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MEDICAID MANUAL (OFI Policy Manual, VOLUME II) Transmittal NO. 25

TO: County Departments of Family and Children Services
State DFCS Staff

FROM: Mary Dean Harvey, Division Director
Division of Family and Children Services

RE: Medicaid Policy Updates/Changes

PURPOSE: This manual transmittal contains changes resulting from the Deficit Reduction Act (DRA) of 2005. The DRA greatly changes how we implement transfer penalties. It includes the computation and inclusion of partial month transfers. It affects the treatment of annuities, property essential to self-support, homeplace property and many other sections. There have been several new forms added to Appendix F. The Declaration of Citizenship has been updated, and the form 219 Citizenship/Identity Affidavit has been split into two forms. The form 219 is now an affidavit for Citizenship, and there is a separate affidavit to be used to verify identity. There is also a new Undue Hardship Waiver Application and Letter. In addition, Appendix I contains several updates to ABD SUCCESS functions.

DISCUSSION:

Specific changes to the Sections are discussed briefly under the Comments Section below.

UPDATES:

MANUAL TRANSMITTAL 25

Section	Instructions for Manual Maintenance	Page	Comments
2060	Remove and Replace	6-9	Page 6, added new bullet for notification of penalty requirements. Page 7, continuation of penalty notification, added new row in chart 2060.1 for LA-D that property search is required. Page 8, added new bullet under "out of state property search" to complete if a/r or deemor alleges owning property within the 60 month look back. Page 9, added column under "conditional" to complete property search for FBR, Public Law or LA-D COAs (Katie Beckett and Hospital excluded)
2305	Remove and Replace	1	Under policy stmt, deleted sentence regarding FBR and commingled burial funds. Replaced it with "Burial funds may not be commingled for any ABD Medicaid COA." Deleted 2 nd paragraph under basic considerations.
2308	Remove and	2	Under ABD Medicaid, 1 st paragraph, added sentence "This policy

	Replace		applies regardless of the living arrangement or the COA (even if one or both spouses are institutionalized) Added NOTE that autos may not be designated for burial.
2312	Remove and Replace	1-3	Page 1, deleted NOTE. Page 2, under EXCEPTION at top of page, added "automobiles", under "all ABD COAs", deleted sentence "The exclusion becomes effective the month after the separation of funds." Page 3, entered paragraph for Non-FBR COAs regarding commingling of burial funds.
2316	Remove and Replace	1-4	Page 1 under policy stmt, added phrase "in certain instances" and deleted "as long at the a/r remains institutionalized and retains ownership interests". Page 2, under basic considerations, added paragraph on DRA is for LA-D except Katie Beckett and added effective date of policy. Combined all "absences from homeplace" under one heading, then subdivided into LA-A,B,C and LA-D. in last paragraph, changed "will" to "may" and added "and as of 10/1/06, has equity value of \$500.000 or less". Page 3, procedures are broken down into numbered steps, step 2, added form 991. Page4, under special considerations, added "avoid estate recovery", 2 nd paragraph, added "or 60 month look back period effective 2/8/06" Changed "resources" to "assets". Added 3 new segments on co-ownership, other Medicaid COAs and Undue Hardship Waiver
2319	Remove and Replace	1-2	Under policy statement, deleted "ABD Medicaid class of assistance is Non-FBR or FBR." Added phrase, "items are for personal use or are for investment purposes." After "Personal effects" everything else pertaining to non-FBR and FBR has been deleted. All personal effects regardless of COA are excluded. New segment added on investment property. Page 2, all new procedures on how to determine value of investment property.
2322	Remove and Replace	1,3	Page 1, under basic considerations, non FBR, added sentence explaining brief rehab stays and vacations. Page 3, added steps to procedures, steps 2,3 and 5 are new.
2323	Remove and Replace	3	Top of page gave consequences of transferring a life insurance policy.
2327	Remove and Replace	4	Top of page, deleted paragraphs on non-FBR. FBR policy now applies to both FBR and non-FBR, effective 10/1/06, but beginning with applications and reviews/specials on 2/1/07.
2337	Remove and Replace	1-2	Under "burial trusts", deleted all but the first sentence. Added text for new burial exclusion policy effective 1/1/07 of \$10,000 for non-FBR a/rs. Page 2, added sentence that all trusts are considered a TPR and must be reviewed by DCH legal. Also added phrase following existing sentence, "as long as considered a valid document by DCH legal".
2339	Remove and Replace	1-5,8-10	Page 1, added implementation dates and info regarding the State being named as Remainder Beneficiary. Page 2, contains al new DRA info. Page3, explain annuities as a countable asset under DRA allowing for some exclusions. Pages 4-5, outlines procedures for annuities purchased on or after 2/8/06, and outlines procedures for annuities purchased prior to this date. Pages 8-10, updated life expectancy table.
2342	Remove and Replace	1-13	Page 1, gave effective date of DRA under basic considerations. Page2, under look back period, included DRA '05 look back as 60 month, added chart 2502.1. Page 3-4, MCCA transfers when penalty does and does not apply are listed together, OBRA transfers in which penalty does not apply are addressed. Page 5-7, "transfers made on or after 2/8/06 are addressed, procedures follow. Page 8-9, procedures for new DRA policy, included info for DRA to send an "undue Hardship waiver application in penalty situations. Page 10, added

			sentence regarding transfers made on or after 2/8/06. Page 11, new heading “Multiple transfers on or after 2/8/06” includes procedures for multiple transfers. Page 12, added new heading for “purchase of life estates in another’s home DRA’05”. Page 13, new form for “DRA ’05 Transfer policy for applicants/recipients” to compute whole and partial month transfer penalties.
2345	Remove and Replace	1-4	Page1, under basic considerations, added definition of “Health or life would be endangered” and “other necessities of life”. Provided effective dates for DRA and that undue hardship only applies to a/r, not spouse. Page2, under procedures, added info that a/r or rep must have taken legal action and equity to get the asset returned before undue hardship can be considered. Page3, actions to take when a case is denied/closed or a transfer is imposed. Page 4, documentation requirements are provided.
Appendix F	Remove and Replace		Updated Declaration of Citizenship (English and Spanish), added new form 219, Citizenship Affidavit, and added new Affidavit for Identity. New forms- Undue Hardship Waiver Application, and Undue Hardship Waiver Letter. Updated Appendix F TOC.
Appendix G	Add		Insert MT25 cover letter in front of MT24 cover letter.
Appendix I	Remove and Replace	3,5-6,13,16,18	Page3, added instructions on how to enter countable life insurance or burial assets. Page 5-6, Added instructions to “a transfer of a resource by the a/r or community spouse for less than the FMV” which includes DRA changes. Page 13, added instructions on how to enter an auto as a countable resource, and a countable non-business income producing property. Page 16, added instructions on how to process non-payment of PL/CS for a BG/Institutional Hospice a/r with home EV of \$500,000 or over. Page 18, added instructions on how to enter partial month transfer penalty.
TOC			Changed heading for Sections 2250 and 2342
TOC 2300	Remove and Replace		Changed heading for Section 2342

Pen and Ink Changes:

Update the Record of Receipt of Manual Transmittals for ESS Policy Manual Volume 2, Medicaid.