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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 his 2007 $600 Rebate in August 2010. Transfers can occur through October 2010 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:

- 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

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- 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. **Transfer of Federal Refunds or Advance Payments**

Federal tax refunds and advance payments received January 1, 2010 through December 31, 2012 are excluded as assets for 12 months following the month of receipt. No penalty is imposed for amounts transferred during the 12-month exclusion period. After that time, transfers may result in a penalty.

e. 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 not to exceed the amount determined attributable to the community spouse during the Asset Assessment.

- From the client's spouse to another person for the sole benefit of the client's spouse not to exceed the amount determined attributable to the community spouse during the Asset Assessment.

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

NOTE: The transfer must be accomplished by a written instrument of transfer, such as a trust, which legally binds the parties to a specific course of action and specifies the conditions under which the transfer was made, and names those who benefit from the transfer.

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f. 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.

NOTE: Federal tax refunds and advance payments received January 1, 2010 through December 31, 2012 are excluded as assets for 12 months following the month of receipt of the payment. Federal tax refunds and advance payments that are placed in trusts during the exclusion period are excluded as assets.

g. 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.

h. 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.

i. Transfer Was Not to Qualify for Medicaid

When a transfer of resources was exclusively for a purpose other than to qualify for Medicaid, no penalty is applied.

NOTE: A transfer is assumed to be for the purpose of qualifying for Long-Term Services. The burden of proof is the individual's to prove otherwise. The Worker and Supervisor can make this decision.

EXAMPLE: Mrs. R. has a stroke and enters the nursing home on 10/15/09. Her daughter's home was in foreclosure and the mother transferred $5,000 to her on 9/19/09 to prevent foreclosure. The

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Worker verifies the situation with the foreclosure notice dated 9/4/09 and the mother's withdrawal and check to the daughter on 9/19/09 for the exact amount of the foreclosure of $5,000. The Worker and Supervisor determine Mrs. R. did not transfer money to qualify for Medicaid.

EXAMPLE: Mr. G., a widowed man, has failing health and transfers $25,000 to each of his children before he enters the nursing home. The children are not disabled. The transfer is assumed to be for the purpose of qualifying for Medicaid.

j. 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.