



STATE OF NEW YORK DEPARTMENT OF HEALTH

REC D MAY 30 2000

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

Dennis P. Whalen
Executive Deputy Commissioner

ADMINISTRATIVE DIRECTIVE

TRANSMITTAL: 00 OMM/ADM-3

TO: Commissioners of
Social Services

DIVISION: Office of
Medicaid
Management

DATE: May 5, 2000

SUBJECT: Transfer of Resources: Changes in the Medicaid Regional Rates for 1999

SUGGESTED DISTRIBUTION:	Medicaid Staff Fair Hearing Staff Legal Staff Staff Development Coordinators
CONTACT PERSON:	Local District Liaison Unit Upstate: (518) 474-9130 NYC: (212) 268-6855
ATTACHMENTS:	Attachment - 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.
99 OMM/ADM-2		360-4.4 (c)	SSL 366		GIS 99
96 ADM-17			SSA 1917 (c)		MA/025
96 ADM-8			& (d)		GIS 96
95 ADM-17					MA/009
93 ADM-27					Section
91 ADM-37					13611 of
89 ADM-45					OBRA '93

I. PURPOSE

This Administrative Directive (ADM) notifies social services districts of the January 1, 1999 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 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 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 person is institutionalized. The period is intended to approximate the length of stay in an institution which the transferred assets would have purchased.

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, 1999.

The Medicaid regional rates effective January 1, 1999 are:

<u>Region*</u>	<u>Monthly Rate</u>
Central	\$ 4,944
Long Island	\$ 7,760
New York City	\$ 7,730
Northeastern	\$ 5,400
Northern Metropolitan	\$ 7,123
Rochester	\$ 5,437
Western	\$ 5,298

*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 Medicaid-Only 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 first applies or reapplies as an institutionalized person.

Social services districts must use the January 1, 1999 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 first determined for the month of January, 1999 or later.

A. RECALCULATING THE PENALTY PERIOD

Districts must recalculate the penalty period for an institutionalized A/R who became Medicaid eligible on or after January 1, 1999, if the January 1, 1998 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 waived services, no recalculation of the penalty period is required until the individual becomes in need of nursing facility services.

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"**

As advised in 93 ADM-27, when a social services district recalculates a penalty period for a person in receipt of nursing facility services, who first applied for Medicaid as an institutionalized person on or after January 1, 1999, the district must advise the client of any change in the penalty period by using the Client Notice Subsystem (reason code S05) or by using 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.

V. SYSTEMS IMPLICATIONS

None.

VI. EFFECTIVE DATE

The changes in the regional penalty rates used for calculating penalty periods are effective, retroactive to January 1, 1999.

Kathryn Kuhmerker, Deputy Commissioner
Office of Medicaid Management

**COUNTY LISTING BY REGION
RATES FOR 1999**

<u>CENTRAL</u> (Syracuse)	<u>LONG ISLAND</u>	<u>NEW YORK CITY</u>
\$4,944	\$7,760	\$7,730
Broome	Nassau	Bronx
Cayuga	Suffolk	Kings (Brooklyn)
Chenango		NY (Manhattan)
Cortland		Queens
Herkimer		Richmond (Staten Island)
Jefferson		
Lewis		
Madison		
Oneida	<u>NORTHEASTERN</u>	<u>NORTHERN METROPOLITAN</u>
Onondaga	\$5,400	\$7,123 St. Lawrence
Oswego	Albany	Dutchess
Tioga	Clinton	Orange
Tompkins	Columbia	Putnam
	Delaware	Rockland
	Essex	Sullivan
	Franklin	Ulster
	Fulton	Westchester
	Greene	
	Hamilton	
<u>ROCHESTER</u>	Montgomery	<u>WESTERN</u> (Buffalo)
\$5,437	Otsego	\$5,298
Chemung	Rensselaer	
Livingston	Saratoga	Allegany
Monroe	Schenectady	Cattaraugus
Ontario	Schoharie	Chautauqua
Schuyler	Warren	Erie
Seneca	Washington	Genesee
Steuben		Niagara
Wayne		Orleans
Yates		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.