

IMPROPER TRANSFER INELIGIBILITY

0909.27.11

MinnesotaCare:

No provisions.

MA:

Do not deny or terminate eligibility for MA due to excess assets when an improper asset transfer occurs. Determine the ineligibility period for the services listed below. The client is eligible for all other MA covered services that are not included in this list.

If the transfer occurred before 7-1-88, the client is ineligible for all MA services during the penalty period.

If the transfer occurred on or after 7-1-88, a client is eligible for MA but is not eligible for MA payment of the following services during the ineligibility period:

- ▶ Skilled nursing facility care.
- ▶ Intermediate care facility services.
- ▶ Community Alternative for Disabled Individuals (CADI) waivers.
- ▶ Community Alternative Care (CAC).
- ▶ Home and Community Based Waiver Services for Persons with Mental Retardation or Related Conditions (MR/RC & ACS).
- ▶ Elderly Waiver Services.
- ▶ Traumatic Brain Injury Waiver (TBIW).
- ▶ Nursing facility care in an inpatient hospital.

The client remains eligible for all other MA covered services not listed above.

For more information, see the following:

§0909.27.11.03	Transfers Before 8-11-93.
§0909.27.11.05	Transfers 8-11-93 Through 8-31-94.
§0909.27.11.07	Transfers 9-1-94 Through 4-13-96.
§0909.27.11.09	Transfers After 4-13-96.

A person who reapplies during the ineligibility period will not be eligible for MA payment of long term care services until the period expires.

When either spouse of a married couple transfers assets improperly, apply the penalty period as follows:

- ▶ Both spouses apply for MA:
 - When 2 spouses who are receiving LTC services have transferred jointly owned income or assets and apply for MA on the same day, divide the penalty between them equally even if they entered the LTCF on different dates.
 - When only 1 spouse is receiving LTC services, apply the entire penalty period to that spouse regardless of who owned the transferred asset.

- ▶ One spouse applies for MA:
 - When both spouses are receiving LTC services, apply the entire penalty period to the applicant regardless of who owned the transferred asset.

- ▶ One spouse currently receiving MA and subject to a penalty period at the time the other spouse applies for MA to receive LTC services:
 - When a spouse makes a transfer that results in a penalty for his/her spouse who is on MA in LTC, and later begins receiving long term care services himself/herself, any remaining penalty must be split evenly between the spouses.

When a community spouse improperly transfers assets after the asset assessment is completed and MA is open for the LTC spouse, determine whether to apply a penalty to the LTC spouse. Although the community spouse's assets are no longer considered available to the LTC spouse, an improper transfer will result in a penalty unless the community spouse can demonstrate that the transferred assets will never affect the LTC spouse's ability to obtain or maintain eligibility. See §0909.27.01 (MA Transfers--Cont.).

If the penalty period is not exhausted when the spouse's LTC services ends, the remaining balance goes back to the remaining LTC spouse.

Transferred assets returned completely or partially to the client will reduce or eliminate the amount of the transfer and reduce or eliminate the corresponding period of ineligibility for LTC services.

If the applicant or the applicant's authorized representative failed to report the transfer of assets at the time of application, a cause of action may exist against the person who received the transferred assets if you approved MA and MA paid LTC services during a period of ineligibility. See §0909.27.13 (Improper Transfers - Onset Of Ineligibility).

GAMC:

GAMC applicants or enrollees who make improper transfers during the lookback period or while receiving GAMC are ineligible for all GAMC services during the ineligibility period.

If an applicant or enrollee has improperly transferred an asset, the period of ineligibility is the number of months resulting from the following calculation:

1. Determine the uncompensated value of an improperly transferred asset. See §0909.27.09 (Determining Uncompensated Value).
2. Divide the uncompensated value of the asset by the statewide average monthly per person payment for skilled nursing facility care (SAPSNF). Use the amount in effect on the date of the client's application that covers the current application processing period or period of GAMC eligibility. Effective 7-1-02, that amount is \$3,102. From 7-1-01 through 6-30-02, the amount is \$2,918.

Apply a partial month of ineligibility to both applicants and enrollees. If the transferred amount is less than **\$3,102**, deny eligibility for payment of services equal to the amount transferred. If a fractional part of a month remains after calculating a period of ineligibility for a transfer of more than **\$3,102**, multiply the remainder (rounded to hundredths) by **\$3,102**. The result is the dollar amount of medical expenses the client is responsible for in the 1st month of possible eligibility.

There is no limit on the period of ineligibility.

If a client has excess assets, excess income, and transferred property, apply the transfer penalty first, reduce assets next, and then complete the income spenddown.