2640.10.15.06 HOME EQUITY RESTRICTION

A penalty consisting of ineligibility for LTC services is invoked due to the *ownership* of the home if the applicant's equity interest or share of equity interest, in his or her home is greater than the home equity limit. The current home equity limit can be found under 3005.10.05~~:~~

- ~~11-01-09 $500,000~~
- ~~01-01-11 $506,000~~
- ~~01-01-12 $525,000~~
- ~~01-01-13 $536,000~~
- ~~01-01-14 $543,000.~~

The penalty starts on the date that the applicant is otherwise eligible for Medicaid and would be receiving LTC services under Medicaid were it not for the equity restriction provision, but not before 11-01-09. The penalty continues as long as the equity value remains over the home equity limit.

The home is the applicant's principal place of residence prior to requiring LTC services. A hospitalization, visit with friends or family, or other absence from the home does not change the home designation for the purpose of this provision. Income-producing home property is subject to the equity restriction.

This restriction does not apply if the individual's spouse, dependent child under the age of twenty-one (21), or blind or disabled (per SSI standards) child of any age, is lawfully residing in the home. Additionally, the amount of equity that would fall under the asset protection of a long-term care partnership policy reduces the amount of the equity in excess of the limitation.

The equity value of a home is the current fair market value (FMV) minus any encumbrance against the property. An encumbrance is a legally binding debt against the home. This can be a mortgage, reverse mortgage, home equity loan, or other debt secured by the home. The current property tax assessment must be obtained as verification of the FMV. Any such assessment other than the most current one is unacceptable. If the individual disputes the property tax assessment, a current arm's length, independent professional appraisal can be submitted and will be used in lieu of the assessment. Arm's length means that there can be no special relationship, directly or indirectly, between the appraiser and the applicant/recipient so that the interests of both are independent of each other.

If there is an encumbrance against the property such as a mortgage, home equity loan, reverses mortgage, etc., the date that the encumbrance was established must be verified for the purposes of eligibility and whether or not an improper transfer occurred. If, for example, a home equity loan was taken out within the review period, the loan transaction in and of itself may not be a violative transfer. However, any subsequent transaction involving the proceeds from the loan must be evaluated for determination of whether an improper transfer occurred.

The equity restriction works in conjunction with the existing eligibility provisions regarding the treatment of real property, not in lieu of them. Even if all other eligibility provisions are met, the home equity restriction may still be a factor in whether or not LTC services will be paid for on the individual's behalf.

Example:

Single individual entered a nursing facility on 10-15-13 and listed their home for sale with a realtor. They apply for Medicaid on 11-11-13. The home is valued at $800,000. For resource eligibility purposes, the value of the home which is up for sale at fair market value is exempt. However, the applicant is subject to the home equity restriction penalty beginning the first of the month in which she or he is otherwise eligible for LTC services under Medicaid. The first retro month is 07-13. All other eligibility requirements are met, and the application is approved with Medicaid effective 07-01-13. The LTC penalty starts 10-01-13, the month in which the applicant was otherwise eligible for LTC.

This provision applies to individuals who apply for Medicaid on and after November 1, 2009, and for these individuals, any subsequent redeterminations that occur as the result of seeking LTC services as well as the annual scheduled redeterminations.