

MS 99753 TRANSFER OF RESOURCES

[See OM Upd. No. 07-06, MS 99755, 3/5/07](#)
[See Addendum to OM Upd. No. 07-04, MS 99753, 2/1/07.](#)

The Deficit Reduction Act of 2005 (DRA), which was signed into law on February 8, 2006, has legislated several changes to Medicaid vendor payment eligibility determination and the consideration of transfer of resources. The Department for Medicaid Services has implemented these changes into policy effective February 1, 2007. A desk review is not required. These changes only affect new applicants who have transferred resources on or after February 8, 2006, or resource transfers which become known to the agency after February 8, 2006.

System modifications to support the following procedures are not yet in place. Hold all new applications as of February 1, 2007, that are subject to transfer of resource policy, pending until notified that system support is in place.

Any applications taken prior to February 1, 2007, that are pending as of that date and are subject to transfer of resource policy, are likewise to be held pending until system support is in place.

These pending applications are NOT to be considered past due or untimely applications for monthly reporting purposes. Please forward these application case names and numbers to Marchetta Carmicle, Medical Support and Benefits Branch, as applications are taken.

The changes are as follows:

- I. The look back period for transferred resources is expanded from 3 to 5 years. There is no change in the look-back period for resources transferred into a trust or used to establish a trust. For transfers made before February 8, 2006, the previous procedures (3-year look back period) still apply.
 1. Any transfers made on or after February 8, 2006, shall be subject to review for transfer of resource penalty for up to 5 years from the date of application.
 2. The transfer of resources are to be documented and verified by records. Acceptable documentation includes bank statements, PVA statements, personal records, 1099's or other pertinent verification.
 3. The procedures for exceptions to transfers of resources as outlined in OM Vol. IVA, MS 2070, are not changed under the DRA.
 4. Please be aware that this change will have no immediate effect until February 9, 2008. At that time the look back period will be 3 years, 1 month. With each passing month, one month will be added to the look back period until February 8, 2010. At that time we will have reached the 5 year look back period.
- II. The start date of the penalty period for prohibited transfers of resources is changed by the DRA. The day the penalty period starts is either the first day of a month during

which resources have been transferred for less than Fair Market Value (FMV) **OR** the day the individual is eligible for Medicaid vendor payment. Use whichever date occurs last.

1. Once eligibility has been determined and a penalty period has been established, it continues until expiration. Remember that the penalty period applies only to payment for long term care services, not to all Medicaid cases.
2. A denial notice will be system generated to all new Medicaid applicants once a penalty period has been imposed.
3. For active cases, if a penalty period is imposed on an individual who is already eligible for Medicaid vendor payment, a 10-day adverse action notice will be system generated. The ineligibility period is effective either the month of transfer for less than FMV **OR** the date on which the individual became eligible for Medicaid vendor payment, whichever date occurs last.
4. The penalty period cannot begin until the expiration of any other existing period of ineligibility.
5. Once the ineligibility period is imposed, it will not be interrupted or temporarily suspended. The ineligibility period will continue to run even if the individual subsequently stops receiving institutional level of care.

III.All transfers after February 8, 2006, will be treated as a single transfer, instead of looking at each transfer of resources individually.

Rather than applying multiple penalty periods, calculate and impose a single period of ineligibility.

All transfers made prior to February 8, 2006 will continue to be looked at individually.

IV.The DRA prohibits states from rounding ineligibility periods down to whole months. The transfer of resource factor will be a daily amount, rather than a monthly amount. This amount changes each January. This is effective with ALL ineligibility periods calculated after February 1, 2007.

1. Partial months of ineligibility are calculated by dividing the amount of the transferred resources by the current transfer of resource factor of \$150.71 per day. The current daily transfer of resource factor of \$150.71 is calculated as follows:

$\$4,584$ (2007 transferred resource divider) \times 12 (months in a year) divided by 365 (days per year) = $\$150.71$.

B. The KAMES "Member Disqualify - Inquiry" screen is changed to display the ineligibility period as days, not months. A new field is added to read "Number of Days Disqualified". This new field is displayed directly below the "Number of Months Disqualified" field. The disqualification from and through dates can be any day of the month.

EXAMPLE 1:

An application is taken on 4/16/07. The applicant is income and resource eligible. Applicant was admitted to LTC on 4/16/07. \$50,000 was given away on 2/10/06 resulting in a

disqualification period for LTC vendor payment. The disqualification period is determined as follows:

$\$50,000$ divided by 150.71 (current daily transfer of resource factor) = 331.76 . The ineligibility period is rounded down to 331 days.

