

NURSING FACILITY SERVICES**a.** Transfer of Home

When the client transfers his home as follows, no penalty is applied:

- To the client's spouse
- To the client's minor child (under age 21)
- To the client's disabled child. The SSA definition of disability is used. Therefore, any person medically approved for or receiving disability-based RSDI and/or disability-based SSI meets the definition, as well as persons who are determined disabled by MRT. If no disability determination has been made, the case must be submitted for a MRT decision.
- To the client's sibling who has an equity interest in the home and who resided in the home for at least one year immediately prior to the client's institutionalization.
- To the client's child who was residing in the home for at least two years immediately prior to the client's institutionalization and who provided care to the individual which allowed him to remain at home rather than being institutionalized.

b. Transfer from the Economic Stimulus Tax Rebate for 2007

When the client transfers funds from this Rebate for less than fair market value during the 3-month exclusion period, there is no transfer penalty.

EXAMPLE: A client receives a \$600 Rebate in August 2008. Transfers can occur through October 2008 without penalty.

c. Other Transfers

When the client transfers resources other than his home, as follows, no penalty is applied:

- To the client's spouse or to another person for the sole benefit of the client's spouse
- From the client's spouse to another person for the sole benefit of the client's spouse

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- To the client's disabled child. See definition of disabled above in item a.

d. Transfer to a Trust

When the client or his spouse transfers resources to a trust that is excluded from consideration as an asset, no penalty is applied. See Chapter 11.

e. Transferred Resources Returned

When all assets transferred for less than FMV have been returned to the client, no penalty is applied. However, if a penalty has already been applied, a retroactive adjustment back to the beginning of the penalty period is required. The client is not necessarily asset-eligible once the resources are returned.

If part of such assets are returned, the penalty period is adjusted accordingly.

f. Client Intended Fair Market Return or Other Valuable Consideration

When the client or his spouse can demonstrate that he intended to dispose of the resource for FMV or for other valuable consideration, no penalty is applied.

g. Transfer Was Not to Qualify for Medicaid

When the resources were transferred exclusively for a purpose other than to qualify for Medicaid, no penalty is applied.

h. Denial Would Result in Undue Hardship

When it is determined that denial of eligibility would work an undue hardship on the client, no penalty is applied. Decisions about what constitutes undue hardship are made by the Director of OFS. Requests for consideration must be submitted in writing with details about the anticipated undue hardship.

5. Transfers Which Are Not Permissible

All transfers not specifically excluded from the application of a penalty result in application of a penalty. This also applies to jointly owned

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resources. The jointly owned resource, or the affected portion of it, is considered transferred by the client when any action is taken, either by the client or any other person, that reduces or eliminates the client's ownership or control of the resource.

Transfers of funds from the Economic Stimulus Tax Rebate for 2007 which occur after the 3-month exclusion period, are subject to penalty.

EXAMPLE: A client receives a \$600 Rebate in September 2008. Transfers after December 2008 are subject to a penalty.

6. Transfer With Retention of A Life Estate

A transfer of property with the retention of a life estate interest is treated as an uncompensated transfer.