

INTERACTING WITH THE PLAYERS

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under authorization of the Pennsylvania Supreme Court*



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Who are the Players?

- Client
- Nursing Home
- County Assistance Office (CAO)
- Area Agency on Aging (AAA)
- Maximus (IEB)

Interacting with the Client

- Who is the Client?
- Does Client have capacity? POA? Family members involved?
- Manage Expectations
- Explain Eligibility/Transfers
- Document Advice and Transactions

Interacting with the Nursing Home

- Inform them you are representing their resident
- Confirm they have not filed the MA Application
- Determine if retroactive eligibility is needed/date of eligibility (if applicable)
- Daily rate
- Get MA 51
- Keep Communication open
- Discuss whether making payments during pending application

Interacting with the CAO

- Should not be adversarial
- File the application and verifications by UPS/FedEx with return receipt/tracking
- Know where to file the application (consolidation of LTC CAO processing centers)
- Organize your verifications
 - Table of Contents
 - Tabs
 - Exhibits

Interacting with the CAO

- CAO Structure
 - Directors
 - Managers
 - Supervisors
 - Caseworkers

Interacting with the CAO

- Verification Extensions
 - Each CAO deals with extensions a bit differently, but most are flexible to a point
 - Good faith attempts
- Informal Resolution Unit
 - Mediation-like conference to clear up verification issues prior to scheduling a hearing
 - Speak with Supervisor
- Last Resort – DHS Counsel

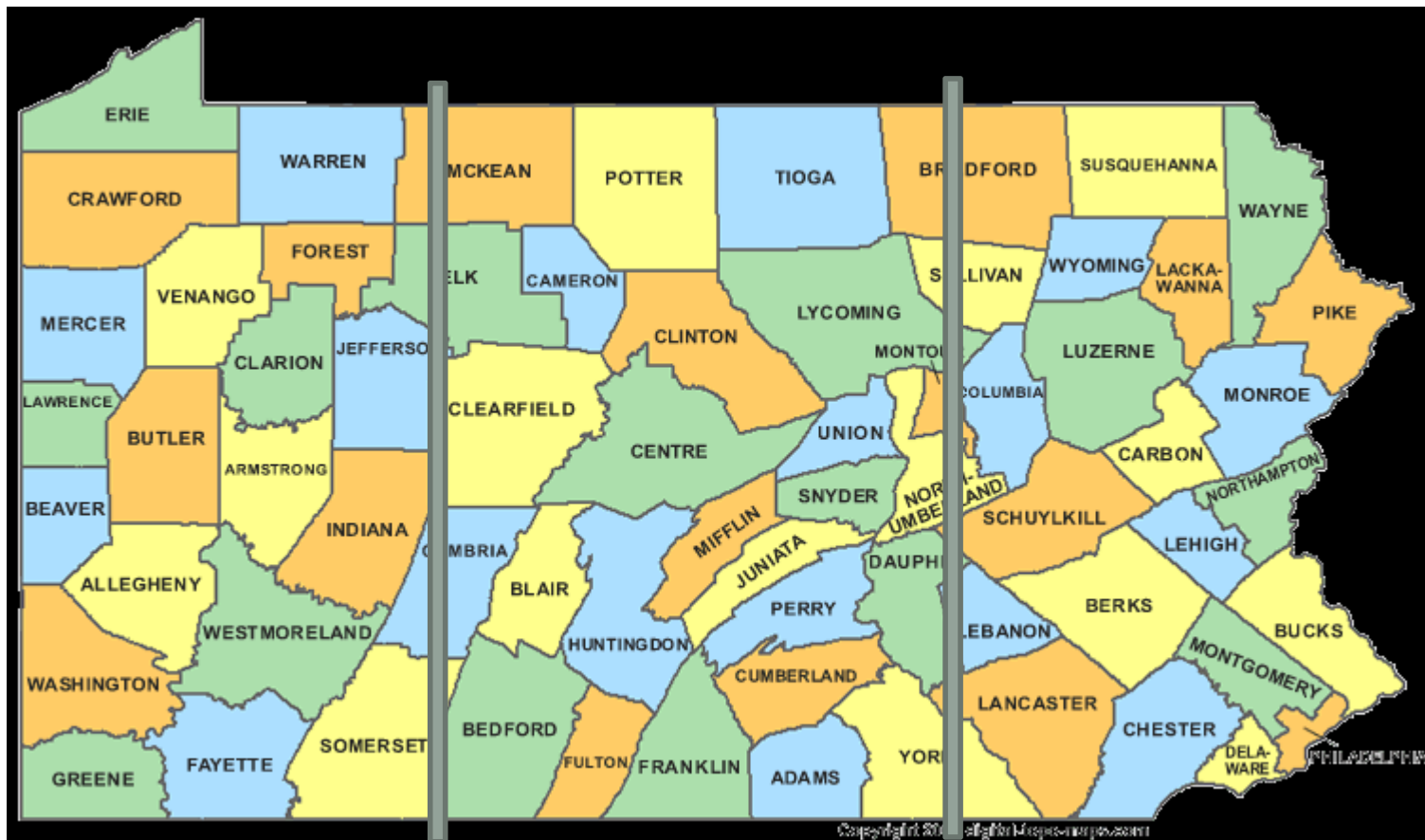
Interacting with the CAO

- Some issues can be resolved with a Supervisor
- Contact DHS legal for trust issues
 - Legal will review:
 - SNTs
 - Trusts
 - Annuities
 - Caregiver Agreements
 - Burial Agreements
- Contact DHS legal for unusual issues

Interacting with the CAO

- 3 OGC
- Each OGC region covers approx. 25 counties
- Chain of Command
 - Legal is not contacted until an issue goes up to the Manager level

OGC's Regions



Interacting with the CAO

- Run into Problems
 - Call caseworker first
 - Then, Supervisors
 - Then, Directors – limited contact information available
 - Then, Legal

Interacting with Maximus

- Communication issues
- Problems with lost documents between AAA and Maximus
- Customer Service: Inconsistent/Incorrect Information
- Lack of follow-up for Physician Certifications
Contact DHS legal for trust issues
- Delays

THE CLOCK IS TICKING: OBTAINING RETROACTIVE ELIGIBILITY

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What is Retroactive Eligibility?

