

**SA-3205: TRANSFER OF RESOURCES**

**REVISED 04/01/2013**

**I. TRANSFER OF RESOURCES POLICY**

If an applicant/recipient or his/her legal representative gives away or sells resources for less than the current market value, the a/r may be ineligible for Special Assistance. To apply a sanction, the transfer must have occurred on or after a specific date called the lookback date. For SA, the lookback date can never be earlier than **November 1, 2002**.

Inform all individuals who apply for or make an inquiry about SA about transfer of resources sanctions. Give each applicant/recipient or his/her legal representative a copy of the DAAS-3003, Important Information about Special Assistance and Your Resources.

**II. WHEN TO APPLY TRANSFER RULES**

**A. SSI Recipients**

**1. General Rule for SSI Recipients**

SSI recipients automatically meet the resource requirements for SA, including transfer of resources requirements. SSI policy requires sanctions for non-allowable transfers, except in situations where the sanction would create a hardship on individuals who have insufficient income/resources to provide for their basic maintenance.

**2. A/R's Who Are Ineligible For SSI Due To Transfer of Resources**

In most cases an a/r who is ineligible for SSI due to transfer of resources is ineligible for SA. The exception is for transfers that occurred prior to 11/1/02. SSI implemented transfer sanctions effective 1/1/00. There may be a/r's who are ineligible for SSI because of transfers that occurred after 1/1/00 but before 11/1/02. These a/rs may be eligible for SA if they meet all other SA eligibility requirements.

**3. SSI Hardship Provision**

If the a/r transfers a resource but is eligible for SSI under the SSI hardship exception, the a/r meets the resource and transfer of resources requirements for SA.

**B. Non-SSI Recipients**

**1. Transfer rules in this section apply to all non-SSI applicants for and recipients of Special Assistance, including the Special Assistance In-Home (SA/IH) Program.**

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2. Apply these rules to transfers made by the a/r, or by any person with legal authority to act in place of or on behalf of the a/r.
3. Transfer rules apply to transfers of any real or personal property or liquid resources owned by the a/r. They also apply to transfers of income, including lump sums, which are transferred during the month of receipt.
4. Resources owned solely by the a/r's spouse (or by the spouse jointly with individuals other than the a/r) are not considered in determining eligibility for SA. The budget unit for SA is always one. The a/r may transfer any resource to a spouse at any time with no sanction. Refer to V.D.
5. There is no hardship exception for a/r's who are financially ineligible for SSI.

### III. LOOKBACK DATE – APPLICABLE TO TRANSFERS ON OR AFTER 11/1/02

The lookback date is a fixed point in time, on or after which all transfers of resources are reviewed. The lookback date for SA is **36 months prior to the date of application**. For example, if the application is taken on December 15, 2005, counting back 36 months establishes a lookback date of December 15, 2002. The lookback date never changes once it is established. Evaluate all transfers that occurred on or after this date. Do not consider any transfers prior to this date. Document the lookback date in the case record.

The earliest lookback date is November 1, 2002. **DO NOT apply transfer sanctions to any transfer that occurred prior to November 1, 2002.**

### IV. VERIFICATION AND DOCUMENTATION

#### A. Verification

Ask at every application and redetermination whether the a/r or the a/r's representative has given away or sold any resources for less than fair market value since the lookback date (no earlier than 11/1/02). At any time you learn from any source that there has been a transfer of resources on or after the lookback date, verify the following information based on policy in [SA-3200, Resources](#)

1. A description of the resource transferred (homesite, other real property interest such as tenancy-in-common or life estate, cash, vehicle, stock, bank account, etc.).
2. The person who transferred the resource.
3. The name of the person to whom the resource was transferred.

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4. The a/r's relationship to the person to whom the resource was transferred.
5. The countable value of the resource at the time of the transfer.
6. The compensation (money or other benefit) received or expected for the transferred resource, if any.
7. The date the resource was transferred.
8. Whether the a/r was the sole owner of the resource at the time of the transfer, and if not, the name of any co-owners.
9. Whether the a/r still retains any ownership right in the resource.

B. Documentation

Document the above information in the case record.

**V. ALLOWABLE TRANSFERS (NON-TRUSTS)**

Certain transfers are allowable. Do not apply a sanction to the following transfers.

A. Spending Down Liquid Resources

Spending down cash is a valid transfer of resources if the a/r purchases items or services on the open market for his/her use. Obtain the a/r's statement as to how the cash was spent. The a/r does not have to provide an exact "to the penny" accounting but a reasonable accounting is acceptable. If the allegations are questionable or unreasonable, request evidence from the a/r to substantiate the expense, such as receipts for purchases, bank statements showing withdrawals, etc.

B. Compensated Transfer

A compensated transfer is one in which real or personal property or liquid resources are transferred or exchanged in return for money or some other tangible object, service, or benefit that is equal to or greater in value than the fair market value of the transferred resource. Determine fair market value based on procedures in SA-3200, Resources. Compensation can be in the form of cash, real or personal property, services, or assumption of the legal debt of the person making the transfer.

Transfers for services to be provided in the future are allowable only if there is a written legally binding agreement (contract, bill of sale, deed, etc.) for provision of services in effect at the time of the transfer. The contract must specify the current market value of the services and the frequency and duration of services. If the services are “for life,” Use the Life Expectancy Table located at <http://www.ssa.gov/oact/STATS/table4c6.html> to determine the beneficiary's life expectancy at the time of the transfer. You may request additional verification of the current market value of the service if it was not purchased on the open market.

C. Transfer of the Homesite to Allowable Persons

1. Refer to SA-3200, Resources, for the definition of homesite.
2. Transfer of the homesite is an allowable transfer only when it is transferred to one of the following:
  - a. Legal spouse, including a separated spouse, or
  - b. Natural or adopted child under age 21 at the time of the transfer, or
  - c. Blind/disabled child of any age (as determined by SSA).

