



DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services

Region 10
2201 Sixth Avenue, MS/RX-43
Seattle, Washington 98121

December 19, 2006

Ms. Robin Arnold-Williams, Secretary
Department of Social & Health Services
P.O. Box 45010
Olympia, WA 98504-5010

RE: TN#06-016

Dear Ms. Arnold-Williams:

The Region 10 office of the Centers for Medicare & Medicaid Services has completed its review of State Plan Transmittal Number 06-016. This transmittal implements the transfer of assets provisions and the disqualification for individuals with substantial home equity for long term care assistance in compliance with the Deficit Reduction Act of 2005 under section 6011, section 6014 and section 6016. The changes are reflected in Supplement 9(b) to Attachment 2.6-A, pages 1 through 6 and Supplement 17 to Attachment 2.6-A page 1.

This state plan amendment is approved effective July 1, 2006.

If you have any additional question or require any further assistance, please contact Maria Garza at (206) 615-2542.

Sincerely,

Karen S. O'Connor
BJR

Karen S. O'Connor
Associate Regional Administrator
Division of Medicaid and Children's Health

Cc: Doug Porter, Assistant Secretary
Ann Myers, State Plan Coordinator

**TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL**

1. TRANSMITTAL NUMBER:
06-016

2. STATE
Washington

FOR: HEALTH CARE FINANCING ADMINISTRATION

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE
SOCIAL SECURITY ACT (MEDICAID)

TO: REGIONAL ADMINISTRATOR
HEALTH CARE FINANCING ADMINISTRATION
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE
July 1, 2006

5. TYPE OF PLAN MATERIAL (Check One):

- NEW STATE PLAN
- AMENDMENT TO BE CONSIDERED AS NEW PLAN
- AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)

6. FEDERAL STATUTE/REGULATION CITATION:

7. FEDERAL BUDGET IMPACT:
a. FFY 2007 <\$279,189>
b. FFY 2008 <\$279,189>

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:

Att. 2.6-A, Supplement 9(b), pages 1 - 6
Att. 2.6 A, Supplement 17, page 1

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION
OR ATTACHMENT (If Applicable)

10. SUBJECT OF AMENDMENT:

DRA Transfer of Assets and Home Equity Limits

11. GOVERNOR'S REVIEW (Check One):

- GOVERNOR'S OFFICE REPORTED NO COMMENT
- COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
- NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL
- OTHER, AS SPECIFIED: Exempt

12. SIGNATURE OF STATE AGENCY OFFICIAL:

Robin Arnold Williams

13. TYPED NAME:

ROBIN ARNOLD WILLIAMS

14. TITLE:

Secretary

15. DATE SUBMITTED:

9/28/06

16. RETURN TO:

Ann Myers
Department of Social and Health Services
Health and Recovery Services Administration
626 8th Street MS, 45504
Olympia, WA 98504-5504

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED:

SEP 28 2006

18. DATE APPROVED:

DEC 19 2006

PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL:

JUL - 1 2006

20. SIGNATURE OF REGIONAL OFFICIAL:

Karen S. O'Connor BKR

21. TYPED NAME:

Karen S. O'CONNOR

22. TITLE: Associate Regional Administrator
Division of Medicaid &
Children's Health

23. REMARKS:

10/11/06 P.I. Replaced pages 1-6, Supp 9(b) and p. 1, Supp. 17 per email request from Ann Myers dated 10/11/06 (AK)

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State WASHINGTON

TRANSFER OF ASSETS

1917(c) **FOR TRANSFERS OF ASSETS FOR LESS THAN FAIR MARKET VALUE MADE ON OR AFTER FEBRUARY 8, 2006**, the agency provides for the denial of certain Medicaid services.

1. Institutionalized individuals are denied coverage of certain Medicaid services upon disposing of assets for less than fair market value on or after the look-back date.

The agency does not provide medical assistance coverage for institutionalized individuals for the following services:

Nursing facility services

Nursing facility level of care provided in a medical institution

Home and community-based services under a 1915(c) or (d) waiver

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State WASHINGTON

TRANSFER OF ASSETS (cont.)

2. Non-institutionalized individuals

— The agency applies these provisions to the following non-institutionalized eligibility groups. These groups can be no more restrictive than those set forth in section 1905(a) of the Social Security Act:

The agency withholds payment to non-institutionalized individuals for the following services:

Home health services (section 1905(a)(7));

Home and community care for functionally disabled elderly adults (section 1905(a)(22));

Personal care services furnished to individuals who are not inpatients in certain medical institutions, as recognized under agency law and specified in section 1905(a)(24).

— The following other long-term care services for which payment for medical assistance is otherwise made under the agency plan:

The agency withholds payment to non-institutionalized individuals for the following service:

Program of All Inclusive Care for the Elderly (PACE)

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State WASHINGTON

TRANSFER OF ASSETS (cont.)

