**Policy Clarification**

**Medical Assistance – Long-Term Care - All**

**PMN-21821-440**

 **Submitted: April 5, 2024 Agency: CAOs**

**Subject: Applicant and Recipient Penalty Periods Original**

**Question:** **What is the correct private pay rate to calculate the number of penalty period days for an applicant of Home and Community-Based Services (HCBS), or LTC (Long-Term Care) Medical Assistance (MA)** **when authorization is processed in a different year than the application was received?**

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| **Response By: Division of Health Services** |  **Date: June 26, 2024** |  |  |
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When an application for LTC or HCBS MA results in a 903Q penalty period Third Party Liability (TPL) being added to the case, the County Assistance Office (CAO) must take additional action if the case in the Electronic Client Information System (eCIS) is authorized in a different year than the application was received.

The length of the penalty period, also known as Period of Ineligibility (POI), is determined by dividing the total uncompensated value by the Average Daily Private Pay Rate. The system will always apply the Average Daily Private Pay Rate in effect as of system processing date. This calculation is incorrect for a POI when the application was not received in the same year as the processing date. This is particularly important because the Average Daily Private Pay Rate has been decreasing over the past few years.

**Applicant Penalties:**

For any transfer of assets discovered **PRIOR** to case authorization in eCIS the Average Daily Private Pay Rate in effect at the time the application is received (application date) must be used.

When the Average Daily Private Pay Rate is different for the application year and the processing year the CAO must:

* Manually calculate the POI using the Average Daily Private Pay Rate in effect when the application was received.
* Process the LTC or HCBS case but suppress the system generated notice.
* Use the Stand Alone TPL screen to edit the POI 903Q to match the manually calculated days. (Please see [LTC Procedural Desk Guide](https://pagov.sharepoint.com/%3Aw%3A/r/sites/DHS-OIM/_layouts/15/Doc.aspx?sourcedoc=%7BB8377D84-781A-44E4-B3C5-B119CEDB92EF%7D&file=LTC%20Procedural%20Desk%20Guide.docx&action=default&mobileredirect=true&DefaultItemOpen=1) or
[HCBS Procedural Desk Guide](https://pagov.sharepoint.com/sites/DHS-OIM/Desk%20Guides/HCBS%20Procedural%20Desk%20Guide.docx) for instructions.)
* Issue Manual Notices to all parties using the manually calculated POI. Language for the notice can be found in the eCIS Correspondence Text Search (985/J for LTC and 986/L for HCBS).
* Narrate the calculation and all case actions.

**Recipient Penalties:**

For any transfer of assets discovered **AFTER** the case is authorized in eCIS and the recipient is active for LTC or HCBS MA the Average Daily Private Pay Rate in effect at the time the period of ineligibility is determined (system process date) must be used.

The CAO should use the system calculated POI and issue system generated notices.

**NOTE: The year(s) the transfer of assets occurred has no effect on the Average Daily Private Pay Rate used to determine the POI.**

A Daily Status will be issued once the LTC Handbook is updated to reflect that the Average Daily Private Pay Rate in effect at the time the LTC or HCBS application was received must be used to determine the POI.