

SENIOR BULLETIN: MEDICAID – INSTITUTIONAL/COPEES

COPEES eligibility is not affected by in-kind support

Many people on COPEES in their own homes can't make ends meet on the part of their income they are permitted to keep. (In general, a single COPEES recipient may keep \$739 a month for personal needs (as of April 1, 2000). Income above that amount is allocated by DSHS for specific purposes, with most ordinarily going toward "participation" – paying part of the cost of the care otherwise covered by COPEES. This is explained in greater detail in the Columbia Legal Services pamphlet "Questions and Answers on the COPEES Program.") If COPEES recipients get additional cash from friends or family members, they are required to report the cash and, in general, it will simply increase their participation obligation and not help them cover housing or other daily expenses. Furthermore, if regular cash payments – from an alimony order, for example – put the recipient over \$1,635 (in 2002), under present DSHS rules, the recipient will no longer be eligible for COPEES at all.

If COPEES recipients receive what is called "in-kind support," however, it does not affect their participation obligations. In-kind support is food, clothing or shelter provided or paid for by someone else. For example, if you give me \$500 in cash so that I can pay my rent, that is income. If you pay \$500 directly to my landlord to cover the cost of all or part of my rent, you are giving me shelter, not cash, and the shelter is considered "in-kind support."

Examples of payments family member or other person can make to provide in-kind support to a COPEES recipient without affecting COPEES participation include:

1. Rent or mortgage payments;
2. Space rent for a mobile home;
3. Property taxes;
4. Utility payments such as electricity and gas.

Once again, payment in each of these cases must be made directly to the landlord, bank, company or merchant in order to be considered in-kind support to the COPEES recipient. If cash is given to the COPEES recipient to pay any of these bills, the cash will count as income.

There are other kinds of goods or services, not involving food, clothing or shelter, that can also be purchased, and other payments that can be made, for a COPES recipient without counting as income so long as the cash used to make these purchases or payments is never available to or in the possession of the COPES recipient. These include:

1. Car payments or payment for car fueling and maintenance
2. Car or homeowner's or renter's insurance;
3. Phone or cable bills;
4. Tickets for travel within the United States (as long as they are not converted to cash).

For additional examples see the September 9, 1999 Senior Bulletin entitled "Some things family and friends can give to SSI recipients that won't reduce their SSI." Things that do not count as income for SSI purposes also do not count for COPES purposes. (On the other hand, receipt of in-kind support will result in reduction or loss of SSI. The effects of in-kind support on SSI are discussed in another bulletin in this mailing entitled "Supplied shelter, clothing or food and its effect on SSI.")

Consideration of the difference between receiving monthly cash income or receiving in-kind income may be especially important if someone on COPES, or someone who expects to need COPES assistance, is dissolving a marriage. In a dissolution action, it may be advisable to structure a property settlement or maintenance in such a way that payments that benefit the COPES recipient are required to be paid directly to third parties. Structuring payments in this way may enable a COPES recipient to remain at home instead of being pushed toward a residential care facility or a nursing home.

Examples:

- *John is 73 years old and has \$900 in Social Security retirement income. He lives in an apartment where the rent is \$500 per month. Until recently, John supplemented his Social Security retirement income by working part time. John suffered a stroke, however, and can no longer work. He's been in a nursing home undergoing rehabilitation and is ready to come home if he has in-home care help. John has been found eligible for COPES, but he will not be able to afford the rent on his apartment because the COPES personal needs allowance is \$739. That limitation means that John will have to spend some of his Social Security income to help pay for the in-home care he gets under the COPES program. John's son and daughter want to help John stay in the apartment. They have offered to pay his rent. If John's children*

pay rent directly to John's landlord their financial help will not count as income to John and will not affect John's eligibility for COPES.

- *Mary, a COPES recipient, with \$600 per month Social Security disability income is getting divorced from her husband, John. Mary and John agree that Mary will be awarded the family home. John will be awarded comparable personal and other real property. In addition, John's income following the dissolution will be \$2,000 per month. Mary will be hard-pressed to maintain the family home following the dissolution unless John is required to pay maintenance (also known as alimony). But if John makes those payments directly to Mary, Mary will have to contribute to the cost of her care if those payments exceed the COPES personal needs allowance for a single person, currently \$696. Instead of requiring John to make a cash monthly maintenance payment, John can be ordered in the dissolution decree to pay some or all of the cost of maintaining Mary's home. If John is ordered to pay Mary's property taxes, homeowner's insurance or utilities directly to the county treasurer, insurance company, or utility provider, then those payments will not affect Mary's eligibility for COPES.*

A COPES recipient who is facing divorce should obtain individualized advice about from a lawyer familiar with Medicaid and COPES rules about how property division and maintenance settlements may affect ongoing COPES eligibility or participation requirements, as well as eligibility for other programs.