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What Transfers are Exempt from the Medicaid Transfer Penalty?

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In order to discourage Medicaid applicants from artificially impoverishing themselves (through gifting) to financially qualify for Medicaid, a penalty is imposed on asset transfers for less than fair consideration that occur within a defined time period generally referred to as the "look-back period". **However, not all transfers are subject to this penalty.**

Exempt Transfers (Not Subject to Penalty)

Certain types of asset transfers are in effect exempt and therefore not subject to the penalty. The following types of asset transfers will not create a period of Medicaid ineligibility without regard to whether fair consideration was received:

- ***Intent to receive fair market value.*** If the applicant can demonstrate that, in making the transfer, they intended to receive fair consideration for the transferred asset, the transfer will not create an ineligibility period.
- ***Purpose other than to obtain Medicaid benefits.*** If the applicant can demonstrate that the asset was transferred exclusively for a purpose other than to qualify for Medicaid, the transfer will not create an ineligibility period.
- ***Transfers to a spouse.*** Transfers to a spouse or to another person for the sole benefit of the transferor's spouse are not subject to the transfer penalty.
- ***Transfer to a minor or disabled child.*** A transfer to a child of the applicant who is under 21 years of age or to a child of any age who is blind or totally and permanently disabled (based on SSI criteria) does not create a period of Medicaid ineligibility.
- ***Undue hardship.*** If the Department of Human Services (DHS) determines that imposition of a period of ineligibility for Medicaid would cause an undue hardship to an applicant, then the DHS will waive its right to impose the ineligibility period on the applicant.

- ***Returned gifts*.** If an asset that was transferred for less than fair consideration is returned to the applicant, then the return of the asset to the applicant will in effect “cure” the transfer penalty and end the ineligibility caused by that transfer.

Special Exemptions Applicable Solely to the Transfer of a Residence

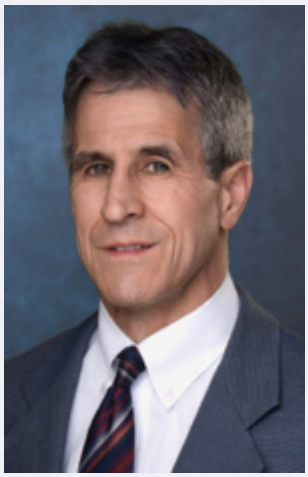
The exemptions stated above apply to transfers of any type of asset. In addition to the transfers listed above, there are also other exemptions that apply solely to the transfer of an applicant’s residence. They include the following:

- Transfer to a minor child or to a disabled child.
- Transfer to a caregiver child.
- Transfer to a sibling with an equity interest in the residence.

More on asset transfers and Medicaid qualification can be found in our article: **Demystifying Medicaid Planning**.

We can help you work through your (or your parents’) Medicaid eligibility issues. We can also answer your other asset protection and estate planning questions.

Contact us at 814-459-2800 to set up an appointment to get your questions answered and set your mind at ease. It is never too late to implement a plan.



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