



STATE OF NEW YORK

DEPARTMENT OF HEALTH

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Antonia C. Novello, M.D., M.P.H., Dr. P.H.
Commissioner

Dennis P. Whalen
Executive Deputy Commissioner

ADMINISTRATIVE DIRECTIVE

TRANSMITTAL: 01 OMM/ADM-3

TO: Commissioners of
 Social Services

Office of Medicaid Management
Department of Health

DATE: August 16, 2001

SUBJECT: Transfer of Resources: Changes in the Medicaid Regional Rates
for Years 2000 and 2001

SUGGESTED DISTRIBUTION:	Medicaid Staff Fair Hearing Staff Legal Staff Staff Development Coordinators
CONTACT PERSON:	Bureau of Local District Support Upstate: (518) 474-9130 NYC: (212) 268-6855
ATTACHMENTS:	Attachment I - County Listing by Region Rates for 2000 (available on-line) Attachment II - County Listing by Region Rates for 2001 (available on-line)

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
00 OMM/ADM-3		360-4.4(c)	SSL 366	MRG pages:	GIS 01
99 OMM/ADM-2			SSA 1917(c)	353-363	MA/012
96 ADM-8			& (d)		GIS 00
95 ADM-17			Section		MA/017

93 ADM-27
91 ADM-37
89 ADM-45

13611 of
OBRA '93

GIS 96
MA/009

I. PURPOSE

This Administrative Directive (OMM/ADM) notifies social services districts of the August 1, 2000 and January 1, 2001 revisions to the Medicaid regional rates used to determine the period of limited coverage (penalty period) for persons determined to have made prohibited transfers of assets.

II. BACKGROUND

Chapter 170 of the Laws of 1994 amended Section 366.5 of the Social Services Law to set forth transfer of assets provisions required by the Omnibus Budget Reconciliation Act of 1993. When a person, or the person's spouse, makes a prohibited transfer (as explained in 96 ADM-8), the person may be ineligible for Medicaid coverage of certain services for a period of time.

The period of ineligibility is the number of months equal to the uncompensated value of the transferred assets divided by the Medicaid regional rate established for the region in which the person is institutionalized. The period is intended to approximate the length of stay in an institution which the transferred assets would have purchased.

III. PROGRAM IMPLICATIONS

The revised Medicaid regional rates are used to calculate a penalty period for persons who have made prohibited transfers of assets.

The Medicaid regional rates effective August 1, 2000 are:

<u>Region*</u>	<u>Monthly Rate</u>
Central	\$ 4,837
Long Island	\$ 7,840
New York City	\$ 7,517
Northeastern	\$ 5,494
Northern Metropolitan	\$ 6,668
Rochester	\$ 5,448
Western	\$ 5,186

The Medicaid regional rates effective January 1, 2001 are:

<u>Region*</u>	<u>Monthly Rate</u>
Central	\$ 4,953
Long Island	\$ 8,125
New York City	\$ 7,656
Northeastern	\$ 5,627
Northern Metropolitan	\$ 6,846
Rochester	\$ 5,629
Western	\$ 5,206

*See Attachments I and II for county listing by region.

The regional rates which have been in effect since 1998 were based on information provided to the Department by nursing homes regarding the maximum rates charged to their private pay patients. This information did not take into account the number of private pay patients in nursing homes who are charged less than the maximum rate. Since the August 1, 2000 regional rates are based on weighted averages, they more accurately reflect the average cost of nursing home care to a private pay patient. As a result of this more precise calculation, however, several of the year 2000 regional rates are lower than the previous 1999 regional rates.

IV. REQUIRED ACTION

As specified in 89 ADM-45, 91 ADM-37, and 96 ADM-8, a penalty period must be established when an institutionalized Medicaid-Only applicant/recipient (A/R), or the spouse of the A/R, has made a prohibited transfer of assets. The Medicaid regional rate used to determine the penalty period is the rate for the region in which the individual is institutionalized. Districts must use the rate in effect for the time period in which the individual first applies or reapplies as an institutionalized person.

