Medical Services Administration
BULLETIN
MSA

Bulletin Number: MSA 19-12

Distribution: Bridges Eligibility Manual (BEM) Holders

Issued: May 31, 2019

Subject: Divestment Policy for Supplemental Security Income (SSI)-Related Medicaid Programs and Waivers

Effective: July 1, 2019

Programs Affected: SSI-Related Medicaid Programs

The Social Security Act was established to provide for the general welfare of, among others, the aged, blind, or disabled individual. Title XIX of the Act establishes the Medicaid program. Under Medicaid rules, payments by the Medicaid program for long-term care services, home and community-based services, home help, and home health are restricted when certain transfers of assets are made by a beneficiary. These transfers are called divestment transfers.

Under the Deficit Reduction Act (DRA) of 2005 additional requirements were added to section 1917(c)(1) of the Social Security Act. These additional requirements are intended to further prevent the improper use of promissory notes to circumvent rules penalizing transfers of assets.

In 2006 the additional requirements in the DRA were promulgated by the Medical Services Administration and the promissory note policy was updated to include the new requirements. This bulletin provides additional clarification to the original requirements found in section 1917(c)(1), and adds the following original federal regulations on promissory notes to Medicaid asset policy.

A promissory note is a loan; a lender exchanges cash for a note outlining the conditions of the debt. The note is the asset of the lender. A promissory note is a countable asset. The value of the note is the outstanding balance due as of the date of the application for Medicaid.

In order for a promissory note to be a bona fide loan:

- The loan must be enforceable under Michigan law;
- The note agreement must be in effect at the time of the loan transaction;
- The borrower must acknowledge the obligation to repay the loan;
- There must be a plan to repay in the loan document; and
- The repayment plan must be feasible.

A promissory note that fails to meet these standards as well as the DRA standards of actuarial soundness, equal monthly payments, and prohibition on the cancelation on death of the lender, is a transfer for less than fair market value and will incur a divestment penalty.

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, NPI number, and phone number so you may be contacted if necessary. Providers may phone toll-free 1-800-292-2550.

Approved

Kathy Stiffler

Kathy Stiffler, Acting Director
Medical Services Administration