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) The length of an institutionalized individual's RMCP shall be equal to:

(1) The total value of all the improperly transferred assets divided by the monthly average private pay rate (APPR) for nursing facility services in Ohio. The resulting whole number is the number of full months of restricted coverage. If there is a remaining fractional amount, calculate a partial month of restricted coverage.

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

(C) If an institutionalized individual is subject to an RMCP, the RMCP will begin with the later of:

(1) The first day of a month during or after which assets have been transferred for less than fair market value; or

(2) The date on which the 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.

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

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

(c) The RMCP shall not be rounded down or otherwise disregard any PMRC.

(d) Any PMRC will applied as follows:

(i) 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. See rules 5160:1-6-07 through

5160:1-6-07.2 of the Administrative Code for the determination of the patient liability.

(ii) 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 period 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 that continues to be institutionalized.

(F) 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 determining eligibility for medical assistance during the original RMCP.

(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 determine eligibility for each month in the 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.

(G) If a 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.

Replaces: 5160:1-3-07.2

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