305.03.04 Information Provided by the Division of Medicaid to Issuer

For any annuity disclosed for the applicant or Community Spouse, DOM must inform the issuer of the annuity of the Division of Medicaid's right to be named as a preferred remainder beneficiary and may require the issuer to notify the Division of Medicaid regarding any changes in amount of income or principal being withdrawn from the annuity. The issuer of the annuity may disclose information about DOM's position as remainder beneficiary to others who have a remainder interest in the annuity.

305.03.05 Treatment of Annuities in Determining Eligibility for Long Term Care

In addition to the requirement for the Mississippi Division of Medicaid to be named as a remainder beneficiary for an annuity purchased by the institutional spouse or community spouse within the 5-year lookback period and in all subsequent months, an annuity purchased by or on behalf of an annuitant who has applied for medical assistance with respect to nursing facility or other long term care services will not be treated as a transfer of assets if purchased within the 5-year look-back period or any subsequent month if certain conditions are met which are described below.

1. The annuity meets one of the following conditions for employment-related annuities that are treated as retirement benefits:

    - It is an individual retirement annuity according to (b) or (q) of section 408 of the Internal Revenue Code of 1986 (IRC), or,

    - The annuity is purchased with proceeds from an account or trust described in subsection (a), (c) or (p) of section 408 of the IRC, or,

    - The annuity is purchased with proceeds from a simplified employee pension within the meaning of section 408 of the IRC, or,

    - The annuity is purchased with the proceeds from a Roth IRA described in section 408A of the IRC.

Treatment of Annuities in Determining Eligibility for Long Term Care (Continued)

2. The purchase of an annuity not described in one of the 4 bullets above will be considered a transfer of assets unless it meets all of the following requirements for every month in which eligibility is being considered:

   - The annuity is irrevocable and non-assignable; and,
   - The annuity is actuarially sound, meaning it will return the full investment within the annuitant's life expectancy using the Life Expectancy Tables published by the Office of the Actuary of the Social Security Administration (located in the Appendix) and described in "Determining Whether an Annuity is Actuarially Sound" (below), and,
   - The annuity is providing payments in equal amounts during the term of the annuity with no deferred or balloon payments; and,
   - The annuity is issued by a business licensed and approved to issue commercial annuities in the state in which the annuity was purchased; and
   - The Division of Medicaid has been named as beneficiary of the annuity in the correct position as outlined in 305.03.03.

NOTE: The purchase of a single-premium life insurance policy, endowment policy or similar instrument which has no cash value, and for which the individual receives no valuable consideration, will be considered a transfer of assets if purchased within the 5-year look-back period or any subsequent month.

An annuity that does not meet the requirements above, or an annuity that is not changed to meet the necessary requirements and/or documentation that is not provided relating to an annuity will result in the annuity being treated as a transfer of assets if purchased within the 5-year look-back period or any subsequent month using the full purchase price as the amount transferred.

NOTE: Even if an annuity is determined to meet the requirements above and the *purchase* is not treated as a transfer, if the annuity or income stream from the annuity is transferred, that transfer may be subject to a penalty with the exception of transfers to a spouse or to another individual for the sole benefit of the spouse, to a minor or disabled child or to a Special Needs Trust.