As advised in General Information System message GIS 00 MA/17, social services districts must use the August 1, 2000 Medicaid regional rates to establish the penalty period for any institutionalized person determined to have made a prohibited transfer of assets who has applied for Medicaid on or after August 1, 2000. As advised in General Information System message GIS 01 MA/012, social services districts must use the January 1, 2001 Medicaid regional rates to establish the penalty period for any institutionalized person determined to have made a prohibited transfer of assets who has applied for Medicaid on or after January 1, 2001.

A. RECALCULATING THE PENALTY PERIOD

Districts will not have to recalculate the penalty period for an institutionalized A/R who applied for Medicaid before August 1, 2000, if the January 1, 1999 regional rates were used to calculate the penalty period. Districts must recalculate the penalty period for an institutionalized A/R who became Medicaid eligible on or after January 1, 2001, if the August 1, 2000 regional rates were used to calculate the penalty period.

When a penalty period has previously been calculated for a recipient who continues to reside in the community and who is not in receipt of home and community-based waiver services, no recalculation of the penalty period is required until the individual becomes in need of nursing facility services.

When an individual previously assessed a penalty period subsequently becomes in need of nursing facility services, the social services district must review the original transfer(s) to determine whether it occurred within the 36 months (60 months for transfers to or from trusts) prior to the month in which the individual is both institutionalized and applying for full Medicaid coverage, including coverage of nursing facility services. There may be instances where the original transfer is outside of the look-back period. In such cases, the institutionalized individual is no longer subject to a transfer penalty.

B. NOTICE REQUIREMENTS

Social services districts must provide notices to A/Rs whose Medicaid coverage is being denied, discontinued, limited or changed due to a prohibited transfer of assets. Districts may use the appropriate Client Notice Subsystem reason code, if available, or one of the following manual notices to meet this requirement.

1. **LDSS-4500 (Revised 12/99): "Notice of Decision on Your Medical Assistance Application (Excess Resources-Excess Income-Transfer of Assets)"**

As advised in 95 ADM-17 and GIS 96 MA/009, this notice is a denial of Medicaid coverage of nursing home services for a recipient already in receipt of community coverage who applies for nursing home services but who is ineligible due to a prohibited transfer. The notice also is used to deny Medicaid coverage of nursing home services or community coverage for applicants who are not otherwise eligible and also have transferred assets.

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2. **LDSS-4144 (Revised 1/99): "Notice of Acceptance for Medical Assistance with Limited Coverage (Transfer of Assets)"**

As advised in 89 ADM-45, this notice is used to accept institutionalized applicants with income under the Medicaid income standard and community-based applicants, when there has been a prohibited transfer.

3. **LDSS-4145 (Revised 1/99): "Notice of Decision on Your Medical Assistance Application for Nursing Facility Services (Transfer of Assets)"**

As advised in 89 ADM-45, this notice must be used when otherwise eligible institutionalized applicants have income in excess of the Medicaid income standard and there has been a prohibited transfer.

4. **LDSS-4147 (Revised 1/97): "Notice of Intent to Discontinue/Change Medical Assistance Coverage (Transfer of Assets)"**

As advised in 89 ADM-45, this notice is used for undercare cases when coverage is being restricted or the case is being closed due to a transfer or when the individual's period of restricted coverage has expired.

5. **LDSS-4528 (Revised 3/99): "Notice of Change in Limited Coverage Period for an Institutionalized Person"**

Social services districts were advised in 93 ADM-27 to notify recipients of nursing facility services of any changes in limited coverage periods resulting from a change in the Medicaid regional rates. Districts were instructed to use Client Notice Subsystem Reason Code S05 or form LDSS-4528. Due to the August effective date of the year 2000 regional rates, social services districts will not be recalculating penalty periods.

6. **"Explanation of the Effect of Transfer of Assets on Medical Assistance Eligibility"**

As advised in 96 ADM-8, this notice must be available to all individuals who wish to establish that a transfer was made for a purpose other than to qualify for nursing facility services. It also must be given to all Medicaid-Only applicants at the time of (re)application or when an A/R's (re)application is denied/discontinued due to a prohibited transfer. This notice must be provided with the appropriate notice of decision by the social services district.

