



# Iowa Department of Human Services

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July 8, 2016

## GENERAL LETTER NO. 8-D-98

ISSUED BY: Bureau of Financial, Health and Work Supports  
Division of Adult, Children and Family Services

SUBJECT: Employees' Manual, Title 8, Chapter D, **RESOURCES**, pages 28, 29, 30, 43, and 95, revised.

### Summary

Chapter 8-D is revised to:

- ◆ Provide the website link to the life expectancy tables compiled from information published by the Office of the Chief Actuary of the Social Security Administration. This provides the most current table available. The current table has been removed from the manual.
- ◆ Update the average monthly statewide cost of nursing facility services. The average monthly statewide cost of nursing facility services is used to determine the penalty period for transfer of assets. The average cost of nursing facility services for state fiscal year 2017 is \$5,809.13 per month or \$191.09 per day.
- ◆ Clarify the information that needs to be gathered when interpreting the terms of an annuity.

### Effective Date

July 1, 2016

### Material Superseded

This material replaces the following pages from Employees' Manual, Title 8, Chapter D:

<u>Page</u>	<u>Date</u>
28	June 11, 2010
29, 30	June 15, 2012
43	June 26, 2015
95	January 25, 2013

### Additional Information

Refer questions about this general letter to your area income maintenance administrator.

### **Transfers That Cause a Medicaid Penalty**

**Legal reference:** 441 IAC 75.6(249A), 75.15(249A), 75.23(249A), P. L. 100-360

Transfers that currently may result in a Medicaid penalty being applied are:

- ◆ Transfers by an applicant or an applicant's spouse to someone other than a spouse that are made on or after February 8, 2006, and within 60 months before the Medicaid application is filed or on or after the date of application. This includes:
  - The disclaimer of an inheritance, and
  - Failure to take a share of an estate as a surviving spouse (also known as "taking against a will") if the value received by taking against the will would exceed the inheritance received under the will
- ◆ Transfers by an applicant or an applicant's spouse involving funds in a trust that are made after August 10, 1993, and during the 60 months before the Medicaid application is filed and after institutionalization.

Transfers of assets that do not meet these criteria do not result in a penalty being applied to current Medicaid eligibility. However, if the transfer was after July 1, 1993, and was within 60 months before the Medicaid application date, a claim against the person who received the transferred assets may still be applicable. See [Claim Against a Person Who Receives Transferred Assets](#).

### **Purchases Considered Transfers for Less Than Fair Market Value**

**Legal reference:** 441 IAC 75.23(9), (10), and (11)

A transfer of assets for less than fair market value includes, but is not limited to, the following actions:

- ◆ Purchase of an annuity **before** February 8, 2006, if the expected return on the annuity is not commensurate with a reasonable estimate of life expectancy, also referred to as "actuarially sound."

When an annuity purchased before February 8, 2006, is "actuarially sound," then it is not considered a transfer of assets for less than fair market value. The annuitant has just converted the resources to income.

To determine whether the annuity is "actuarially sound," use the life expectancy tables compiled from information published by the Office of the Chief Actuary of the Social Security Administration. These tables may be accessed at <http://www.ssa.gov/OACT/STATS/table4c6.html>.

The average number of years of expected life remaining for the annuitant must coincide with the life of the annuity. If the annuitant is not reasonably expected to live as long as or longer than the guarantee period of the annuity, the annuitant will not receive fair market value for the annuity based on the projected return.

In that case, the annuity is not actuarially sound and a transfer of assets for less than fair market value has taken place. The penalty is assessed based on a transfer of assets that is considered to have occurred at the time the annuity was purchased or the date the annuity became available as a countable resource, whichever is later.

1. Mr. W, at age 65, purchases a \$10,000 annuity to be paid over the course of ten years. His life expectancy according to the table is 17.19 years. Thus, the annuity is actuarially sound.
2. Mr. A, at the age of 80, purchases a \$10,000 annuity to be paid over the course of ten years. His life expectancy is only 7.9 years. Thus, a payout of the annuity for approximately three years is considered a transfer of assets for less than fair market value and the amount is subject to penalty.

Page 30 is reserved for future use.

<b>Time of Application</b>	<b>Average Monthly Statewide Cost of Nursing Facility Services</b>	<b>Average Daily Cost of Nursing Facility Services</b>
July 1, 2016 – June 30, 2017	\$5,809.13	\$191.09
July 1, 2015 – June 30, 2016	\$5,407.24	\$177.87
July 1, 2014 – June 30, 2015	\$5,103.24	\$167.87
July 1, 2013 – June 30, 2014	\$5,057.65	\$166.37
July 1, 2012 – June 30, 2013	\$5,131.82	\$168.81
July 1, 2011 – June 30, 2012	\$4,853.36	\$159.65
July 1, 2010 – June 30, 2011	\$4,842.72	\$159.30
July 1, 2009 – June 30, 2010	\$4,598.61	\$151.27
July 1, 2008 – June 30, 2009	\$4,342.03	\$142.83
July 1, 2007 – June 30, 2008	\$4,173.92	\$137.30
July 1, 2006 – June 30, 2007	\$4,021.31	\$132.28
July 1, 2005 – June 30, 2006	\$3,697.55	\$121.63
July 1, 2004 – June 30, 2005	\$3,597.84	NA
July 1, 2003 – June 30, 2004	\$3,575.34	NA
July 1, 2002 – June 30, 2003	\$3,111.69	NA
July 1, 2001 – June 30, 2002	\$3,024.00	NA
July 1, 2000 – June 30, 2001	\$2,933.07	NA

To establish the penalty period for transfers made **before** February 8, 2006:

1. Determine the equity value of all assets transferred in the 36 months before the client applied for Medicaid, other than those transferred to or by a trust.
2. Determine the equity value of all assets transferred into or by a trust in the 60 months before the client applied for Medicaid.
3. Divide the total equity value of the transferred assets by the average monthly cost of nursing services at the time of application to determine the number of months of penalty. Drop any fraction remaining, so the result is in whole months.

Annuities must also be reviewed to determine if the purchase of the annuity constitutes a transfer of assets for less than fair market value. See [Transfers That Cause a Medicaid Penalty](#).

Request a copy of the contract and use the *Annuity Release of Information*, form 470-4699, to gather information on the annuity. If you need help interpreting the information provided on the form or the contract, send the form and contract to the DHS, SPIRS Help Desk.

### **Burial Contracts**

20 CFR 416.1201,  
20 CFR 416.1231, 441  
IAC 75.56(249A)  
(See also [Transfer of Assets](#).  
20 CFR 416.1246,  
42 USC 1396p(d))

Exclude a prepaid burial contract as a resource if it meets one of the following conditions:

The contract is irrevocable and the applicant or member can't access the funds.

Mutual consent of the applicant or member and the contract seller is required to revoke or access the contract, and the seller's consent can't be obtained.

Liquidation of the contract would create a significant hardship to the applicant or member. Usually, the only hardship considered significant is requiring the applicant or member to move out of Iowa to access the funds.

Unless the contract clearly indicates that the burial contract is irrevocable, obtain a written statement from the contract seller that the funds committed to the contract are unavailable to the applicant or member.

Investigate a contract drawn up in another state to determine whether the law in that state permits irrevocable burial contracts and whether the contract is irrevocable under that law.

If a certificate of deposit or another form of funds is tied to the irrevocable contract, only the amount specified in the irrevocable contract is excluded.

If the burial contract is set up by purchasing a life insurance policy, check if the funeral home either owns the policy or is the irrevocable beneficiary.