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 | ADMINISTRATIVE DIRECTIVE |
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TRANSMITTAL: 90 ADM-36

TO: Commissioners of
 Social Services

DIVISION: Medical
 Assistance

DATE: October 16, 1990

SUBJECT: Questions and Answers -- Fall 1989 Medical Assistance
 Regional Meetings

SUGGESTED
 DISTRIBUTION:

Medical Assistance Staff
 Fair Hearing Staff
 Legal Staff
 Staff Development Coordinators

CONTACT
 PERSON:

MA Eligibility County Representative at
 1-800-342-3715, extension 3-7581
 MA New York City Representative at (212) 587-4853

ATTACHMENTS:

A. - Questions and Answers -- Fall 1989 Medical
 Assistance Regional Meetings (available on-line)

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
89 ADM-45		360-4.4(c)	366.5		GIS
89 ADM-47		360-10	366-c		90MA009
88 ADM-30		370.2(c)(6)	MCCA of		90MA018
88 ADM-25			1988		90MA038
88 ADM-10			FSA of 1988		

I. PURPOSE

The purposes of this release are to:

- a) provide answers to the questions raised during the Fall 1989 Medical Assistance (MA) Regional Meetings;
- b) notify social services districts of modifications to policy concerning the Personal Incidental Allowance (PIA) of an institutionalized spouse residing in the community; and
- c) notify social services districts of modifications to policy concerning the treatment of a Public Assistance (PA) cash grant in determining the otherwise available income (OAI) of a community spouse or family member.

II. BACKGROUND

The provisions of the Medicare Catastrophic Coverage Act of 1988 (MCCA), as amended by the Family Support Act of 1988, regarding transfer of assets and spousal impoverishment became effective October 1, 1989. The Department issued implementing instructions in Administrative Directives 89 ADM-45, "Transfer of Resource Provisions Under the Medical Assistance Program," and 89 ADM-47, "Treatment of Income and Resources for Institutionalized Spouses/Individuals and Legally Responsible Relatives." Due to the extensive impact of these changes on the MA Program, not all issues were addressed prior to implementation. Various questions were raised at the Fall 1989 MA Regional Meetings which required additional research and development.

III. PROGRAM IMPLICATIONS

A. Questions and Answers

ATTACHMENT A of this Administrative Directive (ADM) contains a listing of questions and answers which clarify the issues raised at the Fall 1989 MA Regional Meetings on spousal impoverishment and transfer of assets.

B. Policy Modifications

1. Home and Community-Based Waivered Services

Under spousal impoverishment budgeting, the institutionalized spouse retains a \$50 PIA as of the first full month following the month permanent absence is established.

Social services districts were instructed that an institutionalized spouse who is in receipt of and expected to receive home and community-based services provided pursuant to a waiver under Section 1915(c) of the Social Security Act (Act) for at least 30 consecutive days would be budgeted in the same manner.

This policy is being revised to reflect the presumption that an institutionalized spouse residing in the community may have more maintenance expenses than when in an institutionalized setting. Therefore, where an institutionalized spouse resides in the community, an amount for the maintenance allowance of the institutionalized spouse equal to the MA level for one must be utilized instead of the PIA.

If the community spouse is also applying for MA, the community spouse must be budgeted as a separate household.

2. PA Cash Grant

89 ADM-47 instructs social services districts not to disregard the amount of a PA cash grant in determining the OAI of a community spouse or family member (see pages 17 and 18).

The Division of Income Maintenance has clarified that PA will consider the community spouse monthly income allowance (CSMIA) or family member allowance (or any lump sum payment of the income allowance for prior months) available to a PA recipient, and will reduce or terminate the PA grant accordingly. Therefore, the amount of a PA grant is to be disregarded in determining the OAI of a community spouse or family member.

IV. REQUIRED ACTION

The procedures outlined in ATTACHMENT A provide clarification of the policy contained in previous ADMs and presented in regional meetings, and must be followed effective October 1, 1989.

In accordance with Section III.B.1, an institutionalized spouse residing in the community will receive a maintenance allowance equal to the MA income level for one.

In accordance with Section III.B.2, the amount of the PA grant is disregarded in determining the OAI of a community spouse or family member. MA staff must immediately notify the appropriate PA staff of the amount of the CSMIA or family member allowance available to the PA recipient. The referral to PA must be documented in the case record.

The modifications of policy contained in Section III.B. are effective November 1, 1990.

