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TO: **Income Maintenance Supervisors**
Income Maintenance Lead Workers
Income Maintenance Staff
W-2 Agencies
Workforce Development Boards
Job Center Leads and Managers
Training Staff
Child Care Coordinators

FROM: Amy Mendel-Clemens
Technical Assistance and Training Section
Bureau of Enrollment Management
Division of Health Care Access and
Accountability

BEM/DFS OPERATIONS MEMO					
No:	08-57				
DATE:	12/22/2008				
FS	<input type="checkbox"/>	MA	<input checked="" type="checkbox"/>	BC+	<input type="checkbox"/>
SC	<input type="checkbox"/>	CTS	<input type="checkbox"/>	FSET	<input type="checkbox"/>
CC	<input type="checkbox"/>	W-2	<input type="checkbox"/>	EA	<input type="checkbox"/>
CF	<input type="checkbox"/>	JAL	<input type="checkbox"/>	JC	<input type="checkbox"/>
RAP	<input type="checkbox"/>	WIA	<input type="checkbox"/>	Other	<input type="checkbox"/> *
				EP	
PRIORITY: HIGH					

SUBJECT: **Wisconsin Long-Term Care Insurance Partnership Program (LTCIP)**

EFFECTIVE DATE: JANUARY 1, 2009

PURPOSE

The purpose of this memorandum is to explain the changes in Medicaid eligibility policy and procedures required to implement Wisconsin's new Long-Term Care Insurance Partnership Program.

BACKGROUND

The federal Deficit Reduction Act of 2005 (DRA) expanded state authority to implement long-term care insurance partnership programs, which encourage individuals to purchase private long-term care insurance. Wisconsin recently approved the implementation of the WI Long-Term Care Insurance Partnership Program (LTCIP). This program is a joint effort between the federal Medicaid Program, long-term care insurers, and the State of Wisconsin, specifically the Department of Health Services (DHS) and the Office of the Commissioner of Insurance (OCI).

The program's main purpose is to encourage people to plan for meeting their future long-term care needs, whether in a community-based setting such as their own home, or in a nursing home. The LTCIP allows a person with a qualified long-term care insurance policy to have assets disregarded in the Medicaid eligibility determination, while at the same time protecting those assets from Medicaid estate recovery.

POLICY CHANGE

Under the WI LTCIP, assets are disregarded when determining eligibility for EBD Medicaid programs, or any of the programs for Medicare beneficiaries (i.e., QMB, SLMB, SLMB+, QDWI), up to the total amount of long-term care services paid by the qualified WI LTCIP policy on or after January 1, 2009. The amount paid out by the qualified WI LTCIP policy on or after January 1, 2009 is not counted toward the WI Medicaid asset limit, nor is it recoverable under the estate recovery program:

- A "qualified WI LTCIP policy" must meet all relevant requirements of federal and state law. Qualified WI LTCIP policies are certified by the Wisconsin Office of the Commissioner of Insurance (OCI). OCI certification of the policy must be verified by assuring that the policy is listed on the OCI website, accessible via the following link: http://oci.wi.gov/oci_home.htm
- The insured must have been a Wisconsin resident when the qualified WI LTCIP policy was issued. This must also be verified.
- In addition, the amount paid out under a qualified WI LTCIP policy must be verified before it can be disregarded for Medicaid eligibility or estate recovery purposes. The qualified WI LTCIP policy carrier must document the amount paid for benefits on or after January 1, 2009 using the appropriate OCI approved form (OCI 26-114) and provide verification of the pay out amount upon request. Only benefits paid on or after January 1, 2009 may be disregarded when determining eligibility for Medicaid programs. The OCI approved form is accessible via the following link: <http://oci.wi.gov/ociforms/26-114.pdf>
- The maximum amount that can be disregarded for the purpose of Medicaid eligibility, or protected from estate recovery, is the verified amount of benefits paid out by the qualified WI LTCIP policy on or after January 1, 2009.
- The disregarded asset amount is still counted in the Asset Assessment when determining the Community Spouse Asset Share (CSAS) in a Spousal Impoverishment case. However, the disregarded asset amount is not counted in the individual's eligibility determination.
- The disregarded amount is exempt from divestment policies, i.e., transferring assets for less than fair market value up to the LTCIP payout amount will not result in a divestment penalty. However, a divestment may result in a reduction or elimination of the Medicaid eligibility and estate recovery protections under the LTCIP. See Example 5 below.

Example 1: Ruth is a resident of a medical care facility. She has no spouse. Her qualified \$90,000 LTCIP policy has been paying for her care. When Ruth applies for WI Medicaid payment of long-term care services, she verifies that her qualified WI LTCIP policy has paid out \$80,000 in policy benefits since January 1, 2009. Ruth owns the following non-exempt assets:

- \$5,000 savings account
- \$6,000 checking account
- \$70,000 equity value in non-homestead property.

