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MEDICAID UPDATE

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University of Texas School of Law

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Updates in "Extra Papers" (in your materials)

- Latest on Lady Bird Deeds & Transfer on Death Deeds: Julie Ezell-Perez, "Do a Good Deed"
- Getting Medicaid applications through: Benecia Flores, "Pesky Problems in Medicaid Cases"

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You Can Deduct “Pre-Eligibility Medical Expenses” (PEME)!

- Policy Bulletin 22-07 (May 2, 2022): You can deduct Incurred Medical Expenses (IME) for the 3 months before the month of application, even if client was not yet eligible.
- Includes even nursing home expense (at the Medicaid rate)
- Examples: client was over resources or did not yet have a QIT
- Won't help if ineligibility was due to transfer penalty
- Applies to agency actions on or after June 1, 2022

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PEME Example

- \$10,000 owed to nursing home for pre-eligibility services
- \$2,000/month copayment
- For 5 months, client pays \$0 copayment, \$2,000/month to the facility
- Same as if client incurred a large dental bill while eligible

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How to Implement PEME

- Complete Form H1263-A, get signed by client or representative and client's physician
- Obtain invoice from the facility for its services in the 3 months before application filing, at the Medicaid rate

After receiving notice re Medicaid Eligibility Date and copayment:

- Send Form H1263-A & invoice with letter to HHS requesting reduction of copayment

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Burt Case: HHS Requirement of Occupancy Upon Admission Struck Down

- *THHSC v Burt*: Couple bought a half interest in a home they had lived in previously and sold. HHS reasoned they could not have intent to “return” because were not living there upon admission to the facility
- Court: Same standard applies as when applicant resided in the home at time of admission: subjective intent to live there upon discharge, not considering age, physical condition, etc.

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