V. SYSTEMS IMPLICATIONS

MBL

1. MBL does not currently support several situations addressed in ATTACHMENT A. Districts were notified in GIS Message 90MA009 that MBL is not programmed to calculate Medicare Buy-In eligibility for spousal impoverishment cases (question A.7). In addition, MBL does not currently support the correct treatment of German Reparation payments (question A.9), court ordered support of a community spouse (question A.1), or A&A in the first month of institutionalization (question A.9). Social services districts will be notified by GIS message and/or MBL Transmittal when system support is available. In the meantime, it is recommended that budgets involving the above cited circumstances be done off-line using the Institutionalized Spouse Budget Worksheet.

2. Home and Community-Based Waivered Services

MBL is not currently programmed to allow an amount for the maintenance allowance of the institutionalized spouse to be equal to the MA level for one instead of the PIA. It is, therefore, recommended that budgets involving an institutionalized spouse in receipt of home and community-based waivered services be done off-line using the Institutionalized Spouse Budget Worksheet.

3. PA Cash

In MBL Transmittal 89-3, social services districts were instructed to enter PA cash on MBL using Unearned Income Source Code 99 so that the grant would be counted when the OAI of a community spouse or family member was calculated. Based on the policy modification described in Section III.B.2 of this ADM, PA cash should no longer be entered on MBL for spousal impoverishment cases.

VI. EFFECTIVE DATE

The policy clarifications contained in ATTACHMENT A of this ADM are effective October 1, 1989. The policy modifications contained in Section III.B. are effective November 1, 1990.

Jo-Ann A. Costantino
Deputy Commissioner
Division of Medical Assistance

QUESTIONS AND ANSWERS -- FALL 1989 MA REGIONAL MEETINGS

A. Spousal Impoverishment-General

1. Q: If a court order of support from the institutionalized spouse to the community spouse exists, how is the amount of the community spouse monthly income allowance (CSMIA) determined?

A: The CSMIA is the amount necessary to bring the community spouse's otherwise available income (OAI) up to the level of the minimum monthly maintenance needs allowance (MMMNA). For purposes of this calculation, the court-ordered support amount is counted as part of the community spouse's OAI, and is not counted as part of the institutionalized spouse's income available to meet the cost of care. If the community spouse's OAI exceeds the MMMNA as a result of the receipt of court-ordered support, the community spouse will not be asked to contribute any of the excess toward the cost of the institutionalized spouse's care, nor will the excess be used to reduce the amount of any family member allowance.

2. Q: A spouse enters a nursing facility on September 29, 1989, and the community spouse refuses to provide information concerning resources. How should eligibility be determined?

A: Eligibility should be determined according to whether MA coverage is established prior to, or on or after October 1, 1989.

If coverage is first established prior to October 1, 1989, the case is treated as an undercare case. As long as the institutionalized spouse is otherwise eligible, MA must be authorized. The social services district must evaluate the cost effectiveness of pursuing a support action against the community spouse. Until such time as the community spouse provides resource information, the community spouse will not be entitled to a CSMIA, since the amount of the CSMIA cannot be established. (See pages 33 and 34 of 89 ADM-47.)

If coverage is first established on or after October 1, 1989, the case is treated as a new case. The community spouse's refusal to provide resource information will result in denial of eligibility for the institutionalized spouse, unless undue hardship is met, since eligibility cannot be determined. If undue hardship is met, and the case is authorized for MA coverage, the community spouse is not entitled to a CSMIA, since the amount of the CSMIA cannot be established. (See pages 13, 14, 31 and 32 of 89 ADM-47.)

3. Q: A couple is fully eligible for MA in the community. One spouse becomes hospitalized on April 1, 1990, and is expected to remain hospitalized for at least 30 days. The district does not become aware of the hospitalization until July, 1990. The case is then rebudgeted as a spousal impoverishment case beginning the month permanent absence status was established. As a result of spousal budgeting, the community spouse has excess income and/or resources. Should the district determine for this time period whether MA monies were expended for the community spouse and attempt recovery?

A: The community spouse is entitled to spousal impoverishment budgeting as of the month permanent absence is established, but downgrading coverage should occur from the point of discovery forward, providing for adequate and timely notice. The same is true for an MA eligible family member.

Recovery for MA incorrectly paid may be pursued, if determined to be cost effective.

4. Q: An applicant/recipient (A/R) enters an acute care hospital and is considered to be temporarily absent (e.g., the A/R is single and hospitalized less than 6 months, or is a spouse who is expected to remain hospitalized for less than 30 days). However, the A/R dies while still in temporary absence status. Does the death of the A/R overcome the presumption of temporary absence?

