Long Term Care Partnership Info.

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KEESM 5130

A. **Long-Term Care Insurance Partnership Program and the Asset Protection Process -** This program policy is effective with any application, change, or review processed on or after 10/1/2007.

1. **Background -** Under the authority provided by the federal Deficit Reduction Act of 2005 (DRA), Kansas has established a Long-Term Care Insurance Partnership Program. Under this program, an individual who purchases a long-term care insurance policy which meets specific criteria established in the DRA, may qualify for Medicaid while retaining a greater amount of their assets than would be possible under the usual resource rules. Long-term care policies which meet these requirements are known as Qualified Plans (QP).

   Purchase of a QP would allow the individual to protect a portion of their assets in determining their eligibility for Medicaid and from the estate recovery claim. This additional amount of resource protection is known as the Asset Disregard (AD). The AD is equal to the amount of insurance benefits paid by the carrier under the policy to or for the benefit of the individual. The AD is in addition to any other disregard the individual would be eligible to receive.

2. **Qualifying Plan -** The Kansas Insurance Department (KID) is responsible for setting guidelines and certifying policies sold in the state as a QP, or a LTC Partnership Policy. Not all LTC policies sold in the state meet these requirements and each policy must be evaluated to determine if it is a QP. The eligibility worker is not responsible for determining if an insurance plan is either qualifying or non-qualifying, but should understand the basic elements of a QP. The long-term care insurance policy must meet the following requirements in order to be considered a QP:

   a. The policy (including those issued under a group insurance contract) must be tax qualified under federal tax law;

   b. The policy must be issued (for new policies) or exchanged (for existing policies) after 4/1/2007, the date Kansas was approved to participate in the LTC Partnership Program;

   c. The policy must contain age specific inflation protection;

d. The individual covered by the policy must have been a resident of the state when coverage first became effective; and

e. The policy must contain certain consumer protection requirements.

The Medicaid applicant/recipient is responsible for reporting the existence of any long-term care insurance policy, including those which may have exhausted benefits and are no longer in effect. All current long-term care insurance policies will continue to be listed as a Third Party Resource in MMIS. Any payment made by these policies will also continue to be treated as insurance through the MMIS billing process and are not considered income. Policy premiums continue to be allowed as a medical expense.

DOCUMENTATION REQUIREMENTS: Once the policy is reported, the eligibility worker shall investigate to determine whether or not the policy is a QP for purposes of the LTC partnership program. KID is establishing rules that would require all newly issued plans to contain a document certifying the policy as a LTC Partnership Policy, but these requirements are not yet in place. Until these standard certificates are available, the QP status of a long-term care insurance policy may be verified for each policy with an issue date on or after 4/1/2007 by any of the following documents:

An endorsement page issued with the insurance policy certifying the policy is a Partnership Policy;

• A certificate issued by the group plan carrier certifying the policy is a Partnership Policy;
• A letter from the insurance company or group plan carrier certifying the policy is a Partnership Policy; or
• A letter or other documentation from the Kansas Insurance Department certifying the policy is a Partnership Policy.

EXCHANGE POLICIES: The Kansas Insurance Department intends to establish specific protocol to allow policies purchased prior to 4/1/2007 to be exchanged for policies which will meet LTC partnership standards. Until such general requirements are established, the company may elect to reissue the policy with an effective date on or after 4/1/2007. Whether reissued or exchanged, verification is still required to establish that the policy is a QP for purposes of the LTC partnership.

3. **Affected Programs -** The following programs are impacted by the new AP provisions:

• MS

• Independent Living (Spenddown)
• Nursing Home
• HCBS

• QMB
• LMB
• Expanded LMB
• Working Healthy

4. **Asset Disregard -** The Asset Disregard is a dollar-for-dollar amount of insurance benefits paid out by a QP on a reimbursement, cash benefit basis, indemnity insurance basis, or on a per diem or other periodic basis without regard to the expenses incurred during the period to which the payments relate. In addition, the AD applies to all insurance benefits received from a QP even if the long-term care costs would not have been covered by Medicaid.