7. **LDSS-4022 (Revised 5/99): "Notice of Intent to Establish a Liability Toward Chronic Care"**

If a penalty period had been previously calculated for a recipient who becomes in need of nursing facility services and a determination is made that the transfer occurred prior to the 36 month (60 months for transfers to or from trusts) period immediately preceding the month of application, a note should be added to the notice to indicate that the former transfer(s) is now beyond the 36 month look back period and does not affect Medicaid eligibility.

V. **SYSTEMS IMPLICATIONS**

None.

VI. **EFFECTIVE DATE**

The changes in the Medicaid regional rates used for calculating transfer penalty periods are effective September 1, 2001, retroactive to:

August 1, 2000 for applications made from August 1, 2000 through December 31, 2000; and

January 1, 2001 for applications made on or after January 1, 2001.

Kathryn Kuhmerker, Deputy Commissioner
Office of Medicaid Management

**COUNTY LISTING BY REGION
RATES FOR 2000**

<u>CENTRAL</u> (Syracuse)	<u>LONG ISLAND</u>	<u>NEW YORK CITY</u>
\$4,837	\$7,840	\$7,517
Broome	Nassau	Bronx
Cayuga	Suffolk	Kings (Brooklyn)
Chenango		NY (Manhattan)
Cortland		Queens
Herkimer		Richmond (Staten Island)
Jefferson		
Lewis		
Madison		
Oneida		
Onondaga		
Oswego		
St. Lawrence		
Tioga		
Tompkins		
	<u>NORTHEASTERN</u>	<u>NORTHERN METROPOLITAN</u>
	\$5,494	\$6,668
	Albany	Dutchess
	Clinton	Orange
	Columbia	Putnam
	Delaware	Rockland
	Essex	Sullivan
	Franklin	Ulster
	Fulton	Westchester
	Greene	
	Hamilton	
	Montgomery	
	Otsego	
	Rensselaer	
	Saratoga	
	Schenectady	
	Schoharie	
	Warren	
	Washington	
<u>ROCHESTER</u>		<u>WESTERN</u> (Buffalo)
\$5,448		\$5,186
Chemung		Allegany
Livingston		Cattaraugus
Monroe		Chautauqua
Ontario		Erie
Schuyler		Genesee
Seneca		Niagara
Steuben		Orleans
Wayne		Wyoming
Yates		

1. Use the region in which the facility is located, or if the A/R is not institutionalized, use the region in which the individual resides.
2. For out of state facilities, use the region closest to the location of the facility.

COUNTY LISTING BY REGION
RATES FOR 2001

<u>CENTRAL</u> (Syracuse)	<u>LONG ISLAND</u>	<u>NEW YORK CITY</u>
\$4,953	\$8,125	\$7,656
Broome	Nassau	Bronx
Cayuga	Suffolk	Kings (Brooklyn)
Chenango		NY (Manhattan)
Cortland		Queens
Herkimer		Richmond (Staten Island)
Jefferson		
Lewis		
Madison		
Oneida		
Onondaga		
Oswego		
St. Lawrence		
Tioga		
Tompkins		
	<u>NORTHEASTERN</u>	<u>NORTHERN METROPOLITAN</u>
	\$5,627	\$6,846
	Albany	Dutchess
	Clinton	Orange
	Columbia	Putnam
	Delaware	Rockland
	Essex	Sullivan
	Franklin	Ulster
	Fulton	Westchester
	Greene	
	Hamilton	
	Montgomery	
	Otsego	
	Rensselaer	
	Saratoga	
	Schenectady	
	Schoharie	
	Warren	
	Washington	
		<u>WESTERN</u> (Buffalo)
		\$5,206
		Allegany
		Cattaraugus
		Chautauqua
		Erie
		Genesee
		Niagara
		Orleans
		Wyoming
<u>ROCHESTER</u>		
\$5,629		
Chemung		
Livingston		
Monroe		
Ontario		
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2. For out of state facilities, use the region closest to the location of the facility.