A: Just as the death of an A/R is sufficient to demonstrate SSI categorical relationship in the month of death, the death of an A/R overcomes the presumption of temporary absence for the month of death. SSI-related community budgeting is utilized for the month permanent absence is established.

A married A/R is budgeted as an institutionalized spouse as of the month permanent absence is established (the month of death), utilizing the MA level for a household size of one, and providing for the community spouse resource allowance, the community spouse and family member income allowances, with any remaining net income of the institutionalized spouse available to the cost of care. (See page 19 of 89 ADM-47.)

A single A/R is budgeted for the month permanent absence is established (the month of death) utilizing the MA level or PA Standard of Need for the appropriate household size, whichever is higher.

5. Q: If a spouse is in receipt of services under the Long Term Home Health Care Program (LTHHCP), is spousal impoverishment treatment of income and resources applicable?

A. The definition of an institutionalized spouse includes a spouse in the community who is in receipt of and expected to receive home and community-based services provided pursuant to a waiver under Section 1915(c) of the Social Security Act (Act) for at least 30 consecutive days. Therefore, spousal impoverishment budgeting is not applicable to individuals in the LTHHCP, unless such individuals are also in receipt of home and community-based waived services. (See page 9 of 89 ADM-47 for a list of these services.)

In order to establish that a spouse is in receipt of and expected to receive waived services for at least 30 consecutive days, the eligibility worker must verify that the spouse is receiving and expected to receive one or more waived services in accordance with the timeframe outlined in the individual's authorized plan of care.

6. Q: If a couple with a spouse in receipt of home and community-based waived services is fully eligible using community budgeting for a household of two, can the couple choose to utilize community rather than spousal impoverishment budgeting?

A: No. MA eligibility for an institutionalized spouse must be determined utilizing spousal impoverishment budgeting.

However, an FP-related community spouse may choose to contribute to the cost of care in order to spenddown to the MA eligibility level. Also, the institutionalized spouse or the authorized representative may elect not to make his/her income available to the community spouse. (See pages 17 - 19 of 89 ADM-47.)

7. Q: Should amounts paid for medical expenses and/or amounts paid for support by either spouse to each other be included when calculating income for Medicare Buy-In eligibility in spousal impoverishment cases?

A: In calculating eligibility for Medicare Buy-In, no deductions from income are allowed for amounts paid for medical expenses or for amounts paid for support to a spouse. This rule applies when determining Medicare Buy-In eligibility in spousal impoverishment cases. (See GIS 90 MA009.)

The income of the institutionalized spouse includes any contribution to care from the community spouse, with no deduction allowed for medical expenses. The income of the community spouse includes any CSMIA from the institutionalized spouse. No deduction is allowed for medical expenses (of either spouse). If the institutionalized spouse refuses to make income available to the community spouse, the income is counted only as the income of the institutionalized spouse.

8. Q: How should resources be considered in determining eligibility for Medicare Buy-In in spousal impoverishment cases?

A: In determining eligibility for Medicare Buy-In, the amount of resources to be compared to the Buy-In level are those resources that are or will be available to the individual after any transfers from the institutionalized spouse to the community spouse have been made.

9. Q: How are German Reparation payments and VA Aid and Attendance (A&A) treated in spousal impoverishment budgeting?

A: When received by a non-SSI related community spouse or family member, German Reparation payments and A&A are counted as income in determining eligibility for MA of the community spouse or family member. When received by an SSI-related community spouse or family member, German Reparation payments and A&A are disregarded in determining eligibility for MA of the community spouse/family member.

However, in determining the OAI of a community spouse or family member, the only deductions from income are those detailed in 89 ADM-47 (see pages 17-19). Therefore, German Reparation payments and A&A are counted as income for purposes of establishing the CSMIA, a family member allowance, and a contribution to the cost of care.

When received by an institutionalized spouse, German Reparation payments and A&A are disregarded when determining eligibility for MA of the institutionalized spouse under community budgeting (which includes the month permanent absence is established).

German Reparation payments and A&A benefits are considered to be available in the post-eligibility treatment of income. Post-eligibility treatment begins when chronic care budgeting begins. Therefore, German Reparation payments are available for the PIA, CSMIA, family member allowance, medical/remedial expenses not

covered by a third party or MA, as well as towards the cost of care. (See 88 ADM-25.) A&A, however, is only available to the cost of care in the post eligibility treatment of income. (See 88 ADM-10.)

