

Eligibility for Payment of Long-Term Care (LTC) and Home and Community-Based Services (HCBS)

Presented by: Ms. Marcia Mikos
Department of Human Services

Eligibility Criteria

- **Functional Eligibility**

- Must meet Nursing Facility Level of Care
- Verified by Clinical Eligibility Determination (CED) form for LTC facility
- Verified by the PA 1768, HCBS Eligibility/Ineligibility/Change form for HCBS

- **Non-Financial Eligibility**

- Citizenship, Identity, Enumeration, Residency

- **Income**

- Gross income is used to determine eligibility for LTC services
- 300% of the Federal Benefit Rate (FBR) (\$2,199 in 2016)
- If gross monthly income exceeds 300% of the FBR then semi-annual income after deducting semi-annual medical expenses cannot exceed \$2,550 (LTC facility)

- **Resources**

- \$2,000 (with a standard \$6,000 disregard) if income is equal to or less than 300% of the FBR
- \$2,400 if income exceeds 300% of the FBR

LTC/HCBS Application Process

LTC facility, Program Office or Independent Enrollment Broker (IEB) sends a Request for Benefits to the CAO, including:

- Application for Benefits (PA 600L)
 - LTC facility should include the requested effective date on the application. The requested effective date is the date an individual who has a medical condition that requires LTC services lacks the financial assets to pay for the services.
 - Paper application or electronic application (COMPASS)
- MA 51, Medical Evaluation form and Clinical Eligibility Determination form for LTC
 - Level of Care
 - Home Maintenance Deduction (HMD)
 - MD signature must be on or before the requested effective date.
 - AAA will complete the Options determination to verify functional eligibility.
- MA 103, Admission and Discharge Transmittal form for LTC
 - Due to CAO within 3 days of admission or discharge
 - Not needed if an individual is only seeking respite care or enters the hospital without discharge from the LTC facility
- PA 1768, HCBS Eligibility/Ineligibility/Change form for HCBS
 - Assessment date is mandatory; Service begin date is optional
 - CAO will review for eligibility as of the assessment date if there is no service begin date listed. If both an assessment and service date are listed then the service begin date will be used.

LTC/HCBS Application Process

CAO reviews documents and sends pending verification list requesting all financial and non-financial documentation, such as:

- Bank statements as of the requested effective date
- Gross income
- Paper trail of bank accounts closed during the look-back period to show where proceeds from accounts were deposited or spent
- Titles to vehicles
- Deeds to properties
- Life insurance face value and cash surrender value

CAO processes the application within 45 days of application date.

CAO sends notice of eligibility or ineligibility to all involved parties. The notice includes:

- The date eligibility begins
- Cost of care for individuals eligible for LTC facility services
- If not eligible, the reason for ineligibility
- Fair Hearing paperwork

Cost of Care

Individuals determined eligible for payment of HCBS are not responsible to make a monthly payment towards their HCBS.

Individuals determined eligible for payment of LTC facility services are expected to make a monthly payment towards their cost of care.

Common deductions from gross income include:

- Personal Needs Allowance (PNA)
- Court ordered guardian fees
- Home Maintenance Deduction (HMD)
 - For individuals certified as short-term on the MA 51
 - Deduction may be given for up to six months
- Spousal/Dependent Maintenance Allowance
- Medical insurance premiums

Ineligibility for LTC Services due to Asset Transfers

Income and resources transferred by the applicant or applicant's spouse during the look-back period must be reviewed to verify fair market value (FMV) was received. If FMV was not received then an individual may be determined eligible for MA while ineligible for payment of LTC services.

The look-back period is determined as follows:

- For Non-MA recipients applying for either LTC facility services or HCBS:
 - The look-back period begins five years prior to the application date.
- For current MA recipients applying for LTC facility services:
 - The look-back period begins five years prior to the admission date.
- For current MA recipients applying for HCBS:
 - The look-back period begins five years prior to the assessment date listed on the PA 1768.

Ineligibility for LTC Services due to Asset Transfers

The ineligibility period for payment of LTC is determined using the average daily private pay rate provided each January.

- For applicants the ineligibility period begins the date the individual is otherwise eligible for LTC services.
- For recipients the ineligibility period begins the first day of the calendar month after advance notice expires.

Appeals vs. Undue Hardship Waivers

Appeals:

- An applicant/recipient has the fundamental right to appeal the Department's decision to deny, suspend or discontinue benefits.
- An appeal exists when there is disagreement surrounding establishment of the penalty period; whether fair consideration was received or the monetary amount of assets transferred without receiving fair consideration.

