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GENERAL INFORMATION SYSTEM

DIVISION: Office of Medicaid Management

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TO: Local District Commissioners, MA Directors

FROM: Ann Clemency Kohler, Director, Office of Medicaid Management

SUBJECT: Elimination of Conditional Eligibility Option

EFFECTIVE DATE: October 9, 1996

CONTACT PERSON: Elsie Kirk 1-800-343-8859, ext. 35509

The Federal Department of Health and Human Services (HHS) amended 42 CFR 435.845(b) to clarify that Medicaid cannot be authorized for an individual who is ineligible due to excess nonliquid resources. Medicaid regulation 18 NYCRR 360-4.4(e), which allows social services districts the option to authorize MA for an ineligible MA-only A/R with excess nonliquid resources pending liquidation of the resource, has been repealed effective October 9, 1996.

Therefore, for new or pending applications on or after October 9, 1996, social services districts can no longer opt to authorize conditional eligibility to A/Rs pending liquidation of excess nonliquid resources, beginning with the December 1, 1996 budget. Unless incurred medical expenses reduce excess resources at or below the allowable resource standard, MA cannot be authorized for any case with excess resources.

Any undercare case active on or after October 9, 1996 which was authorized for MA pending the liquidation of excess nonliquid resources must be reviewed for continued resource eligibility at the next client contact, but no later than at recertification.

The "Informational Notice to Institutionalized Individuals With Real Property" (Attachment I) and the "Notice of Intent to Impose a Lien on Real Property (Institutionalized Individual)" (Attachment II) have been revised to conform with this policy. Social services districts must provide the revised informational notice to all persons requesting such information, and must include the notice with all applications involving an institutionalized person. The notices are attachments to the Electronic Mail version of this GIS message.

An Administrative Directive is forthcoming.

INFORMATIONAL NOTICE TO INSTITUTIONALIZED INDIVIDUALS WITH REAL PROPERTY

This notice explains what happens when you apply for Medical Assistance and you own real property, such as your home. Effective April 2, 1992, a lien may be placed on your real property because of Medical Assistance paid or to be paid for you if you are receiving or expected to receive care in a medical institution and are not reasonably expected to return home. A lien is a legally filed claim on your property. You still own your property if a lien is placed on it. When the property is sold, the lien must be satisfied. However, if you provide adequate medical evidence (such as from your doctor or discharge planner) that you are reasonably expected to return home, we will not put a lien on your real property. Please provide this information within 20 days from the date of your interview, or advise us if, due to conditions beyond your control, you will need additional time. If you need to discuss this issue with this agency, please request a conference as soon as possible.

You will receive a written notice if we intend to impose a lien on your real property.

If the real property is your home, we will not place a lien as long as you can prove that one of the following persons still lives in your home:

- your spouse;
- your child under age 21, or your child of any age who is certified as blind or disabled; or
- your brother or sister who already has a right to part of your home and lived in your home for at least one year immediately before you went into a medical institution.

If a lien is placed on your real property, the department of social services will remove the lien if you return home from the medical institution.

If you have a long term care insurance policy certified under the Long Term Care Security Program, Medical Assistance may pay for your care after your policy pays for three years. In such instances, we will not place a lien on your real property.