



Policy Clarification 2020-02-02

Title: Impact of Private Payment on Resource Eligibility

Date: February 26, 2020

From: Erin Kelley, Senior Medical Eligibility Policy Manager

Program(s) impacted: Elderly and Disabled Medical Programs

The purpose of this document is to provide guidance in situations where a consumer residing in a nursing facility has either partially or fully private paid the facility and what that means in terms of resource eligibility for the long term care program.

The following Medical KEESM provision states the basic policy:

5410 Types of Personal Property – *"Personal property consists of all property excluding real property. Cash assets which are a form of personal property consist of cash on hand, money in checking and savings accounts, stocks or bonds, cash surrender or loan value of life insurance policies, trust funds, monies or other property provided to a child under the Uniform Transfers to Minors Act (UTMA), and similar items on which a determinate amount of money can be realized. Personal property shall be considered available to the account owner/holder except for property held by a conservator or guardian is considered available to the conservatee or beneficial owner."*

Other personal property as used in the definition include such items as personal effects, household equipment and furnishings, home produce, livestock, equipment, vehicles, inventory, prepaid funeral contracts, and contracts from the sale of real or personal property.

Unless exempt, the value of personal property owned by the individual must be considered."

If a consumer has been determined otherwise eligible for long term care and Medicaid payment is authorized for months in which the consumer has already private paid the nursing facility, any funds paid to the facility in excess of the liability issued in that month will be held "on account" with the facility and will be subject to reimbursement. This creates a potential resource eligibility issue as once that money is placed on account with the facility, it is now an available asset which may immediately place the consumer over resources as soon as they were found to be otherwise eligible.

When a consumer has private paid the nursing facility for months in which medical assistance has been requested, staff shall contact the facility to determine how much was paid in each

month and/or how much of a private payment was attributed to each month. If the amount paid to the facility exceeds the estimated liability for any month, the difference between the liability and the amount paid shall be compared to the total countable resources owned by the consumer in that month. If the total countable resources owned by the consumer plus the amount of the excess payment results in resource ineligibility, the consumer's request for long term care medical assistance shall be denied in all months applicable.

Note: If only a single month is impacted by resource ineligibility and the amount of excess resources plus the anticipated liability for that month is less than the facility's monthly cost of care, the voluntary contribution policy as outlined in PM2019-12-01 shall be considered. If the consumer agrees to the voluntary contribution and meets the general criteria, the voluntary contribution policy shall be followed. If the consumer does not meet the general criteria or does not agree to apply the voluntary contribution, long term care medical assistance shall be denied for the month impacted by the private payment.

If denied long term care, coverage under other medical programs shall be considered as the money held on account with the facility only becomes available if approved for long term care. However, as there is no way to differentiate between resources tested for long term care medical assistance and those tested for other medical programs, resource records reflecting the excess payment are not necessary and shall not be added to KEEs. Rather, a V200 shall be sent with the following snippet added to the "Other Reasons Listed Here" section:

"Long Term Care medical assistance has been denied for the month(s) of {month(s) affected} due to a private payment made to the facility. Had Long Term Care been approved, the monies applied for the month(s) of {month(s) affected} would be subject to reimbursement and are therefore considered available assets for this program. However, as these monies are only available for the Long Term Care program, eligibility under other medical programs will be considered during this time. You will receive a separate notice regarding your eligibility for the other medical programs."

Consider the following examples:

1. Meghan applies for long term care medical assistance in December and requests prior medical. In November, Meghan private paid the facility in full for the months of September through November. Since Meghan had the ability to private pay in the prior medical months, it's determined that she is not eligible for the months of September and October due to the accumulated funds in her personal bank account. However, due to her payment to the facility in November, Meghan appears to be resource eligible in this month. If Medicaid payment were to be authorized effective November, the funds used to private pay the facility in that month would be held "on account" with the facility and would be an available resource to Meghan. The worker calculates Meghan's liability and deducts that amount from the amount of the private payment for the month of November. The amount of payment in excess of the calculated liability far exceeds the \$2,000 resource limit; therefore, Meghan's request for long term care medical assistance is denied for the month of November and a one-month Medically Needy Spenddown is established. Long term care is authorized effective December as only the prior medical months were impacted by Meghan's private payment to the facility. A voluntary contribution would not have been applicable for the month of November as it was a prior medical month.

2. Florence applies for long term care medical assistance in January and requests prior medical. In October, Florence private paid the facility in full for the months of October through December and paid a portion of January – the application month. Florence is otherwise eligible in all months due to the early payment to the facility; however, if Medicaid payment were to be authorized effective October, the funds used to private pay would be held “on account” with the facility and would be available to Florence. After determining that the amount of payment made to the facility in the months of October through December less the anticipated liability in these months exceeds the \$2,000 resource limit, Florence’s request for long term care medical assistance is denied and a Medically Needy Spenddown is established in these months. However, Florence only partially private paid for the application month. The amount of excess payment in the month of January does not exceed the cost of care in the facility; therefore, Florence is informed of the potential to make a voluntary contribution in order to become resource eligible in this month. Florence agrees to the voluntary contribution and medical assistance is authorized effective January.
3. Harvey applies for long term care medical assistance in February and does not request prior medical. Harvey has made a partial private payment to the facility for the month of February; however, this payment less Harvey’s anticipated liability in this month do not exceed the \$2,000 resource limit and there are no other countable resources. The excess payment is considered an available resource; however, because Harvey is within the resource guidelines, long term care medical assistance is authorized February.

For questions or concerns related to this document, please contact one of the KDHE Medical Policy Staff below.

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