

MEDICAID POLICY INFORMATION SHEET

Policy Analyst: Bridget Heffron

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Initial ☐

Public Comment ☒

Final ☐

Brief description of policy:

The purpose of this policy is to incorporate the original federal regulations on promissory notes outlined in section 1917(a)(1) of the Social Security Act into Medicaid asset policy.

Reason for policy (problem being addressed):

The policy had been removed from the manual previously in error.

Budget implication:

☒ budget neutral

☐ will cost MDHHS \$, and (select one) budgeted in current appropriation

☐ will save MDHHS \$

Is this policy change mandated per federal requirements?

Yes, the asset requirements are part of Title XIX of the Social Security Act.

Does policy have operational implications on other parts of MDHHS?

No

Does policy have operational implications on other departments?

No

Summary of input:

☐ controversial

☐ acceptable to most/all groups

☐ limited public interest/comment

Supporting Documentation:

State Plan Amendment Required: ☐ Yes ☒ No

If Yes, please provide status:

☐ Approved

☐ Pending

☐ Denied

Date:

Approval

Date:

Public Notice Required: ☐ Yes ☒ No

If yes,

Submission Date:

| | | |
|--|---|----------------------------|
| DRAFT FOR PUBLIC COMMENT Michigan Department of Health and Human Services | | |
| | Project Number: 1910-Eligibility | Date: April 3, 2019 |

Comments Due: May 8, 2019
Proposed Effective Date: July 1, 2019
Direct Comments To: Bridget Heffron
Address: Program Policy Division/MDHHS/MSA/CCC 7th Floor
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Policy Subject: Divestment Policy for Supplemental Security Income (SSI)-Related Medicaid Programs and Waivers

Affected Programs: SSI-Related Medicaid Programs

Distribution: Bridges Eligibility Manual (BEM) Holders

Summary: This bulletin returns promissory note policy to the BEM. These notes are countable assets under federal policy.

Purpose: The purpose of this policy is to incorporate the original federal regulations on promissory notes outlined in section 1917(a)(1) of the Social Security Act into Medicaid asset policy.

Cost Implications: Budget neutral

Potential Hearings & Appeal Issues: Few if any

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|---|--|
| State Plan Amendment Required: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, date submitted: | Public Notice Required: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Submitted date: |
|---|--|

Tribal Notification: Yes ☐ No ☒ - **Date:**

THIS SECTION COMPLETED BY RECEIVER

| | |
|---|--|
| <input type="checkbox"/> Approved | <input type="checkbox"/> No Comments |
| <input type="checkbox"/> Disapproved | <input type="checkbox"/> See Comments Below |
| | <input type="checkbox"/> See Comments in Text |

| | |
|-------------------|---------------------|
| Signature: | Phone Number |
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Signature Printed:

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| Bureau/Administration <i>(please print)</i> | Date |
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Proposed Policy Draft

Michigan Department of Health and Human Services
Medical Services Administration

Distribution: Bridges Eligibility Manual (BEM) Holders

Issued: June 1, 2019 (Proposed)

Subject: Divestment Policy for Supplemental Security Income (SSI)-Related Medicaid Programs and Waivers

Effective: July 1, 2019 (Proposed)

Programs Affected: SSI-Related Medicaid Programs

The Social Security Act was established to provide for the general welfare of, among others, the aged, blind, or disabled individual. Title XIX of the Act establishes the Medicaid programs. Under Medicaid rules, payment by the Medicaid program for long-term care services, home and community-based services, home help, and home health are restricted when certain transfers of assets are made by a beneficiary. These transfers are called divestment transfers.

Under the Deficit Reduction Act of 2005 (DRA) there were additional requirements added to section 1917(c)(1) of the Social Security Act. These additional requirements are intended to further prevent the improper use of promissory notes to circumvent rules penalizing transfers of assets.

In 2006 the additional requirements in the DRA were promulgated by the Medical Services Administration and the promissory note policy was updated to include the new requirements. However, Medicaid policy did not address the original requirements found in section 1917(c)(1). This bulletin is intended to add the following original federal regulations on promissory notes to Medicaid asset policy.

A promissory note is a loan; a lender exchanges cash for a note outlining the conditions of the debt. The note is the asset of the lender. A promissory note is a countable asset. The value of the note is the outstanding balance due as of the date of the application for Medicaid.

In order for a promissory note to be a bona fide loan:

- The loan must be enforceable under Michigan law;
- The note agreement must be in effect at the time of the loan transaction;
- The borrower must acknowledge the obligation to repay the loan;
- There must be a plan to repay in the loan document; and
- The repayment plan must be feasible.

A promissory note that fails to meet these standards as well as the DRA standards of actuarial soundness, equal monthly payments, and prohibition on the cancelation on death of the lender, is a transfer for less than fair market value and will incur a divestment penalty.