

Bulletin Number: MSA 15-10

Distribution: Bridges Eligibility Manual (BEM) Holders

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Subject: Assets for Medicaid Eligibility

Effective: June 1, 2015

Programs Affected: Supplemental Security Income (SSI)-Related Medicaid

Supplemental Security Income (SSI)-related Medicaid programs (which include most programs for the aged or disabled) have an asset test as part of the eligibility determination. Federal and state regulations determine whether an asset is considered countable for the asset test or if the asset is excludable.

There are special rules for assets when the individual applying for Medicaid under the Extended Care category (nursing home) has a spouse. The federal regulations covering the treatment of certain annuity assets were last changed under the Deficit Reduction Act (DRA) of 2005, in an attempt to discourage the use of certain Medicaid planning techniques and to impose penalties on transactions that are intended to protect wealth while enabling the applicant to access public benefits.

While the DRA addressed annuities purchased by an applicant and appeared to have addressed the conditions for the exclusion of an annuity purchase by the spouse, there has been a decision from the US District Court in Ohio that specifically addresses the purchase of an annuity by a community spouse solely for the community spouse. With this decision, the Court has determined such an annuity does not have to name the state as a remainder beneficiary as a condition in order to exclude the annuity as a resource under federal regulation. The decision did not address any of the other conditions for exclusion of an annuity imposed by the DRA.

There has been no policy in the Bridges Eligibility Manual (BEM) that addressed this specific situation, leaving the local Department of Health and Human Services (MDHHS) offices to discern their own treatment of annuities purchased by the spouse and solely for the use of the spouse. Policy language is being added to the BEM to address this specific situation.

Manual Maintenance

Retain this bulletin until the information is incorporated into the Bridges Eligibility Manual.

Questions

Any questions regarding this bulletin should be directed to Provider Inquiry, Department of Health and Human Services, P.O. Box 30731, Lansing, Michigan 48909-8231, or e-mail at ProviderSupport@michigan.gov. When you submit an e-mail be sure to include your name, affiliation, and phone number so you may be contacted if necessary. Providers may phone toll-free 1-800-292-2550.

Approved



Stephen Fitton, Director
Medical Services Administration