

DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF DIRECTOR

ACTION REFERRAL

TO <i>Wells</i>	DATE <i>3-12-07</i>
--------------------	----------------------------

DIRECTOR'S USE ONLY	ACTION REQUESTED
1. LOG NUMBER <i>000586</i>	<input type="checkbox"/> Prepare reply for the Director's signature DATE DUE _____
2. DATE SIGNED BY DIRECTOR <i>CC. Ries, Bowling</i>	<input type="checkbox"/> Prepare reply for appropriate signature DATE DUE _____
	<input type="checkbox"/> FOIA DATE DUE _____
	<input checked="" type="checkbox"/> Necessary Action

APPROVALS (Only when prepared for director's signature)	APPROVE	* DISAPPROVE (Note reason for disapproval and return to preparer.)	COMMENT
1.			
2.			
3.			
4.			

Department of Health & Human Services
Centers for Medicare & Medicaid Services
61 Forsyth St., Suite 4120
Atlanta, Georgia 30303-8909



March 7, 2007

RECEIVED

MAR 12 2007

Mr. Robert M. Kerr, Director

Department of Health and Human Services
Post Office Box 8206
Columbia, South Carolina 29202-8206

Department of Health & Human Services
OFFICE OF THE DIRECTOR

Re: South Carolina Title XIX State Plan Amendment, Transmittal #06-016

Dear Mr. Kerr:

We have reviewed South Carolina's State Plan Amendment (SPA) 06-016, which was submitted to the Atlanta Regional Office on December 20, 2006. This State Plan Amendment updates the State Plan to include provisions affecting long-term care under the Deficit Reduction Act for Sections 6011 concerning transfer of assets for less than fair market value and Section 6016 that applies provisions for disqualification for long-term care assistance for individuals with substantial home equity. Based on the information provided, we are pleased to inform you that South Carolina SPA 06-016 was approved on March 6, 2007. The effective date is October 1, 2006.

Copies of the signed Form-179 and the approved plan page are enclosed. If you have any questions regarding this amendment, please contact Elaine Elmore at (404) 562-7408.

Sincerely,

Renard L. Murray, D.M.
Associate Regional Administrator
Division of Medicaid & Children's Health

Enclosure

TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL1. TRANSMITTAL NUMBER:
SC 06-0162. STATE
South Carolina3. PROGRAM IDENTIFICATION: TITLE XIX OF THE
SOCIAL SECURITY ACT (MEDICAID)

3. HEALTH CARE FINANCING ADMINISTRATION

TO: REGIONAL ADMINISTRATOR

HEALTH CARE FINANCING ADMINISTRATION
DEPARTMENT OF HEALTH AND HUMAN SERVICES4. PROPOSED EFFECTIVE DATE
10/01/065. TYPE OF PLAN MATERIAL (*Check One*):☐ NEW STATE PLAN☐ AMENDMENT TO BE CONSIDERED AS NEW PLAN☒ AMENDMENTCOMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (*Separate Transmittal for each amendment*)6. FEDERAL STATUTE/REGULATION CITATION:
Deficit Reduction Act (DFR) of 2005; P.L. 109-171.7. FEDERAL BUDGET IMPACT:
a. FFY 2006 \$ -0-
b. FFY 2007 \$ -0-

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION
OR ATTACHMENT (*If Applicable*):

SUPPLEMENT 9(b) to ATTACHMENT 2.6-a, Pages 1, 2, 3, 4 5, 6 & 7

SUPPLEMENT 17 TO ATTACHMENT 2.6-A; Page 1

10. SUBJECT OF AMENDMENT:

Transfer of assets for less than fair market value (section 6011 and 6016) and substantial home equity provision of the DRA.

11. GOVERNOR'S REVIEW (*Check One*):☐ GOVERNOR'S OFFICE REPORTED NO COMMENT☐ COMMENTS OF GOVERNOR'S OFFICE ENCLOSED☐ NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL☒ OTHER, AS SPECIFIED:Mr. Kerr was designated by the Governor
to review and approve all State Plans

12. SIGNATURE OF STATE AGENCY OFFICIAL:

16. RETURN TO:

13. TYPED NAME:
Robert M. KerrSouth Carolina Department of Health and Human Service
Post Office Box 820614. TITLE:
Director

Columbia, SC 29202-8206

15. DATE SUBMITTED:

18. DATE APPROVED:

December 20, 2006

December 20, 2006

March 6, 2007

FOR REGIONAL OFFICE USE ONLY

PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL:

October 1, 2006

20. SIGNATURE OF REGIONAL OFFICIAL:

21. TYPED NAME:

Renard L. Murray, D.M.

22. TITLE: Associate Regional Administrator,
Division of Medicaid & Children's Health

23. REMARKS:

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: South Carolina

TRANSFER OF ASSETS

1917(c) FOR TRANSFERS OF ASSETS FOR LESS THAN FAIR MARKET VALUE MADE ON OR AFTER FEBRUARY 8, 2006, the agency provides for the denial of certain Medicaid services.

1. Institutionalized individuals are denied coverage of certain Medicaid services upon disposing of assets for less than fair market value on or after the look-back date.

The agency does not provide medical assistance coverage for institutionalized individuals for the following services:

Nursing facility services;

Nursing facility level of care provided in a medical institution;

Home and community-based services under a 1915(c) or (d) waiver.

2. Non-institutionalized individuals:

_____ The agency applies these provisions to the

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: South Carolina

TRANSFER OF ASSETS

following non-institutionalized eligibility groups. These groups can be no more restrictive than those set forth in section 1905(a) of the Social Security Act:

The agency withholds payment to non-institutionalized individuals for the following services:

Home health services (section 1905(a)(7));

Home and community care for functionally disabled elderly adults (section 1905(a)(22));

Personal care services furnished to individuals who are not inpatients in certain medical institutions, as recognized under agency law and specified in section 1905(a)(24).

