

PACAH 2021 FALL CONFERENCE

*Medicaid Eligibility: Current Solutions
to Common Problems.*



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TOPICS

- Effect of End of the State of Emergency on Temporary Changes to MA Process
- Prior Medical Expenses
- Stipulations Directly with the CAO
- Financial Exploitation
- Case Studies

Temporary Policy Changes due to State of Emergency/COVID

- The Families First Coronavirus Act provided states with funding and policy flexibilities amid the COVID-19 emergency.
- Eff. March 18, 2020.
- DHS ushered in temporary policy changes to be in effect “until the end of the emergency.”

Temporary Policy Changes due to State of Emergency/COVID

- Pennsylvania issued a Proclamation of Disaster on March 6, 2020.
- It was renewed every 90 days.
- On the PA ballot of May 18, 2021 was a proposal to allow the General Assembly to terminate or extend a disaster emergency declaration or a portion of such declaration without needing the Governor's approval.

Temporary Policy Changes due to State of Emergency/COVID

- The constitutional amendment passed.
- Amendment effective upon final certification of the statewide election results.
- On June 10, the General Assembly voted to end the state of emergency (Disaster Declaration).

Temporary Policy Changes due to State of Emergency/COVID

Per Act 21 of 2021, the suspension of various regulatory provisions under the state emergency declaration will expire on September 30, 2021.

Temporary Policy Changes due to State of Emergency/COVID

- MA Redeterminations
- Flexibility Standard
- Appeal of MA Denials
- Home Maintenance Deductions
- MA-103s
- Direct Express

Temporary Policy Changes due to State of Emergency/COVID

Redeterminations:

- For renewals requested and/or due on or after March 18, 2020, CAO's will not close any MA LTC case other than for the following:
 - An individual no longer resides in PA;
 - An individual requests their benefits be closed;
 - An individual has passed away; or
 - A lawful residing non-citizen turns 21 and pregnant women at the end of the postpartum period.

Temporary Policy Changes due to State of Emergency/COVID

- Home Maintenance Deduction
 - CAO will not terminate this deduction from the resident's patient pay obligation during the emergency period.
 - Previously limited to six months.

Temporary Policy Changes due to State of Emergency/COVID

Due to the COVID-19 emergency, CAOs are operating under a different standard:

“Flexibilities in timeliness and verification standards are being utilized.”

Temporary Policy Changes due to State of Emergency/COVID

Incapacity:

- ▣ If verifications cannot be provided because the applicant is incapacitated or that guardianship cannot be obtained during the COVID-19 emergency, the CAO should request verification of incapacity or that guardianship proceedings will begin after the emergency ends.

Temporary Policy Changes due to State of Emergency/COVID

Incapacity

- ▣ CAO will then send a request for the Bureau of Policy to review the record through the policy clarification submission process.

Temporary Policy Changes due to State of Emergency/COVID

Direct Express

- ▣ Accounts are only used to deposit Federal Benefits (such as SSI or Retirement, Survivors and Disability Income).
- ▣ The CAO can take self-attestation of the account balance if the applicant is unable to reach Direct Express.

Temporary Policy Changes due to State of Emergency/COVID

Appeal Deadline

- ▣ MA denial appeal deadline extended from 30 days to 90 days.

Temporary Policy Changes due to State of Emergency/COVID

MA 103

- ▣ Form MA 103 is not required through the duration of the emergency.
- ▣ If all other documentation supplied to process the application except the MA 103, the CAO will call the facility to verify the admission date.
- ▣ The CAO does not need to request a hard copy of the MA 103.

Prior Medical Expenses

- ▣ Providers were denied payments for “past medical expenses” related to an unpaid balance due to the facility for services periods prior to a resident becoming eligible for Medicaid.

Prior Medical Expenses

- ▣ Prior medical expenses will be paid again moving forward.
- ▣ Expect an Ops Memo or MA Bulletin soon.
- ▣ Should address PME's denied and/or not previously submitted.

CAO Stipulations

- ▣ Some CAOs have been requesting providers to enter into a Stipulation directly with the CAO with no involvement from the Bureau of Hearings & Appeals.
- ▣ Problematic.

Financial Exploitation

Attorney General and District Attorney

- ▣ Pennsylvania passed a law allowing both the Attorney General and the District Attorneys to have concurrent jurisdiction to prosecute a crime of financial exploitation of an older adult or care dependent person.

