Ohio Administrative Code

Rule 5160:1-3-05.5 Medicaid: promissory notes, property agreements, and loans.

Effective: September 1, 2017

(A) This rule describes the treatment of promissory notes, property agreements, and loans for purposes of determining eligibility for medical assistance.

(B) Definitions.

(1) "Promissory note" means a written, unconditional promise signed by a person to pay a specified sum of money at a specified time, or on demand, to the person, corporation, or institution named on the note. It may be given in return for goods, money loaned, or services rendered. A promissory note making periodic payments is not considered an annuity.

(2) "Property agreement" means a pledge or security of particular property for the payment of a debt or the performance of some other obligation within a specified period.

(a) Property agreements on real estate generally are referred to as mortgages but also may be called real estate or land contracts, contracts for deed, deeds of trust, etc.

(b) Personal property agreements (e.g., pledges of crops, fixtures, inventory, etc.) are commonly known as chattel mortgages.

(C) Promissory notes or property agreements held by an individual.

(1) A promissory note or property agreement is an available resource.

(a) The resource value is its outstanding principal balance unless the individual furnishes evidence that it has a lower cash value.

(b) The property itself is not a resource.

(2) Payments received by an individual toward the principal balance of a promissory note or property agreement are not income. The interest portion of payments received is unearned income to the individual.

(3) A copy of the property agreement must be recorded with the county auditor, county recorder, or other appropriate government agency charged with the responsibility of recording property agreements.

(a) For the purposes of this rule, a property agreement is not considered effective until the date it is recorded with the county auditor, county recorder, or other appropriate government agency charged with the responsibility of recording property agreements. The administrative agency shall disregard any property agreement that is not properly recorded and shall consider the entire property as an available resource to the individual.

(b) For the purposes of this rule, the property agreement recording date held by the appropriate government agency is considered the date of transfer.

(4) Documentation must be provided by the individual verifying his or her proportionate share of the note or agreement if ownership of the note or agreement is shared.

(5) A promissory note or property agreement has no value if the individual adequately documents the obligations under the promissory note or property agreement were discharged by order of a bankruptcy court.

(D) Loans held by an individual.

(1) Money an individual borrows or money received as the principal repayment of a bona fide loan is not considered income.

(a) Any interest received on money loaned is unearned income.

(b) Retained proceeds of a loan in the month following the month of receipt are counted as a resource.

(2) The value of the loan is the outstanding balance due as of the individual's application date for medical assistance.