

5160:1-3-05.13

Medicaid: treatment of the home.

(A) This rule describes the treatment of an individual's home for purposes of determining eligibility for medical assistance.

(B) Definitions.

(1) "Home", for the purpose of this rule, means any property in which an individual has an ownership interest in and which serves as the individual's principal place of residence. Home includes the structures and land appertaining to the home property. Appertaining land must be contiguous to adjoin the land on which the home property is located and must not be separated by intervening land property owned by others.

(2) "Home equity limit" means, for applications filed on or after January 1, 2006, the maximum amount of equity which an individual could have in a home and remain eligible for long-term care facility (LTCF) services, home and community based services (HCBS) waiver or program of all inclusive care for the elderly (PACE) services. The home equity limit of five hundred thousand dollars will increase annually beginning January 1, 2011, as established by section 5163.32 of the Revised Code.

(3) "Nursing facility", for the purpose of this rule, refers to a nursing facility, intermediate care facility for individuals with intellectual disabilities, or other medical institutions.

(4) "Principal place of residence" means the dwelling the individual considers his or her established or principal home and to which, if absent, he or she intends to return. Principal place of residence can be real or personal property, fixed or mobile, and located on land or water.

(a) Only one living place may be established as the principal place of residence.

(b) The administrative agency must obtain a signed statement, declaring the principal place of residence, when there is an indication the individual resides in or has ownership of more than one place.

(5) "Qualified long term care partnership (QLTCP)" is defined in rule 5160:1-3-02.8 of the Administrative Code.

(C) The home lived in, owned by, and considered the principal place of residence by the individual, the couple, or the parents with whom the eligible child is living is an excluded resource, regardless of value.

(1) For the value of the home to be excluded:

(a) The home must be the individual's or the individual's spouse principal

place of residence; and

(b) The deed to the home must be in the individual's or individual's spouse's name; or

(c) The home must be deeded to a revocable trust so long as the principal of the trust remains a resource of the individual or the individual's spouse.

(2) The home is no longer considered to be the principal place of residence and shall be treated as a countable resource if the individual does not intend to return to the home.

(3) A temporary absence from the home does not affect the principal place of residence exclusion so long as the individual provides a signed statement of his or her intentions to return to the home and has not established permanent residence elsewhere.

(4) If the individual leaves the home with no intentions of returning, the home remains an excluded resource for as long as:

(a) A spouse or dependent relative of the individual continues to live there while the individual is institutionalized.

(i) Dependency may be of any kind (e.g. financial, medical, etc.).

(ii) Relative means:

(a) Child, stepchild, or grandchild;

(b) Parent, stepparent, or grandparent;

(c) Aunt, uncle, niece, or nephew;

(d) brother, sister, stepbrother or stepsister, half brother or half sister;

(e) cousin; or

(f) in-law.

(b) Its sale would cause undue hardship, due to loss of housing for co-owner of the property and the co-owner provides a signed statement whether he or she:

(i) Uses the property as his or her principal place of residence; and

(ii) Would have to move if the property were sold; and

(iii) Has no other living quarter readily available.

(c) The individual leaves his or her home due to domestic abuse and has not established a new principal place of residence, or has taken action to render the home no longer excludable.

(d) The property satisfies the provisions governing the treatment of property essential for self-support described in rule 5160:1-3-05.19 of the Administrative Code.

(D) Treatment of the home when LTCF services, HCBS waiver or PACE services are requested.

(1) For applications filed on or after January 1, 2006, an individual is not eligible for LTCF services, a HCBS waiver or PACE if the individual's equity interest in the individual's home exceeds the home equity limit. The home equity limit is applicable even though the home is considered the principal place of residence as defined in this rule.

(a) The home equity limit does not apply to an individual if any of the following persons are lawfully residing in the individual's home:

(i) The individual's spouse; or

(ii) The individual's child who is under age twenty-one, or blind or disabled as defined in Chapter 5160:1-3 of the Administrative Code.

(b) Nothing in paragraph (D)(1) of this rule should be construed as preventing an individual from using a reverse mortgage or home equity loan to reduce the individual's total equity interest in the home below the home equity limit.

(c) The requirements in this paragraph must be waived in the case of a demonstrated hardship as outlined in paragraph (E) of this rule.

(2) The home equity limit is applicable even when an individual is a recipient of QLTC benefits. A QLTC exclusion can not offset or reduce home equity for the purposes of paragraph (D)(1) of this rule.

(3) An individual who applies for and is determined eligible for long-term care (LTC) services before January 1, 2006 is not subject to the home equity limit; however, if the individual has a break in LTC eligibility on or after January 1, 2006, the home equity limit described in paragraph (D)(1) of this rule applies.

(E) Home equity and undue hardship.

- (1) The administrative agency must deny or terminate LTC services, HCBS waiver or PACE payment when an individual's equity interest in the individual's home exceeds the home equity limit, unless one of the exceptions in paragraph (D)(1)(a) of this rule applies.
 - (2) The individual will not be subject to a denial or termination of benefits resulting from home equity in excess of the home equity limit if the denial or termination will result in an undue hardship. An undue hardship exists when denial or termination of LTC services, HCBS waiver or PACE would deprive the individual of the following:

 - (a) Medical care such that the individual's health or life would be endangered;
or
 - (b) Food, clothing, shelter, or other necessities of life.
 - (3) The individual must first document an attempt was made to reduce the home equity value below the home equity limit.
 - (4) An undue hardship exemption may be requested by the individual or, with the consent of the institutionalized individual or the authorized representative, by the nursing facility on behalf of the institutionalized individual.
 - (5) Undue hardship does not exist when the institutionalized individual has taken action to restrict access to the excess home equity.
 - (6) For the purpose of this rule, individuals determined to be incompetent, who do not have another individual to act on their behalf, must be referred to the county prosecutor or the administrative agency's own legal staff.
- (F) The individual must provide verification, as defined in rules 5160:1-2-08 and 5160:1-2-10 of the Administrative Code.

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