The following other long-term care services for which payment for medical assistance is otherwise made under the agency plan:

3. Penalty Date--The beginning date of each penalty period imposed for an uncompensated transfer of assets is the later of:
 - the first day of a month during or after which assets have been transferred for

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: South Carolina

TRANSFER OF ASSETS

less than fair market value;

X The State uses the first day of the
month in which the assets were
transferred

 The State uses the first day of the
month after the month in which the
assets were transferred
or

- the date on which the individual is
eligible for medical assistance under the
State plan and is receiving institutional
level care services described in
paragraphs 1 and 2 that, were it not for
the imposition of the penalty period,
would be covered by Medicaid;

AND

which does not occur during any other
period of ineligibility for services by
reason of a transfer of assets penalty.

4. Penalty Period - Institutionalized Individuals--
In determining the penalty for an institutionalized
individual, the agency uses:

X the average monthly cost to a private patient of
nursing facility services in the state at the
time of application;

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: South Carolina

TRANSFER OF ASSETS

— the average monthly cost to a private patient of nursing facility services in the community in which the individual is institutionalized at the time of application.

5. Penalty Period - Non-institutionalized Individuals--
The agency imposes a penalty period determined by using the same method as is used for an institutionalized individual, including the use of the average monthly cost of nursing facility services;

— imposes a shorter penalty period than would be imposed for institutionalized individuals, as outlined below:

6. Penalty period for amounts of transfer less than cost of nursing facility care--

X Where the amount of the transfer is less than the monthly cost of nursing facility care, the agency imposes a penalty for less than a full month, based on the option selected in item 4.

X The state adds together all transfers for less than fair market value made during the look-back period in more than one month and calculates a single period of ineligibility, that begins on the earliest date that would otherwise apply if the transfer had been made in a single lump sum.

7. Penalty periods - transfer by a spouse that results in a penalty period for the individual--

(a) The agency apportions any existing penalty period between the spouses using the method outlined below, provided the spouse is eligible for Medicaid. A penalty can be assessed against the spouse, and some portion of the penalty against the individual remains.

If the institutionalized individual is being penalized due to a transfer by the community

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: South Carolina

TRANSFER OF ASSETS

spouse, and the community spouse becomes institutionalized and applies for Medicaid, the penalty must be apportioned between both spouses. Should one member of the couple should leave the facility or die, the remaining portion of the penalty must be served by the remaining institutionalized spouse.

- (b) If one spouse is no longer subject to a penalty, the remaining penalty period must be served by the remaining spouse.

8. Treatment of a transfer of income--

When income has been transferred as a lump sum, the agency will calculate the penalty period on the lump sum value.

When a stream of income or the right to a stream of income has been transferred, the agency will impose a penalty period for each income payment.

- X For transfers of individual income payments, the agency will impose partial month penalty periods using the methodology selected in 6. above.

- X For transfers of the right to an income stream, the agency will base the penalty period on the combined actuarial value of all payments transferred.

9. Imposition of a penalty would work an undue hardship--

The agency does not impose a penalty for transferring assets for less than fair market value in any case in which the agency determines that such imposition would work an undue hardship. The agency will use the following criteria in making undue hardship determinations:

Application of a transfer of assets penalty would deprive the individual:

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: South Carolina

TRANSFER OF ASSETS

- (a) Of medical care such that the individual's health or life would be endangered; or
- (b) Of food, clothing, shelter, or other necessities of life.

10. Procedures for Undue Hardship Waivers

The agency has established a process under which hardship waivers may be requested that provides for:

- (a) Notice to a recipient subject to a penalty that an undue hardship exception exists;
- (b) A timely process for determining whether an undue hardship waiver will be granted; and
- (c) A process, which is described in the notice, under which an adverse determination can be appealed.

These procedures shall permit the facility in which the institutionalized individual is residing to file an undue hardship waiver application on behalf of the individual with the consent of the individual or the individual's personal representative.

11. Bed Hold Waivers For Hardship Applicants

The agency provides that while an application for an undue hardship waiver is pending in the case of an individual who is a resident of a nursing facility:

- ☒ X Payments to the nursing facility to hold the bed for the individual will be made for a period not to exceed 30 days (may not be greater than 30).

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: South Carolina

TRANSFER OF ASSETS

TN No. SC 06-016
Supersedes
TN No.: New Page

APPROVAL DATE: 03/06/07
EFFECTIVE DATE: 10/01/06

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: South Carolina

DISQUALIFICATION FOR LONG-TERM CARE ASSISTANCE FOR INDIVIDUALS WITH
SUBSTANTIAL HOME EQUITY

1917(f)

The State agency denies reimbursement for nursing facility services and other long-term care services covered under the State plan for an individual who does not have a spouse, child under 21 or adult disabled child residing in the individual's home, when the individual's equity interest in the home exceeds the following amount:

X \$500,000 (increased by the annual percentage increase in the urban component of the consumer price index beginning with 2011, rounded to the nearest \$1,000).

_____ An amount that exceeds \$500,000 but does not exceed \$750,000 (increased by the annual percentage increase in the urban component of the consumer price index beginning with 2011, rounded to the nearest \$1,000).

The amount chosen by the State is _____.

_____ This higher standard applies statewide.

_____ This higher standard does not apply statewide.
It only applies in the following areas of the State:

_____ This higher standard applies to all eligibility groups.

_____ This higher standard only applies to the following eligibility groups:

The State has a process under which this limitation will be waived in cases of undue hardship.