10. Q. How is income from room and board treated when received by a community spouse?
- A. For purposes of determining the OAI of a community spouse, net room and board income should be determined by deducting actual expenses from gross room and board income.

B. Spousal Impoverishment - Treatment of Resources

1. Q: Once the maximum community spouse resource allowance (CSRA) is established, can it ever change?

A: The maximum CSRA is determined as of the first month eligibility is established during the most recent continuous period of institutionalization, and remains stable for the duration of the institutionalization (unless a greater amount is established by fair hearing or court order). If the continuous period is broken, and subsequently a new continuous period begins, a new maximum CSRA would be established as of the date of the new period of institutionalization. (See pages 12 and 13 of 89 ADM-47.)

NOTE: The maximum CSRA may be tentatively established upon a request for assessment which is not accompanied by an MA application. Upon application for MA, the maximum CSRA would be determined as of the first month eligibility is established.

2. Q: When are resources acquired by the community spouse considered to be available to the institutionalized spouse?

A: The only time the countable resources of the community spouse are considered to be the resources of the institutionalized spouse is prior to and including the month MA eligibility is established. (See page 13 of 89 ADM-47.)

EXAMPLE: In April the couple requests and is eligible for coverage back to January. The community spouse wins the lottery in February. Since MA eligibility is established in January, no resources of the community spouse received after January are considered available to the institutionalized spouse.

3. Q: What if an institutionalized spouse transfers resources to the community spouse in an amount which exceeds the CSRA?

In spousal impoverishment budgeting, prior to and including the month MA eligibility is established, all the countable resources of a couple which exceed the maximum CSRA are considered to be the countable resources of the institutionalized spouse. A countable resource in excess of the CSRA transferred from the institutionalized spouse to the community spouse is still considered available to the institutionalized spouse. This holds true both before and after eligibility of the institutionalized spouse is established. (See page 13 of 89 ADM-47.)

4. Q: The resources of a couple include a \$7,000 burial fund for the institutionalized spouse and his/her non-applying HR-related community spouse. How is the burial fund treated under spousal impoverishment?

A: MA eligibility of the institutionalized spouse is determined utilizing SSI-related treatment of income and resources. Therefore, the institutionalized spouse may set aside a burial fund of \$1,500 each for his/her self and his/her spouse, exclusive of any exempt burial items and spaces. In this instance, a maximum of \$3,000 (plus accrued interest on the \$3,000) of the \$7,000 burial fund could be considered exempt. The remainder would be considered an available resource. (See page 14 of 89 ADM-47.)

5. Q: One of the requirements of undue hardship under spousal impoverishment is that the A/R is not able to obtain appropriate medical care without the provision of MA. What is "appropriate" in this context?

A: If an individual cannot receive the care he/she needs because such care will not be provided without an assurance of payment by MA, then that individual is not able to obtain appropriate medical care unless MA is authorized. For example, an A/R is on alternate level of care status in a hospital (awaiting nursing home placement), and a nursing facility has a bed available but will not accept the A/R because the client does not have MA coverage.

Another example would be if a nursing facility has provided formal written notice to an MA applicant of the intent to discharge for non-payment. The MA applicant would not be able to continue to obtain an appropriate level of medical care unless MA is authorized.

6. Q. An ineligible or non-applying community spouse has an IRA of \$30,000, and a \$60,000 Certificate of Deposit (CD). How is the pension fund treated in determining the maximum CSRA?

A. A pension fund owned by an ineligible or non-applying community spouse is a countable resource of the community spouse. However, such a pension fund cannot be considered available to the institutionalized spouse. Thus, a pension fund owned by the community spouse is counted first toward the maximum CSRA. (See page 12 of 89 ADM-47.)

In the example given, using the \$30,000 IRA, an additional \$32,580 of the \$60,000 CD is needed to arrive at the maximum CSRA. The remaining \$27,420 is attributable to the institutionalized spouse.

C. Spousal Impoverishment - Family Member Allowance

1. Q: What constitutes verification that the institutionalized and/or community spouse provides more than 50% of the maintenance needs of a family member for purposes of determining dependent status?

A: In order to be eligible to receive a family member allowance, the OAI of the family member cannot exceed the federal poverty level amount used in the family member allowance formula (as of October 1, 1989, the amount is \$815; as of July 1, 1990, the amount is \$856).

If the OAI of the family member is less than the appropriate amount, the family member must have more than 50% of the maintenance needs met by the institutionalized and/or community spouse. (See page 9 of 89 ADM-47.)

