

## Long Term Care

- 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.

## 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

Certain asset-related denials of payment of Long-term-care Services are subject to waiver due to an Undue Hardship Provision. 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 the Office of Family Support via the Undue Hardship Waiver Committee. Requests for consideration must be submitted in writing with details about the anticipated undue hardship.

## 6. 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 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.

7. 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 Chapter 11. 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 the State's average, monthly nursing facility private pay rate of \$5,751. The result is the length of the penalty.

8. Transfer To Purchase An Annuity

Establishment of an annuity is sometimes treated as a transfer of resources, 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 resources. If the individual is not reasonably expected to live longer than the guarantee period of