Department of Human Resources 311 West Saratoga Street Baltimore MD 21201	**FIA ACTION TRANSMITTAL**
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TO: DIRECTORS, LOCAL DEPARTMENTS OF SOCIAL SERVICES
DEPUTY/ASSISTANT DIRECTORS FOR FAMILY INVESTMENT
FAMILY INVESTMENT SUPERVISORS AND ELIGIBILITY STAFF

FROM: ROSEMARY MALONE, INTERIM EXECUTIVE DIRECTOR, FIA
DEBBIE RUPPERT, EXECUTIVE DIRECTOR, DHMH/OES

RE: PROCEDURAL CHANGES FOR THE LOOK-BACK PERIOD FOR LONG TERM CARE APPLICATIONS AND REDETERMINATIONS

PROGRAM AFFECTED: MEDICAL ASSISTANCE

ORIGINATING OFFICES: OFFICE OF PROGRAMS

SUMMARY

The Deficit Reduction Act (DRA) of 2005 lengthened the 36-month look-back period for initial long term care (LTC) applications to 60 months prior to the month of the initial application. This resulted in an increased workload for case managers when determining an applicant's initial eligibility. The extra work on the applications adversely affected the timely processing of the LTC applications. DHMH and DHR, in conjunction with long term care providers and client advocates, collaborated to develop strategies to address the delayed processing of LTC applications and redeterminations to avoid interruption of Medicaid benefits.

The initiative, introduced in this Action Transmittal (AT), will streamline the documentation required to evaluate the 60 month look-back period. The intent of the streamlining effort is to maintain program integrity while reducing access barriers related to documentation and verification requirements. The case manager will continue to evaluate the institutionalized individual's and the community spouse's assets to determine if a disposal of assets for less than fair market value occurred during the look-back period.

This AT:

- Outlines the new documentation required to evaluate the look-back period;
- Provides guidance to the case manager to correctly and effectively assess the new required documents; and
- Introduces the additional documentation needed at redetermination.

Effective Date: You may apply these streamlined guidelines immediately to cases with application or redetermination dates prior to May 1, 2011, but NOT in order to require additional information. Apply the guidelines in full to applications and redeterminations received on or after May 1, 2011.

Please Note:

The policy explaining how to evaluate the look-back period as set forth in MR-140 remains unchanged.

PROCEDURAL CHANGES

A. Application

Individuals applying for LTC-MA will no longer be required to provide 60 months of bank and financial statements for themselves and their community spouse in order to evaluate the look-back period.

Effective immediately, the following documents will be required at application to evaluate the look-back period:

- An exact copy of the federal tax returns (including all forms and schedules), as filed and processed with the Internal Revenue Service (IRS) for the current tax year and the preceding four years;
    - In lieu of the federal tax return for a given tax year, a copy of the IRS **Record of Account** for that year is acceptable. However, it may be necessary for the case manager to request additional documentation after evaluating the **Record of Account.**
    - An applicant who has provided the **Record of Account** for the past 3 years may provide quarterly bank and financial statements for the earliest 2 years of the look-back period.
    - If the recipient is not required to file a federal tax return, or has not filed their tax return, they must provide their quarterly bank and financial statements.
- Bank and financial statements for the month of application;
- Bank and financial statements for the month prior to the month of application; and
- Bank and financial statements for the last five years of the anniversary month of application.

Example: If the customer applies in March 2011, the case manager will request, in addition to the federal tax returns, bank and financial statements from the following months:

February 2011	March 2008
March 2011	March 2007
March 2010	March 2006
March 2009	

Note:

When "current tax year" is indicated in this AT, it is referring to the tax return for the previous calendar year.

Bank statements include Credit Union accounts. The case manager should review the State Verification Exchange System (SVES) to determine if an applicant who receives Social Security benefits, has direct deposit into a bank account.

Financial statements include but are not limited to trust funds, IRA or Keogh accounts, stock or bonds, money market funds, etc.

Online bank and financial statements are acceptable.

