

Center for Medicare & Medicaid Services

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Transfers of Assets

(Section 1917(c) of the Social Security Act; U.S. Code Reference 42 U.S.C. 1396p(c))

Under the transfer of assets provisions, States must withhold payment for various long term care services for individuals who dispose of assets for less than fair market value. The term "assets" includes both resources and income.

These provisions apply when assets are transferred by individuals in long-term care facilities or receiving home and community-based waiver services, or by their spouses, or someone else acting on their behalf. At State option, these provisions can also apply to various other eligibility groups.

States can "look back" to find transfers of assets for 36 months prior to the date the individual is institutionalized or, if later, the date he or she applies for Medicaid. For certain trusts, this look-back period extends to 60 months.

If a transfer of assets for less than fair market value is found, the State must withhold payment for nursing facility care (and certain other long term care services) for a period of time referred to as the penalty period.

The length of the penalty period is determined by dividing the value of the transferred asset by the average monthly private-pay rate for nursing facility care in the State. Example: A transferred asset worth \$90,000, divided by a \$3,000 average monthly private-pay rate, results in a 30-month penalty period. There is no limit to the length of the penalty period.

For certain types of transfers, these penalties are not applied. The principal exceptions are:

Transfers to a spouse, or to a third party for the sole benefit of the spouse,

Transfers by a spouse to a third party for the sole benefit of the spouse,

Transfers to certain disabled individuals, or to trusts established for those individuals,

Transfers for a purpose other than to qualify for Medicaid, and

Transfers where imposing a penalty would cause undue hardship.

Contact Person:

For additional information concerning Federal rules on transfers of assets for less than fair market value, contact Roy Trudel (410) 786-3417; E-Mail address, rtrudel@cms.hhs.gov, or Barbara Collins (410) 786-3364; E-Mail address, bcollins@cms.hhs.gov.

If you have questions about how a specific State applies these rules, please contact the State directly. See the State Contact Page for a list of States and contact information.

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