

EXPLANATION OF THE EFFECT OF TRANSFERS OF ASSETS ON ELIGIBILITY FOR PAYMENT OF LONG TERM CARE SERVICES

This section explains how a transfer of assets (income or resources) for less than Fair Market Value, or FMV, may affect your eligibility for Medical Assistance, or MA, and payment of Long Term Care, or LTC, services. FMV is the amount that a person can receive for selling the item on the open market. Assets include any income or resources which you are entitled to receive but do not receive because of any action or inaction by you, or others acting on your behalf. If you are married, assets also include any of your spouse's income and resources. A transfer occurs when assets are given, sold, or exchanged by an individual applying for or receiving LTC services or, if married, by the applicant's spouse. For payment of LTC services, a prohibited transfer is the giving, selling, or exchanging of your property or assets without receiving FMV in return, in order to qualify for:

- LTC Facility Services;
- A level of care in any institution equivalent to that of LTC Facility Services; or
- Home and Community Based Services.

Payment of LTC services will not be made for any of the services listed above if a transfer of assets for less than FMV was made within the applicable look back period prior to your application for MA and payment of LTC services.

How is the period of ineligibility for payment of LTC services determined?

When you or your spouse makes a transfer of assets for less than FMV, you are ineligible for payment of LTC services for a period of time. The Department of Human Services, or DHS, will determine the number of days that you are ineligible for payment of LTC services by dividing the uncompensated value of the assets transferred by the average daily private pay rate for LTC services in Pennsylvania. The penalty period begins on the date a person has applied for and is eligible for MA LTC.

How do we determine the uncompensated value of the transferred asset(s)?

DHS takes the FMV of the asset at the time it was transferred and deducts any outstanding loans, mortgages or other legal encumbrances on the asset along with the amount of compensation that was received to arrive at the uncompensated value of the transferred asset(s).

How will you be notified if you made a transfer of assets for less than FMV?

You will receive a written notice indicating a period of ineligibility for payment of LTC services if DHS determines that you made a transfer of assets for less than FMV. The notice will inform you of how long you will be ineligible for payment of LTC services.

How do you file an appeal?

You have the right to appeal DHS's decision to impose a period of ineligibility for payment of LTC services. The enclosed written notice will provide you with information on how to request a Fair Hearing if you disagree with DHS's decision. Some of the things you can appeal include, but are not limited to: the value of the transferred asset, the period of ineligibility, and the calculation used to determine your period of ineligibility for payment of LTC services.

What is the difference between an appeal and an undue hardship waiver request?

An appeal and a request for an undue hardship waiver are two very separate processes. As stated above, an appeal is a request for a Fair Hearing if you disagree with

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DHS's decision in the determination of a period of ineligibility for payment of LTC services. You can request an undue hardship waiver if the denial of payment for your LTC services would deprive you of medical care such that your health or life would be endangered or the denial would deprive you of food, clothing, shelter or other necessities of life.

EXPLANATION OF AN UNDUE HARDSHIP WAIVER REQUEST

How do you request a hardship waiver?

An undue hardship exists when the denial of payment for LTC services, due to a transfer of assets for less than FMV or having equity interest in your home greater than \$572,000, would deprive you of medical care such that your health or life would be endangered or the denial would deprive you of food, clothing, shelter or other necessities of life. You can request an undue hardship waiver by completing an *Application for Undue Hardship Waiver* form or an *Application for Undue Hardship Waiver - Excess Home Equity* form and returning it and all supporting documents to the county assistance office, or CAO, within 30 days. You must include any documentation to support your request for a hardship waiver with your application. Your request for an undue hardship waiver may be made by you, or your responsible party (legal representative, relative, or friend). The LTC facility where you are residing can also request an undue hardship waiver on your behalf provided that you or your responsible party has authorized the LTC Facility, in writing, to pursue the undue hardship waiver request. An *LTC Service Provider Authorization Form* provides the LTC facility with the authorization to request an undue hardship waiver on your behalf.

Note: The LTC facility where you reside cannot request an undue hardship waiver if you are being denied payment of LTC services due to you having equity interest in your home that is greater than \$572,000.

How do you establish that an undue hardship waiver exists?

You must present documentation or other evidence to the Income Maintenance Caseworker, IMCW, that you are entitled to an undue hardship waiver. Some factors which may establish that an undue hardship exists are:

1. You would be deprived of medical care such that your health or life would be endangered; or
2. You would be deprived of food, clothing, shelter, or other necessities of life; or
3. Sudden, unexpected onset of serious illness or disability after the transfer occurred; or
4. Unexpected loss of other resources or income which would have made you ineligible for MA LTC, after the transfer occurred.

These are examples only. All of the circumstances surrounding the transfer will be evaluated as well as factors such as age, health, and financial situation at the time the transfer was made, the value of the transferred asset, the amount of compensation received, the date the asset was transferred, any pattern of gifting, the relationship of the transferee to the transferor, reason(s) why the asset(s) cannot be returned to the transferor and for excess home equity, the reason why they equity cannot be accessed. In order to assist the IMCW in making a determination regarding your undue hardship waiver request, the CAO may require you to provide medical, financial and personal records.

IF YOU HAVE ANY QUESTIONS OR NEED TO REQUEST A COPY OF THE UNDUE HARDSHIP WAIVER FORMS, CONTACT YOUR INCOME MAINTENANCE CASEWORKER