

**TO:** Local District Commissioners, Medicaid Directors

**FROM:** Judith Arnold, Director  
Division of Coverage and Enrollment

**SUBJECT:** Transfer of Assets and Medicaid Waiver Applicants/Recipients

**EFFECTIVE DATE:** Immediately

**CONTACT PERSON:** Local District Liaison:  
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This is to advise social service districts of recent clarification concerning the transfer of assets provisions and home and community-based waiver applicants/recipients (A/Rs).

An HCBS waiver A/R is an individual who is applying for or receiving care, services or supplies pursuant to a waiver under subsection (c) or (d) of Section 1915 of the Social Security Act (SSA). These waiver services are provided through the Long-Term Home Health Care Program (LTHHCP), Traumatic Brain Injury Program (TBI), Care at Home Program (CAH), and the Office of Mental Retardation and Developmental Disabilities Home and Community-Based Program (OMRDD).

During discussions with the Centers for Medicare and Medicaid Services (CMS) regarding the implementation of the Deficit Reduction Act of 2005, CMS clarified that the transfer of assets provisions do not apply to individuals applying for or receiving HCBS waiver services. Therefore, effective immediately, if an individual applies for Medicaid coverage of home and community-based waiver services, the applicant is only required to provide documentation of his/her current resources. The individual is not subject to a transfer of assets look-back period nor is the individual subject to a transfer penalty period. Spousal impoverishment budgeting continues to apply to a waiver A/R who has a community spouse.

**NOTE:** Since the transfer provisions do not apply to HCBS waiver A/Rs, the annuity requirements listed in 06 OMM/ADM-5 do not apply.

Pending edit changes to Medicaid Coverage Codes 19 (Community Coverage With Community-Based Long-Term Care) and 21 (Outpatient Coverage With Community-Based Long-Term Care), districts must continue to give an otherwise eligible waiver A/R Coverage Code 01 (Full Coverage) or 02 (Outpatient Only Coverage), as applicable. This change will also require continued use of RVI (Resource Verification Indicator) 1 (Current Resources and Previous 36/60 Months), even though the A/R is only required to provide current resource documentation.

All affected manual and CNS notices will be revised to address this change. Effective with the release of this GIS message, a revised version of the "Explanation of the Effect of Transfer of Asset(s) on Medical Assistance Eligibility" (LDSS-4294) is available on the NYS Department of Health, Office of Health Insurance Programs intranet website. Districts will be advised of future notice changes as they occur.