

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: SOUTH DAKOTA

TRANSFER OF RESOURCES

Citation(s)

Sections 1902(f) and
1917 of the Act

The agency provides for the denial of eligibility by reason of disposal of resources for less than fair market value.

(A) Except as noted below, the criteria for determining the period of ineligibility are the same as criteria specified in Section 1613(c) of the Social Security Act (Act).

1. Transfer of resources other than the home of an individual who is an inpatient in a medical institution.

a. ____ The agency uses a procedure which provides for a total period of ineligibility greater than 24 months for individuals who have transferred resources for less than fair market value when the uncompensated value of disposed of resources exceeds \$12,000. This period bears a reasonable relationship to the uncompensated value of the transfer. The computation of the period and the reasonable relationship of this period to the uncompensated value of this period to the uncompensated value is described as follows:

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- b. The period of ineligibility is less than 30 month, as specified below:

The uncompensated value is divided by the average NF monthly payment for the prior fiscal year. The result of this calculation will be the number of months the individual will be ineligible up to a maximum of 30 months.

- c. The agency has provisions for waiver of denial of eligibility in any instance where the State determines that a denial would work an undue hardship.

An undue hardship will be considered to exist when the funds from a lump sum payment under the provisions of the Zebley decision are transferred into an irrevocable Medicaid qualifying trust.

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2. Transfer of the home of an individual who is an inpatient in a medical institution.

- a. ___ A period of ineligibility applies to inpatients in NF, ICF/MR or other medical institutions as permitted under Section 1917(c)(2)(B)(i).

Subject to the exceptions on page 2 of this supplement, an individual is ineligible for 30 months after the date on which he disposed of the home. However, if the uncompensated value of the home is less than the average amount payable under this plan for 30 months of care in a NF, the period of ineligibility is a shorter time, bearing a reasonable relationship (based on the average amount payable under this plan as medical assistance for care in an NF) to the uncompensated value of the home as follows:

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- b. ____ Subject to the exceptions on page 2 of this supplement, if the uncompensated value of the home is more than the average amount payable under this plan for 24 months of care in a SNF, the period of ineligibility is more than 24 months after the date on which he disposed of the home. The period of ineligibility bears a reasonable relationship (based upon the average amount payable under this plan as medical assistance for care in an SNF) to the uncompensated value of the home as follows:

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No individual is ineligible by reason of item A.2 if--

- i. A satisfactory showing is made to the agency (in accordance with any regulations of the Secretary of Health and Human Services) that the individual can reasonably be expected to be discharged from the medical institution and to return to that home;
- ii. Title to the home was transferred to the individual's spouse or child who is under age 21, or (for States eligible to participate in the State program under Title XVI of the Social Security Act) is blind or permanently and totally disabled or (for States not eligible to participate in the State program under Title XVI of the Social Security Act) is blind or disabled as defined in Section 1614 of the Act;
- iii. A satisfactory showing is made to the agency (in accordance with any regulations of the Secretary of Health and Human Services) that the individual intended to dispose of the home either at fair market value or for other valuable consideration; or
- iv. The agency determines that denial of eligibility would work an undue hardship.

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Citation(s)

3. 1902(f) States

___ Under the provisions of Section 1902(f) of the Social Security Act, the following transfer of resource criteria more restrictive than those established under Section 1917(c) of the Act, apply:

N/A

B. Other than those procedures specified elsewhere in the supplement, the procedures for implementing denial of eligibility by reason of disposal of resources for less than fair market value are as follows:

1. If the uncompensated value of the transfer is \$12,000 or less:

N/A

2. If the uncompensated value of the transfer is more than \$12,000:

N/A

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3. If the agency sets a period of ineligibility of less than 24 months and applies it to all transfers of resources (regardless of uncompensated value):

N/A

4. Other procedures:

N/A