I-1620 LONG-TERM CARE PARTNERSHIP (LTCP) PROGRAM

I-1621 GENERAL INFORMATION

Effective October 1, 2009, Louisiana Medicaid implemented the Long-Term Care Partnership (LTCP) Program. The LTCP Program encourages Louisiana residents to plan for their future Long-Term Care (LTC) needs by offering individuals a way to protect their assets if they need to apply for LTC services. This program allows the policy beneficiary of a qualified LTCP policy to have certain resources disregarded in determining LTC Medicaid eligibility and to have those same resources protected from Medicaid estate recovery.

The resource disregard is applied in the form of a deduction when:

- Determining the applicant/beneficiary's resource eligibility for LTC Medicaid, and
- Determining the amount of resources protected at Estate Recovery from the applicant/beneficiary's estate.

The purchase of a LTCP policy does not automatically qualify the applicant/beneficiary for Medicaid.

An applicant/beneficiary who owns a LTCP policy can apply for Medicaid before the exhaustion of policy benefits.

I-1622 REQUIREMENT

For an applicant/beneficiary to be considered under the LTCP program, the applicant/beneficiary:

- Must be the policyholder and beneficiary of the qualified LTC insurance policy,
- Must have received some or all of the LTC benefits paid out under a qualified LTC policy prior to the month of application for LTC, and
- Must meet the categorical, non-financial, financial, and medical eligibility requirements to qualify for Medicaid under nursing facility, Home and Community Based Services (HCBS), and/or PACE programs.

I-1623 DETERMINING IF A LTCP POLICY IS QUALIFIED

In order for a LTCP policy to be "qualified", the policy must satisfy all relevant requirements of federal and state laws.

The Louisiana Commissioner of Insurance is responsible for certifying that these policies are qualified. A listing of approved companies who can sell these policies can be found on the Louisiana Department of Insurance website.

Individuals who were a resident in another participating state who purchased qualifying policies are allowed to participate in the LTCP program if the policy was purchased when coverage first became effective under that State's policy. A list of these participating states and start dates can be found at Reciprocating States.

A policy issued under a group insurance contract may be considered qualified if the certificate meets the requirements.

Policies issued prior to the LTCP program's effective date of October 1, 2009 are not considered a qualified policy. The policyholder may be entitled to exchange the existing non-qualified policy for a qualified policy. A policy received in an exchange on or after October 1, 2009, is treated as newly issued and is eligible for LTCP program status.

The applicant/beneficiary who owns an insurance policy that are not qualified as LTCP policies are not eligible to participate in the LTCP program and their resources cannot be disregarded in the Medicaid eligibility determination or protected from Estate Recovery.

I-1624 VERIFICATION NEEDED

Request a copy of the policy from the applicant/beneficiary. Verify with the Louisiana Department of Insurance that the insurance company is approved to sell these policies in Louisiana.

The applicant will be responsible for providing policy status changes (i.e. termination of coverage, change in ownership, termination of premiums).

I-1625 VERIFICATION OF PAID INSURANCE BENEFITS

Written verification from the insurance carrier of benefits is required.

The insurance carrier must verify the following policy information before the resource disregard can be applied for Medicaid eligibility or estate recovery purposes:

- LTCP policy status,
- Amount of insurance benefit payments made by the policy prior to application or renewal, and
- The amount of benefits remaining.

The Explanation of Benefits (EOB) statement is an acceptable form of paid benefits verification.

Note:
Insurance benefit payments, for purposes of resource disregarded when applying for Medicaid, are payments made for LTC benefits and services and *do not include* benefits such as cash surrender values, return of premiums, premium waiver, or death benefits.

I-1626 RESOURCES IN THE ELIGIBILITY PROCESS

The disregarded resource is determined on a 1:1 ratio. The amount of the disregard is equal to the amount of the insurance benefit payments made to or on behalf of the individual.

The resource rules used to determine eligibility for the LTC programs apply to this program with the exception of the resource disregarded.

The resource disregard can only apply to the resources owned by the policyholder/beneficiary. Once it is determined the policyholder is entitled to a resource disregard, the verified amount of benefits paid will be applied in the form of a deduction and will reduce the value of policyholder's countable resources. These disregarded resources are protected from estate recovery.

Example 1: Ruth is a resident of a medical care facility. She has no spouse . Her qualified $90,000 LTCP policy has been paying for her care. When Ruth applies for LTC Medicaid, she verifies that her LTCP policy has paid out $80,000 in policy benefits. Ruth's total resources equal $81,000. You will deduct the $80,000 disregard leaving her with $1000 in countable resources. If Ruth were to pass away at this point, $80,000 of her resources would be protected from estate recovery.

A year later, Ruth's eligibility for Medicaid is reviewed. Ruth verifies that she has exhausted her LTCP policy benefits, which has paid out the full $90,000. The worker determines that Ruth's total resources equal $91,000. Since $90,000 has been paid out by Ruth's policy, an additional $90,000 in resources is disregarded. Ruth continues to qualify for Medicaid since she is still below the resource limit. If Ruth were to pass away, $90,000 of her resources would be protected from estate recovery.

Example 2: Emma had been residing in a nursing home and had been eligible for Medicaid for the past 2 years. Her $90,000 LTCP policy had been paying for a portion of her care. As of her last Medicaid review, the policy had paid out $70,000, an amount disregarded in determining her continued Medicaid eligibility. Ten months after her last review, Emma died. Emma's representatives verify that her policy paid out an additional $10,000. Emma's estate can protect a total of $80,000 from estate recovery.

