

MISSISSIPPI DIVISION OF MEDICAID

Eligibility Policy and Procedures Manual

306.06 TYPES OF TRANSFER OF ASSETS

The situations listed below are considered transfers of assets and may be subject to a penalty period for institutionalized and Home and Community Based individuals. The types of transfers may not be an exhaustive list.

306.06.01 Treatment of Income as an Asset

Income, in addition to resources, is considered to be an asset for transfer (and trust) purposes. Thus, when an individual's income is given or assigned in some manner to another person, such a gift or assignment, can be considered a transfer of assets for less than fair market value.

In determining whether income has been transferred, do not attempt to ascertain in detail the individual's spending habits during the look back period. Absent some reason to believe otherwise, assume that ordinary household income was legitimately spent on the normal costs of daily living.

However, you should attempt to determine whether the individual has transferred lump sum payments actually received in a month. Such payments, while counted as income in the month received for eligibility purposes, are counted as resources in the following month if they were retained. Disposal of such lump sum payments before they can be counted as resources could constitute an uncompensated transfer of assets.

Also attempt to determine whether amounts of regularly scheduled income or lump sum payments, which the individual received or would otherwise have received, have been transferred. Normally, such a transfer takes the form of a transfer of the right to receive income. For example, a private pension may be diverted to a trust and no longer paid to the individual.

When a single lump sum is transferred (i.e., a stock dividend check is given to another person in the month in which it is received by the individual), the penalty period is calculated on the basis of the value of the lump sum payment.

When a stream of income, (i.e., income received on a regular basis, such as a pension) is transferred over multiple months, calculate the penalty period by adding the income payments together and begin the penalty period on the earliest date that would otherwise apply if the transfer had been made in a single lump sum.

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Treatment of Income As An Asset (Continued)

When the transfer involves a right to income (as opposed to periodic transfer of income the individual owns) make a determination of the total amount of income expected to be transferred during the individual's life, based on an actuarial projection of the individual's life expectancy, and calculate the penalty on the basis of the projected total income.

306.06.02 Conveyance for Less than Fair Market Value

Giving away or conveying an asset for less than fair market value within the look back period for an institutionalized or HCBS individual may be considered a transfer of assets.

306.06.03 Waiving an Inheritance or Other Entitled Benefit

Refusal to accept an inheritance or refusal to take legal action to obtain benefits an individual is entitled to receive may be considered a transfer of assets.

306.06.04 Annuities When Expected Returns Are less than Cost of Annuity

Establishing or purchasing annuities in which anticipated payments based on life expectancy of the individual are less than the cost of the annuity. The policy on annuities is explained in detail in the Annuities section.

306.06.05 Irrevocable Burial Contracts Under Certain Circumstances

An irrevocable burial contract or similar device established by the funeral home/director is considered a transfer of assets if the cost to the individual or spouse exceeds the value of the merchandise and/or services. The specialist will obtain an itemized statement to assist in determining whether the costs are commensurate with the value of the merchandise and/or services.