Application Scenarios

1. If the customer states they are unable to provide one or more of the preceding year's federal tax returns, send a 1052 requesting quarterly bank and financial statements for the missing tax year(s).

   Example: Ms. Hayes applies for LTC-MA benefits on April 25, 2011. The case manager requested her federal tax returns for the tax years 2010, 2009, 2008, 2007, and 2006. Ms. Hayes submits her federal tax returns except for the tax year 2006. She states that she is not able to obtain her federal tax return for that year. The case manager will then request bank and financial statements from Ms. Hayes for the calendar quarters beginning with the application month, April 2006, July 2006, and October 2006. The case manager would not request statements for all four quarters for the tax year in this case because the calendar quarter beginning January 2006 precedes the look-back period.

2. If the customer indicates they are not required to file federal tax returns, or did not file federal tax returns yet for one or more of the preceding years, send a 1052 requesting quarterly bank and financial statements for the corresponding federal tax year(s).

   If one of the quarterly bank and/or financial statements is missing, request the bank and/or the financial statements for one month prior and one month after any missing statement.

3. If the customer indicates that they are required to file a federal tax return for the current tax year and have not filed yet, send a 1052 requesting quarterly bank and financial statements for the corresponding tax year. Obtain the tax return at the next redetermination.

   Example: Ms. Rizzo applies for LTC-MA on January 24, 2011. The case manager requests her federal tax returns for the tax years 2010, 2009, 2008, 2007, and 2006. Ms. Rizzo indicates that she does file federal taxes but has not had the opportunity to file her taxes yet this year. The case manager requests her bank and financial statements for January 2011, December 2010, October 2010, July 2010, and April 2010.

4. If the customer indicates that one or more of the annual bank and/or financial statements are missing, request the bank and/or the financial statements for one month prior and one month after the missing statement(s).

   Example: Mr. Dorsey applies for LTC-MA benefits on March 17, 2011. The case manager requested his annual bank and financial statements for February 2011, March 2011, March 2010, March 2009, March 2008, March 2007, and March 2006. Mr. Dorsey submits all of his annual bank and financial statements except for March 2008. He states that he is not able to obtain his bank and financial statements for that month. The case manager will then request from Mr. Dorsey bank and financial statements for February 2008 and April 2008.

5. If the customer indicates there has been a transfer of assets during the look-back period, the case manager sends a 1052 requesting the document(s) that verify the date of the transfer, type of asset that was transferred, equity value of the asset the month of the transfer, amount received for the asset, reason for the transfer, and who received the transferred asset.

6. If the customer provides any documentation from the look-back period that the case manager finds questionable, the case manager may request additional documentation for purposes of verification. If the additional documents do not resolve the discrepancy, the case manager shall consult with the supervisor for direction as to how to process the case. If the decision is to approve the case, the case manager may also be directed to refer the case to the Office of the Inspector General (OIG)/Recoveries as appropriate.

B. Redetermination

At redetermination, if there is no community spouse, the case manager must request the following additional information:

- An exact copy of the federal tax return (including all forms and schedules), as filed and processed with the IRS for the current tax year; and
  - In lieu of the federal tax return for the current tax year, a copy of the IRS **Record of Account** for the current tax year is acceptable. However, it may be necessary for the case manager to request

additional documentation after evaluating the **Record of Account**;

- If the recipient is not required to file a federal tax return, or has not filed their tax return for the current tax year, they must provide their quarterly bank and financial statements.

- Bank and financial statements for the most recent month.

At redetermination, if there is a community spouse, the case manager must request the following additional information:

- A copy of the IRS **Wage and Income Transcript** for the current tax year. However, it may be necessary for the case manager to request additional documentation after evaluating the **Wage and Income Transcript.**

  - If the recipient is not required to file a federal tax return, or has not filed their tax return for the current tax year, they must provide their quarterly bank and financial statements.

- Bank and financial statements for the most recent month.

Note: The remaining information required at redetermination has not changed.

