

MISSISSIPPI DIVISION OF MEDICAID

Eligibility Policy and Procedures Manual

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.

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DRA Provision – Partial Month Penalty (Continued)

Example

An individual makes an uncompensated transfer of \$30,534.00 in April 2006. He applies for Medicaid coverage for long-term care services in September 2008. The transfer falls within the 5 year look back period.

Therefore, the uncompensated transfer amount of \$30,534.00 is divided by the average monthly rate of \$4,600.00 (in effect at the time) and equals 6.64 months. The full 6 month penalty runs from September 1, 2008 (the month eligibility is requested) through February 28, 2009 with a partial month penalty calculated for March 2009. The penalty calculation is as follows:

- Step 1:** \$30,534.00 uncompensated transfer amount divided by \$4,600.00 average monthly private pay rate = 6.64 months in the penalty period
- Step 2:** \$4,600.00 average monthly private pay rate (x) 6 six full months penalty period = \$27,600.00 penalty amount for six months
- Step 3:** \$30,534.00 uncompensated transfer amount (less) \$27,600.00 penalty amount for 6 full months = \$2,934.00 partial month penalty amount
- Step 4:** \$2,934.00 partial month penalty amount (divided by) \$151.00 daily rate (in effect at the time) = 19.43 days or 19 days for partial month penalty

The month of March 2009 will have 19 days that a vendor payment will not be made to the nursing facility. Vendor payments will begin on day 20. Thus the total penalty period for the transfer of \$30,534.00 will be September 1, 2008 through March 19, 2009.