In order to determine whether this criteria is met, the following is sufficient verification:

a) income tax return of the institutionalized and/or community spouse listing the individual as a dependent; or

b) unless there is sufficient reason to suspect otherwise, a written statement from either spouse indicating that more than 50% of the family member's maintenance needs are being met by the institutionalized and/or community spouse.

2. Q: When is dependent status determined?

A: Dependent status is determined as of the date of, or at any time during, the most recent continuous period of institutionalization. Dependent status is subject to change. Dependent status might be established as of the date of institutionalization, and due to subsequent changes in income or circumstances, dependent status might be lost. Conversely, dependent status might not be established as of the date of institutionalization, but due to subsequent changes in income or circumstances, dependent status could be established.

3. Q: Is a family member allowance calculated for a dependent member of a single institutionalized person's former family household?

A: No. The family member allowance is utilized in spousal impoverishment budgeting. For a single institutionalized person, the former family household should continue to be brought up to the appropriate MA level or PA Standard of Need, whichever is higher. (See page 24 of 89 ADM-47.)

4. Q: If the district does not receive timely notice of a change in income of an MA ineligible community spouse and/or family member, should the district recalculate the CSMIA and/or the family member allowance retroactively and pursue any overpayment?

A: The CSMIA and/or the family member allowance should be recalculated retroactively. If there should have been a higher amount available to the cost of care of the institutionalized spouse, recovery for MA incorrectly paid may be pursued.

If there should have been a lower amount available to the cost of care of the institutionalized spouse, the CSMIA and/or family member allowance must be retroactively adjusted.

5. Q. How are educational grants/loans treated when calculating the family member allowance?

A. Educational grants/loans are considered otherwise available income when directly received by the family member. Educational grants/loans not received by the family member (i.e., sent directly to the educational institution), are not considered otherwise available income.

D. Transfer of Assets

1. Q: Do the new transfer rules apply to PA cases as well as MA cases?

A: PA recipients are not affected by the transfer provisions. A/Rs of Home Relief, however, are subject to the provisions of Department Regulation 370.2(c)(6). (See page 8 of 89 ADM-45.)

2. Q: After October 1, 1989, an institutionalized spouse transfers resources or the homestead to his/her community spouse. Is the institutionalized spouse subject to a penalty period?

A: No. The transfer rule contains exceptions for the transfer of a homestead to a spouse and for the transfer of other types of resources to or for the sole benefit of a community spouse. (See page 16 of 89 ADM-45).

3. Q: An institutionalized spouse transfers \$3,000 in bonds to his/her community spouse. a) Is the institutionalized spouse subject to a penalty period? b) Does it matter whether a transfer is made prior to or after eligibility has been established?

A: a) As indicated in Question 2, an institutionalized spouse's transfer of resources to or for the sole benefit of the community spouse is an exception to the transfer rule. However, spousal impoverishment budgeting rules may require all or part of those resources to be considered available to the institutionalized spouse in determining his/her MA eligibility.

b) The treatment of a transfer from an institutionalized spouse to the community spouse is the same prior to and after eligibility is established.

4. Q: Is the "look back" period for prohibited transfers 30 months for all MA applications filed after October 1, 1989? Does the "look back" period begin with the month of application or the first month of the retroactive period, if coverage is sought during that time?

A: Since transfers made prior to October 1, 1989 are subject to the 24 month transfer rules, for applications filed less than 24 months after October 1, 1989, the "look back" period must be 24 months. Beginning October 1, 1991, the "look back" period will be 30 months from the month MA coverage is being requested, or back to October 1, 1989, whichever period is shorter.

EXAMPLE: An individual applying for MA coverage to begin in the month of February, 1992, will be required to provide information on transfers made since October 1, 1989, a total of 28 months.

However, an individual applying for MA coverage to begin in the month of June, 1992, will be required to provide information on transfers made since December, 1989, the maximum 30 month period.