The worker determines that Ruth's total non-exempt assets equal \$81,000 (\$5,000 + \$6,000 + \$70,000). Her WI Medicaid asset limit is \$2,000; however, because \$80,000 has been paid out by Ruth's qualified WI LTCIP policy, an additional \$80,000 in non-exempt assets are disregarded. Ruth passes the asset test for WI Medicaid because we disregard \$80,000 of her assets. The remaining non-exempt assets are less than \$2,000. If Ruth were to pass away at this point, \$80,000 of her assets would be protected from estate recovery.

Example 2: A year later, Ruth's eligibility for WI Medicaid is reviewed. At that time, she verifies that she has exhausted her qualified LTCIP policy benefit, which has paid out the full \$90,000 since January 1, 2009. Ruth owns the following non-exempt assets:

- \$4,000 savings account
- \$7,000 checking account
- \$80,000 equity value in non-homestead property.

The worker determines that Ruth's total non-exempt assets equal \$91,000 (\$4,000 + \$7,000 + \$80,000). Her WI Medicaid asset limit is \$2,000; however, because \$90,000 has been paid out by Ruth's qualified LTCIP policy, an additional \$90,000 in non-exempt assets are disregarded. Ruth continues to qualify for WI Medicaid because we disregard \$90,000 of her assets. The remaining non-exempt assets are less than \$2,000. If Ruth were to pass away, \$90,000 of her assets would be protected from estate recovery.

Example 3: Edith is applying for Family Care. She and her spouse reside in their home and have \$100,000 in non-exempt assets. Her qualified \$80,000 LTCIP policy has been paying for long-term care she has received in her home and is now exhausted. When Edith applies for FC, she verifies that her LTCIP policy has paid out \$80,000 in benefits since January 1, 2009. Because this is a Spousal Impoverishment case, an Asset Assessment (AA) must be done to establish the Community Spouse Asset Share. The total \$100,000 is used in the AA and the CSAS is set at \$50,000. Edith's asset limit of \$2,000 is added to the CSAS when determining her eligibility. Since \$80,000 of her assets can be disregarded, the remaining non-exempt assets are \$20,000 which is less than the \$52,000 limit. Prior to her first review (12 months) Edith must transfer, to her spouse, any of her assets that exceed \$82,000 (the LTCIP policy pay out amount plus the regular WI Medicaid asset limit of \$2,000) to remain eligible.

Example 4: Emma had been residing in a nursing home and had been eligible for Institutional Medicaid for the past 2 years. Her qualified \$90,000 LTCIP policy had been paying for a portion of her care. As of her last WI Medicaid review, the policy had paid out \$70,000 since January 1, 2009, an amount disregarded in determining her continued Medicaid eligibility. Ten months after her last review, Emma died. Emma's representatives verify that, during those ten months, her qualified LTCIP policy paid out an additional \$10,000 toward her long-term care. Emma's estate can protect a total of \$80,000 (i.e., the total amount paid out by the qualified policy) from estate recovery.

Example 5: Joe has a \$100,000 home and \$100,000 in non-exempt liquid assets. He needs home care and his qualified LTCIP policy begins paying out. By the time Joe applies for Medicaid, his LTCIP policy has paid out \$100,000. Joe's can have up to \$102,000 in assets (\$2,000 limit plus \$100,000 disregarded) and still be eligible for Medicaid. His home is an exempt asset and his non exempt assets are less than \$102,000 so he qualifies for Family Care.

Over the next few months, Joe decides to give \$100,000 to his son. At his annual review, he reports that he has done so, but because he has given away no more than the LTCIP protected asset amount (i.e., the LTCIP payout amount of \$100,000), there is no divestment penalty. However, because he has divested the entire payout amount, he can no longer take advantage of the LTCIP protections with regard to his Medicaid eligibility. That means, when he's tested for Family Care, he must have assets below \$2,000 to remain eligible (instead of \$102,000). Also, because he already gave away the entire LTCIP protected amount during his lifetime, that amount will not be protected from estate recovery.

CARES

Until CARES can be updated to accommodate this policy change, the amount of assets that are disregarded under this policy should be designated as 'unavailable' in CARES.

When processing an Asset Assessment (AA) the whole asset amount should be counted as available. Once the AA is completed, update the availability question to indicate the amount paid out by the LTCIP is unavailable.

Be sure to document in Case Comments why the asset is being treated as unavailable. The documentation provided for verification of the LTCIP policy and pay out should be scanned into the ECF under the Asset Information subfolder.

CONTACTS

BEM CARES Information & Problem Resolution Center

*Program Categories – FS – FoodShare, MA – Medicaid, BC+ – BadgerCare Plus, SC – Senior Care, CTS – Caretaker Supplement, CC – Child Care, W-2 – Wisconsin Works, FSET – FoodShare Employment and Training, CF – Children First, EA – Emergency Assistance, JAL – Job Access Loan, JC - Job Center Programs, RAP – Refugee Assistance Program, WIA – Workforce Investment Act, Other EP – Other Employment Programs.

DHFS/DHCAA/BEM/SR