

MEMORANDUM

DATE: February 13, 2007

TO: Ms. Sharon L. Summers, DMMA
Policy and Program Development Unit

FROM: Daniese McMullin-Powell, Chairperson
State Council for Persons with Disabilities

RE: 10 DE Reg. 1216 [Proposed LTC Life Estate and Promissory Note Regulation]

The State Council for Persons with Disabilities (SCPD) has reviewed the Department of Health and Social Services/Division of Medicaid and Medical Assistance's (DMMA) proposal to amend its Long Term Care Medicaid standards in two contexts: 1) treatment of life estates; and 2) treatment of purchases of promissory notes, loans, and mortgages. The changes are prompted by Section 6016 of the Deficit Reduction Act of 2005. The regulation was published as 10 DE Reg. in the February 1, 2007 issue of the Register of Regulations. SCPD has the following observations.

First, in Section 20320.2.2.2, the last sentence should include, after "addition,," the words and punctuation "effective 4/1/06". See similar caveat in Section 20320.2.2 and DRA Section 6016(e).

Second, in Section 20320.2.2, last sentence, DMMA may wish to substitute "provided" for "providing".

Third, in Section 20330.3, second bullet, substitute "of" for "or" after the word "deferral".

Fourth, Section 20330.3, third paragraph, is structurally flawed. It recites that "DMMA will use the outstanding principal balance in determining resources unless the individual submits within 30 days the following information:" The "following information" section is then deleted in its entirety. Council recommends retention of the current Pars. "a" and "b" and retention of the "strike out" language in the second paragraph. For example, an applicant may hold a note from an individual or firm that has filed bankruptcy or have a mortgage on real estate which has been condemned or been destroyed. The applicant should be allowed to demonstrate that the "principal balance" is not an accurate reflection of the true value of the note, mortgage, or other instrument.

Thank you for your consideration and please contact SCPD if you have any questions or comments regarding our observations on the proposed regulation.

cc: Mr. Harry Hill
Governor's Advisory Council for Exceptional Citizens
Developmental Disabilities Council

P&I/10reg1216 dmma-life estate 2-07