amount of transfer/State's average payment for skilled nursing facility care• POE begins with later of date of transfer or date on which individual is eligible for MA and is receiving institutional level of care services

Substantial Home Equity

- Medicaid will not pay for nursing facility care or other LTC services for individuals with substantial home equity.
- Individual's equity interest in home cannot exceed \$500,000, with state option to increase limit to no more than \$750,000.
- Equity value equals current market value minus encumbrances (e.g. mortgages).

Substantial Home Equity

- Waiver of requirement if spouse, or minor or blind or disabled child, living in the home.
- Waiver available for undue hardship.
- Individual can use reverse mortgage or home equity loan to reduce equity value.

State Long Term Care Partnership Program

- Goal: To help individuals to take more responsibility in planning for and financing their future LTC needs.
- Encourages the purchase of private long term care insurance.

State Long Term Care Partnership Program

- Defines a “Qualified State Long Term Care Partnership” as-

An approved state plan amendment that provides a dollar-for-dollar resource disregard for the purchase and use of LTC insurance.

State Long Term Care Partnership Program

The policy must :

- Cover an insured who was a resident of the state;
- Meet the IRS code definition of a qualified long term care insurance policy;
- Meet the National Association of Insurance Commissioner (NAIC) model Act and regulations; &
- Provide inflation protection.

State Long Term Care Partnership Program

- State Medicaid agency must assist the State insurance department in developing training for all agents who sell long term care insurance in the State.

State Long Term Care Partnership Program

- Allows purchasers of qualified Long Term Care Insurance to receive Medicaid while protecting assets.
- Assets that were protected during the eligibility determination are also protected in the estate recovery process.
- “Grandfathers” certain existing partnership programs.

Treatment of Annuities

- Individuals who apply for Medicaid must disclose any interest the applicant or community spouse has in an annuity.
- The Medicaid application form must include notice that the State must be named as a remainder beneficiary, after a community spouse or minor or disabled child.

Treatment of Annuities

- State must notify the issuer of the annuity of the State's right as remainder beneficiary.
- State may require the issuer to notify the State of changes in income or principal being withdrawn.

Treatment of Annuities

- Failure to name the State as a remainder beneficiary in the appropriate position will result in the purchase of the annuity being treated as a disposal of an asset for less than fair market value.

Treatment of Annuities

- Requires that annuities for the Medicaid applicant be purchased as specific types of retirement plans, as specified in the IRS code, or
- That the annuity be irrevocable and non-assignable, actuarially sound, and not include deferred or balloon payments;
- Otherwise, the purchase of the annuity is treated as a transfer