State of New Jersey

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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ADDRESS REPLY TO:
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MEDICAID COMMUNICATION NO. 90-17 **DATE:** August 15, 1990

TO: County Welfare Agency Directors

SUBJECT: Correction to Medicaid Communication No. 90-16; Resource Transfer Penalty

Medicaid Communication 90-16 advised of a revision to the period of ineligibility resulting from the transfer of a resource for less than fair market value. There was, however, a significant error in the body of that communication. Specifically, all references to the statewide average lowest semi-private nursing home rate indicated that the rate was $3,235. The actual rate, which appears correctly in the regulations attached to Medicaid Communication 90-16, is $3,376. So that there is no confusion, the entire text of the earlier communication is replicated here with corrections. It is recommended that county welfare agencies remove the attachment from the earlier communication and maintain it with this communication. I apologize for any inconvenience.

The Medicare Catastrophic Coverage Act of 1988 contained provisions that modified the period of ineligibility resulting from a resource transfer. That provision became effective in New Jersey April 1, 1990. As a result, the Department of Human Services has adopted, on an emergency basis, a revision to the regulations governing eligibility for Medicaid coverage for long term care as they relate to the imposition of ineligibility penalties. These regulations are effective immediately in accordance with the implementation instructions below.

This revision modifies the period of ineligibility for Medicaid coverage for long term care from an absolute period of 24 months to a sliding-scale penalty with a maximum ineligibility penalty of 30 months. The period of ineligibility will be the lesser of 30 months or the whole number quotient resulting from dividing the uncompensated value of the transferred resource by the statewide average lowest semi-private room rate for skilled nursing facilities. That rate is currently $3,376 and it will be adjusted annually.

The ineligibility penalty period shall be applied only in whole months and shall begin on the first of the month in which the resource transfer occurred. For example:

> Mr. Jones transferred a resource on September 15, 1990. The uncompensated value of that resource was $9,500. The calculation is as follows:
>
> $9,500 ÷ $3,376 = 2.81
>
> The numbers to the right of the decimal point are dropped and period of ineligibility is two months. Since the penalty will begin September 1, Mr. Jones will be entitled to Medicaid coverage for long term care services beginning November 1, 1990 presuming all other eligibility criteria are met.

Likewise, should the calculation result in a quotient less than one, because all numbers to the right of the decimal point are dropped, there would be no period of ineligibility resulting from the resource transfer. For example:

> Ms. Smith transfers a resource on August 1, 1990. The uncompensated value of the resource is $2,500. The calculation is as follows:
>
> $2,500 ÷ $3,376 = .74
>
> After dropping the numbers to the right of the decimal point, there is no period of ineligibility.

IMPLEMENTATION

Emergency rules are effective upon acceptance for filing by the Office of Administrative Law. Since this rule was filed July 30, 1990, that date serves as the effective date of the new resource transfer penalty periods. However, in order to assure that individuals are not unfairly affected by the implementation of the new penalty period, we have provided for special procedures relating to implementation.

In accordance with N.J.A.C. 10:71-4.7(k) of the attached, in computing the resource penalty for any resource transferred prior to August 20, 1990 (the date this new regulation will appear in the *New Jersey Register*), no penalty period shall be imposed that is greater than 24 months. It is important to note that it is the date of the resource transfer that controls this issue.

Likewise in accordance with the same section of the attached, for any resource transfer that occurred on or after April 1, 1990 but before August 20, 1990, the period of

ineligibility will be the lesser of 24 months or the quotient resulting from dividing the uncompensated value of the resource by the average lowest semi-private skilled nursing facility rate.

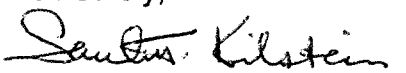
For any resource transfer occurring on or after August 20, 1990, the period of ineligibility shall be the lesser of 30 months or the quotient resulting from dividing the uncompensated value by the average lowest semi-private skilled nursing facility rate.

There will be no special consideration for any resource transfer occurring prior to April 1, 1990. The absolute 24 month period of ineligibility applies to any resource transferred prior to that date as per regulations in effect at that time.

County welfare agencies shall review their case denials and terminations to determine those cases denied or terminated because of resource transfers occurring April 1, 1990 or thereafter. The period of ineligibility shall be recomputed in accordance with these instructions.

This communication should be brought to the attention of all staff involved in Medicaid eligibility determinations for long term care. Questions may be referred to the field service staff assigned to your county.

Sincerely,



Saul M. Kilstein
Director

SMK:RHh

cc: Marion E. Reitz, Director
Division of Economic Assistance

Nicholas R. Scalera, Acting Director
Division of Youth and Family Services