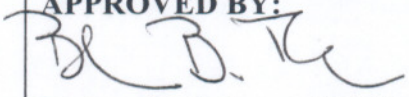


<b>Colorado Department of Health Care Policy and Financing</b> <b>1570 Grant St., Denver, CO 80203-1818</b>	<b>NUMBER:</b> HCPF 07-011
	<b>CROSS REFERENCE:</b> HCPF 06-016 MA-99-7-P HCPF 06-019 MA-00-17-P
<b>DIVISION OR OFFICE:</b> Medical Assistance Office	<b>DATE:</b> March 21, 2007
<b>SUBJECT AREA:</b> Eligibility for Medicaid Long-Term Care Services	
<b>SUBJECT:</b> PETI deductions, Promissory Notes, Personal Care Agreements and Transfers of Assets	<b>APPROVED BY:</b>  Barbara B. Prehmus, M.P.H.
<b>TYPE:</b> I - Information	

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[www.chcpf.state.co.us](http://www.chcpf.state.co.us) >> County and Medical Assistance Site Correspondence >> Agency Letters

**Purpose:**

The purpose of this agency letter is to notify County Departments of Social/Human Services and Medical Assistance Sites of revised rules regarding treatment of medical expenses incurred during a period of ineligibility; treatment of promissory notes, treatment of personal care agreements; and modification of the start date for penalty periods in asset transfers.

**Background:**

On January 12, 2006, the Medical Services Board adopted rules to clarify changes to PETI deductions, promissory notes, personal care agreements, and penalty periods associated with transfer of assets to comply with state plan amendments and federal law. Citations to the rules bring revised are 10 C.C.R. 2505-10, Section 8.110.49.B.1.m; 10 C.C.R. 2505-10, Section 8.110.50.D.6; 10 C.C.R. 2505-10, Section 8.110.51.B.13; and 10 C.C.R. 2505-10, Section 8.110.53.C. A copy of all regulations that were revised as a result of this change is included.

**Procedure or Information:**

PETI Deductions

Under the new rule, the amount allowed to be deducted during the PETI process for medical and remedial expenses that were incurred during a penalty period is \$0. Previously, a person might incur medical and remedial expenses during a penalty period and leave them unpaid until Medicaid eligibility was restored. Medicaid essentially paid for those services because the amount of the individual's patient payment was reduced during the PETI process for those costs.



Medicaid then paid a larger share for the long-term care facility cost. The new rule clarifies that the individual is responsible for paying for all medical or remedial expenses not covered by Medicaid or a third-party provider.

#### Promissory Notes

Promissory notes, loans, or mortgages established on or after March 1, 2007 are considered a resource and the interest portion of the monthly payment is counted as income in the month it is received. The new regulations explain the process for determining the value of a note. The interest portion of the monthly payment is countable as income in the month it is received, but the principal portion is not, 10 C.C.R. 2505-10, Section 8.110.50.D.6.

The value of a promissory note is the unpaid balance at the time of application. This amount is considered an available, countable resource to the client. For notes which do not meet the criteria in 10 C.C.R. 2505-10, Section 8.110.51.B.13.b., the note is also considered a transfer without fair consideration. A penalty period should be assessed, and the amount of the transfer is the unpaid balance on the note at the time of application. Applicants can cure the transfer penalty by revising the note to comply with 10 C.C.R. 2505-10, Section 8.110.51.B.13.b.

#### Personal Care Agreements

The new rule removes the rebuttable presumption that a transfer of assets without fair consideration occurs when a family member receives compensation for caring for a family member who is a Medicaid applicant. For personal care agreements which are signed and notarized after March 1, 2007, a family member can be compensated for his or her services as long as a written and signed agreement is in place prior to being compensated for services. The rule also clarifies that when a legal representative signs the agreement on behalf of the applicant, the representative cannot also be compensated for services under that agreement.

#### Transfer of Assets

The rule revision clarifies that the start date for a penalty period as a result of transferring assets without fair consideration begins the first day of the month **after the month** in which the transfer was made for transfers made prior to February 8, 2006. For those transfers made after February 8, 2006, the penalty period begins on the later of the two dates: either the first day of the month **after the month** in which the transfer was made **OR** the date on which the individual would be eligible for HCBS, PACE or institutional services base on an approved application for such assistance, AND which does not occur during any other period of ineligibility for services by reason of a transfer of assets penalty.

#### **Effective Date:**

March 1, 2007

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