STATE OF NEW YORK
DEPARTMENT OF HEALTH

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Antonia C. Novello, M.D., M.P.H., Dr. P.H.
Commissioner

Dennis P. Whalen
Executive Deputy Commissioner

ADMINISTRATIVE DIRECTIVE

TRANSMITTAL: 02 OMM/ADM-2

TO: **Commissioners of Social Services**

DIVISION: Office of Medicaid Management

DATE: March 1, 2002

SUBJECT: Transfer of Resources: Changes in the Medicaid Regional Rates for 2002

SUGGESTED DISTRIBUTION:
Medicaid Staff
Fair Hearing Staff
Legal Staff
Staff Development Coordinators

CONTACT PERSON:
Bureau of Local District Support
Upstate: (518) 474-8216
NYC: (212) 268-6855

ATTACHMENTS: County Listing by Region (available on-line)

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
01 OMM/ADM-3 00 OMM/ADM-3 99 OMM/ADM-2 98 ADM-37 96 ADM-8 95 ADM-17 93 ADM-27 91 ADM-17 89 ADM-45		360-4.4(c)	SSL 366 SSA 1917(c) & (d) Section 13611 of OBRA '93	MRG pages: 353-363	GIS 01 MA/Pend GIS 96 MA/009

I. PURPOSE

This Administrative Directive (ADM) advises social services districts of the January 1, 2002 revisions to the Medicaid regional rates used to determine the period of limited coverage (penalty period) for persons determined to have made prohibited transfers of assets.

II. BACKGROUND

Chapter 170 of the Laws of 1994 amended Section 366.5 of the Social Services Law to set forth the transfer of assets provisions required by the Omnibus Budget Reconciliation Act of 1993. When a person, or the person's spouse, makes a prohibited transfer (as explained in 96 ADM-8), the person may be ineligible for Medicaid coverage of certain services for a period of time.

The period of ineligibility for nursing facility services, or penalty period, is the number of months equal to the uncompensated value of the transferred assets divided by the Medicaid regional rate established for the region in which the individual is institutionalized. The period is intended to approximate the length of stay in an institution that the transferred assets would have purchased. The Medicaid regional rates are generally updated annually, effective January 1.

III. PROGRAM IMPLICATIONS

The revised Medicaid regional rates are used to calculate a penalty period for persons who have made prohibited transfers of assets and who apply for Medicaid on or after January 1, 2002.

The Medicaid regional rates effective January 1, 2002 are:

Region*	Monthly Rate
Central	$ 5,127
Long Island	$ 8,272
New York City	$ 7,894
Northeastern	$ 5,769
Northern Metropolitan	$ 7,138
Rochester	$ 5,745
Western	$ 5,393

*See the Attachment for county listing by region.

IV. REQUIRED ACTION

As specified in 89 ADM-45, 91 ADM-37, and 96 ADM-8, a penalty period must be established when an institutionalized applicant/recipient (A/R), or the spouse of the A/R, has made a prohibited transfer of assets. The Medicaid regional rate used to determine the penalty period is the rate for the region in which the individual is institutionalized. Districts must use the rate in effect for the year in which the individual applies or reapplies as an institutionalized person.

Social services districts must use the January 1, 2002 Medicaid regional rates to establish the penalty period for any institutionalized person determined to have made a prohibited transfer of assets who has Medicaid eligibility determined for the month of January, 2002 or later.

A. RECALCULATING THE PENALTY PERIOD

Districts must recalculate the penalty period for an institutionalized individual who became Medicaid eligible on or after January 1, 2002, if the January 1, 2001 regional rates were used to calculate the penalty period. Districts must review these cases as soon as possible, since a recipient's penalty period will change based on the new rates.

When a penalty period has previously been calculated for a recipient who continues to reside in the community and who is not in receipt of home and community-based waiver services, no recalculation of the penalty period is required until the individual becomes in need of nursing facility services.

When an individual previously assessed a penalty period subsequently becomes in need of nursing facility services, the social services district must review the original transfer(s) to determine whether it occurred within the 36 months (60 months for transfers to or from trusts) prior to the month in which the individual is both institutionalized and applying for full Medicaid coverage, including coverage of nursing facility services. There may be instances where the original transfer is outside of the look-back period. In such cases, the institutionalized individual is no longer subject to a transfer penalty.

B. NOTICE REQUIREMENTS

Social services districts must provide notices to A/Rs whose Medicaid coverage is being denied, discontinued, limited or changed due to a prohibited transfer of assets. Districts may use the appropriate Client Notice Subsystem reason code, if available, or one of the following manual notices to meet this requirement.