   The AD is the amount of insurance benefits from a QP that have been received prior to the date eligibility is being determined, even if additional insurance benefits may be received in the future from the QP. The AD is in addition to the normal asset limit for the applicable program. The AD would also be disregarded from the estate recovery claim after death.

   An individual need not exhaust the benefits payable under the QP before applying for assistance. The AD is determined at the time the individual applies for assistance. Once approved for assistance, the AD may be adjusted at review or as needed due to a change in circumstances. The AD is determined by the amount of actual verified insurance benefits paid out under the QP. Under no circumstances would future prospective benefits, as yet unpaid, be counted as part of the AD.

   The AD simply increases the resource limit for the affected programs. The AD is not a resource exemption and is specific to the individual receiving insurance benefits from the QP. The individual must still meet all other Medicaid financial and non-financial eligibility criteria in order to qualify for medical assistance.

   The eligibility worker shall verify the amount of insurance benefits paid out by the QP with documentation issued by the insurance carrier. Either a written statement from the carrier or a benefits statement issued to the policyholder will be sufficient verification.

   Example 1: A single individual with a QP applies for long-term care assistance under the MS program with a resource limit of $2,000. The QP has paid out $50,000 at the time of the application. This individual would

qualify for assistance if total countable resources did not exceed $52,000 ($2,000 + the AD of $50,000 = $52,000).

Example 2: A married individual with a QP applies for long-term care assistance under the MS program and also requests a division of assets. The QP has paid out $25,000 at the time of the application. The Community Spouse Resource Allowance (CSRA) is determined to be $50,000. This individual would qualify for assistance if total countable resources did not exceed $77,000 ($2,000 + the AD of $25,000 + the CSRA of $50,000 = $77,000).

Example 3: A married couple applies for QMB-only coverage with a resource limit of $6,000. One of the spouses has a QP that previously paid out $4,500 for a short-term nursing home stay they had a few months ago. This couple would qualify for assistance if total countable resources did not exceed $10,500 ($6,000 + the AD of $4,500 = $10,500).

Example 4: A single individual applies for Working Healthy coverage with a resource limit of $15,000. The QP previously paid out $20,000 for a 6 month nursing home stay that ended last month. This individual would qualify for assistance if total countable resources did not exceed $35,000 ($15,000 + the AD of $20,000 = $35,000).

In any of these examples, if the individual or couple had failed the resource limit, the application would have been denied due to excess resources. If the QP benefits had not been exhausted at the time of the original application, a recalculation of the AD would be required upon reapplication where additional benefits have been paid out since the initial determination.

NOTE: The determination of the CSRA would not be affected by the amount of any AD for the long-term care spouse. The community spouse would still be able to shelter countable assets in an amount equal to the CSRA. The long-term care spouse could shelter assets equal to the amount of the AD plus $2,000. And since the AD is specific to the individual, resources to be disregarded in this manner would be expected to be listed in the name of the long-term care spouse once the division of assets is completed.

5. **Effective Date -** The Long-Term Care Insurance Partnership Program became effective in Kansas on 4/1/2007. Only policies purchased or exchanged on or after that date can qualify as a QP in Kansas. Any insurance benefits paid out on a QP on or after that date count towards the amount of the AP. Any benefits paid out under a long-term care insurance policy issued in Kansas before that date are not counted towards the AP.

   Example 1: An individual with a QP applies for long-term care assistance

on 9/21/2007, requesting prior medical. This individual has been in the nursing home since 6/15/2007 with benefits paid out under the QP commencing with the date of entry. The QP was purchased on 4/11/2007. The eligibility worker processes the application on 10/20/2007. Since the application is being processed after 9/30/2007, the new policy is applicable. The total amount of insurance benefits paid out of the QP since 4/11/2007 would be verified to determine the AD amount. The AD amount would be calculated separately for each of the prior months based on the total benefits paid out through the end of each particular month.