Redetermination Scenarios

1. If the customer indicates that they are required to file a federal tax return for the current tax year, and have not filed yet, send a 1052 requesting quarterly bank and financial statements for the current tax year. Obtain the tax return at the next redetermination.

   Example: Ms. Terry submits her redetermination application for LTC-MA benefits on January 25, 2011. The case manager requests her federal tax returns for the current tax year of 2010. Ms. Terry indicates that she does file federal taxes but has not had the opportunity to file her taxes yet this year. The case manager requests her bank and financial statements for January 2011, October 2010, July 2010, and April 2010. Obtain the federal tax return at the next redetermination.

2. If the customer indicates they are not required to file a federal tax return for the current tax year, send a 1052 requesting quarterly bank and financial statements for the corresponding federal tax year.

   If one of the quarterly bank and/or financial statements is missing, request the bank and/or the financial statements for one month prior and one month after each missing statement.

3. If the customer submits their redetermination application without the required bank and/or financial statements, the case manager will send a 1052 requesting

the most recent bank and/or financial statements. If the requested information is not received, the case will be closed and the case manager will send a proper notice of adverse action. If the requested information is received within four months of the redetermination closing, complete a tardy redet.

Example: Mr. Hettleman submits his redetermination application for LTC-MA benefits. The case manager requests the most recent bank and/or financial statements. Mr. Hettleman does not return the requested statements. The case manager will close the case for failure to return information and will send proper notice of adverse action. The month after the case closed, Mr. Hettleman returns the requested bank and/or financial statements. The case manager processes the case following tardy redet procedures.

DOCUMENT EVALUATION:

At both application and redetermination, the case manager will evaluate the submitted documents to determine if a transfer of assets has occurred.

Bank and financial statements will continue to be evaluated as they are currently.. Federal tax returns must be reviewed as follows:

- Review **all** line items listed under the section entitled **Income** on the federal tax return.
- Are there any dollar entries recorded for the individual line items?
- Did the customer report on the application the income and/ or assets that are reflected in each line item?
- Is the information listed on the federal tax return consistent with what has been reported on the application?
- Review the line items on Schedule A, Itemized Deductions, listed under **Gifts to Charity** to determine if there is a potential for a transfer of assets. If so, can a pattern of giving be established?
- If more than one federal tax return is being reviewed, are there large differences between the entries from year to year?

When the information listed on the federal tax return is questionable or not consistent, the case manager may need to request additional documentation.

If a **Record of Account** was provided instead of the federal tax return, the case manager may need to request additional documentation to substantiate the findings if the information is questionable or not consistent.

When reviewing the documents the case manager must assess if a transfer occurred and determine if the transfer will cause a penalty period.

- Determine if the transfer occurred within the "look-back" period or during the certification period.
- Determine what asset was transferred.

- Determine if the transferred asset requires a penalty period.
- Determine the fair market value of the transferred asset if a penalty applies.
- Determine the amount received for the asset.
- Determine when the asset was transferred.
- Determine why the asset was transferred.
- Determine if more than one transfer occurred.

REMINDERS:

- Case managers need to assess, on a case by case basis, whether the documentation requirements described in this AT are appropriate for a particular applicant or recipient.

- When it can be verified that the LTC applicant was a recipient of a needs-based public benefit at any time during the 5 year period before the month of application, verification of the value of resources during the look-back period is not required.

- If the required documents are not provided by the date an eligibility decision is due, the case manager will deny the application. If the required documentation is submitted within 6 months after the month of application, the case manager will reactivate the case.

- If the required documents are not provided by the date an eligibility decision is due, through no fault of the applicant, the case manager will determine if all of the conditions have been met to demonstrate the applicant has made a good faith effort to obtain the required documents. If all remaining factors of eligibility have been established, the case manager will determine eligibility. If approved the applicant must provide the missing documents at the next redetermination.

- If, at any point during a certification period, the case manager determines that the recipient was over scale in resources, the case manager shall refer the case to the OIG/Recoveries as appropriate.

