

NURSING FACILITY SERVICES

4. Permissible Transfers

The following transfers do not result in a penalty for transferring resources.

a. Transfer of the 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(ren) 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. Transfers from American Recovery and Reinvestment Act of 2009 (ARRA) One-Time Payments and Tax Credits/Refunds

American Recovery and Reinvestment Act of 2009 (ARRA) One Time Payments and Tax Credits/Refunds are excluded as transfers as follows:

NURSING FACILITY SERVICES

- **The one-time \$250 payment issued to recipients of RSDI, SSI, Railroad Retirement and VA disability pensions and compensation is excluded as an asset for 9 months following the month of receipt. No penalty is imposed for amounts transferred during the 9-month exclusion period. After that time, transfers may result in a penalty.**
- **Tax credits/refunds paid under Section 1001 and Section 2202 of ARRA 2009 are excluded for 2 months following the month of receipt. No penalty is imposed for amounts transferred during the 2-month exclusion period. After that time, transfers may result in a penalty.**

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

e. 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.

f. 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.

Long Term Care

NURSING FACILITY SERVICES

- g.** 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.
- h.** 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.
- i.** Denial Would Result in Undue Hardship
- An undue hardship may exist when application of some aspects of the asset policy, the trust policy, a transfer of resources or excess home equity result in denial of payment for Long Term Care services for an applicant or recipient.