State of New Jersey

DEPARTMENT OF HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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MEDICAID COMMUNICATION NO. 87-25 DATE: September 23, 1987

TO: COUNTY WELFARE AGENCY DIRECTORS

SUBJECT: Home Equity Conversion Plans

In recent months, several questions have been raised regarding the treatment of home equity conversion plans as they relate to resource and income eligibility for Medicaid. This Communication, based on SSI policy material, sets forth policy regarding such plans for the adult categories of Medicaid eligibility (Medicaid Only and SSI-related Medically Needy).

Home equity conversion plans allow elderly individuals to convert the equity value in their homes into cash without physically leaving their homes. Under these plans, a home is mortgaged or sold to another party, but the home remains occupied by the homeowner until his or her death or until another specified date. These arrangements allow the homeowners to increase their available monthly cash by drawing on the equity value of their homes.

Reverse Annuity Mortgages

Under a reverse annuity mortgage, a homeowner may borrow 60 to 80 percent of the equity value in his or her home for a specified period of time. The loan proceeds are received by the homeowner periodically (usually monthly) for the duration of the lending period, after which the homeowner is responsible for repaying the loan. The periodic proceeds of these arrangements are not considered income for purposes of Medicaid eligibility. Any proceeds of these loan arrangements retained in a month subsequent to receipt will be countable in determining resource eligibility.

It is important that the county welfare agency review the terms of any of these agreements. In some variations of these plans, an annuity is purchased from the equity value of the home. In such cases, the payments from the annuity are to be considered unearned income for the purposes of determining income eligibility for Medicaid.

Deferred Payment Loans

A deferred payment loan differs from a reverse mortgage loan in that the deferred payment loan is usually for some specific purpose, such as the payment of real estate taxes, home repairs or remodeling or for a major personal expense. Also a deferred payment loan is generally not payable on a monthly basis. Deferred payment loans are secured by a lien on the home which must be satisfied to clear the title prior to the sale of the home. The amount of such loans are recovered from the estate upon the death of the homeowner. Proceeds from these loans are excluded from income consideration in the determination of Medicaid eligibility. Any loan proceeds retained after the month of receipt will be counted in resource eligibility.

Sale-Leaseback Plans

Under a sale-leaseback plan, an investor or investment group purchases the seller's home and title transfers to the buyer. As part of the sales agreement, the buyer gives the seller a lease establishing the right of the seller to remain in the home for life or until the lease is terminated by the seller. The seller receives payment for the sale of the home over the period of his or her life expectancy, usually through a down payment and an interest bearing installment note satisfied by monthly payments to the seller. (If the note is negotiable; i.e., the seller has the legal right to sell the note, the value of the note is a resource to the seller.) With these arrangements, the seller must pay rent to the buyer in order to continue residing in the home.

Only that amount of the monthly payment from the installment note that represents interest is considered income for eligibility purposes. Under the sale-leaseback arrangement, the new owner pays the real estate taxes, major maintenance expenses, and casualty insurance. Because the seller is now a renter, the value of these items are not to be viewed as in-kind support and maintenance to the seller.

Some sale-leaseback arrangements provide for the use of the down payment to purchase a lifetime annuity for the seller so that payments to the seller can continue after the purchase price of the home has been satisfied. Once the purchase price of the home has been satisfied, any such annuity payments are unearned income for Medicaid eligibility purposes. Any interest paid on the purchase price of the home is income whether or not the purchase price has been satisfied.

Time Sales

Time sales arrangements are contracts to sell the home upon death. The homeowner retains the title to the home and the right to reside in the home. The buyer pays property taxes, insurance, and certain maintenance and repair costs, as well as, a monthly cash payment to the homeowner during his or her lifetime. These payments are not considered income for eligibility purposes.

Under some time sale arrangements, the sale contract provides for part of the purchase price to be used to purchase an annuity payable to the homeowner during his or her lifetime. Any such annuity payments are unearned income to the seller once the purchase price of the home has been satisfied. Interest paid on the purchase price to the seller is unearned income whether or not the purchase price has been satisfied.

With any of the above arrangements, it is important to note that the proceeds of the sale of a home do not retain the resource exclusion that the home would have had. To the extent that the seller has the right to access the sale proceeds (even when in the form of an annuity), the proceeds of the sale must be considered in the determination of resource eligibility.

Questions concerning this Communication should be referred to the Medicaid field service staff assigned to your county.

Sincerely,

Thomas M. Russo

Thomas M. Russo, Director
Division of Medical Assistance
and Health Services

TMR:Hg
cc: Odella T. Welch
Deputy Commissioner

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