3. Penalty Date--The beginning date of each penalty period imposed for an uncompensated transfer of assets is the later of:

The first day of a month during or after which assets have been transferred for less than fair market value;

The State uses the first day of the month in which the assets were transferred

The State uses the first day of the month after the month in which the assets were transferred for individuals currently receiving Medicaid benefits;
and

- for applicants, the date on which the individual is eligible for medical assistance under the State plan and would otherwise be receiving institutional level care services described in paragraphs 1 that, were it not for the imposition of the penalty period, would be covered by Medicaid (based on an approved application for such care);

and

- which does not occur during any other period of ineligibility for services by reason of a transfer of assets penalty.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State WASHINGTON

TRANSFER OF ASSETS (cont.)

4. Penalty Period - Institutionalized Individuals

In determining the penalty for an institutionalized individual, the agency uses:

The average monthly cost to a private patient of nursing facility services in the State at the time of application;

The average monthly cost to a private patient of nursing facility services in the community in which the individual is institutionalized at the time of application.

5. Penalty Period - Non-institutionalized Individuals

The agency imposes a penalty period determined by using the same method as is used for an institutionalized individual, including the use of the average monthly cost of nursing facility services:

Imposes a shorter penalty period than would be imposed for institutionalized individuals, as outlined below:

6. Penalty period for amounts of transfer less than cost of nursing facility care

Where the amount of the transfer is less than the monthly cost of nursing facility care, the agency imposes a penalty for less than a full month, based on the option selected in item 4.

The state adds together all transfers for less than fair market value made during the look-back period in more than one month and calculates a single period of ineligibility, that begins on the earliest date that would otherwise apply if the transfer had been made in a single lump sum.

7. Penalty periods - transfer by a spouse that results in a penalty period for the individual

(a) The agency apportions any existing penalty period between the spouses using the method outlined below, provided the spouse is eligible for Medicaid. A penalty can be assessed against the spouse, and some portion of the penalty against the individual remains.

(b) If one spouse is no longer subject to a penalty, the remaining penalty period must be served by the remaining spouse.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State WASHINGTON

TRANSFER OF ASSETS (cont.)

8. Treatment of a transfer of income

When income has been transferred as a lump sum, the agency will calculate the penalty period on the lump sum value.

When a stream of income or the right to a stream of income has been transferred, the agency will impose a penalty period for each income payment.

X For transfers of individual income payments, the agency will impose partial month penalty periods using the methodology selected in 6. above.

X For transfers of the right to an income stream, the agency will base the penalty period on the combined actuarial value of all payments transferred.

9. Imposition of a penalty would work an undue hardship

The agency does not impose a penalty for transferring assets for less than fair market value in any case in which the agency determines that such imposition would work an undue hardship. The agency will use the following criteria in making undue hardship determinations:

Application of a transfer of assets penalty would deprive the individual:

- (a) Of medical care such that the individual's health or life would be endangered; or
- (b) Of food, clothing, shelter, or other necessities of life.

10. Procedures for Undue Hardship Waivers

The agency has established a process under which hardship waivers may be requested that provides for:

- (a) Notice to a recipient subject to a penalty that an undue hardship exception exists;
- (b) A timely process for determining whether an undue hardship waiver will be granted; and
- (c) A process, which is described in the notice, under which an adverse determination can be appealed.

These procedures shall permit the facility in which the institutionalized individual is residing to file an undue hardship waiver application on behalf of the individual with the consent of the individual or the individual's personal representative.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State WASHINGTON

TRANSFER OF ASSETS (cont.)

11. Bed Hold Waivers For Hardship Applicants

The agency provides that while an application for an undue hardship waiver is pending in the case of an individual who is a resident of a nursing facility:

_____ Payments to the nursing facility to hold the bed for the individual will be made for a period not to exceed _____ days (may not be greater than 30).

TN #06-016
Supersedes
TN # -----

Approval Date

DEC 19 2006

Effective Date 7/1/06

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State WASHINGTON

**DISQUALIFICATION FOR LONG-TERM CARE ASSISTANCE FOR INDIVIDUALS WITH
SUBSTANTIAL HOME EQUITY**

1917(f) The State agency denies reimbursement for nursing facility services and other long-term care services covered under the State Plan for an individual who does not have a spouse, child under 21, or adult disabled child residing in the individual's home, when the individual's equity interest in the home exceeds the following amount:

X \$500,000 (increased by the annual percentage increase in the urban component of the consumer price index beginning with 2011, rounded to the nearest \$1,000).

An amount that exceeds \$500,000 but does not exceed \$750,000 (increased by the annual percentage increase in urban component of the consumer price index beginning with 2011, rounded to the nearest \$1,000).

The amount chosen by the State is _____

This higher standard applies statewide.

This higher standard does not apply statewide. It only applies in the following areas of the State:

This higher standard applies to all eligibility groups.

This higher standard only applies to the following eligibility groups:

The State has a process under which this limitation will be waived in cases of undue hardship.