GOVERNMENT OF THE DISTRICT OF COLUMBIA
Department of Health Care Finance

Office of the Senior Deputy Director/State Medicaid Director

TO: EPD Waiver Providers and Other Interested Stakeholders

FROM: Claudia Schlosberg, J.D.
Senior Deputy Director/State Medicaid Director

DATE: August 15, 2017

RE: **Eligibility Determination and Enrollment Process for EPD Waiver:**
Response to G.W. Health Insurance Counseling Project (HICP) Fact Sheet

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On July 11, 2017, the George Washington (G.W) Health Insurance Counseling Project (HICP) distributed a fact sheet instructing District of Columbia (DC) Elderly and Persons with Physical Disability (EPD) waiver providers to file a fair hearing for over income applicants and beneficiaries based on HICP's misinterpretation of the District's post eligibility treatment of income rules and procedures. The purpose of this memorandum is to clearly explain the District's eligibility determination and post eligibility treatment of income processes. This memorandum addresses two major points:

(1) Outlines the District's Medicaid eligibility determination process for applicants and beneficiaries applying for the Long-Term Care Services and Supports (LTCSS) under the Home and Community Based Services (HCBS) EPD waiver program and post eligibility treatment of income as it relates to contribution to care (patient payability), and

(2) Clarifies the information presented by HICP and explain how their fact sheet does not comply with Federal and District regulations governing Medicaid application and post eligibility treatment of income for the EPD waiver program.

I. Eligibility Determination and Enrollment Process for EPD Waiver

Eligibility determination and enrollment under the EPD waiver program is a two-step process. To qualify for EPD waiver, an applicant/ beneficiary must meet all non-financial and financial requirements as mandated by Federal and District regulations. The non-financial requirements are outlined under 42 CFR Subpart E of the Federal regulations and under 29 DCMR Section 9800.4. The financial requirement mandate is detailed under 42 CFR Subpart G of the Federal regulations and 29 DCMR 9801.1 for income and 9802.1 for resources. Once determined eligible and enrolled under the EPD waiver program, the beneficiary's income is reviewed to determine his/her contribution to care (also called the patient payability amount).

Step 1 – Eligibility Determination Process for EPD Waiver

First, the applicant/beneficiary must meet the non-financial requirements outlined under 29 DCMR 9800.4 which includes DC residency, United States citizenship or satisfactory immigration status, valid Social Security Number, age, and clinical determination. If the applicant/beneficiary meets all non-financial requirements, then the next step in the process is to complete the financial evaluation in accordance with 29 DCMR Section 9800.

To financially qualify for LTCSS including the EPD waiver program, applicants/beneficiaries must meet both income and resource requirements (29 DCMR 9800.6). The applicant/ beneficiary's resources must be at or below $4,000 for an individual or $6,000 for a couple to qualify for Medicaid. If the applicant/beneficiary's total countable resources are at or below the resource limit, the agency will proceed to determine financial eligibility based on income.

Under Appendix B-4 of the District's Application for 1915(c) HCBS waiver, applicants or beneficiaries seeking LTCSS may meet income requirements under three (3) eligibility groups:

1. **Supplemental Security Income (SSI) Recipients**

   Under 42 CFR §435.120 and 29 DCMR Section 9511.13 individuals who receive or eligible to receive SSI payment (SSI recipients) determined by Social Security Administration (SSA) are categorically eligible for Medicaid under a mandatory covered group.

2. **Special Income Standard (SIS)**

   For Non-SSI recipients, applicants/beneficiaries are screened at the SIS of 300% of the Supplemental Security Income (SSI) Federal Benefit Rate (FBR). The SIS limit for 2017 is $2,205.00.

   a. If the applicant/beneficiary's countable income is at or below the 300% SSI, the applicant/beneficiary has meet the income requirement and is financially eligible for LTCSS.

   b. If the applicant/beneficiary's countable income is above the 300% of the SSI, the applicant/beneficiary is over income for the program. However, if the applicant/beneficiary met all other requirements, he/she may qualify under the Medically Needy Spend down process.