Financial Exploitation

CAO Caseworkers and Protective Services (Adult and Older Adult)

- ▣ Policy Clarification issued June 7, 2021 (PMN-20537-440):
Caseworkers may contact Protective Services if they suspect financial exploitation or abuse and the financial exploitation could affect Medicaid eligibility.

CASE #1

The facility filed a Medicaid application on Charlie's behalf on May 1, 2021. The CAO issued a denial on June 15, 2021. In a panic, on August 15, the facility's BOM realized an appeal was never filed before the July 15, 2021 denial notice.

What should the facility do?

CASE #2

Mary was admitted to the facility on January 1, 2020. The family filed an application on February 1, 2020. After lot of back and forth between the CAO, facility, and POA, the CAO issued a denial on May 1, 2020. The CAO had determined Mary was over respources by \$30,000. The POA set up an irrevcoable burial account for \$10,000 and used the remaining \$20,000 to pay off Mary's outstanding credit card bills on May 15.

CASE #2 (CONT'D)

The CAO issued a PA-162 with an effective date of May 15, 2020 with a patient pay obligation of \$1,500 per month. The May 15 effective date left the facility with a gap in coverage, and big balance, for the period of January 1, 2020 through May 15, 2020.

What should the facility do?

CASE #3

Charles was admitted on June 1, 2021. Charles filed an MA application with the CAO. The CAO issued a denial for failure to provide verifications on July 1. The verifications needed included life insurance policies and bank statements. The facility filed an appeal on July 30. The BHA scheduled a hearing for September 1. The CAO requested the facility to sign a Stipulation with the CAO prior to the hearing wherein they were given thirty (30) days to obtain the verifications.

What should the facility do?

CASE #4

Margaret, 89, was admitted to the Facility on July 1, 2021. Margaret suffers from dementia. Margaret's son, James, signed the Facility's Admission Agreement as Responsible Party. As of September 1st, no payments have been received toward Margaret's care, so the Facility filed a MA application. James is not answering his phone and does not return phone calls from the Facility requesting that he provide the necessary financial verifications. On October 15th, the CAO issued an MA denial for failure to provide verifications.

What should the facility do?

CASE #5

Mary was assessed a transfer penalty of \$150,000 due to the transfer of Mary's house to her son, Tom, within the five-year look-back period. Tom is refusing to transfer the property back to Mary and told the facility "the house is a dump and isn't worth anything, but its the only place I have to live."

What should the facility do?

CASE #6

Bill was admitted to the facility on January 1, 2020 and suffers from dementia. Bill's son, Joe, is Bill's POA and signed the admission agreement as Responsible Party. Bill is receiving MA benefits and has a patient pay obligation of \$2,000/month consisting of Social Security and a pension. The facility receives Bill's Social Security as Representative Payee. Joe receives Bill's pension of approximately \$800/month but refuses to forward the income to the facility.

What should the facility do?

CASE #7

John is incapacitated and was admitted to the Facility on July 1, 2020. John's son/POA, Sam, signed the Admission Agreement as John's Responsible Party. The Admission Agreement prohibits gifting that could jeopardize MA eligibility. A month after John's admission, Sam transferred John's last remaining \$50,000 to himself. Sam felt it was his 'inheritance.' The CAO eventually approved MA, but with a \$50,000 transfer penalty.

What should the facility do?

CASE #8

Sharon was a resident at the facility for nine months. During that time, the facility had a guardian appointed for Sharon to assist with the MA application. Sharon's guardian provided everything needed to complete the MA application. Sharon passed away unexpectedly before the CAO issued an MA excess resource notice. There is \$2,000 in excess resources in Sharon's bank account that needs to be spent down before the CAO will issue the approval for nine months of MA eligibility.

What should the facility do?

CASE #9

The facility filed a Medicaid application on Charlie's behalf on February 1, 2021. The CAO issued a denial on March 15, 2021 but sent the notice to the wrong address. Charlie and the facility never received the denial and were not aware a denial was issued until the facility followed-up with the CAO on July 1, 2021.

What should the facility do?

RECAP

- Take advantage of any Temporary Policy Changes due to the COVID Emergency prior to September 30, 2021.
- Be on the lookout for guidance on the Prior Medical Expense issue.
- Do not sign stipulations directly with the CAO with no BHA involvement.
- Cooperation to prosecute on Financial Exploitation.
- File for guardianship when appropriate.
- Remember the option of opening an estate.
- Civil litigation to compel cooperation or damages.

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