



**State of Florida
Department of Children and Families**

Charlie Crist
Governor

Robert A. Butterworth
Secretary

December 14, 2007

Jowanna N. Oates, Senior Attorney
Joint Administrative Procedures Committee
Room 120, Holland Building
Tallahassee, Florida 32399-1300

RECEIVED
2008 JAN 11 AM 9:22
JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE

RE: Department of Children & Families Rule 65A-1.712

Dear Ms. Oates:

Thank you for your October 18 letter regarding the above rule. We will let you know when the ACCESS Medicaid Policy Unit receives clarification from the Centers for Medicare and Medicaid (CMS) on the issue regarding annuities and the requirement to name the state as beneficiary. To clarify, the issue is not whether the purchase of an Individual Retirement Account (IRA) is considered under transfer policies if the individual fails to name the state as a beneficiary. The law and CMS are clear that IRAs are not considered under the transfer provision. The outstanding issue is, since the IRAs are not considered a transfer if the individual does not name the state as a beneficiary, then under what authority must we require the individual to name the state as a beneficiary.

We apologize for any confusion the "Note" in our October 4 letter may have caused on where in the law subparagraph (G) regarding annuities appeared. We discovered later that we had been looking at an incorrect cut/paste version of the law.

Attached are Forms 2354A and 2264A which are administrative forms used as a job tool by eligibility staff as guidelines for gathering information from clients. Attached also is the power point training presentation.

Sincerely,

A handwritten signature in black ink, appearing to read 'Nathan Lewis', written over a white rectangular area.

Nathan Lewis, Chief
Medicaid Policy
ACCESS Program Office

Enclosures

1317 Winewood Boulevard, Tallahassee, Florida 32399-0700



WAIVER of HOME EQUITY LIMIT QUESTIONNAIRE

Print Name: _____ Case No. _____

Instructions: Staff will ask the client or designated representative each of the following questions and accurately and completely record the individual's responses. If the answer to either question 1 or 2 is "yes", home equity interest is not a factor and development of undue hardship is not necessary.

- (1) Is your spouse residing in your home? If the answer is yes, what is his/her name.
(2) Is your child (or children) under age 21, or your blind or disabled child of any age residing in your home? If the answer is yes, what are their name(s) and relationship(s) to you? (If blind or disabled child over 21 is residing in the home, verification of a federal or state disability or blindness decision is required, i. e., individual receives SSI or SSDI.)
(3) How will your health or life be affected if you are unable to qualify for Medicaid to help pay the cost of your care? (Staff may contact CARES or other medical source for existing documentation of the client's current health status, or request the client provide documentation of their statement.)
(4) Ask the individual if he/she will be deprived of any of the following if determined ineligible for Medicaid long-term care services. Ask the individual to explain why and record responses.

- _____ Food
_____ Place to live
_____ Clothing
_____ Medical care

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Interview was completed by _____

Interview was completed with _____

(Relationship to applicant/recipient) _____

Date and time of interview: _____



REBUTTAL/UNDUE HARDSHIP QUESTIONNAIRE

Print Name: _____ Case Number: _____

Instructions: Staff will ask the client or designated representative each of the following questions and accurately and completely record the individual's response. Questions 1 – 7 apply to developing transfer rebuttal. Questions 8 – 12 apply to developing undue hardship claim.

(1) Explain why you (or someone acting on your behalf) transferred:

_____ (asset determined
transferred) and to whom: _____ (relationship)

(2) What is your reason for accepting less than fair market value for the asset/income?

(3) How was your health when the assets were transferred? *(If questionable, staff may contact CARES or other medical source for existing documentation of the client's health at time the asset was transferred, or request the client provide substantiation of their statement.)*

(4) How did you plan to pay for your healthcare expenses after your assets were transferred?

- (5) If you transferred your home, what arrangements did you make for a place to live?
(Ask this question only if the home or interest in the home was transferred.)
- (6) If someone disposed of your assets without your knowledge and agreement, was a report of exploitation made to the abuse registry or with the police? If not, why not? If so, explain.
(Staff may ask the client to provide documentation or contact Adult Services or the police department to confirm. Provide a copy of client's signed release of information form (CF-ES 2613) if information requested from source other than client).
- (7) Have the assets been returned to you or can the assets be returned to you? Explain.
(If assets have been returned, staff must ask the individual to provide proof.)
- (8) What efforts have you made to get the assets back? *(If questionable, staff may ask the individual to provide documentation to support his/her statement.)*
- (9) Have you received a notice of discharge from the nursing facility or assisted living facility due to nonpayment of charges? *(If individual answers yes to this question, staff must verify notice of discharge by asking individual to provide a copy or by contacting the facility and requesting a copy.)*

(10) Is there a safe place where you can live if you are discharged from the facility?

(11) How will your health or life be affected if you are unable to qualify for Medicaid to help pay the cost of your care? (Staff may contact CARES or other medical source for existing documentation of the client's current health status, or request the client provide documentation of their statement.)

(12) Ask the individual if he/she will be deprived of any of the following if determined ineligible for Medicaid long-term care services. Ask the individual to explain why and record responses.

- Food
- Place to live
- Clothing
- Medical care

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