Department of Health Care Services
Proposed Trailer Bill Legislation

Post-Eligibility Treatment of Income

FACT SHEET

Issue Title: Post-Eligibility Treatment of Income. The Department of Health Care Services (DHCS) proposes to amend the Welfare and Institutions (W&I) Code in order to align its Long-Term Care (LTC) policy with federal guidelines; specifically, how DHCS describes the cost sharing provisions for individuals subject to the Post-Eligibility Treatment of Income (PETI) and spenddown of excess income to become eligible for Medi-Cal, and Notices of Action for individuals in LTC.

Background: California currently operationalizes its LTC program in the Medically Needy (MN) program. Institutionalized individuals are transitioned into the MN program where the PETI rules are applied for ease of administration. The scope of the individual's coverage remains the same as their original program coverage.

DHCS has used the term share of cost (SOC) to describe the PETI rules for many years and has applied the PETI rules correctly and in accordance with the federal regulations. However, DHCS uses the SOC terminology to explain both the PETI rules and the concept of spenddown of excess income in order to be eligible for the MN program interchangeably.

The federal Centers for Medicare and Medicaid Services (CMS) and consumer advocates raised concerns with the use of the SOC terminology in the Notices of Action and requested DHCS revise the Notices of Action to more appropriately communicate with beneficiaries the PETI rules in a consumer-friendly way and to remove the SOC terminology and to align our LTC Notices of Action with DHCS' operational practices.

Justification for the change: These changes would align state statute with federal guidelines in order to be in compliance with CMS' LTC policy recommendation, address concerns raised by stakeholders, and provide guidance to the counties to support the integrity and accountability of DHCS' policy requirements.

Specifically, this proposal would:

- Expand the definition of "share of cost" to include "spenddown of excess income" in the Medically Needy statute to maintain share of cost as a valid term with legal meaning while introducing the new term of spenddown of excess income. California is transitioning away from the term share of cost (W&I Code Section 14054).
- Replace references of "share of cost" to "spenddown of excess income" as California is moving away from using the term share of cost. The term spenddown of excess income will be used to explain that in order for individuals to become eligible for Medi-Cal through the Medically Needy Program, they have

to spenddown their excess income (W&I Code Sections 14005.7, 14005.9, 14005.11, 14005.12, 14005.21, 14005.26, 14005.32, 14005.41, 14005.42, 14009, 14011, 14011.65, 14011.8, 14015, 14015.12, 14016, 14019.4, 14054, 14132, 14132.56, 14132.95, 14148.5, and 14154.5).

- Define “PETI” as the determination of LTC Patient Liability for each month, as specified (W&I Code Section 14051.7).
- Define “LTC Patient Liability” as the term that will be used as a result of the PETI calculation for individuals who are institutionalized and liable to pay a portion of their income for the cost of long term care before Medi-Cal will begin to pay (W&I Code Section 14051.8).
- Explain that for persons in LTC, any income deductions with the exception of other health insurance premiums shall not be deducted in the PETI determination (W&I Code Section 14005.95).
- Replace references to “share of cost” to “LTC Patient Liability” as California is moving away from using the term share of cost (W&I Code Sections 14005.13, 14006.4, 14100.8, and 14132.99).

Summary of Arguments in Support:

- This proposal aligns with federal guidelines and terminology.
- This proposal allows DHCS to more appropriately communicate the PETI rules with beneficiaries in a consumer-friendly way, which addresses concerns raised by stakeholders.