Policy Clarifications - Medicaid - Long Term Care
PMN14194468

Submitted:10/27/08   **Agency:CAOs**

                                               Citations:

Subject: Home Equity Loans, Multiple Mortgages and CSMNA

Previous guidance from the Policy Clarification Unit limited the types of payments that could be used as a shelter deduction when computing the Community Spouse Maintenance Needs Allowance (CSMNA). The clarification stated in part that:

"The law provides only for a deduction for "mortgage," not for any other loan which may include encumbrances on the property."

(Clarification TR No 5632, SF No NC 5632-468 issued via paper prior to PC availability on the Intranet).

1. Is this guidance obsolete? The LTC Handbook and the FS Handbook disagree with this policy clarification.

2. If the community spouse's home was re-mortgaged to pay off debt, is that an allowable shelter deduction?

3. If the community spouse's home had a second or a third mortgage to pay off debt,is that an allowable shelter deduction?

Response By: Division of Health Services   **Date:10/27/08**

1. Yes, NC-5632-468 TR No. 5632, Home Equity Loan/Shelter Costs is no longer valid and will be obsoleted.

2. Yes, if the CS takes out a mortgage or home equity loan and uses the home as collateral, the monthly payment to the financial institution can be used as a shelter deduction in determining the CSMNA.

3. Yes, if the CS takes out a second or subsequent mortgage, including a home equity loan, and uses the home as collateral, the monthly payments to the financial institution can be added together and used as a shelter deduction in determining the CSMNA. 55 Pa. Code 181.452(d)(2)(iii) states that "actual verified monthly shelter expenses include rent, mortgage payment…" may be used as a deduction in determining the CSMNA. Section 1924(d) of the Social Security Act specifies that…"the spouse's expenses for rent or mortgage payment…" may be used as a deduction in determining the CSMNA. There is no provision in either state or

federal law that the individual cannot have more than one mortgage…only that the actual expenses must be verified.