

STATEMENTS OF POLICY

Title 55—PUBLIC WELFARE

DEPARTMENT OF HUMAN SERVICES

[55 PA. CODE CH. 181]

Clarification of Posteligibility Determination of Income Available from a Medical Assistance-Eligible Person Toward the Cost of Care

This statement of policy applies to applicants and recipients in need of payment for nursing facility long-term care (LTC) services provided to qualified veterans who have elected to participate in the Enhanced Veterans Reimbursement (EVR) initiative.

Purpose

The purpose of this statement of policy is to establish guidelines regarding the treatment of income in the posteligibility determination for payment towards the cost of care for Medical Assistance (MA) LTC services.

Background

The Commonwealth implemented the EVR initiative in 2009. EVR provides MA LTC payment for skilled services provided to qualified individuals who wish to participate in EVR and who are residents in one of the State Veterans Homes. In compliance with section 1902 of the Social Security Act (42 U.S.C.A. § 1396a), methodology for the payment towards cost of care for these individuals is being modified to conform with Federal law.

Discussion

Section 181.452(c) (relating to posteligibility determination of income available from an MA eligible person toward the cost of care) states:

(c) For an MA eligible person in the aged, blind or disabled related categories or an MA eligible person in the TANF-related or GA-related categories, the veterans aid and attendance and housebound allowance portion of the Veterans Affairs pension as specified in § 181.81(9) (relating to items that are not income) is excluded and is not counted when determining the MA eligible person's total gross income unless if the Veterans Administration states, in writing, that the benefit is for an incompetent veteran or incompetent spouse or child of a deceased veteran who is determined incompetent by the Veterans Administration and that the benefit shall be counted toward cost of care.

Section 1902(r)(1)(B)(i) of the Social Security Act, however, excludes a particular population of EVR participants from this methodology. It states in part that a veteran who does not have a spouse or dependent child, who resides in a State Veterans Home, and who has been determined eligible for MA LTC will have aid and attendance payment that is in excess of \$90 per month counted

as income for the purpose of applying the excess amount to the State Veterans Home's cost of providing nursing home care to the veteran. Section 1902(r)(1)(B)(ii) of the Social Security Act also requires the application of this provision to the surviving spouse of a veteran who does not have a child. The Department is, therefore, applying these provisions to conform with Federal law.

Effective Date

This statement of policy is effective upon publication in the *Pennsylvania Bulletin*.

Contact Person

Questions and comments to this statement of policy should be directed to Cathy Buhrig, Acting Director, Bureau of Policy, Office of Income Maintenance, (717) 787-4081.

THEODORE DALLAS,
Acting Secretary

(*Editor's Note:* Title 55 of the *Pennsylvania Code* is amended by adding a statement of policy in § 181.452a to read as set forth in Annex A.)

Fiscal Note: 14-BUL-103. No fiscal impact; (8) recommends adoption.

Annex A

PART II. PUBLIC ASSISTANCE MANUAL

Subpart D. DETERMINATION OF NEED AND AMOUNT OF ASSISTANCE

CHAPTER 181. INCOME PROVISIONS FOR CATEGORICALLY NEEDY NMP-MA AND MNO-MA

Subchapter D. POSTELIGIBILITY DETERMINATION OF ELIGIBILITY FOR MA PAYMENT TOWARD COST OF CARE IN INSTITUTIONS

POSTELIGIBILITY DETERMINATION PROVISIONS

§ 181.452a. Clarification of posteligibility determination of income available from an MA-eligible person toward the cost of care—statement of policy.

(a) Consistent with section 1902(r)(1)(B)(i) of the Social Security Act (42 U.S.C.A. § 1396a(r)(1)(B)(i)), for a resident of a State Veterans Home who is participating in the Enhanced Veterans Reimbursement initiative, and who does not have a spouse or dependent child, the veterans aid and attendance portion of the Veterans Affairs pension in excess of \$90 per month is counted when determining the MA eligible person's payment toward cost of care.

(b) Subsection (a) also applies to the surviving spouse of a veteran who does not have a child. See section 1902(r)(1)(B)(ii) of the Social Security Act.

[Pa.B. Doc. No. 15-602. Filed for public inspection April 3, 2015, 9:00 a.m.]