INQUIRIES:

Please direct policy questions to DHMH Division of Eligibility Policy at 410-767-1463 or 1-800-492-5231 (select option 2 and request extension 1463).

DHMH Management Staff	DHR Help Desk
FIA Management Staff	Constituent Services

ATTACHMENTS:

How to Request Tax Returns from the IRS
Types of Tax Returns Available from the IRS

Types of Tax Returns Available from the IRS

Tax Return
Exact copy of a previously filed and processed tax return and all attachments (including Form W-2)
$57 fee for each tax period requested
May take up to 60 calendar days to receive by mail
Form 4506 Request for Copy of Tax Return
Can request up to 8 tax years

Record of Account
Will show a combination of most line items contained on the return as it was originally filed and changes made by the tax payer or the IRS after the original return was filed
No fee
Varies, may take from 10 – 30 calendar days to receive by mail
(Must specifically request)
Form 4506-T Request for Transcript of Tax Return
Can request up to 3 tax years

Wage and Income Transcript
Will show wages and income submitted to the IRS by employers and various financial institutions
No fee
Varies, may take from 10 – 45 calendar days to receive by mail
(*As a rule, must specifically request)
Form 4506-T Request for Transcript of Tax Return
Can request up to 3 tax years

Tax Return Transcript
Will show most line items contained on the return as it was originally filed
No fee
Varies, may take from 10 – 30 calendar days to receive by mail
Form 4506-T Request for Transcript of Tax Return
Can request up to 3 tax years

Account Transcript
Will show changes made by the tax payer or the IRS after the original return was filed
No fee
Varies, may take from 10 – 30 calendar days to receive by mail
(*As a rule, must specifically request)
Form 4506-T Request for Transcript of Tax Return
Can request up to 3 tax years

Verification of Non-filing
Will show proof from the IRS that the tax payer did not file a return for the year requested (Current year requests are only available after June 15th)
No fee
Varies, may take up to 10 calendar days to receive by mail
Form 4506-T Request for Transcript of Tax Return
Can request up to 3 tax years

How to Request Tax Returns from the IRS

Telephone/requesting a copy of the tax return to be mailed:
1-800-908-9946 (Transcript Number)
Follow the prompts in the recorded message
Give name, Social Security number, Street number, type of return filed, filing status, number of dependents
-Takes less than 10 minutes
-Test time took a total of 7 minutes
*Recording indicates will receive the tax return within 5-10 days

Telephone/requesting a form in the mail:
1-800-908-9946 (Transcript Number)
Follow the prompts in the recorded message
Give name, Social Security number, Street number, type of return filed, filing status, number of dependents
-Takes less than 10 minutes
-Test time took a total of 6 minutes
*Recording indicates will receive the form within 5-10 days

Telephone/requesting a copy of the tax return to be faxed:
1-800-908-9946 (Transcript Number)
Follow the prompts in the recorded message
Give name, Social Security number, Street number, type of return filed, filing status, number of dependents
-Takes less than 10 minutes
*Will be directed to a Customer Service Representative (CSR) to request a faxed copy.
*CSR indicated it may take up to 15 additional minutes for the entire process which includes an authentication process, ordering the forms as a PDF, faxing the forms and verbally confirming that the forms were received.
-Total time takes up to 25 minutes
-Test time took a total of 22 minutes

Telephone/requesting a copy of the tax return to be faxed:
1-800-829-1040 (Main Number)
Follow the prompts in the recorded message
-Takes less than 5 minutes
*Will be directed to a Customer Service Representative (CSR) to request a faxed copy.
*CSR indicated it may take up to 15 additional minutes for the entire process which includes an authentication process, ordering the forms as a PDF, faxing the forms and verbally confirming that the forms were received.
-Total time takes up to 20 minutes
-Test time took a total of 14 minutes

Online
http://www.irs.gov
Follow the online prompts
Name, Social Security number, Street number, type of return filed, filing status, number of dependents
-Takes less than 10 minutes