Undue Hardship Waivers:

- Individuals determined ineligible for payment of LTC due to asset transfers or excess home equity may choose to apply for an undue hardship waiver.
- An undue hardship exists when denial of payment of LTC would:
 - deprive the individual of medical care, endangering the person's health or life; or
 - Deprive the individual of food, shelter or other basic necessities of life.

▶ Appeal Process

To appeal a decision the individual or individual's representative must return the completed appeal request to the CAO within 30 calendar days of the date on the notice.

- The individual who signs the appeal request must have the right to represent.

The CAO will send the appeal paperwork to the Bureau of Hearings and Appeals (BHA).

The CAO will schedule a pre-hearing conference in an attempt to resolve the issue prior to a hearing.

BHA will schedule an appeal hearing where both sides will give their testimony.

BHA will send a notice of its decision to all involved parties within 90 days of the appeal.

Undue Hardship Application Process

Application for Undue Hardship Waiver (UHW) is sent with the asset transfer ineligibility notice.

Signed and completed Application with supporting documentation must be received in the CAO within 30 days of the date on the notice.

- The LTC facility must provide a signed LTC Service Provider Authorization form if the application is signed by the facility.
- Supporting documentation includes:
 - Doctor's letter verifying the individual was in good health at the time the assets were transferred;
 - Documentation as to why the assets were transferred;
 - Documentation as to why the transferred asset(s) cannot be returned.

CAO sends the signed Application and supporting documentation to BOP.

BOP has 30 days to review the information and forward decision to the CAO.

The CAO will send notice of the Department's decision to all involved parties.

The UHW decision may be appealed following the current appeal process.

Spousal Impoverishment

Spousal Impoverishment provisions apply to a married couple when one spouse applies for payment of LTC services. These rules allow an individual applying for LTC services to protect a minimum level of income and resources for the spouse not in need of LTC services.

- **Resource Assessment**

- Located in the Admissions Notice Packet (MA 401)
- Used to determine the resources the community spouse may protect.
- The couple's total, countable resources are determined as of:
 - The date one spouse enters the LTC facility for at least 30 consecutive days; or
 - The date one spouse is assessed as being functionally eligible for HCBS.

Spousal Impoverishment

- **Protected Share of Resources**
 - Half the value of the total countable resources determined from the Resource Assessment, no less or more than the limits determined by the Federal Government. 2016 limits are:
 - Minimum protected share is \$23,844
 - Maximum protected share is \$119,220
- **Spousal Maintenance Allowance (LTC facility only)**
 - Income of the institutionalized spouse that may be transferred to the community spouse.
 - Based on shelter and utility costs as well as spousal income.
 - Community spouse may protect excess resources if there is an income short fall.

Common Reasons for LTC Rejections

- **Failure to Provide Documentation**
 - Often goes to an appeal hearing
 - A new PA 600L is not needed if the individual provides all requested documentation within 60 days of the application
- **Excess Resources**
 - Resources exceed the applicable limits:
 - \$2,000 (with a standard \$6,000 disregard) if income is equal to or less than 300% of the FBR (currently \$2,199/month)
 - \$2,400 if income exceeds 300% of the FBR
- **Excess Income**
 - Income exceeds 300% of the Federal Benefit Rate when applying for HCBS

Rules for Reducing Resources

- **Spend excess resources to purchase an irrevocable burial reserve:**
 - Must be unassignable
 - Non-transferrable
 - Must not exceed the county's average burial cost by more than 25%
- **Spend excess resources on medical expenses not paid by Medicare, MA or private insurance:**
 - Doctor/ hospital bills
 - Prescriptions
 - Long-Term Care facility services
 - Will change the requested effective date
- **Spend excess resources on non-medical expenses:**
 - Car payments
 - Property taxes
 - **Must meet fair consideration**

Income Spend-down for HCBS

LTC facility services include a Medically Needy Only (MNO) option. If income exceeds 300% of the FBR then semi-annual income is compared to the individual's semi-annual medical expenses, including the LTC private pay rate.

- Very rare not to be MNO eligible for LTC

Eligibility for HCBS does not include a MNO option. If gross income exceeds \$2,199/month then the individual has the option to spend-down income to become eligible for HCBS.

- Not uncommon to have gross income exceeding \$2,199 but rare to authorize in a spend-down category
- Spend-down to a non-LTC related category of MA so fair consideration and spousal impoverishment provisions do not apply

Income Spend-down for HCBS

Single-HCBS Non-Money Payment (NMP) Monthly Spend-down

Mr. A Gross Monthly Income = \$3,000.00

Mr. A is not eligible in a HCBS category because his \$3,000.00 income exceeds \$2,199.00. He must spend-down income to be eligible for monthly MA spend-down.

