**Policy Clarifications – Long Term Care**

**PMN 18538-477**

**Submitted: Agency:** CAOs

**Subject: Client Notices for Changes Made During Active Long – Term Care (LTC) Penalty Periods.**

**Question: How should the CAO handle changes and client notices during a client’s active penalty period?**

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| **Response By: Division of Health Services** | **Date: 6/13/2017** |

An issue has been identified with client notices when changes are being made to (LTC) and Home and Community Based Services (HCBS) cases with an active penalty period (903 Q is open on the record).

If a penalty period does not end in the same two month timeframe processed with the change in e-CIS, the system generated notice includes incorrect LTC or HCBS eligibility language. This language would incorrectly allow the client to again appeal the penalty period. A system fix was implemented so that in this circumstance, system generated notices will not be issued. When a change is processed in e-CIS workers will continue to see a prepopulated notice on the client notice screen; however they will only be issued in certain circumstances. Changes that are processed in the same month the penalty ends or in the month prior to the month the penalty ends will continue to system generate and print in the overnight batch process. Changes that are made to cases with a penalty period that lasts longer than the two months processed will be made but system notices will not be issued.

Manual notices will be necessary when the notice does not print, only in certain circumstances that affect Medical Assistance (MA) eligibility, but not LTC or HCBS eligibility during the penalty period.

Example: Mr. B has an active LTC case. Income changes are made on July 10, 2017 based on Mr. B’s report of his short-term disability payments have ended on June 30, 2017. A penalty period is open from June 15, 2017 until November 15, 2017 due to a transfer for less than fair market value completed when Mr. B was admitted. A notice will appear to trigger in the e-CIS workflow when the change is entered, but the notice will not generate for mailing because the penalty ends after August 31, 2017. Notices will continue to generate for mailing if the penalty period ended between July 1, 2017 and August 31, 2017 in this example.   
  
**Circumstances Requiring Manual Notices During Penalty:**

* Changes in Buy-In Status Due to Income Changes
* Changes in Buy-In Status Due to Resource Changes
* Changes in Buy-in Status Due to Medicare Eligibility Changes

**The following wording should be used for manual notices during the continuing penalty period:**

* Income and /or Resource decrease making recipient eligible for Buy-In:  
  + You continue to qualify for Medical Assistance.  
      
    You now qualify for the state to begin paying your Medicare Part B premium (Buy-In) effective mm/dd/yyyy.  
      
    You may also be eligible for a refund of the Part B premiums that were taken out of your Social Security check for up to three months before you applied for MA. If DHS has not approved you for Medicare Buy-In for the three months before you applied, you can appeal.  
      
    55 Pa. Code §§ 140.201, 140.335 (b), 181.1.
* Income Increase that Ends Buy-In:
  + You continue to qualify for Medical Assistance.

However, you no longer qualify for the state to pay your Medicare Part B premium (Buy-In) effective mm/dd/yyyy because your income is too high

55 Pa. Code §§ 140.201, 181.1

* Resource increase that Ends Buy-In:
  + You continue to qualify for Medical Assistance.

However, you no longer qualify for the state to pay your Medicare Part B premium (Buy-In) effective mm/dd/yyyy because the value of your resources has changed.

55 Pa. Code §§ 140.201, 178.1

* Change due to loss of Medicare or Title II RSDI:
  + You continue to qualify for Medical Assistance.

However, you no longer qualify for the state to pay your Medicare Part B premium (Buy-In) effective mm/dd/yyyy because you are no longer eligible for Medicare.  
  
55 Pa. Code §§ 140.201, 140.221 (3), 140.335 (b)

* Change due to start of Medicare or Title II RSDI:
  + You continue to qualify for Medical Assistance.  
      
    You now qualify for the state to begin paying your Medicare Part B premium (Buy-In) effective mm/dd/yyyy because you are now eligible for Medicare

You may also be eligible for a refund of the Part B premiums that were taken out of your Social Security check for up to three months before you applied for MA. If DHS has not approved you for Medicare Buy-In for the three months before you applied, you can appeal.

55 Pa. Code §§ 140.201, 140.221 (3), 140.335 (b)

If LTC eligibility was not affected by the change, no notice is needed. This includes items that solely affect cost of care, as during a continuing penalty there is no cost of care. Changes should continue to be entered into e-CIS.Reapplications with no changes will continue to issue no notice.

**Circumstances Not Requiring Manual Notices During Penalty:**

* Community Spouse (CS) removal from case (loss of spousal allowance)
* Dependent Allowance changes for dependents that do or do not live with CS
* Expiration of the Home Maintenance Deduction
* Income changes that do not affect Buy-in eligibility
* Resource changes that do not affect Buy-in eligibility or exceed LTC eligibility limits
* PAN to TAN changes that have resources under the TAN limit
* TAN to PAN changes
* Waiver code changes

If the changes result in the closing of a budget, such as a PAN recipient changing to TAN with resources over $2400, the stop notice should continue to be generated in e-CIS.  
  
Workers should continue to take action timely on cases to determine the cost of care when the LTC 217 alert is received.