RESOURCES
TRANSFER OF ASSETS

ALL CATEGORIES EXCEPT S/CC

Description:

Sometimes an A/R, the A/R's spouse, or someone acting on his/her behalf, makes a voluntary assignment or transfer of non-exempt assets for less than fair market value. Under certain circumstances, an A/R may be subject to a period of ineligibility for Medicaid coverage or penalty period, when a transfer of assets for less than the fair market value has occurred.

For purposes of this section, assets included all income and resources of eh A/R and the A/R's spouse. This includes income or resources which the A/R or the A/R spouse is entitled to but does not receive because of any action taken by the A/R or the A/R's spouse (or person acting at the direction of upon the request of the A/R or the A/R's spouse).

Policy:

Once an A/R is found financially eligible for Nursing Facility Services a review is made to determine if the A/R and/or their spouse transferred assets for less than fair market value.

NOTE: Nursing facility services include alternate level of care in a hospital, nursing home care, hospice in a nursing home, managed long-term care in a nursing home and care and services in an intermediate care facility. Home and community-based services are not included in the definition of nursing facility services.

For applications filed on or after August 1, 2006 for Medicaid coverage of nursing facility services and for recipients who request an increase in coverage for nursing facility services documentation of resources for the past 36 month period (60 months for transfers to or from a trust) must be provided. The 36 month period is determined from the month that the institutionalized individual is both institutionalized and requesting coverage to be established for nursing facility services.

Beginning February 1, 2009 resource documentation for the past 37 months (60 months for trusts) is required. The look-back period and resulting documentation will increase by one-month increments until February, 2011. Effective February 1, 2011, the full 60-month look-back period will be in place for ALL transfers of assets.

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NOTE: In cases where the initial days of nursing facility care were covered as short-term rehabilitation under Community Coverage Without Long-Term Care or Community Coverage with Community-Based Long Term Care, the look-back period is the period immediately preceding the month the individual started to receive Medicaid coverage for the short-term rehabilitation service. Any transfer penalty for an otherwise eligible individual would also start the first month the individual started to receive the short-term rehabilitation service.

Once eligibility is established for an institutional spouse, any transfers made by the community spouse do not affect the institutionalized spouse's Medicaid eligibility.

NOTE: If a Medicaid recipient who is now applying for Medicaid coverage of nursing facility services has been on Medicaid for the past 36 months, has documented current resources at each renewal, not created or funded a trust which requires a 60-month look back, and not made a prohibited transfer, a separate resource review for the past 36 months is not required.

The transfer of assets rules do not apply to persons whose eligibility is determined without a resource test. Such persons include pregnant women and infants under age 1, and children under age 19 whose household income is compared to a federal poverty level. In addition, there is no resource test for policy holders who have utilized the minimum required benefits under a total asset a New York State Partnership for Long-Term Care Total Asset Protection Plan.