5. Q: If an individual in a nursing home has made a prohibited transfer and has income in excess of the MA level for one, the individual is denied MA during the penalty period. What incurred or paid bills may this individual use to spend down to obtain eligibility in a given month?
- A: During the penalty period, coverage may only be obtained for care and services other than nursing facility services, a level of care equivalent to nursing facility services provided in a hospital, or home and community-based waived services. In order to obtain coverage for costs for acute care or for ancillary services not included in the nursing facility's per diem rate, only bills paid or incurred for such care and services can be utilized to meet a spenddown liability. (See page 12 of 89 ADM-45.)
6. Q: Can a burial fund be used to reduce the amount of the uncompensated value of a transferred resource?
- A: HR-related and ADC-related MA-Only A/R's may not use a burial fund to reduce the uncompensated value of a transferred resource. An SSI-related individual who has no other available resources designated as a burial fund, may utilize an amount up to \$1,500 each for the individual and his/her spouse to reduce the uncompensated value of a transferred resource. (See page 10 of 89 ADM-45.)
7. Q: If a prohibited transfer of a jointly owned resource is made by the couple, what is the uncompensated value when determining the penalty period of the applying spouse?
- A: Only that portion of the jointly owned resource attributable to the applying spouse would be used to determine the uncompensated value.
8. Q: After October 1, 1989, an applicant transfers resources to his/her spouse. Prior to the determination of eligibility, the spouse who is not applying re-transfers

the same resource to another individual who does not meet the exception criteria. Is such a transfer prohibited and does a penalty period result for the applying spouse?

A: The re-transfer of a resource by a non-applying spouse to another person is only prohibited if the original transfer occurred prior to the institutionalization of the applying spouse. Such a re-transfer, if made prior to the month after eligibility is established for the institutionalized spouse, would impose a penalty period for receipt of coverage for nursing home level of care or waived services on the applying spouse. The penalty period begins on the date the non-applying spouse inappropriately transferred the resources.

If the re-transfer occurred after the month eligibility is established for the institutionalized spouse, no penalty period is imposed on the institutionalized spouse.

9. Q: A parent transfers the homestead to the joint ownership of his/her four children. Only one child meets the criteria which would exempt the parent from a penalty period. Is a penalty period imposed on the parent? If so, what is the uncompensated value for purposes of determining the penalty period?

A: Since not all the children meet the exception criteria, a penalty period is appropriate. In this case, the fair market value of the home (less any outstanding loans, mortgages, or other encumbrances) at the time of the transfer would be reduced by one-fourth. The remainder is the uncompensated value for purposes of determining the penalty period.

10. Q: If an individual who is eligible only under the catastrophic illness provisions has made a prohibited transfer, should that individual be given Coverage Code 10 (All Services Except Long Term Care), or Coverage Code 03 (Catastrophic)?

A: The individual should be given Coverage Code 03. Giving the individual Coverage Code 10 would allow the individual broader coverage than he/she is entitled to under the Catastrophic Illness Program.

NOTE: As of July 1, 1990, coverage for catastrophic inpatient care for FNP individuals was eliminated as a reimbursable service under the MA Program. (See GIS 90MA038.)

11. Q: If a penalty period due to a prohibited transfer has been established for an individual in receipt of home and community-based waived services in one district and that individual moves to a nursing home in another district, is the penalty period recalculated based on the new district's regional rate?

A: The regional rate used to determine the penalty period is the rate in the region in which the individual first applies as an institutionalized person. Individuals in receipt of home and community-based waived services are considered to be institutionalized. Therefore, the original penalty period would not change. (See pages 10 and 11 of 89 ADM-45.)

12. Q: Miss Smith has shared her homestead with a sister for many years. No one else resides in the home. Miss Smith enters a nursing home, and applies for MA as a chronic care case. Miss Smith wishes to transfer her homestead to her sister, who meets the exception criteria for the transfer of a homestead. Once Miss Smith has entered the nursing home, the homestead is no longer exempt. Can Miss Smith now transfer the homestead to her sister without penalty?

A: Although the homestead is no longer exempt, such a transfer is not prohibited under the MCCA. Therefore, districts must document the individual's intent at the time of application to make the transfer and must allow a reasonable timeframe in which to accomplish the transfer. The district must document that the transfer has occurred, or if there is a delay, the reason for such delay.

If the individual refuses to indicate intent to transfer, or does not provide sufficient reason for not accomplishing the transfer within a reasonable period, the homestead must not be excluded in determining continued eligibility.

This does not apply to liquid resources. Single individuals with liquid resources in excess of the appropriate MA levels will not be given MA eligibility pending transfer of the resource.

13. Q: If an individual makes a prohibited transfer of resources, is the individual eligible for coverage of services provided under the LTHHCP?

A. A prohibited transfer of a resource only disqualifies an otherwise eligible individual from receiving coverage for certain services provided under the LTHHCP, namely home and community-based waived services. (See page 9 of 89 ADM-45 for a list of these services.)