

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 nursing facility or community-based care waiver services 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 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. If the transfer was made between August 11, 1993 and February 7, 2006, the penalty period begins the month in which the transfer occurred. If the transfer was made on or after February 8, 2006, the penalty period begins on the date that you were both eligible for Medicaid and receiving nursing facility care or community-based care. 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
10-1-93 to 9-1-96	\$2,554	\$2,554
10-1-96 to 10-1-97	\$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
1-02 to 12-31-03	\$4,684	\$3,517
1-04 to 9-30-07	\$5,403	\$4,060
10-01-07 and after	\$6,654	\$4,954

Example: For an application filed in March of 2006, the amount used to calculate the penalty period is \$4,060. If the uncompensated value of the asset transferred is \$36,540, Medicaid will not pay for nursing facility or community-based care for 9 months beginning with the month you are both eligible for Medicaid and receiving long-term care ($\$36,540 \div \$4,060 = 9$ months).

Some items can be given away without penalty. They are:

- 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 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.

For example, you may decide to transfer resources worth \$30,000 to your child and not be eligible for Medicaid payment of nursing facility or community-based care for 11 months. If you then become eligible for Medicaid, the child to whom the property was given could be asked to reimburse Medicaid for medical services paid by Medicaid.

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.