

MISSISSIPPI DIVISION OF MEDICAID

Eligibility Policy and Procedures Manual

CHAPTER 300 - Resources

Page | 3361

305.03.08 Documentation of Qualifying IRS Annuities

To determine that an annuity is established under any of the various provisions of the Internal Revenue Code that are referenced above, rely on verification from the financial institution, employer or employer association that issued the annuity.

The burden of proof is on the institutionalized individual or his representative to produce documentation. If documentation is not provided, which includes producing a copy of the actual annuity contract (not an application for an annuity or a request form for a change to an existing annuity) in order to evaluate the annuity, the purchase of the annuity will be considered a transfer for less than fair market value which is subject to a penalty. Without documentation, the full purchase value of the annuity will be considered the amount transferred.

305.03.09 Requirements for the Community Spouse

Annuities purchased by the Community Spouse on or after February 8, 2006, must name DOM as first beneficiary. The Institutionalized Spouse may not be named as a beneficiary ahead of DOM. However, if there is a minor or disabled child, the child may be named as primary and DOM as secondary.

It does not matter if the Community Spouse's annuity is actuarially sound or provides payments in approximately equal amounts with no deferred or balloon payments. These provisions apply only to annuities purchased by or on behalf of the individual who has applied for medical assistance.

305.03.10 Estate Recovery

Annuities purchased on or after February 8, 2006, will be subject to Estate Recovery. Refer cases with an annuity naming the Division of Medicaid as the primary beneficiary to Estate Recovery upon the death of the recipient. If DOM is named as the secondary beneficiary for an annuity, refer the case to Estate Recovery only if the primary beneficiary is also deceased. For example, if the Community Spouse was the primary beneficiary at the last review but the CS died prior to the IS, this would then make DOM the primary. If there is a surviving beneficiary of an annuity, such as a CS or disabled child named as the primary beneficiary, there is no need to refer the annuity to Estate Recovery at the time of the recipient's death.