



COMMUNITY HEALTHCHOICES (CHC)

OPERATIONS MEMORANDUM #2020-03

SUBJECT: Compliance with Medical Assistance (MA) Long-Term Services and Supports (LTSS) Penalty Period Requirements

TO: CHC-Managed Care Organizations (MCO)

FROM: Bureau of Policy Development and Communications Management

DATE: July 14, 2020

PURPOSE

When an MA applicant or recipient transfers assets for less than fair market value (FMV) during a specified look-back period, that applicant is subject to a period of ineligibility for payment of LTSS, known as a penalty period. Section VII.E.3. of the CHC Agreement requires CHC-MCOs, in coordination with the Department of Human Services (DHS), to monitor the completion of all nursing facility (NF) and home and community-based services (HCBS) related processes, including the maintenance of a penalty period. This Operations Memorandum provides guidance on the CHC-MCO's role in monitoring the maintenance of a penalty period.

PROCEDURES

CHC-MCOs are responsible for enforcing penalty periods for CHC Participants. To maintain compliance with the federal and state rules regarding penalty periods, the CHC-MCO may not pay claims for NF or HCBS for CHC Participants who are subject to a penalty period. The NF and HCBS claims must be denied.

CHC-MCOs must monitor the 834 Daily Participant Eligibility File (834 file) from DHS to identify CHC Participants who are subject to a penalty period. The presence of a 903Q code on the 834 file indicates that a CHC Participant is subject to a penalty period. The duration of the penalty period will also be included on the 834 file. The duration of the penalty period may be a period of months and/or partial months and is calculated by the Office of Income Maintenance (OIM) based on the value of the assets transferred by the Participant during the look-back period.

CHC-MCOs must contact each Participant in a penalty period, verbally and in writing, to explain that the Participant is responsible to pay for the LTSS until their penalty period has ended. Payment for MA LTSS provided during the penalty period must be collected by the NF or HCBS provider. The CHC-MCO may recoup payments for LTSS made in error to the NF or the HCBS provider during the Participant's penalty period. These payments may result from a Participant not being disenrolled from the CHC-MCO prior to the 1st of the next month.

CHC Participants in a penalty period remain eligible for all MA-covered care and services except MA LTSS. CHC-MCOs must pay for medically necessary MA-covered care and services, which are not MA LTSS, that Participants are eligible to receive during the penalty period, including value-added services.

CHC-MCOs must engage in care planning and service coordination with the Participant's LTSS providers during the penalty period. If a Participant who is receiving NF services during a penalty period decides to leave the NF, the CHC-MCO is responsible for coordinating the Participant's safe discharge to the community. Once the 834 file shows that the penalty period has expired (period of ineligibility has ended), the CHC-MCO must begin payment for the CHC Participant's NF and HCBS claims.

NEXT STEPS

1. Review this information with appropriate staff.
2. Contact the Division of Participant Services if you have any questions.