Exceptions to Transfer of Any Type of Resource Other Than the Home
(Continued)

Exceptions to Transfer of Any Type of Resource Other Than the Home (Continued)

- Resources are transferred to the institutionalized individual's child who is disabled or blind.

- Satisfactory evidence is presented to show that the individual intended to dispose of the resource(s) either at fair market value or for other valuable consideration, **or**, that resource(s) were transferred exclusively for a purpose other than to qualify for Medicaid.

- Denial of eligibility would result in undue hardship.

- The resource was excluded under ongoing policy at the time for the transfer.

- The resource was transferred by an individual other than the institutionalized applicant/recipient and that person had no legal authorization to act in the applicant's or recipient's behalf at the time of the transfer.

307.01.07   Notice of Transfer of Resources

The client will be notified via DOM-322A, Notice of Transfer of Resources, regarding countable transfers and the penalty period. The notice will allow the client or representative 10 days to present evidence to show that the transfer should not count. Evidence should include a written rebuttal plus any pertinent documentary evidence. If no rebuttal is offered, the penalty will be applied and the appropriate adverse action notice issued to deny or terminate payment of nursing home services only. The individual remains eligible for all other Medicaid services if the transfer penalty is the only factor of ineligibility. If the individual is ineligible on other factors as well as the transfer, the application or case must be denied or terminated.

307.01.08   Rebuttal Process

Written rebuttals along with the regional office decision regarding acceptability are to be submitted to the central office. The material submitted should include the rebuttal, a copy of the transfer notice issued to the client and a summary of circumstances surrounding the transfer. The regional office will be notified of the final decision.

Rebuttal Process (Continued)

Acceptable Rebuttals

Factors which may indicate that a transfer was made for some purpose other than establishing Medicaid eligibility are listed below. The presence of one or more of the following factors may result in an acceptable rebuttal:

- The occurrence **after** a transfer of resources of one or more of the following:

    o Traumatic onset (e.g., traffic accident of disability or blindness;

    o Diagnosis of previously undetected disabling condition;

    o Unexpected loss of other resources which would have precluded Medicaid eligibility;

    o Unexpected loss of income (including deemed income) which would have precluded Medicaid eligibility.

In general, if the client was healthy and/or financially secure at the time of the transfer, with no expectation of future Medicaid need, then an acceptable rebuttal may be established.

- Total countable resources that would have been below the resource limit at all times from the month of transfer through the present month even if the transferred resource had been retained;

- Court-ordered transfer;

- Resource(s) sold at less than current market value in order to obtain cash quickly to meet expenses or repay a legal debt.

307.01.09   Undue Hardship

The transfer penalty can be waived if a period of ineligibility would result in undue hardship for the institutionalized individual. Undue hardship exists if a Medicaid denial of nursing home care would result in the individual's inability to obtain medical care. Each case situation must be reviewed individually to determine if undue hardship exists but the provision is geared toward financially and medically needy individuals with no possible means of recovering their transferred resource(s).