b. Transfers of 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 of the rebate can occur through October 2008 without a penalty.

c. Transferred Assets Returned

When all assets transferred for less than CMV have been returned to the client, no penalty is applied. However, if a penalty has already been applied or has already started, 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.

d. Client Intended Current Market Return or Other Valuable Consideration

When the client can demonstrate that he intended to dispose of the asset for CMV or for other valuable consideration, no penalty is applied.

e. Transfer Was Not To Qualify For WV WORKS

When the asset(s) was transferred exclusively for a purpose other than to qualify for WV WORKS, no penalty is applied.

4. 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 assets.

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

5. 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.

To determine if a penalty is assessed and the length of the penalty, the Worker must compute the value of the transferred asset and of the life estate, then calculate the difference between the two.

Step 1: To determine the value of the transferred asset, subtract any loans, mortgages or other encumbrances from the CMV of the transferred asset.

Step 2: Determine the age of the life estate holder as of his last birthday and the life estate factor for that age found in Appendix A of this Chapter. Multiply the CMV of the transferred asset by the life estate factor. This is the value of the life estate.

Step 3: Subtract the Step 2 amount from the Step 1 amount. The result is the uncompensated value of the transfer.

Step 4: Divide the Step 3 amount by 100% current FPL for the AG size. The result is the number of months the penalty covers.

6. Transfer To Purchase An Annuity

Establishment of an annuity is sometimes treated as a transfer of assets, depending on whether or not the annuity is actuarially sound. The average number of years of expected life remaining for the individual who benefits from the annuity must coincide with the life of the annuity for it to be actuarially sound and, thus, not treated as an uncompensated transfer of assets. If the individual is not reasonably expected to live longer than the guarantee period of the annuity, the individual will not receive FMV.

The annuity is not, then, actuarially sound and a transfer of assets for less than CMV has taken place.

The transfer is considered to have occurred at the time the annuity was purchased. Only the amount that is not actuarially sound is treated as an