



HUMAN SERVICES
DEPARTMENT

Michelle Lujan Grisham, Governor
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DEPARTMENTAL MEMORANDUM
MAD-GI: 19-01
DATE: September 4, 2019

TO: ISD INSTITUTIONAL CARE/WAIVER UNIT

FROM: NICOLE COMEAUX, DIRECTOR, MEDICAL ASSISTANCE DIVISION
KARMELA MARTINEZ, ACTING DIRECTOR, INCOME SUPPORT DIVISION

THROUGH: ROY BURT, CHIEF, ELIGIBILITY BUREAU

BY: SONYA PIERCE, STAFF MANAGER, ELIGIBILITY BUREAU

SUBJECT: ASSET VERIFICATION SYSTEM FOR IC/WAIVER CASES

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[Signature]

GENERAL INFORMATION

Section 1940 of the Social Security Act requires states to implement an asset verification system (AVS) to verify the assets of aged, blind, or disabled applicants for and recipients of Medicaid. The Human Services Department (HSD) contracted with vendor Softplan to create a portal for an AVS. The AVS portal is used to return asset information from financial institutions (i.e. banks), real estate, and other assets. The AVS portal went live on March 01, 2019 and is used for Institutional Care (IC) and Home and Community Based Waiver (HCBW) Medicaid categories only.

The Medical Assistance Division (MAD) requested clarification from the Centers for Medicare and Medicaid Services (CMS) on the use of the AVS as an electronic data source in terms of timeliness, reasonable compatibility, and requesting additional verification. Below are the HSD questions and CMS responses.

1. The AVS has up to a 10-day response time primarily due to the longer turnaround time of local banks. Is HSD correct in assuming that we would check the AVS and await a response from the system before it would be okay to request documentation from the applicant? There are concerns about the impact that waiting for the AVS response could have on application timeliness.

CMS response:

Applications: Untimely responses from banks when utilizing the AVS: States may request paper verification **at application** for any untimely response from an FI. A response is considered untimely if it is not received within a reasonable number of days of the request as determined by the state.

- a. Expedited need for eligibility determination: States may give individuals an option to provide paper verification prior to pinging the AVS as early as the time of application. However, states may not require paper verification at the point of application, though may later if there's an inconsistency or no FI.

- b. AVS information later received: States must reconsider the eligibility decision based on any information later received from the FI that is not reasonably compatible with what was reported by the applicant.

Renewals: Renewals should be started enough back that there is not a problem with waiting for an AVS response.

- 2. Since the AVS is a trusted data source, is the state allowed to use the data provided in the AVS for the determination? In other words, if the data comes back to us showing that someone has resources that they did not attest to on the application, but which would make them ineligible, can we act on that information or do we have to seek a reasonable explanation? This will be complicated for IC/HCBW cases, for which different rules apply for asset transfer etc.

CMS response:

Information obtained from the AVS is subject to the same conditions as 42 CFR 435.952(c). States may not take adverse action based solely on information from the data source. If the data source information is inconsistent, the state should contact the applicant/beneficiary to request additional information or a reasonable explanation.

- 3. HSD is concerned about the 5-year lookback period and how we should use that information. Can findings discovered through the 5-year lookback be applied prospectively only? HSD is concerned that any retroactive eligibility changes (such as retroactive denials or restricted coverage) would cause financial harm to our providers who delivered services in good faith, particularly IC providers.

CMS response: The state may apply the penalty period prospectively.

MAD has developed the following reasonable compatibility charts to address resources for new IC/Waiver applications and renewals now that HSD has an AVS to verify resources:

| New IC/Waiver Applications | | | | | |
|---|-----------------------------|--|---|---|--|
| Asset Verification System (AVS) Information | | | | | |
| Customer reported information (Self Attestation on the Application) | AVS Info. | \$0.00 Resources | \$ Resources < \$2,000\month | \$ Resources >= \$2,000\month | |
| Blank | Call Customer or Send HUMAD | Process as zero resources from the AVS | Process as verified with resources from the AVS | Call Customer or Send HUMAD | |
| \$0 Resources | Process with zero resources | Process as zero resources from the Application. | Process as verified with zero resources from the Application. | Call Customer or Send HUMAD | |
| \$ Resources < \$2,000\month | Send HUMAD | Process as verified resources from the Application | Process as verified with resources from the Application | Call Customer or Send HUMAD | |
| \$ Resources >= \$2,000\month | Call Customer or Send HUMAD | Call Customer or Send HUMAD | Call Customer or Send HUMAD | Process as verified with resources from the AVS | |

| IC/Waiver Renewals | | | | | |
|---|------------------------------|---|--|---|---|
| Asset Verification System (AVS) Information | | | | | |
| Information contained in the case file or client reported information on the renewal form | | No AVS Info. | \$0.00 Resources | \$ Resources < \$2,000\month | \$ Resources >= \$2,000\month |
| | Blank | Process with no resources listed in ASPEN | Process as zero resources from the AVS | Process as verified with resources from the AVS | Call Customer or Send HUMAD |
| | \$0 Resources | Process with zero resources | Process as zero resources from the renewal form | Process as verified with zero resources from the renewal form | Call Customer or Send HUMAD |
| | \$ Resources < \$2,000\month | Send HUMAD | Process as verified with resources from the renewal form | Process as verified with resources from the renewal form | Call Customer or Send HUMAD |
| | Resources >= \$2,000\month | Call Customer or Send HUMAD | Call Customer or Send HUMAD | Call Customer or Send HUMAD | Process as verified with resources from the AVS |

Please address any questions concerning this GI to Sonya Pierce at sonya.pierce@state.nm.us or call (505) 827-7777.

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