

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: Iowa

TRANSFER OF ASSETS

1917(c) For transfers of assets for less than fair market value made before February 8, 2006, the agency provides for the denial of certain Medicaid services.

1. Institutionalized individuals may be denied certain Medicaid services upon disposing of assets for less than fair market value on or after the look-back date.

The agency withholds payment to institutionalized individuals for the following services:

Payments based on a level of care in a nursing facility.

Payments based on a nursing facility level of care in a medical institution.

Home and community-based services under a 1915 waiver.

2. Non-institutionalized individuals.

X The agency applies these provisions to the following non-institutionalized eligibility groups. These groups can be no more restrictive than those set forth in section 1905(a) of the Social Security Act:

All coverage groups.

The agency withholds payment to noninstitutionalized individuals for the following services:

Home health services (section 1905(a)(7)).

Home and community care for functionally disabled and elderly adults (section 1905(a)(22)).

Personal care services furnished to individuals who are not inpatients in certain medical institutions, as recognized under agency law and specified in section 1905(a)(24).

X The following other long-term care services for which medical assistance is otherwise under the agency plan:

None.

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3. Penalty Date--The beginning date of each penalty period imposed for an uncompensated transfer of assets is:

X the first day of the month in which the asset was transferred.

_____ the first day of the month following the month of transfer.

4. Penalty Period--Institutionalized Individuals--

In determining the penalty for an institutionalized individual, the agency uses:

X the average monthly cost to a private patient of nursing facility services in the state.

_____ The average monthly cost to a private patient of nursing facility services in the community in which the individual is institutionalized.

5. Penalty Period--Non-institutionalized Individuals--

The agency imposes a penalty period determined by using the same method as is used for an institutionalized individual, including the use of the average monthly cost of nursing facility services.

_____ Imposes a shorter penalty period than would be imposed for institutionalized individuals, as outlined below:

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6. Penalty period for amounts of transfer less than cost of nursing facility care--

- a. Where the amount of the transfer is less than the monthly cost of nursing facility care, the agency:

X does not impose a penalty.

 imposes a penalty for less than a full month, based on the proportion of the agency's private nursing facility rate that was transferred.

- b. Where an individual makes a series of transfers, each less than the private nursing facility rate for a month, the agency:

X does not impose a penalty.

 imposes a series of penalties, each for less than a full month.

7. Transfers made so that penalty periods would overlap--

The agency:

X totals the value of all assets transferred to produce a single penalty period.

 calculates the individual penalty periods and imposes them sequentially.

8. Transfers made so that penalty periods would not overlap--

The agency:

X assigns each transfer its own penalty period.

 uses the method outlined below:

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9. Penalty periods - transfer by a spouse that results in a penalty period for the individual--

- a. The agency apportions any existing penalty period between the spouses using the method outlined below, provided the spouse is eligible for Medicaid. A penalty can be assessed against the spouse, and some portion of the penalty against the individual remains.

Divide the remaining penalty equally between spouses, so that the total remaining penalty on both spouses does not exceed the remaining length of the penalty originally imposed on the individual (SMM 3258.5).

- b. If one spouse is no longer subject to a penalty, the remaining penalty period must be served by the remaining spouse.

10. Treatment of income as an asset--

When income has been transferred as a lump sum, the agency will calculate the penalty period on the lump sum value.

The agency will impose partial month penalty periods.

When a stream of income or the right to a stream of income has been transferred, the agency will impose a penalty period for each income payment.

 For transfers of individual income payments, the agency will impose partial month penalty periods.

 X For transfers of the right to an income stream, the agency will use the actuarial value of all payments transferred.

 The agency uses an alternate method to calculate penalty periods, as described below.

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11. Imposition of a penalty would work an undue hardship--

The agency does not apply the transfer of assets provisions in any case in which the agency determines that such an application would work an undue hardship. The agency will use the following procedures in making undue hardship determinations:

The Notice of Decision issued to inform the client of the period of ineligibility due to transfer of assets contains a statement that if the penalty will result in undue hardship, the client must notify the worker. It also contains appeal rights and the time frames associated with them.

The client or the responsible person acting for the client may present evidence that undue hardship will result if the penalty is enforced. If the evidence demonstrates that undue hardship will occur, the penalty will not be enforced.

The following criteria will be used to determine whether the agency will not count assets transferred because the penalty would work an undue hardship:

Undue hardship exists when all of the following conditions are met:

- ◆ Application of the transfer of asset penalty would deprive the person of food, clothing, shelter, medical care, or other necessities of life, such that the person's health or life would be endangered.
- ◆ The person who transferred the resource or the person's spouse has exhausted all means including legal remedies and consultation with an attorney to recover the resource.
- ◆ The person's remaining available resources (after the attribution for the community spouse) are less than the monthly statewide average cost of nursing facility services to a private pay resident, counting the value of all resources except for:
 - The home, if occupied by a dependent relative or if a licensed physician verifies that the person is expected to return home.
 - Household goods.
 - A vehicle required by the client for transportation.
 - Funds for burial of \$4,000 or less.

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