3. **Medically Needy Spend Down Process**

   Applicants/beneficiaries whose countable income exceeds the 300% of the SSI may financially qualify for LTCSS including EPD waiver through the Medically Needy Spend Down process. The Medically Needy Spend Down is authorized under 42 CFR §

435.601 and § 435.831 of the Federal regulations. Applicant/beneficiary must submit incurred medical bills to the agency for evaluation.

a. If the applicant/beneficiary's total incurred medical bills are below the spend down obligation amount, he/she is **not** financially eligible for LTCSS under the EPD waiver.

b. If the applicant/beneficiary's total incurred medical bills are equal to or higher than the spend down obligation amount, he/she qualifies for LTCSS under the EPD waiver.

Step II – Post Eligibility Treatment of Income

Post Eligibility Determination Process

Once the applicant is determined eligible for EPD waiver program, Economic Security Administration (ESA) staff must calculate the beneficiary's contribution to his/her care by applying the post eligibility treatment of income standards in accordance with 29 DCMR 9804. The contribution to care calculation applies to all individuals approved for LTCSS regardless of setting. This means that individuals in both institutional care setting and in Home and Community-based waiver programs may be required to make a contribution to the cost of their care. To determine the beneficiary's contribution to care (patient payability), the agency will;

1. Determine the beneficiary's gross countable income.

2. Subtract the allowable deductions as prescribed under 42 CFR §435.726

a. Community Maintenance Needs Allowance (CMNA for HCBS Waiver Only). In the District, CMNA is equal to the 300% SSI federal benefit rate ($2,205.00 in 2017). For HCBS waiver programs only.

b. Personal Needs Allowance (PNA for Institutional Care Only) of $70.00

c. Dependent Family Allowance equal to the Medically Needy Income Limit (MNIL) for each dependent. The MNIL for 2017 is $642.83

d. Incurred medical expenses that are not subject to third party payment. This includes medical expenses used to meet a spend down obligation if the beneficiary financially qualified through the Medically Needy Spend down process.

e. Remedial care expenses equal to the amount paid to a guardian, conservator, or representative payee.

f. Additional deductions may apply to Institutional Care

3. Once the allowable deductions are subtracted from the beneficiary's gross countable income, the remaining amount is the patient payability. The patient payability amount can range from $0.00 to a higher amount depending on the calculation. If the calculated patient payability is $0.00, the beneficiary does not have to contribute to his/her care. ESA sends a notice to all LTCSS beneficiaries that outlined their contribution to care (patient payability). The notice is called DHS 1445: Statement of Patient Payability.

Note: The outlined eligibility determination, enrollment, and post eligibility treatment of income processes apply to initial application, change of circumstance, and renewal.

II. Summary of Facts

Eligibility determination and enrollment for LTCSS under the EPD waiver is a two-step process. The post eligibility treatment of income, described in Step II, is contingent upon the beneficiary's EPD waiver eligibility and enrollment, described in Step I. If the applicant/beneficiary does not meet the requirements in Step I, Step II does not apply. This determination process is based on both Federal and District regulations. The District does not have the legal authority to deviate from established policies and procedures and cannot allow over income EPD beneficiaries to remain eligible for LTCSS services and be evaluated solely under the post eligibility treatment of income. This practice does not comply with Federal or District regulations.

III. Conclusion

HICP assertion that an "over income beneficiary should be able to use the Post Eligibility Treatment of Income" and should remain eligible for EPD waiver services does not conform with 42 CFR Subpart E (General Eligibility Requirements), 42 CFR Subpart G (General Financial Requirements and Options), or Section 9800 of the DCMR outlined in this document. As presented, the District will only determine the beneficiary's contribute to his/her care (post eligibility treatment of income) after the beneficiary is determined **eligible** for LTCSS under Chapter 98 of the DCMR.

Should you have any questions about this policy, please contact Araceli Simbulan, Program Analyst by email at Araceli.Simbulan@dc.gov or Danielle Lewis-Wright, Associate Director at Danielle.Lewis@dc.gov.