Minnesota Department of **Human Services**

Bulletin

NUMBER

#15-21-04

DATE

June 29, 2015

OF INTEREST TO

County Attorneys

County Directors

Social Services Supervisors and Staff

Financial Assistance Supervisors and Workers

Mille Lacs Tribal TANF

Health Care Eligibility Operations Managers, Supervisors and Staff

ACTION/DUE DATE

Please read information and implement

EXPIRATION DATE

June 29, 2017

Change in Determining Asset Eligibility for a Long-Term Care Spouse

TOPIC

Change in determining asset eligibility for a long-term care spouse.

PURPOSE

Provide policy information and instructions about the legislative change affecting asset eligibility for a long-term care spouse.

CONTACT

Health Care Eligibility Operations, counties and tribal agencies should submit policy questions via HealthQuest.

All others should direct questions to:
Health Care Eligibility and Access (HCEA) Division
P.O. Box 64989
540 Cedar Street
St. Paul, MN 55164-0989

SIGNED

NATHAN MORACCO
Assistant Commissioner
Health Care Administration

TERMINOLOGY NOTICE

The terminology used to describe people we serve has changed over time. The Minnesota Department of Human Services (DHS) supports the use of "People First" language.

I. Background

This bulletin discusses eligibility criteria for a spouse who applies for Medical Assistance (MA) payment of long-term care (LTC) services. Specifically, this bulletin is about a legislative change to the asset eligibility determination of an LTC spouse.

An Asset Assessment for Medical Assistance (MA) Payment of Long-Term Care (LTC Services) (DHS-3340) must be completed when an LTC spouse applies for MA payment of LTC services.

An asset assessment identifies all countable assets of a married couple. It then values these assets by verifying their worth on a specific date. The assessment uses the first day of an LTC spouse's continuous period of institutionalization. The value of the couple's assets on this date determines the community spouse asset allowance.

At the time of a request for MA payment of long-term care services, the assets of the couple that do not make up the community spouse asset allowance are attributed to an LTC spouse. The assets attributed to the LTC spouse are evaluated to determine eligibility of the LTC spouse.

There has been a change to determining asset eligibility of an LTC spouse. Minnesota law has required the value of an asset, converted to an income stream between the asset assessment effective date and the date an LTC spouse requests MA payment of LTC services, to count as an asset when determining eligibility for the LTC spouse. In 2015, the Minnesota Legislature passed a law that ends this requirement.

Refer to Minnesota Health Care Programs Manual (HCPM) Section 19.45.10 – *Determining Asset Eligibility for the LTC Spouse* for more information about how to determine asset eligibility for an LTC spouse.

II. Legislative Change to LTC Spouse's Asset Eligibility

Beginning July 1, 2015, assets irrevocably converted to an income stream between the asset assessment effective date and the date a spouse requests MA payment of LTC services are no longer counted as an asset when determining eligibility for MA payment of LTC services for the LTC spouse.

Certain annuity contracts, however, should still be counted as assets, including the following:

- Revocable annuity contracts
- Annuity contracts in the accumulation phase
- Annuity contracts that do not prohibit the sale of the income payments

Refer to HCPM 19.25.30 – *Annuities* for more information on how to calculate the value of an annuity.

Refer to the following examples. They explain how to apply the legislative change. Use these examples for guidance on or after July 1, 2015.

EXAMPLE ONE: Ed is married to Mary, a community spouse. They had $100,000 in countable assets on his asset assessment effective date. The community spouse asset allowance is $50,000. Between the asset assessment effective date and Ed's request for MA payment of LTC services, Mary purchased an immediate annuity using $40,000 from their savings account. She begins receiving monthly payments from the annuity. Ed requests MA payment of LTC services four months later.

ACTION ONE: Do not count the $40,000 that Mary used to purchase the annuity as part of the couple's assets when determining asset eligibility for Ed, the LTC spouse. At the time of application, the couple has $53,000 in countable assets, when not counting the value of the annuity that Mary purchased. Ed is within the $3,000 asset limit after subtracting the $50,000 community spouse asset allowance from the couple's total assets. Evaluate the annuity purchase under the HCPM's asset transfer rules and rules for naming DHS a preferred remainder beneficiary.

EXAMPLE TWO: Ed is married to Mary, a community spouse. They had $100,000 in countable assets on his asset assessment effective date. The community spouse asset allowance is $50,000. Between the asset assessment effective date and Ed's request for MA payment of LTC services, Mary purchased an immediate annuity using $40,000 from their savings account. Mary chose to receive a lump-sum distribution. The lump-sum distribution was deposited directly into a second savings account. Ed requests MA payment of LTC services six months later. At the time Ed requests MA payment of LTC services, the value of the second savings account is $30,000.

ACTION TWO: Do not count the $40,000 that Mary used to purchase the annuity as part of the couple's assets when determining asset eligibility for Ed, the LTC spouse. Since the couple did not spend the entire lump-sum distribution, and $30,000 remains in the second savings account, this money is considered a countable asset. At the time of application, the couple has $90,000 in countable assets, including the $30,000 in the second savings account. Ed is $37,000 over the asset limit after subtracting the $50,000 community spouse asset allowance from the couple's total assets.

EXAMPLE THREE: Ed is married to Mary, a community spouse. They had $100,000 in countable assets on his asset assessment effective date. The community spouse asset allowance is $50,000. Between the asset assessment effective date and Ed's request for MA payment of LTC services, Mary purchased an immediate annuity using $40,000 from their savings account. The annuity contract allows the owner to cash in the contract for the present value of future payments. She begins receiving monthly payments from the annuity. Ed requests MA payment of LTC services four months later. The commuted cash value of the annuity contract is $30,000 on the date of application.

ACTION THREE: Count the commuted cash value of the annuity as of the date the LTC spouse is requesting MA payment of LTC services as part of the couple's assets when determining asset eligibility for Ed, the LTC spouse. At the time of application, the couple has $80,000 in countable assets, counting the commuted value of the annuity that Mary purchased. Ed is $27,000 over the asset limit after subtracting the $50,000 community spouse asset allowance from the couple's total assets.

DHS' Health Care Eligibility and Access (HCEA) division is currently updating the HCPM. Follow the guidance and examples in this bulletin until HCEA publishes the revision.

III. Action Required

Follow the policy provided in section II for applications processed on or after July 1, 2015, for MA payment of LTC services for an LTC spouse.

Evaluate assets that are irrevocably converted to an income stream between the asset assessment effective date and the date an LTC spouse requests MA payment of LTC services. Do not count these assets, as described in section II, when determining MA eligibility for the LTC spouse.

Continue to follow all other annuities policies found in HCPM Section 19.25.30, including rules for naming DHS a preferred remainder beneficiary and rules for evaluating annuities under the asset transfer analysis.

Follow your agency's procedures for submitting a HealthQuest for questions regarding the irrevocable conversion of annuities or other asset types into an income stream.

IV. Legal Authority

Laws of Minnesota 2015, chapter 256B, chapter 71, article 7, section 29

V. Americans with Disabilities Act (ADA) Advisory

This information is available in accessible formats for people with disabilities by calling (651) 431-2283 (voice) or toll free at (888) 938-3224 or by using your preferred relay service. For other information on disability rights and protections, contact the agency's ADA coordinator.