

ARKANSAS REGISTER

Transmittal Sheet



Charlie Daniels
Secretary of State
State Capitol Room 026
Little Rock, Arkansas 72201-1094
(501) 682-3527

For Office

Use Only:

Effective Date

Code

Number

Name of Agency Arkansas Department of Human Services

Department Division of County Operations

Contact Linda Greer

E-mail linda.greer@mail.state.ar.us Phone 682-8257

Statutory Authority for Promulgating Rules

AR Code Annotated 20-76-201 et Seq., AR Code Annotated 20-15-201 et Seq.,

Rule Title: MS 3334.3 and 3336.10 Transfer of Resources - Updating Divisor for Determining Uncompensated Value and Period of Ineligibility

Date

Intended Effective Date

Legal Notice Published 5/28/04

Emergency

Final Date for Public Comment 6/26/04

10 Days After Filing

Reviewed by Legislative Council 7/1/04

Other

Adopted by State Agency

7/10/04

July 10, 2004

Electronic Copy of Rule Provided (per Act 1648 of 2001)

Electronic Copy of Rule to be e-mailed from Diana Teal diana.teal@mail.state.ar.us

Contact Person

Email Address

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with Act 434 of 1967 As Amended.

Signature

Director, Division of County Operations

682-8375

joni.jones@mail.state.ar.us

Phone Number

E-mail Address

Date

3334.3 Determination of Uncompensated Value and Period of Consideration 04/01/04

The uncompensated value from an asset transfer is the difference between the fair market value of the asset at the time of transfer (Re. MS 3331-3331.5 for real property and MS 3332-3332.3 for personal property) and the value of compensation received for the asset (Re. MS 3334.4).

The period of time that the uncompensated value from a resource transfer is considered is determined by dividing the uncompensated value by the amount specified for the period of time in which the individual applied. The result will be the number of months that an individual will be ineligible for Medicaid. Please refer to MS 3336.10 for further explanation of determining period of ineligibility.

The period of ineligibility due to the uncompensated value of an income transfer is determined according to MS 3336.11. Amounts of uncompensated value and their periods of consideration may be affected by the receipt of compensation at a later time. Refer to MS 3334.8 for treatment.

3336.10 Determination of Uncompensated Value and Period of Ineligibility for Resource Transfers

The number of months of ineligibility for facility/Waiver services will be determined by dividing the uncompensated value of all resources transferred by the individual or spouse on or after the look back date by the current divisor (see Appendix R).

The Division of Medical Services will determine the amount of the divisor. The divisor is defined as the weighted average per diem Medicaid rate multiplied by 30.42 and rounded to the nearest dollar to obtain a monthly amount, calculated from cost reports submitted for the cost reporting period from July to June, and then applied to the following calendar year. The weighted average rate is calculated annually. Medicaid LTC resident days reported on each facility's cost report will be multiplied by each facility's per diem rate. The sum of the calculated amounts will be divided by the total resident days to get the weighted average rate. The divisor will be redetermined yearly with any resulting changes taking effect on April 1st. The divisor for the current year is indicated on Appendix R.

The divisor will be redetermined each year and any changes in the divisor will be effective on April 1st. When there is a change in the divisor, the penalty period will be reassessed at the next reevaluation, or earlier if requested, or at reapplication.

- ◆ If the client is currently eligible in a LTC Medicaid case, but not receiving a vendor payment due to penalty, the client will be reassessed at reevaluation or earlier if requested. If the client is now eligible for facility services, facility services will be approved beginning the month of reassessment.
- ◆ If the client is not currently receiving LTC or Home and Community Based Waiver Medicaid, but reapplies and is under a previously imposed penalty, the penalty period will be reassessed using the current divisor. If eligible, the case will be approved with coverage not granted before April 1st or before the three-month retro period based on the recent application, whichever is later.

There is no cap on the total number of months of ineligibility. Any fraction remaining after dividing the total uncompensated value by the divisor will be dropped. The period of ineligibility will begin on the first day of the first month during which assets were transferred.

Example # 1: An applicant transferred \$250,000 to his children 6 months before entering a nursing facility. As 6 months is within the 36-month look back period, there will be a penalty for non-compensated transfer. The divisor at the time of his admission was \$3416. \$250,000 divided by 3416 equals 73.18 months of ineligibility. The fraction remaining after dividing the total uncompensated value by 3416 will be dropped. The applicant will be ineligible for facility vendor payments for 73 months. If the divisor changes in April, the penalty will be reassessed using the current divisor at the next reevaluation, or earlier if requested.

Example # 2: An applicant for ElderChoices transferred \$250,000 to his children 6 months before application. \$250,000 divided by 3416 equals 73.18 months. The applicant will be ineligible for ElderChoices for 73 months. If the applicant reapplies, the penalty will be reassessed using the current divisor.

Example # 3: An applicant transferred \$250,000 to his children 5 years before entering a nursing facility. No penalty will be assessed as the transfer occurred before the 36-month look back period.

Multiple Transfers Made That Do Not Result in Overlapping Penalties - If an individual has made multiple transfers that do not result in overlapping penalty periods, a separate penalty period will be assigned to each transfer. For example, a penalty period for a \$6832 transfer made in December will expire at the end of January. A second transfer of \$7000 made in February results in a penalty period that expires at the end of March. A \$10,000 transfer in June results in a 2 month penalty period which ends in July. If the individual making these transfers applies in June, he will not be eligible until August 1st. The first two penalty periods will have expired, but the \$10,000 transfer penalty will still be in effect.

Multiple Transfers Made That Do Result in Overlapping Penalties - The sum total of all transfers made will be divided by the current divisor to determine the period of ineligibility.

For example, an individual gives away \$8000 in May, \$10,000 in June, \$12,000 in July, and \$4000 in August. He applies for assistance in August 2004. The total value of uncompensated transfers (\$34,000) will be divided by 3416, resulting in a penalty of 9 months.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Department of Human Services

DIVISION Division of Medical Services

PERSON COMPLETING THIS STATEMENT Randy Helms

TELEPHONE NO. 682-1857 **FAX NO.** 682-3889 **EMAIL:** Randy.Helms@medicaid.state.ar.us

To comply with Act 1104 of 1995, please complete the following Financial Impact statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE Revision to Medicaid's Transfer of Resources Policy

1. **Does this proposed, amended, or repealed rule or regulation have a financial impact?**
Yes X No

2. **If you believe that the development of a financial impact statement is so speculative as to be cost prohibited, please explain.**
Not Applicable

3. **If the purpose of this rule or regulation is to implement a federal rule or regulation, please give the incremental cost for implementing the regulation. Please indicate if the cost provided is the cost of the program.** Not Applicable

Current Fiscal Year

Next Fiscal Year

General Revenue _____

General Revenue _____

Federal Funds _____

Federal Funds _____

Cash Funds _____

Cash Funds _____

Special Revenue _____

Special Revenue _____

Other (Identify) _____

Other (Identify) _____

Total _____

Total _____

4. **What is the total estimated cost by fiscal year to any party subject to the proposed, amended, or repealed rule or regulation? Identify the party subject to the proposed regulation, and explain how they are affected.**

Current Fiscal Year

Next Fiscal Year

5. **What is the total estimated cost by fiscal year to the agency to implement this regulation?**

Current Fiscal Year (SFY 04)

Next Fiscal Year (SFY 05)

\$ 27,764 State

\$ 601,212 State

\$ 96,292 Federal

\$ 1,777,943 Federal

\$ 124,056 Total

\$ 2,379,155 Total