CHANGES TO ASSET LIMITS FOR HOME AND COMMUNITY-BASED WAIVERS

PREPARED BY THE DISABILITIES LAW PROJECT

What the Change is:
The Department of Public Welfare raised the asset limit for persons in home and community-based waivers (HCBWs), including the Consolidated MR Waiver, the Person/Family Directed Support Waiver, the Aging Waiver, the Attendant Care Waivers, and the Michael Dallas Waiver. The new asset limit is $8,000, up from $2,000, effective October 31, 2003. DPW will now “disregard,” or not count, the first $6,000 in resources or assets only for persons in HCBWs. The $2,000 asset limit is still in place, however, for people who get Medical Assistance (MA) because they are SSI recipients or who get “Healthy Horizons” MA because their income is 100% or less of the federal poverty income level.

What is “Income” and What are “Assets”: For purposes of determining eligibility for MA and HCBW services, DPW treats “income” different than “assets.” Income includes money you receive during a month such as SSI, Social Security Disability, or worker’s compensation payments. Assets include savings, the value of stocks, or money in a checking account left over from a prior month. But note: DPW does not count the following as assets: 1) your home; 2) one motor vehicle; and 3) a burial space and marker.

What the Numbers Mean:
People who receive HCBW services must show that without the support provided by the waiver, they would require institutional care. They also must be eligible for MA – generally by meeting one of the income and asset limits shown below:

<table>
<thead>
<tr>
<th>Type of MA</th>
<th>Current Income limits</th>
<th>Asset limits</th>
</tr>
</thead>
<tbody>
<tr>
<td>SSI recipients</td>
<td>$579</td>
<td>$2,000</td>
</tr>
<tr>
<td>Healthy Horizons</td>
<td>$769</td>
<td>$2,000</td>
</tr>
<tr>
<td>HCBW</td>
<td>$1,656</td>
<td>$8,000</td>
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</tbody>
</table>
Thus, in order to understand the effect DPW’s new asset limit will have for a person with a disability, it is important to know the basis for that person’s MA eligibility. As discussed below, the change will not benefit those getting MA because they receive SSI, but it could be a great help to persons in a HCBW program not otherwise eligible for SSI.

**Who is Helped by this Change:**
DPW’s change in asset limits may be very helpful if the following is true for the person with a disability receiving (or approved for and about to receive) HCBW services:

- The person has income **other than SSI** that can be received regardless of the amount of assets or resources that the person has (for example, Social Security Disability benefits; Social Security survivor benefits; worker’s compensation; retirement benefits).

- The person needs to or wants to keep some assets in reserve in order to, for example, pay for home maintenance costs or other expenses.

For example, this change would be helpful to the following family:

Mary lives at home with her parents. Mary has moderate MR and has been in the Consolidated Waiver for two years, participating in a day habilitation program. She receives approximately $1,500 per month in Social Security Disability benefits and has approximately $1,000 in a savings account. Mary’s parents are planning to move into senior housing and would like to give her their home, which they own free and clear. Mary can afford the taxes, utility payments, and ordinary upkeep on the home, and she can receive necessary staff support under her HCBW. But Mary would not be able to pay for any major repairs if she is only allowed to have savings of less than $2,000 in order to stay in the waiver. Under the new asset rule, however, Mary’s parents could give her the home (an asset that does not count) and also give her, or help her save from her own income, an additional
$5,000 or $6,000 so she will have the reserves to pay for major repairs as they arise.

Who Needs to Be Careful of the New Change:
The new change has no positive benefit for people who have MA coverage because they are on SSI. The SSI asset rule (no more than $2,000 to be eligible for monthly benefits) has not changed. **This is true even if these consumers are also in a HCBW.** These consumers must still carefully observe the $2,000 asset limit. If they go over, although they can remain eligible for MA under the new rule, **they will lose eligibility for SSI payments and will incur an overpayment** until they spend down to the limit again. Thus, although they will keep their MA and remain eligible for HCBW services, their SSI monthly income will end, and they will not be eligible again until they have spent their resources down to the $2,000 limit.

Consider this example:

Mike is an SSI recipient with MR who has been in the Consolidated Waiver for 3 years. Mike lives with his parents, receives $579 in a monthly SSI check, and generally has about $1,300 in his checking account.

Mike has always wanted to go on a cruise. Mike’s aunt hears about DPW’s change to the asset limit for persons receiving HCBW services, so she gives Mike a gift of $2,300 on January 30 so that he can take the cruise. As a consequence, on February 1, Mike now has countable assets of $3,600, and thus he is $1,600 over the SSI asset limit. Although he will remain eligible for the Consolidated Waiver and for MA (because the asset limit is now $8,000 for people in HCBW programs), he will lose his monthly SSI money until he gets his assets back down to the $2,000 limit. He will also owe an overpayment for any months that he received SSI when he was over the $2,000 limit.

Again, the change in the asset limit will not benefit those getting MA because they
receive monthly SSI benefits, but it could be a great help to persons in an HCBW program not otherwise eligible for SSI.

Please contact Lisa Day at the Disabilities Law Project – 215-238-8070 – if you have questions.

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