

NURSING FACILITY SERVICES

individual that changes the course of payments to be made by the annuity or the treatment of the income or principal of the annuity. These actions include but are not limited to,

- Additions of principal,
- Elective withdrawals,
- Requests to change the distribution of the annuity,
- Elections to annuitize the contract and other similar transactions.

When these transactions occur a transfer penalty is applied.

(2) Transactions Not Subject to Penalty

Annuities purchased prior to March 1, 2009 which experience routine events and automatic changes that do not require any action or decision by the individual after March 1, 2009 are not subject to a transfer penalty. Routine changes include notification of an address change, death or divorce of a remainder beneficiary and other similar circumstances. Automatic changes are based on the terms of annuity which existed prior to March 1, 2009, and which do not require a decision, election or action by the individual to take affect. Changes beyond the individual's control, such as a change in law, a change in the policies of the issuer, or a change in the terms based on other factors, such as the issuer's economic condition, are not considered transactions that result in imposition of a transfer penalty.

NOTE: Annuities and annuity-related transactions that are not subject to a penalty are still subject to applicable income and/or asset policies.

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NOTE: Multiple penalties can be applied to the same annuity under certain circumstances.

EXAMPLE: A 60-year old woman served a six month penalty period because the annuity did not provide equal monthly payments. She became eligible for LTC services payments, but 3 months later she made an elective withdrawal from the annuity. Another transfer of resources occurred and a penalty is applied.

8. Transfer To Purchase A Promissory Note, Loan Or Mortgage

Any purchase of a note, or any loan or mortgage is treated as an uncompensated transfer unless all of the following criteria are met:

- The repayment terms must be actuarially sound, based on the Period Life Table found in Appendix G; and
- Payments must be made in equal amounts during the term of the loan, with no payment deferrals or balloon payments; and
- The note, loan or mortgage must prohibit cancellation of the debt upon the death of the lender.

If all of the criteria listed above are not met, the loan is treated as a transfer of resources. The amount of the transfer is the entire outstanding balance due on the loan as of the month of application for Medicaid long-term care services.

See Section 11.4, items X, AA and II to determine if the loan, mortgage / land sale contract or promissory note is an asset.

9. Treatment Of The Transfer Of A Stream Of Income Or The Right To A Stream Of Income

When the client fails to take action necessary to receive income or transfers the right to receive income to someone else for less than CMV, the transfer of resources penalty is applied. The Worker must:

Step 1: Verify the amount of potential annual income.

Step 2: Using the client's age as of his last birthday, determine the Remainder Interest Value in Appendix B.