In this example, the count begins with the day of admission to the LTC facility because the applicant has met all other technical and financial eligibility criteria.

The disqualification period is April 16, 2007, through March 12, 2008. March 13, 2008, is the first day the client would be eligible for LTC vendor payment.

EXAMPLE 2:

Application was made on August 1, 2007. There were multiple transfers that occurred prior to the application. All transfers occurred after February 8, 2006.

$\$4,000$ was given away on 3/1/06.

$\$2,000$ was given away on 5/15/06.

$\$2,000$ was given away on 7/19/06.

Total all transfers together that occurred on or after 2/8/06:

$\$4,000 + \$2,000 + \$2,000 = \$8,000$

Divide the total by the current transfer of resource factor.

$\$8,000$ divided by $150.71 = 53.08$ days rounded down to 53 days.

Begin the count for the ineligibility period with the day of application. In this situation, that is August 1, 2007. The ineligibility period is for 53 days. Therefore, the disqualification for transfer of resources would end on September 22, 2007. LTC vendor payment eligibility would begin on September 23, 2007.

EXAMPLE 3:

An application is taken on 5/16/07. The client was admitted to LTC and met level of care on 5/10/07. The individual has multiple transfers that occurs both prior to and on 2/8/06. Determine the ineligibility period as follows:

$\$6,000$ was transferred on 2/5/06. (This transfer would follow old policy.)

$\$7,000$ was transferred on 2/8/06.

$\$6,000$ divided by $150.71 = 39.81$ days rounded down to 39 days.

Transfer #1 = 39 days.

$\$7,000$ divided by $150.71 = 46.45$ days rounded down to 46 days.

Transfer #2 = 46 days.

Transfer #1 disqualification-from date begins on February 1, 2006, and ends on March 11, 2006. The disqualification period is over prior to the date of application; therefore, no disqualification is imposed for the first transfer. Transfer #2 occurred on 2/8/06, the disqualification period begins with the date level of care is met as client is technically and financially eligible on that date. The disqualification period is for 46 days. The

disqualification-from date is May 10, 2007. The disqualification-through date is June 24, 2007. The first day of LTC eligibility would be June 25, 2007.

EXAMPLE 4:

At the recertification appointment on 10/2/07 it is discovered that the client sold property for less than FMV on 9/15/06. The FMV of property was \$10,000. Client sold property for \$3,000. The money received was used to pay outstanding debt. There are no countable resources to consider from the sale of the property. The transferred resource amount is \$7,000. Determine the disqualification period as follows:

$\$7,000 \text{ divided by } 150.71 = 46.45 \text{ days rounded down to } 46 \text{ days.}$

In this situation the date of application was 10/15/2005. The date of transfer occurred after the application date, therefore the count will begin with the date of transfer.

The disqualification-from date will be 9/15/06 and continue for 46 days. The disqualification-through date will be October 30, 2006. The individual would not be eligible for LTC vendor payment until October 31, 2006.

V. The text of the KIP-105.13 notice for disqualification reason 414 is changed to read as follows:

“Section 1917(c)(2)(D) of the Social Security Act states that if you will be discharged from the nursing home or if you will lose your waiver services because you are unable to pay, you can request a Hardship Determination. Contact your worker or long term care provider for more information.”

Follow existing Hardship policy should you receive a request for Hardship Determination.

VI. A field for number of days disqualified has been added to be displayed directly below number of months disqualified. There should be a numeric field to the right of the day's field and directly below the number of months disqualified field. The numeric value can be any amount from 0 to 9999. This field will be used only when a 414 disqualification is applied and the disqualification is determined after the new code is entered. All other 414 disqualifications that are determined under the old rules will retain the count for the number of months disqualified. Both fields will be displayed but only one field will be populated depending on the time when the disqualification is added. For disqualification 414 ONLY, the beginning and end dates do not necessarily correspond to the beginning and end of the calendar month(s). The 414 can be imposed to begin any day of the month and to end any day of the month. When adding or changing/updating a record, be sure that the through-date is equal to the from-date plus the number of days or months disqualified.

To reiterate, all affected cases are to be held PENDING until system modifications are in place. Case names and numbers are to be forwarded to Marchetta Carmicle, Medical Support and Benefits Branch.

Mark Washington, Acting Commissioner

Volume IVA

The following manual sections are cross-referenced with this update:
[MS 1010](#), [MS 1940](#), [MS 2050](#), [MS 2070](#) and [MS 2080](#)

Volume X

The following manual section is cross-referenced with this update:
[MS 99702](#)

[General Table of Contents](#) [Table of Contents](#)
(Vols. I thru X) Volume X