- “The earliest possible date for retroactive MA benefits to begin is the first day of the third month preceding the month of application.” 55 Pa.Code § 181.12(a)

Why is this important?

- People enter nursing homes for medical, not financial, reasons.
- The application is rarely filed immediately.
- The applicant may not have required verifications or they may be over-resourced.
- Retroactive eligibility is an important tool to avoid any gaps in coverage for the nursing home.

How does Retroactivity affect spend-down?

- “Resources used by the applicant to pay for medical expenses during the retroactive eligibility period...are not counted once the resources are used to pay the medical expenses.”

55 Pa.Code § 178.1(j)

- It is possible to spend down excess resources on medical costs or exempt prepaid funerals during the retroactive eligibility period.

How does Retroactivity affect spend-down?

- Other purchases which are exempt, such as purchasing a car, repairing the home or annuitizing funds, will not obtain retroactive eligibility.

Resources

- Resources greater than the program limits are called “excess resources.”
- Resources that are not counted for eligibility based on DPW’s Regulations are called “excluded resources.”
- The applicant is not required to spend-down excluded resources to qualify for Medical Assistance.

Identifying Excluded Resources

- One Motor Vehicle.
 - Vehicle with greatest equity value excluded
- Primary Residence. Real property used as principal place of residence by applicant, dependent relative, or disabled child, if applicant states, in writing, he or she has an intent to return home

Identifying Excluded Resources

- Primary Residence
 - Equity Value Limitation \$572,000 (unless child under 21 or disabled child living in home)
 - Practical consideration – can the applicant afford the resource?

Identifying Excluded Resources

- Personal Property.
 - Examples: Clothing, jewelry, personal care items, recreational equipment, musical instruments, items required because of a person's physical condition
- Property used in a Trade or Business essential for self support (real or personal)
- Property Essential to Self support (non-business).
 - Examples: Property used to produce items for home consumption, and tools, equipment, uniforms, etc.

Identifying Excluded Resources

- Term Life Insurance.
- Policies (1 or more) with aggregate face value of \$1,500 or less.
- If aggregate face value exceeds \$1,500, the aggregate cash surrender values of all policies are countable with a \$1,000 exemption
- If married, same rules apply to each spouse
 - Each can get up to \$1,500 face value exemption or \$1,000 cash value exemption

Identifying Excluded Resources

- Burial Spaces.
 - Applicant and immediate family members
- Irrevocable Burial Reserve (See County Limits)
- Revocable Burial Reserve up to \$1,500.00
- Community Spouse Retirement Plan
- Community Spouse Resource Allowance (CSRA)

Spend-down for Retroactive Eligibility

- Pay for medical expenses or an irrevocable burial reserve.
- An irrevocable burial reserve is subject to a limit in each county.
- Resources spent on medical expenses or an irrevocable burial reserve are treated as if those resources did not exist.

Retroactive Eligibility

- What should resident pay the skilled nursing facility (SNF) during a pending Medicaid application?
 - ~~Private pay amount?~~
 - Patient pay amount?
- DHS may not approve benefits as of the requested date if the applicant (or other on his behalf) has been privately paying because there will not be an unpaid medical expense for which Medicaid benefits are required.

Retroactive Eligibility

- After DHS issues PA 162 with correct penalty period, the SNF provides the applicant with the balance of what is retroactively owed as private pay back to the requested open date.
- *During the pending status of an application, the nursing facility only has the legal right to request payment of the estimated patient pay amount.*

Protection of Income/Assets for Community Spouse

- Community Spouse Retirement Plan
- CSRA
 - Maximum: \$126,420 (01/01/2019)
 - Minimum: \$25,284 (01/01/2019)

Protection of Income/Assets for Community Spouse

- Spend-down Excess Resources
 - Personal Items/Services
 - Medical Expenses
 - Irrevocable Burial Accounts/Plots/Markers
 - Motor Vehicle
 - Home Maintenance/Repairs
 - Debt: Mortgage, loans, credit cards
 - Attorneys fees
 - DRA Compliant Annuity

Protection of Income/Assets for Community Spouse

- Income
 - Community Spouse's income is not available for institutionalized Spouse's care costs
- Monthly Maintenance Needs Allowance (MMNA)
 - Maximum: \$3,160.60/month (01/01/2019)
 - Minimum: \$2,057.50/ month (01/01/2019)
- Income First Approach
- Hurly Calculation

Protection of Income/Assets for Community Spouse

- At CAO level, cannot grant MMNA greater than the Maximum MMNA
- The CS can request a higher MMNA than the maximum:
 - Exceptional circumstances or excessive shelter expenses; and
 - Request an Administrative Fair Hearing

Protection of Income/Assets for Community Spouse

- Income First Approach
 - If CS' gross monthly income is less than the calculated MMNA, CS can keep some all of IS' income to make up the shortfall
 - “Income First” approach allows a CS, where the IS' income is insufficient to make up the shortfall, to keep additional resources above the CSRA sufficient to generate the income shortfall

QUESTIONS?

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