

Medicaid Disqualifying Transfer of Assets and Income

Person does not qualify for Medicaid coverage of nursing care services if that person or his or her spouse makes a disqualifying transfer. A normal transfer of assets or income for which fair market value is received is not considered a disqualifying transfer. A transfer is only disqualifying if fair market value is not received.

One Example of Disqualifying Transfer: A person gives land and equipment to his adult children without receiving payment equal to its fair market value. *NOTE: There are many other types of disqualifying transfers.*

Transfers are generally reviewed to see whether a disqualifying transfer occurred if a person applies for coverage of nursing care services within 5 years of making the transfer.

Nursing care services include services received in a nursing home, swing bed services in a hospital, nursing care in any other medical institution such as the State Hospital, the Anne Carlsen Center, Prairie St. John's, Stadter Psychiatric Center, a Psychiatric Residential Treatment Facility (PRTF), an intermediate care facility for the developmentally disabled (ICF-MR), or a home and community based services setting.

Penalty Periods:

If a disqualifying transfer has occurred, a penalty period is established. The penalty period is the length of time that Medicaid will not cover the cost of nursing care services. The length of the penalty period is determined by the amount of the disqualifying transfer divided by the average monthly cost of nursing facility care in North Dakota as of the individual's first application for Medicaid.

Penalty periods generally begin on the latest of:

- The first day of the month in which the transfer occurred; or
- The first day on which the person is receiving nursing care services and is "otherwise eligible" for Medicaid.

When deciding if an individual is "otherwise eligible" for Medicaid:

- The person must have applied for Medicaid and meet all nonfinancial eligibility criteria;
- Countable assets must be within Medicaid asset levels; and
- The monthly cost of nursing care and other medical care the person is responsible for, must be equal to or greater than the person's recipient liability.

Transfers that do not cause penalty periods:

Some transfers of property are not treated as disqualifying even when no money is received. For instance:

- Transfer of the home to a spouse, a child who is disabled or a minor child; to a sibling who has partial ownership who has lived there and cared for a person for at least 1 year before that person entered nursing care; or to an adult child who lived there and cared for a person for at least 2 years before that person entered nursing care.
- Some transfers of other property to a spouse.
- Transfers to a trust solely for the benefit of a child who is disabled.

Frequently Asked Questions:

Q: If both spouses enter long term care and one spouse already has a disqualifying transfer penalty period set up, can the other spouse be eligible for Medicaid coverage for nursing care services?

A: If both spouses are receiving nursing care services, any penalty period is split between the two spouses.

Q: The fact sheet addresses nursing care services. Can other services be covered by Medicaid when someone has a disqualifying transfer?

A: Yes, non-nursing care services may be covered by Medicaid even if a person has a penalty period set up.

Q: What if I made a transfer and now I have no money to pay for my care?

A: In rare cases, a Hardship waiver may be granted. A link to the fact sheet titled, "Medicaid Disqualifying Transfer Hardship Provisions," provides more information. <http://www.nd.gov/dhs/info/pubs/docs/medicaid/fact-sheet-medicaid-disqualif-transfer-hardship-exemption.pdf>

For information, contact your local county social service office. County contact information is at www.nd.gov/dhs/locations/countysocialserv/index.html.