

Medicaid Eligibility Procedure Letter No. 107

Effective Date: February 16, 2016
OAC Rules: 5160:1-3-05.13
To: All Medicaid Eligibility Manual Holders
From: John B. McCarthy, Director
Subject: Treatment of the Home

Reason for Change: The Ohio Department of Medicaid (ODM) is in the process of updating Ohio Administrative Code 5160:1-3-05.13 regarding the treatment of the home to reflect a change in policy. Until the updated rule is formally issued, please use the following guidance regarding treatment of the home when determining Medicaid eligibility for the provision of long-term care services.

Prior Policy: When an individual was seeking long-term care services (nursing facility, HCBS waiver, or PACE), for the value of the home to be excluded as a resource, the home must be deeded in the individual's or the individual's spouse's name.

New Policy: The home does not have to be deeded in the individual's or individual's spouse's name to be excluded as a resource. The home may be deeded to a revocable trust so long as the principal of the trust remains a resource of the individual or the individual's spouse. The principal of the trust will be considered a resource if the individual or the individual's spouse has the legal authority to revoke the trust or terminate the trust and then use the funds or corpus of the trust for his or her support and maintenance under the terms of the trust. When excludable resources are put into a revocable trust, as described in this paragraph, the placement of that resource into the trust does not change the excludable nature of the resource.

This policy only applies to revocable trusts.

Note: Because real or personal property that is placed or deeded to an irrevocable trust is generally not considered an available resource to the individual, the act of placing property into an irrevocable trust is considered a transfer of assets and such transfers must be reviewed in accordance with the rules governing improper transfers.

Action Required: Effective immediately, workers must exclude the value of the home as a resource for determining Medicaid eligibility for the provision of long-term care services. If the home is deeded to a revocable trust, workers must subtract the value of the home from the trust when determining resources for provision of long-term care services. If the home is transferred out of a revocable trust, workers will need to confirm that the transfer complies with Ohio Administrative Code 5160:1-3-07.2. If the transfer complies with Ohio Administrative Code 5160:1-3-07.2, the transfer should not be considered improper. Additionally, workers must continue to determine if the value of the individual's home is under the home equity limit. If the value of the home exceeds the home equity limit then the individual is not eligible for long-term care services, unless an exception to the home equity limit applies.

Please contact ODM Eligibility Technical Assistance at Medicaid_Eligibility_TA@Medicaid.Ohio.gov for further assistance or clarification regarding the processing of specific cases. If additional assistance is needed, please contact the CRISE Help Desk at CRISE_HELPDESK@jfs.ohio.gov.

This information is also available on the Internet and may be accessed at: www.medicaid.ohio.gov.