

ACTION: FINAL
FILED

DATE: 08/28/2002
10:22 AM

5101:1-39-27.5 **Medicaid: lump-sum payments.**

A "lump-sum payment" is income which is accrued over two or more months or it is a money payment which is not related to any time period, such as A death benefit or inheritance. A nonrecurring lump-sum payment is considered unearned income unless otherwise exempted or excluded. It is unearned income in the month received and a countable resource in the month following the month of receipt. The transfer of a lump sum in the month of receipt or anytime thereafter is subject to the regulations in rule 5101:1-39-07 of the Administrative Code relating to transfers of assets.

(A) The following are some types of lump-sum payments that are considered unearned income:

- (1) Gifts, prizes, or awards.
- (2) Retirement or pension funds.
- (3) Judgements and out-of-court settlements.
- (4) Proceeds received as the beneficiary ~~or~~ of a life insurance policy, including social security lump-sum death benefits.
- (5) Workers compensation payments when received as a lump-sum.

(B) The following are some types of lump-sum payments that are considered resources, that are not unearned income:

- (1) Income and property tax refunds.
- (2) Proceeds received from the surrender or maturing of insurance policies.
- (3) Proceeds received for the sale of real property.
- (4) Replacement of income that was lost, destroyed or stolen if the original income was used to determine eligibility.

(C) Retroactive payments from supplemental security income (SSI) or retirement, survivors, disability insurance (RSDI) are unearned income in the month received

and excluded as countable resources for six months following the month of receipt. This exclusion applies only to any unspent portion of retroactive payments made by SSI and RSDI. As long as the funds from the retroactive payment are not spent, they are excluded for the full six month period. Once the money is spent, this exclusion does not apply to items purchased with the money even if the six month period has not expired. However, other exclusions may ~~be applicable~~ apply. Unspent money from a retroactive payment must be identifiable from other resources for this exclusion to apply. The money may be commingled with other funds, but if this is done in such a fashion that the retroactive amount can no longer be separately identified, that amount will count toward the resource limit. The source, amount, and the date of receipt of the retroactive payment must be verified and the information recorded in the case record.

(D) When a medicaid recipient, including a nursing home or home and community-based services waiver (HCBS) recipient receives a lump-sum payment, he or she may increase his or her personal property holdings up to the maximums allowed. Then the ~~county department of human services~~ county department of job and family services (CDJFS) compares the amount received to the amount of ~~past cost of nursing care.~~ medicaid payments made on behalf of the recipient.

(1) If the lump sum is equal to or less than ~~past cost of care~~ medicaid payments for the recipient, the recipient is given a choice of either:

(a) Repaying the medicaid program for ~~past cost of care~~ medicaid payments made on his or her behalf in order to preserve continuing medicaid eligibility; or,

(b) Terminating assistance and reapplying when resources are again within allowable limits.

(2) If the lump sum is in excess of ~~past cost of nursing home care~~ medicaid payments made on the recipient's behalf, the excess amount shall be counted as an available resource. ~~and if~~ If the amount exceeds the maximum resource limit, the case shall be terminated ~~without any repayment for past cost of care.~~ In this situation, the recipient is not required to use any of the lump sum as repayment of past medicaid payments.

(3) The amount paid by medicaid for ~~past cost of care~~ can ~~only~~ be recovered only if the recipient ~~is agreeable~~ agrees and if the repayment amount will continue to make him or her eligible for medicaid.

(E) ~~Effective July 1, 1991, a~~ A veteran may not receive the full amount of the protection contemplated when the VA pension paid for a retroactive month is more than the

veteran's other income in that month. A portion of the retroactive VA pension is to be assigned to the month for which the payment is made that is large enough to protect the full amount of income that would have been protected had the VA pension been paid when due. The amount of the retroactive pension remaining is counted as unearned income in the month received.

(F) Lump-sums received by a recipient that are the result of a medical insurance policy that pays an individual directly rather than the providers for services when the individual is hospitalized or in a long term facility are assignable to the ~~Ohio department of human services~~ Ohio department of job and family services as reimbursement for past ~~cost~~ of medical care, up to the amount that has been paid by medicaid.

(G) Child support payment distributions made by ODJFS pursuant to division (C) of Section 1 of Am. S.B. 170 of the 124th General Assembly and rules 5101:1-29-31.1 and 5101:1-29-31.2 of the Administrative Code are exempt as income in the month of receipt and as a resource in the month following the month of receipt and for all months thereafter.

Effective: 10/1/2002

R.C. 119.032 review dates: 6/11/2002 and 10/01/2007

CERTIFIED ELECTRONICALLY

Certification

08/28/2002 10:22 AM

Date

Promulgated Under: 111.15
Statutory Authority: 5111.01, 5111.011
Rule Amplifies: 5111.01, 5111.011
Prior Effective Dates: 9/3/77, 2/1/79, 10/1/79,
1/3/80, 12/1/84 (emer.),
2/10/85, 5/3/85 (emer.),
8/1/85, 9/1/85 (emer.),
11/25/85, 9/1/86, 5/1/91

(emer.), 7/1/91, 6/11/93,
9/1/94