5160:1-6-06.5 **Medicaid: restricted medicaid coverage period.**

(A) This rule describes how to calculate and apply a restricted medicaid coverage period (RMCP), which is the period of time that long-term care (LTC) services will not be paid for by medicaid because the institutionalized individual improperly transferred an asset.

(B) RMCP calculation.

(1) Total the value of all improperly transferred assets.

(2) When the first month of requested payment of LTC services is less than a full calendar month, an initial pro-rated period of restricted coverage (IPPRC) shall be calculated as follows and is considered the first month of the RMCP:

(a) Determine the daily average private pay rate (APPR) for nursing facility services in Ohio by dividing the monthly APPR by the number of days in the month for which the first month of RMCP is being calculated. Round the result to the second decimal place.

(b) Multiply the daily APPR by the number of days from the first day of eligibility for requested LTC services through the last day of the month in which the institutionalized individual is eligible for medical assistance and would otherwise be receiving LTC services paid for by the medicaid program.

(3) Determine full months of RMCP as follows:

(a) Subtract the IPPRC from the total value of all improperly transferred assets, if applicable; then

(b) Divide by the monthly APPR.

(c) The resulting whole number is the number of full months of RMCP.

(d) If there is a remaining fractional amount, calculate a partial month of restricted coverage.

(4) To determine the partial month of restricted coverage (PMRC):

(a) Multiply the APPR by the number of full months of restricted coverage; then

(b) Subtract that amount from the total value of the improperly transferred assets; then

(c) Subtract the IPPRC determined in paragraph (B)(2) of this rule; then

(d) The remainder is the amount of the PMRC.

(C) RMCP effective date.

(1) If an institutionalized individual is receiving any category of medical assistance at the time the determination is made that assets were transferred for less than fair market value, the RMCP will be effective on the first day of the month following the expiration of the required notice period under rule 5101:6-2-04 of the Administrative Code.

(2) If an institutionalized individual is not receiving any category of medical assistance at the time the determination is made that assets were transferred for less than fair market value, the RMCP will be effective on the date on which the institutionalized individual is eligible for medical assistance and would otherwise be receiving LTC services paid for by the medicaid program but for the imposition of the RMCP.

(3) The RMCP cannot begin until the expiration of any already existing RMCP.

(4) Once the RMCP is imposed, it will not stop but will continue to run even if the individual subsequently stops receiving LTC services.

(5) The RMCP shall not be rounded down nor shall any PMRC be otherwise disregarded.

(6) Any PMRC shall be applied as follows:

(a) If an individual has a patient liability, the PMRC will be added to the institutionalized individual's patient liability in the first month of eligibility for LTC services. Refer to rules 5160:1-6-07 to 5160:1-6-07.2 of the Administrative Code for the determination of the patient liability.

(b) If an individual does not have a patient liability, the individual is responsible for paying his or her LTC provider the PMRC amount in the first month of eligibility for LTC services.

(D) If a court has entered an order against an institutionalized individual for the support of his or her spouse, an RMCP shall not apply to amounts of assets transferred pursuant to such order for the support of the spouse or a family member.

(E) Any improper transfer by a spouse that results in an RMCP for the institutionalized individual shall be applied as follows:

(1) If the spouse becomes an institutionalized individual, any remaining months of the RMCP shall be apportioned between the spouses.

(2) If one spouse ceases to be institutionalized, any remaining months of the RMCP that has been applicable to both spouses must be served by the spouse who continues to be institutionalized.

(F) Treatment of new or newly discovered improper transfer of assets.

(1) If a new improper transfer of assets occurs during an existing RMCP, a new RMCP shall be calculated using only the new improper transfers and the APPR in effect at the time of the calculation. The new RMCP shall be applied consecutively with the existing RMCP.

(a) When there is a PMRC calculated for both the existing RMCP and the new RMCP, combine the PMRCs.

(b) If the combined PMRCs are greater than or equal to the monthly APPR, the result shall be an additional month of RMCP and potentially a new PMRC amount. The additonal month of RMCP and PMRC shall be applied at the end of the new RMCP.

(2) If improper transfers of assets that occurred prior to the existing RMCP are newly discovered after the RMCP was calculated, the existing RMCP shall be recalculated to include the newly discovered improper transfers and using the APPR in effect when the existing RMCP was calculated.

(G) When all of the assets that were improperly transferred are returned to the institutionalized individual, no RMCP will be imposed.

(1) Return of the assets in question to the institutionalized individual leaves the institutionalized individual with assets which must be counted in redetermining eligibility for medical assistance.

(a) Counting those assets as available may result in the institutionalized individual being ineligible for medical assistance for some or all of the original RMCP, as well as for a period of time after the assets are returned.

(b) The administrative agency must redetermine eligibility for each month in the original RMCP and include the returned assets as an available resource unless the asset would have otherwise been considered an excluded asset.

(c) If an exclusion does not apply, the asset is considered available to the institutionalized individual until the total countable assets have been reduced to the appropriate resource limit.

(2) If the asset was sold by the person who received it, the full market value of the asset must be returned to the institutionalized individual, either in cash or another form that is commensurate with the original value. A return of any amount less than the total value of all of the improperly transferred assets will have no effect on the RMCP as calculated in this rule.

(3) For the purpose of computing an overpayment under rule 5160:1-2-04 of the Administrative Code, the returned asset or its equivalent must be considered an available asset beginning in the month the asset was originally transferred.

(H) If an RMCP resulting from improper transfer would result in an undue hardship, the institutionalized individual can request an undue hardship exemption in accordance with rule 5160:1-6-06.6 of the Administrative Code.

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