Example 2: A married individual with a QP applies for long-term care assistance on 10/20/2007. This individual has been in the nursing home since 5/5/2007 with benefits paid out under a non-qualifying long-term care plan since the date of entry. In order to take advantage of the new AD rules, the non-qualifying plan was exchanged for a QP on 8/23/2007. The benefits paid out since the date of the exchange equal the AD, while benefits paid out prior to that date under the non-qualifying plan are not counted.

Example 3: A single individual with a non-qualifying long-term care policy applies for long-term care assistance on 10/15/2007. This individual has been in a nursing home since 2/7/2007 with benefits being paid out under the plan since the date of entry. Since this individual does not have a QP, there would be no additional AD. This individual would have to meet the $2,000 resource limit to qualify for assistance.

6. **Reciprocity -** Kansas Medicaid participates in a national reciprocity agreement with other states operating a Long-Term Care Insurance Partnership Program. What this means is that a QP from another state that provides reciprocity will be deemed to be a QP in Kansas. Kansas Medicaid rules would still be used to determine the amount and application of the AD.

   Verification that the policy is a QP in the state in which it was issued would be accomplished in the same manner as for a policy issued in Kansas. The eligibility worker would obtain a copy of the insurance policy endorsement page or group plan certificate, a letter from the insurance company or group plan carrier, or a letter from the other state's Department of Insurance.

   The eligibility worker must also verify that the state in which the policy was issued has not opted out of the national reciprocity agreement. If the state is not a reciprocity state, then the policy is not recognized in Kansas as a QP and the individual would not be entitled to an AD for any benefits paid out under the policy.

   Currently there is no centralized list of states participating in the Long-

Term Care Insurance Partnership Program or whether those states offer reciprocity. Until a list is developed, each out-of-state policy would be investigated to determine if it is a QP as previously described. If the policy is a QP, then the Medicaid office in the state the policy was issued would also be contacted to ascertain if it is a reciprocity state.

Example 1: An individual moves to Kansas and applies for medical assistance. The individual has a long-term care insurance policy that is a QP in the state of issue. If the issuing state provides for reciprocity, then the policy would be deemed a QP in Kansas. Eligibility would be determined using Kansas Medicaid rules. The AD would equal the amount of benefits paid out by the QP since 4/1/2007.

Example 2: An individual moves to Kansas and applies for medical assistance. The individual has a long-term care insurance policy that is a QP in the state of issue. The issuing state is not a reciprocity state. Kansas does not recognize this as a QP and the individual is not entitled to an AD. The regular resource limits would apply.

7. **Documentation -** There have been no KAECSES system changes to accommodate this new policy. Existing screens and codes will be used to identify, track and document individuals and cases with a QP and the amount of any asset disregard. Documentation in the case file describing the QP/AD involvement is required.

• A "QP/AD CASE: CHECK RESOURCES" notation shall be entered on the WOAL screen with a due date of 01/01/99.
• Countable assets in excess of the normal resource limit shall be coded as XM on the resource screens up to the amount of the AD.
• A screen print of the MSRD screen with a notation that this is a QP/AD case shall be retained in the case file along with verification of the insurance benefit amount paid out to document the amount of the AD.
• Existing medical assistance notices shall be used to notify the individual of case action.

FOR MORE INFORMATION: Individuals with specific questions concerning QP long-term care insurance policies, including how to exchange an existing policy, are referred to the Kansas Insurance Department and/or the individual's current insurance carrier. The eligibility worker is responsible for answering general questions regarding the impact of a QP on Medicaid eligibility, but shall not provide advice regarding exchange or purchase of a LTC Partnership Policy.

The Kansas Insurance Department offers a toll-free number to consumers: 1-800-432-2484 (in Kansas only). The e-mail address is commissioner@ksinsurance.org.

For questions regarding the asset disregard or any other information addressed in this memo, contact Tim Schroeder at (785) 296-1144 or by e-mail at Tim.Schroeder@khpa.ks.gov