1. **LDSS-4500 (Revised 12/99): "Notice of Decision on Your Medical Assistance Application (Excess Resources-Excess Income-Transfer of Assets)"**

   As advised in 95 ADM-17 and GIS 96 MA/009, this notice is a denial of Medicaid coverage of nursing home services for a recipient already in receipt of community coverage who applies for nursing home services but who is ineligible due to a prohibited transfer. The notice also is used to deny Medicaid coverage of nursing home services or community coverage for applicants who are not otherwise eligible and also have transferred assets.

2. **LDSS-4144 (Revised 1/99): "Notice of Acceptance for Medical Assistance with Limited Coverage (Transfer of Assets)"**

   As advised in 89 ADM-45, this notice is used to accept institutionalized applicants with income under the Medicaid income standard and community-based applicants, when there has been a prohibited transfer.

3. **LDSS-4145 (Revised 1/99): "Notice of Decision on Your Medical Assistance Application for Nursing Facility Services (Transfer of Assets)"**

   As advised in 89 ADM-45, this notice must be used when otherwise eligible institutionalized applicants have income in excess of the Medicaid income standard and there has been a prohibited transfer.

4. **LDSS-4147 (Revised 1/97): "Notice of Intent to Discontinue/Change Medical Assistance Coverage (Transfer of Assets)"**

   As advised in 89 ADM-45, this notice is used for undercare cases when coverage is being restricted or the case is being closed due to a transfer or when the individual's period of restricted coverage has expired.

5. **LDSS-4528 (Revised 3/99): "Notice of Change in Limited Coverage Period for an Institutionalized Person"**

   Social services districts were advised in 93 ADM-27 to notify recipients of nursing facility services of any changes in limited coverage periods resulting from a change in the Medicaid regional rates. Districts were instructed to use Client Notice Subsystem Reason Code S05 or form LDSS-4528.

6. **"Explanation of the Effect of Transfer of Assets on Medical Assistance Eligibility"**

   As advised in 96 ADM-8, this notice must be available to all individuals who wish to establish that a transfer was made for a purpose other than to qualify for nursing facility services. It also must be given to all Medicaid-Only applicants at the

time of (re)application or when an A/R's (re)application is denied/discontinued due to a prohibited transfer. This notice must be provided with the appropriate notice of decision by the social services district.

7. **LDSS-4022 (Revised 5/99): "Notice of Intent to Establish a Liability Toward Chronic Care"**

   If a penalty period had been previously calculated for a recipient who becomes in need of nursing facility services and a determination is made that the transfer occurred prior to the 36 month (60 months for transfers to or from trusts) period immediately preceding the month of application, a note should be added to the notice to indicate that the former transfer(s) is now beyond the 36 month look back period and does not affect Medicaid eligibility.

V. SYSTEMS IMPLICATIONS

None.

VI. EFFECTIVE DATE

The changes in the Medicaid regional rates used for calculating transfer penalty periods are effective March 1, 2002, retroactive to January 1, 2002.

Kathryn Kuhmerker, Deputy Commissioner
Office of Medicaid Management

ATTACHMENT

MEDICAID REGIONAL RATES FOR 2002
(County Listing by Region)

CENTRAL (Syracuse)

$5,127

Broome
Cayuga
Chenango
Cortland
Herkimer
Jefferson
Lewis
Madison
Oneida
Onondaga
Oswego
St. Lawrence
Tioga
Tompkins

ROCHESTER

$5,745

Chemung
Livingston
Monroe
Ontario
Schuyler
Seneca
Steuben
Wayne
Yates

LONG ISLAND

$8,272

Nassau
Suffolk

NORTHEASTERN

$5,769

Albany
Clinton
Columbia
Delaware
Essex
Franklin
Fulton
Greene
Hamilton
Montgomery
Otsego
Rensselaer
Saratoga
Schenectady
Schoharie
Warren
Washington

NEW YORK CITY

$7,894

Bronx
Kings (Brooklyn)
NY (Manhattan)
Queens
Richmond (Staten Island)

NORTHERN METROPOLITAN

$7,138

Dutchess
Orange
Putnam
Rockland
Sullivan
Ulster
Westchester

WESTERN (Buffalo)

$5,393

Allegany
Cattaraugus
Chautauqua
Erie
Genesee
Niagara
Orleans
Wyoming

1. Use the region in which the facility is located, or if the A/R is not institutionalized, use the region in which the individual resides.

2. For out of state facilities, use the region closest to the location of the facility.