

Virginia Department of Social Services  
 Medicaid Fact Sheet #3  
 ASSET TRANSFER

The following information is given as a guideline only. In order for your Medicaid eligibility to be determined, you must file an application with the local department of social services in the area in which you live.

The transfer of assets on or after August 11, 1993, for less than the current market value could make you ineligible for Medicaid payment of Long Term Services and Support services (LTSS) for a period of time. Assets include money in the bank, certificates of deposit, real property, and income. Transfer for less than the fair market value means giving an asset away or selling it to anyone, including family members, for less than it would bring on the open market. Fair market value for real property is the tax assessed or certified appraised value.

If you need nursing facility or community-based care and you have transferred an asset up to 60 months prior to the date on which you were both receiving the care and applied for Medicaid, Medicaid may not pay for that care for a specified period of time. The period of time Medicaid will not pay is based upon the uncompensated value of the transferred asset and is called the "penalty period."

The date on which the penalty period begins depends on the date of the transfer and whether the individual is currently receiving Medicaid-covered LTSS benefits or is now applying. For individuals not receiving LTSS and not enrolled at the time of transfer, the penalty period begins the first day of the month in which the individual would otherwise be eligible for Medicaid payment for LTSS, except for the imposition of a penalty period. (This includes the application retroactive period for nursing facility patients who have been in the facility during the retroactive period.)

If the individual is not receiving Medicaid-covered LTSS but is a current recipient at the time of the asset transfer, the penalty period begins the first day of the month in which the individual would otherwise be eligible for Medicaid payment for LTSS but for the application of the penalty period, if the date does not fall into another period of ineligibility imposed for any reason.

The length of the penalty period depends on the uncompensated value of the transfer and may include a partial month (i.e., the penalty period is not rounded down to the nearest whole month).

The uncompensated value is the difference between the value of the asset and the amount you received for it. The uncompensated value is divided by the average monthly private nursing facility rate at the time of the Medicaid application. The following chart shows the average monthly private nursing facility cost:

***Average Monthly Private Nursing Facility Cost Application***

Date	Northern Region	All Other Localities
10-1-96 to 9-30-97	\$2,564	\$2,564
10-1-97 to 12-31-99	\$3,315	\$2,585
1-1-00 to 12-31-00	\$3,275	\$2,596
1-1-01 to 12-31-01	\$4,502	\$3,376
1-1-02 to 12-31-03	\$4,684	\$3,517
1-1-04 to 9-30-07	\$5,403	\$4,060
10-1-07 to 12-31-10	\$6,654	\$4,954
1-1-11 to 12-31-14	\$7,734	\$5,933
1-1-15 to 6-30-18	\$8,367	\$5,933
7-1-18 and after	\$9,032	\$6,422

Example: (using July 2018 figures): An individual living outside Northern Virginia made an uncompensated asset transfer of \$48,294 in July 2018, the same month he applies for Medicaid. The uncompensated value of \$48,294 is divided by the average monthly rate of \$6,422 which equals 7.52 months. The full 7-month penalty period runs from July 2018, the month of the transfer, through January 2019, with a partial month penalty calculated for February 2019. The partial month penalty is calculated by dividing the partial month penalty amount (\$3,340.00) by the daily rate (\$207.16, which is the monthly rate of \$6,422 divided by 31). The calculations are as follows:

Step #1 \$48,294.00    *uncompensated value of transferred asset*  
           ÷ 6,422.00    *avg. monthly nursing facility rate at the time of application*  
           = 7.52        *penalty period (7 full months, plus a partial month)*

Step #2 \$ 6,422.00    *avg. monthly nursing facility rate at the time of application*  
               X    7        *seven-month penalty period*  
           \$44,954.00    *penalty amount for seven full months*

Step #3 \$48,294.00    *uncompensated value*  
           -44,954.00    *penalty amount for seven full months*  
           \$ 3,340.00    *partial month penalty amount*

and

Step #4 \$3,340.00    *partial penalty amount*  
           ÷ 207.16        *daily rate (\$6,422 ÷ 31)*  
           = 16.12        *number of days for partial month penalty*

Items that can be given away without penalty include:

- household goods and personal effects up to
- \$4,500 of an automobile's value
- property that is essential to your self-support
- burial spaces or plots held for use of immediate family up to
- \$1,500 set aside for funeral arrangements
- \$1,500 in total life insurance on an individual
- any resources transferred to a child who is blind or disabled property for which
- you intended to receive adequate compensation home property when it is
- transferred to:
- - your spouse or minor dependent child;
  - a blind or disabled child of any age;
  - a sibling who has lived in the home for at least a year and who has some ownership interest in the property; or
  - an adult child who lived with you for the last two years and who provided care that kept you out of a nursing facility.

If the transfer was not made in an effort to become or remain eligible for Medicaid, there may not be a penalty period. You must submit evidence to prove intent, such as the amount of your assets near the date of the transfer and your state of health near the date of the transfer.

If an asset has been transferred and the denial of Medicaid payment of long-term care services and support would cause undue hardship by resulting in your being removed from the facility or being unable to receive life-sustaining medical care, food, clothing, shelter, or other necessities of life, there may not be a penalty. You must submit clear evidence to prove any claim of undue hardship.

#### SECTION 20-88.02 OF THE CODE OF VIRGINIA MAY AFFECT A PROPERTY TRANSFER

Section 20-88.02 of the Code of Virginia states that the person to whom property was transferred can be asked to repay Medicaid for any bills Medicaid paid on your behalf if the uncompensated value of resources transferred (money in the bank, real property, etc.) is more than \$25,000.

No repayment will be asked if the property was your home and any of the following people live in the home:

- your spouse;
- your natural or adopted child under age 21; or
- your child of any age who is blind or disabled according to the Virginia Medicaid program.

No repayment may be asked if repayment would cause an undue hardship on the person to whom the property was transferred. If the person to whom the property was transferred does not fully cooperate with the determination of undue hardship, it will be assumed that no hardship exists.