\$3,000.00 Monthly income

-\$20.00 Unearned income deduction

-\$10.00 NMP spend-down deduction

\$2,970.00

-\$755.10 NMP one-person income limit

\$2,214.90

Mr. A must spend-down \$2,214.90 each month on medical expenses. He is eligible from the day after income is spent-down through the last day of the calendar month. The NMP resource limit is \$2000. There is NO standard disregard.

Income Spend-down for HCBS

Single-HCBS Medically Needy Only (MNO) Ongoing Spend-down

Mr. A Gross Monthly Income= \$3,000.00

Mr. A is not eligible in a HCBS category because his \$3,000.00 income exceeds \$2,199.00. He must spend-down income to be eligible for ongoing MA spend-down.

\$3,000.00 Monthly income

-\$20.00 Unearned income deduction

\$2,980.00

\$2,980.00 x 6 months=\$17,880.00 semi-annual income

\$17,880.00 semi-annual income

-\$2,550.00 Semi-annual income limit

\$15,330.00

Mr. A must spend-down \$15,330.00 on medical expenses to be authorized in a semi-annual spend-down category of MA. He is eligible for six months. His resource limit is \$2400.

Income Spend-down for HCBS

Spousal-HCBS Non-Money Payment (NMP) Monthly Spend-down

Mr. B Gross Monthly Income= \$3,000.00

Mrs. B Gross Monthly Income = \$800.00

Mr. B is not eligible in a HCBS category because his \$3,000.00 income exceeds \$2,199.00. He must spend-down income to be eligible for monthly MA spend-down. Income and resources of the community spouse are counted and compared to the two-person income and resource limits.

\$3,800.00 Monthly income

-\$20.00 Unearned income deduction

-\$10.00 NMP spend-down deduction

\$3,770.00

-\$1,133.30 NMP two-person income limit

\$2,636.70

Mr. and Mrs. B must spend-down \$2,636.70 each month on medical expenses in order for Mr. B to be authorized in a monthly spend-down category of MA. He is eligible from the day after income is spent-down through the last day of the calendar month. The NMP two-person resource limit is \$3000. There is NO standard disregard.

Income Spend-down for HCBS

Spousal- HCBS Medically Needy Only Ongoing Spend-down

Mr. B Gross Monthly Income= \$3,000.00

Mrs. B Gross Monthly Income = \$800.00

Mr. B is not eligible in a HCBS category because his \$3,000.00 income exceeds \$2,199.00. He must spend-down income to be eligible for ongoing MA spend-down. Income and resources of the community spouse are not counted.

\$3,000.00 Monthly income

-\$20.00 Unearned income deduction

\$2,980.00

\$2,980.00 x 6 months=\$17,880.00 semi-annual income

\$17,880.00 semi-annual income

-\$2,550.00 Semi-annual income limit

\$15,330.00

Mr. B must spend-down \$15,330.00 on medical expenses to be authorized in a semi-annual spend-down category of MA. His one-person resource limit is \$2400.

Income Spend-down for HCBS

Non-Money Payment (NMP) vs. Medically Needy Only (MNO)

	NMP	MNO
Income:	\$755.10/ \$1,133.30	\$2550 semi-annual
Resources:	\$2,000/\$3,000	\$2,400
Deeming?:	Yes	No
Duration:	Monthly	Semi-annual
	Benefits of NMP: Higher Income Limit	Benefits of MNO: Higher Resource Limit No Deeming Semi-annual Eligibility Period

Medical Assistance for Workers with Disabilities (MAWD)

An individual with income or resources exceeding the HCBS limits may be eligible for MAWD if they meet the following criteria:

- Be at least age 16 but under age 65.
- Be employed and getting paid.
- Be disabled according to SSA standards or MRT.
- Income below 250% FPIG (\$2475 for one person, \$3338 for two people).
- Resources at or below \$10,000 for the household. No resources exclusion if child under 21 in household.
- Willing to pay a monthly premium-5% of net monthly income.

Contact Information

Contact Information and Links:

Marcia Mikos

Phone Number: 717-772-7870

E-mail: mmikos@pa.gov

DHS Website: <http://www.dhs.pa.gov/>

LTC Handbook Link:

<http://services.dpw.state.pa.us/oimpolicymanuals/ltc/index.htm>

COMPASS Website: www.compass.state.pa.us

Questions?

