

TO BE RESCINDED

5160:1-3-02.8 **Medicaid: treatment of qualified long-term care insurance policies.**

(A) This rule describes the qualified long-term care partnership (QLTCP) program.

(B) Definitions.

- (1) "Estate recovery" means the program set forth in rule 5160:1-2-07 of the Administrative Code.
- (2) "Qualified long-term care partnership" (QLTCP) means the program established under section 5164.86 of the Revised Code, under which an individual's resources are disregarded in eligibility determinations and at estate recovery in the amount of benefits paid to or on behalf of the individual by a QLTCP policy.

(C) A QLTCP policy is one that meets all of the following requirements:

- (1) On the date the policy was issued, the state in which the insured resided had in place an approved state plan amendment which provides, pursuant to 42 U.S.C. 1396p(b) (as in effect on March 1, 2014), for the disregard of resources in an amount equal to the insurance benefit payments made to or on behalf of an individual who is a beneficiary of a QLTCP policy; and
- (2) The policy is a qualified long-term care insurance policy, as defined in 26 U.S.C. 7702B(b) (as in effect March 1, 2014); and
- (3) The policy meets the requirements set forth by the Ohio department of insurance in section 3923.41 of the Revised Code, or, if purchased outside Ohio, meets the requirements of an approved state plan amendment, as described in paragraph (C)(1) of this rule, in the state of purchase.

(D) At application or reapplication for long-term care services, a home and community-based services (HCBS) waiver, or the program of all inclusive care for the elderly (PACE), an individual's resources will be disregarded up to the dollar amount of benefits paid to or on behalf of the individual by a QLTCP policy.

- (1) The administrative agency shall determine medicaid eligibility in accordance with the eligibility rules contained in Chapters 5160:1-1 to 5160:1-6 of the Administrative Code.

- (2) An individual may apply for long term care services before exhausting the benefits of a QLTCP policy. If an individual applies for and is eligible to receive medicaid coverage before the QLTCP policy is exhausted, the QLTCP insurer must make payment for medical care to the maximum extent of their liability before medicaid funds may be used to pay providers for covered long-term care services.
 - (3) If an individual has applied for and been found eligible to receive medicaid, and then receives additional resources, the individual continues to be eligible for medicaid to the extent the total value of all disregarded resources does not exceed the individual's QLTCP disregard plus the applicable resource allowance.
 - (4) A QLTCP disregard cannot reduce patient liability or cost of care.
- (E) Improper transfers of resources, as described in rule 5160:1-3-07.2 of the Administrative Code, are treated as follows when there is a QLTCP disregard.
- (1) If an individual becomes eligible for medicaid through the application of a QLTCP disregard, then makes a transfer of disregarded resources that would otherwise be considered an improper transfer, no restricted medicaid coverage period applies. The disregarded value of the transferred resource continues to be considered part of the individual's QLTCP disregard.
 - (2) If an individual becomes eligible for medicaid through the application of a QLTCP disregard after making a transfer that would otherwise be considered an improper transfer:
 - (a) If the value of the individual's remaining countable resources plus the value of the transferred resources is less than or equal to the individual's QLTCP disregard plus the applicable resource limit, no restricted medicaid coverage period applies. The disregarded value of the transferred resource is considered part of the individual's QLTCP disregard.
 - (b) If the value of the individual's remaining countable resources plus the value of the transferred resources is greater than the individual's QLTCP disregard plus the applicable resource limit:
 - (i) The individual's remaining QLTCP disregard is determined by adding the individual's original QLTCP disregard amount to the applicable resource limit, then subtracting the individual's current

countable resources and any amounts that had previously been transferred without a restricted medicaid coverage period as a result of a QLTCP disregard.

- (ii) The individual's remaining QLTCP disregard is subtracted from the amount that would otherwise have been considered improperly transferred. The difference is the amount improperly transferred; a restricted medicaid coverage period is calculated for the difference in accordance with rule 5160:1-3-07.2 of the Administrative Code.

Replaces: 5160:1-2-11

Effective:

Five Year Review (FYR) Dates: 08/15/2017

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 5162.21, 5163.02, 5164.86
Rule Amplifies: 5162.21, 5164.86
Prior Effective Dates: 9/1/2007, 12/1/2014