Office of the Registrar of Regulations,
Legislative Council,
State of Delaware

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

Division of Medicaid and Medical Assistance

Statutory Authority: 31 Delaware Code, Section 512 (31 **Del.C.** §512)

FINAL

ORDER

DSSM 20330.7 - U.S. Savings Bonds

Nature of the Proceedings:

Delaware Health and Social Services ("Department") / Division of Medicaid and Medical Assistance (DMMA) initiated proceedings to amend existing rule in the Division of Social Services Manual (DSSM) regarding the Long Term Care Program related to U.S. Savings Bonds. The Department's proceedings to amend its regulations were initiated pursuant to 29 **Delaware Code** Section 10114 and its authority as prescribed by 31 **Delaware Code** Section 512.

The Department published its notice of proposed regulation changes pursuant to 29 **Delaware Code** Section 10115 in the February 2007 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by March 2, 2007 at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

Summary of Proposed Amendment

DSSM 20330.7 - U.S. Savings Bonds:

CMS issued a letter to Region I, dated February 2, 2004, which gave clarifying guidance on the point at which U.S. Savings Bonds are an available resource. Previous language suggested that the bonds would not be an available resource until the bonds were submitted to the Office of Public Debt and a check issued. The letter cited, suggests that because the bonds can be redeemed due to hardship, that they are immediately available. The guidance from CMS approved valuation of United States savings bonds as a resource beginning on the date of purchase unless individuals have requested and been denied a hardship waiver from the United States Department of the Treasury, Bureau of the Public Debt.

Summary of Comments Received With Agency Response and Explanation of Changes

The State Council for Persons with Disabilities (SCPD) offered the following summarized comments. DMMA has considered each comment and responds as follows:

First, for your information, the Summary of the Proposed Change contains many errors. See references to "clarifying", "submitter", "available", and "ubless".

Agency Response: DMMA strives for accuracy in its regulations and finds these continued publication errors troublesome. We will continue to work with the publisher to eradicate these spelling errors.

Second, the text of the regulations may not achieve the intent as reflected in the Summary. The Summary characterizes Savings Bonds as an available resource upon purchase unless a waiver of the retention period is requested and denied. The text retains the provision that the "(bonds) are not resources during the retention period." This is ostensibly contradicted later with the addition of "(s)ince bonds are redeemable due to a hardship, the redemption value is treated as an available resource."

Agency Response: To increase clarity, the fifth sentence is stricken.

Third, a number of state Medicaid agencies have been adjusting their treatment of U.S. Savings Bonds. The attached Vermont materials compile both objections to treating Savings Bonds as resources upon purchase (including inconsistency with SSA POMS) and Vermont's agreement that the Bond should not be counted as a resource while the waiver request is pending. The Delaware regulation is unclear in this respect.

Agency Response: The approach suggested by the SCPD is acknowledged. However, the proposed regulation comports with the CMS guidance letter. No change to the rule language will be made based on the comment.

Fourth, a number of states also include a "grandfather" provision for existing Savings Bonds. For example, Vermont adopted its regulation effective December 1, 2004 with the following exclusion.

Savings bonds purchased before June 15, 2004 that have their minimum retention period expire after that date continue to be an excluded resource if they are not redeemed, exchanged, surrendered, reissued or otherwise become available.

In summary, SCPD would prefer: 1) abandonment of this initiative based on the SSA POMS approach (Savings Bonds are not resources during retention period); but 2) if adopted, there needs to be consistency among the standards and inclusion of a "grandfather" provision akin to the Vermont standard.

Agency Response: The regulation conforms to the CMS guidance letter. DMMA will not pursue a "grandfather" provision.

Findings of Fact:

The Department finds that the proposed changes as set forth in the February 2007 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend the policies for the Long Term Care Program related to U. S. Savings Bonds is adopted and shall be final effective April 10, 2007.

Vincent P. Meconi, Secretary, DHSS, March 15, 2007

DMMA FINAL ORDER REGULATION #07-18

REVISIONS:

20330.7U.S. Savings Bonds

U.S. Savings Bonds are obligations of the Federal Government. They are not transferable and can only be sold back to the Federal Government. Normally, they cannot be redeemed for six months after the issue date specified on the face of the bond. For Series EE and I Savings Bonds, the redemption period has been extended to 12 months. **[~~They are not resources during the retention period.~~]** They become resources (not income) as of the 7th month or 13th. A bond may not roll over or renew in order to prolong the minimum retention period. Actual redemption (converting to cash) of one bond is required before purchasing a new bond. However, the U.S. Treasury regulation authorizes the Commission of Public Debt to waive the regulatory provisions pertaining to U.S. Savings Bonds including the redemption period in order to "relieve any person or persons of unnecessary hardship." A request for a refund because the person now requires Nursing Home care and so needs the funds used to purchase the bonds may constitute a hardship. A written request to the Commissioner of Public Debt requesting a waiver to the redemption period is all that is required. The bondholder may simultaneously tender the bond(s) for redemption. If the Treasury receives the bond(s) and grants the waiver, it will issue the individual a check. ~~At that point, the individual would have a countable resource in the amount of the check.~~ <u>Since bonds are redeemable due to hardship, the redemption value is treated as an available resource.</u>

The individual in whose name a U.S. Savings Bond is registered owns it. The Social Security Number shown on a bond is not proof of ownership. The co-owners of a bond (bond titled AND/OR) own equal (50%) shares of the redemption value of the bond. The bond may show an owner followed by POD (proof of death) and another name. This is a survivorship type of bond. The name of the first individual owns 100% of the bond. The second individual will own 100% of the bond upon the death of the first individual.

Physical possession of a U.S. Savings Bond is a requirement for redeeming it. This is true for sole or joint ownership. If an individual alleges that he or she cannot submit a bond because a co-owner or other individual will not relinquish physical possession of the bond, obtain a signed statement from the co-owner or the other individual that he or she: has physical possession of the bond; will not allow the applicant to cash the bond; and if co-owner, will not cash the bond and give the applicant his or her share.

The Table of Redemption Values for U.S. Savings Bonds is used to determine the value of a bond. These are available from a local bank. The bank will need the series, denomination, date of purchase or issue date. After the mandatory 6-month retention period, the value of a series H or HH bond is its face value.

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