The resource disregard can be applied to reduce or eliminate a transfer penalty on resources that the policyholder transferred without compensation. Any uncompensated transfer, or a portion thereof, not offset by the amount of the disregard, will result in a transfer penalty period.

The transferred resource does not affect an applicant/beneficiary's eligibility for Medicaid vendor payment if the value does not exceed the value of the resource disregarded. The value of the transfer will result in a reduction or elimination of the resource disregard for Medicaid eligibility and estate recovery protection under LTCP.

Example: Joe applies for Medicaid and his LTCP policy has paid out $100,000. Joe is found eligible using his disregard of resources. A few months later, Joe reports he has given $100,000 to his son. Because he has given away no more than the $100,000 protected asset amount, there is no transfer penalty. However, because he has divested the entire payout amount, he can no longer take advantage of the LTCP protections with regard to his Medicaid eligibility. That means he must have assets below $2,000 to remain eligible (instead of $102,000). Since he already gave away the entire protected amount during his lifetime, that amount will not be protected from estate recovery.

I-1627 TREATMENT OF SUBSTANTIAL HOME EQUITY

The LTCP resource disregard cannot be applied to excess home equity value. If an applicant/beneficiary's equity value in their home property exceeds limit in effect at time of application (Refer to MEM Z-2300), and the exceptions or undue hardship does not apply, the applicant/beneficiary is not eligible for LTC services of vendor payment to the nursing facility, HCBS, or PACE.

I-1628 TREATMENT OF RESOURCES - SPOUSAL RESOURCE ELIGIBILITY DETERMINATION

The resource disregard can only apply to the resources owned by the applicant/beneficiary receiving LTC services who is the policyholder/beneficiary and not to resources owned separately by the community spouse. Jointly owned resources are considered as belonging to the applicant.

The following steps will be used when resource eligibility is being reviewed under the Spousal Impoverishment Resource Provision for allocating resources:

Step 1 Determine the applicant's total countable resources for the most recent continuous period of LTC services,

Step 2 Deduct the dollar amount of paid insurance benefits the applicant/beneficiary receiving LTC services received from the qualifying policy,

Step 3 This remainder is the applicant's remaining resources, Step 4 Add these remaining resources to the Community Spouses separate resources,

Step 5 This sum is the Adjusted Countable Couple Resources,

Step 6 Deduct the Spousal Impoverishment Resource Standard (based on the first continuous period of LTC services),

Step 7 Compare the amount to the SSI Individual Resource Limit ($2,000) to determine if the applicant/beneficiary receiving LTC services is resource eligible.

I-1629 RESOURCES TRANSFERRED TO COMMUNITY SPOUSE

The following steps should be used when determining the amount of resources that may be allocated to the community spouse under the Spousal Impoverishment Resource Provision above for allocating resources.

Step 1 Determine the Adjusted Countable Couple Resources

Step 2 Deduct the Community Spouses Separate Resources

Step 3 Deduct the SSI Individual Resource Limit

Step 4 The remaining resources have to be transferred to the community spouse prior to the first renewal.

If the community spouse, who is not a LTCP policyholder, applies for LTC or HCBS, Medicaid eligibility for the spouse shall be determined using the standard Medicaid rules. Consequently, only the LTCP policyholder’s portion of resources will be disregarded and protected. The remaining unprotected resources will be considered available to the non-Partnership spouse for purposes of determining Medicaid eligibility.

Example: Mr. Jones is married and has a community spouse. Mr. Jones entered a nursing facility and is applying for Medicaid. The Jones’ have the combined total of countable resources of $250,000. Mr. Jones’ LTCP policy has paid $200,000 of benefits on his behalf. The adjusted countable resources of $50,000 is less than the spousal resource standard so the countable resources are $0, which is less than the $2,000 resource limit. For Mr. Jones to remain eligible for Medicaid, $50,000 adjusted countable couple resources minus the $2,000 SSI Individual resource limit leaves $48,000 that must be transferred to Mrs. Jones prior to the first renewal.

I-1630 TREATMENT OF RESOURCES AT RENEWAL

If the policy benefits were not exhausted at application, the applicant/beneficiary may continue to receive LTCP benefits and would be entitled to an additional resource disregard and protection equal to the amount of benefits paid out since the last eligibility determination.

The difference between the total value of all verified resources minus the verified benefit amount paid out to date (the available disregard) by the LTCP policy is the beneficiary's countable resources.

A Special Needs Trust or an annuity which names the State of Louisiana, Louisiana Department of Health as the residual beneficiary of funds remaining, cannot be protected under the LTCP Program due to federal law and must be available after death of the applicant to reimburse Medicaid for the benefits paid on behalf of the applicant.

I-1632 CASE RECORD DOCUMENTATION

Document all information verified and any documentation received in the case record.

I-1632 TREATMENT OF ONGOING INSURANCE PAYMENTS

Income

LTCP policy benefits paid directly to the beneficiary while a beneficiary is receiving Medicaid payment of LTC services under this policy will be considered unearned income and will be budgeted in the month of receipt.

Third Party Liability

LTCP policy benefits paid directly to the provider under this policy that are available while a beneficiary is receiving Medicaid payment of LTC services are treated as third party liability.

Medical Deduction

A post-eligibility deduction may be given for a LTCP policy premium if the policyholder continues to pay the premium while receiving benefits.