

MISSISSIPPI DIVISION OF MEDICAID

Eligibility Policy and Procedures Manual

CHAPTER 300 – Resources

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306.05.01 MULTIPLE PERIODS OF INSTITUTIONALIZATION AND MULTIPLE APPLICATIONS

When an individual has multiple periods of institutionalization or has made multiple applications for Medicaid (unless the application was withdrawn), the look-back date is based on a baseline date that is the first date upon which the individual has both applied for Medicaid and is institutionalized. Each individual has only one look-back date, regardless of the number of periods of institutionalization, applications for Medicaid (the exception is a withdrawn application), periods of eligibility or transfers of assets.

For example, an individual enters a nursing facility in March 2010 but the application is denied for failure to provide requested information. Subsequent applications are filed July 2010, January 2011 and January 2012. The 5-year look-back date is based on the 03/2010 application date. Transfers that occur after 03/2010 will be considered under transfer policy but the look-back period is tied to the initial application date.

306.05.02 EFFECTIVE DATE OF PENALTY

Effective February 8, 2006, the date of the penalty will begin with the later of:

- The first day of a month during which assets have been transferred for less than fair market value; or
- The date on which the individual is eligible for medical assistance based on all factors of eligibility being met and is receiving institutional level of care services (based on an approved application for such services) that, were it not for the imposition of the penalty period would be covered by Medicaid.

Recipients are prohibited from transferring resources after approval. For transfers discovered after approval, the penalty is imposed beginning with the month following the rebuttal and adverse action period. An improper payment report will be prepared for any ineligible months before the penalty is imposed. If the penalty period has ended, the improper payment would cover all months of the penalty period.

For applications on or after 2-8-06, handled under DRA rules, the penalty will begin the month that Long Term Care Services are requested if the individual is otherwise eligible for Medicaid. If an individual is already eligible for Long Term Care Services and a transfer of assets is discovered, the penalty will begin the month following the rebuttal and advance notice period.

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Effective Date of Penalty (Continued)

Under the provisions of OBRA-93, the date of the penalty period is the first day of the first month during or after which assets have been transferred for less than fair market value and which does not occur in any other periods of ineligibility under this policy.

306.05.03 PENALTY PERIOD

The number of months of ineligibility for an institutionalized individual shall be equal to:

- The total, cumulative uncompensated value (UV) of all assets transferred by the individual (or individual's spouse) on or after the look back period

divided by

- The average monthly cost to a private pay patient for nursing facility services in Mississippi. The average monthly cost to a private pay patient is calculated annually based on the average per diem rate from the Division of Medicaid's cost reports for the previous year. Rates are effective on July 1st each year. The "Transfer of Asset Divisor Rates" chart is located in the Appendix.

In order to determine the correct transfer of assets divisor to use and how to determine the correct effective date of the penalty:

- For LTC applicants/recipients – refer to policy described in 306.05.05 "Determining the Correct Transfer of Assets divisor to use for LTC Services in a Nursing Facility,"
- For HCBS applicants/recipients – refer to policy described in 306.05.06 "Applying Transfer of Assets Penalty Periods to HCBS Waiver Applications and Active Cases."

306.05.04 DRA PROVISION - PARTIAL MONTH PENALTY

Under the DRA, when the amount of the transfer is less than the average monthly cost of nursing facility care, a penalty is imposed for less than a full month. This is called a partial month penalty.

Rounding down or otherwise disregarding any fractional part of an ineligibility period when determining the penalty period is not allowed effective 02/08/06. The average daily per diem is calculated annually using the average daily cost to a private pay patient. Daily rates are located in the Appendix "Transfer of Assets Divisor Rates" chart.