**Note: For purposes of determining whether an exception applies, child means biological child, adopted child, or stepchild of any marital status unless otherwise stated.**

3. Transfer of the homesite is an allowable transfer when the a/r enters a nursing facility (or a medical treatment facility for whom payments are made by Medicaid at a nursing facility rate) or enrolls in CAP if the transfer is to certain family members who lived in the home with the a/r immediately prior to entering the nursing home/CAP. This type of transfer is not allowable when the a/r enters an adult care home directly from the community.

When evaluating transfers that occurred during the lookback period, do not impose a sanction period if the a/r transferred the homesite to one of the family members below:

- a. A child age 21 or older who resided in the home for at least 2 years immediately before the a/r entered a nursing facility or enrolled in CAP, and who provided care to the a/r that permitted him to live at home rather than in a nursing facility (or CAP) throughout the 2 year period. The a/r must provide documentation that the adult child resided in the home during the two years and provided necessary care.

NOTE: According to Medicaid policy, there is no minimum time requirement for placement in NF or CAP for this rule to apply. If you have questions, please discuss with your Medicaid supervisor.

Example: Ms. Sampson's daughter lived with her for more than 2 years and provided care that enabled her to remain at home. On Oct. 15 Ms. Sampson enters the hospital and on Oct. 25 is admitted to a nursing facility. On Nov. 2 Ms. Sampson, through her power of attorney, transfers her homesite to her daughter. Her condition improves and on Jan. 5 she moves to an adult care home and applies for SA. There is no sanction for this transfer.

Example: Mr. Johnston's son lived with him for more than 2 years and provided care that enabled him to remain at home. On Nov. 3 he enters an adult care home. He transferred his home to his son on Nov. 5. This transfer is subject to a sanction.

- b. A sibling of the a/r who has an ownership interest in the home (including life estate) and who was residing in the a/r's home for at least 1 year immediately before the a/r entered a nursing facility or enrolled in CAP.

#### D. Transfer of Resources To A Spouse

1. There is no sanction for transfers of any resources to a legal spouse, including separated spouses. Advise the couple that this type of transfer may affect eligibility for Medicaid if either of them applies for Medicaid benefits.
2. If the a/r transfers resources to a spouse, and the spouse then transfers the resource, there is no sanction for the a/r. If the spouse later applies for SA, determine if that transfer is subject to a sanction for the spouse.
3. If the a/r owns property owned with a spouse, follow procedures in SA-3200, Resources, to determine if the property is countable. If it is a countable resource, it is subject to a transfer sanction if the a/r and spouse together transfer the resource to another person, unless the transfer is allowable based on other rules in this section.

Example: Mr. Graham applies on SAA on 1/15/03. Mr. and Mrs. Graham had a joint savings account with a balance of \$25,000. Either of them could access the funds ("or" account) so the full amount in the account would have been a countable resource. On 12/18/02 the Grahams closed the account and reopened it in Mrs. Graham's name only. This is an allowable transfer to the spouse and there is no sanction.

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Example: Mr. Hyde is an SAD recipient. Mr. and Mrs. Hyde jointly own a lakefront cabin. Mrs. Hyde states she will not consent to sell the property and it is excluded. Two months after Mr. Hyde is approved for SA, they transfer ownership of the property to their son. This is an allowable transfer because it is an excluded resource.

Example: Mr. Scotland applies on 9/4/03 for SA. The caseworker learns that Mr. and Mrs. Scotland had a certificate of deposit valued at \$7,500, which they cashed in and transferred to their son on 7/15/03. This was a joint account that either spouse could access and would have been a countable resource. Mr. Scotland is subject to a 3 month sanction from August through October ( $\$7,500 \div \$2,000 = 3.75$  rounded down to 3).

4. Special Assistance transfer rules in this section take precedence over prenuptial or postnuptial agreements and formal or informal separation agreements.

E. Transfers to the A/R's Blind/Disabled Child

Any resource transferred to a/r's blind/disabled child of any age, in addition to the homesite, is allowable. The blind/disabled child must be determined blind/disabled by SSA.

**Note: For purposes of determining whether an exception applies, child means biological child, adopted child, or stepchild of any marital status unless otherwise stated.**

F. Excluded Resource at the Time of Transfer

Any resource, except the homesite, which was excluded as a countable resource at the time of the transfer, or would have been excluded had an application been made, is an allowable transfer. Examples of excluded resources that may be transferred without sanction are: personal effects and household goods, excluded vehicles, life insurance when the cash value is excluded, etc. Refer to SA-3200, Resources, to identify excluded resources.

G. Intent to Dispose at Current Market Value

1. Do not apply a transfer sanction when the a/r sells resources at less than current market value but he can prove he intended to dispose of the resource for current market value or for other valuable consideration.
2. The a/r must supply documentary evidence of two attempts to dispose of the resource for current market value or documentary evidence from two knowledgeable sources to support the value at which the resource was disposed. Refer to rebuttal procedures in SA-3200, Resources, to establish a lesser value of a resource.

Example: The applicant owns a non-homesite mobile home with a tax value of \$18,500. There are no encumbrances on the property. He listed the property a year ago but was unable to sell it. He again lists the property with a realtor for the current market value of \$18,500. After several weeks the a/r receives a firm offer for \$14,500 and no other offers. He accepted the offer. This example documents that the a/r intended to sell his property at the current market value, but he only received a portion of that amount. Do not apply sanction to the difference between the current market value and the compensation received.

3. If the a/r establishes that he cannot sell a resource at the current market value, it remains subject to a sanction if he transfers the resource. Apply the sanction based on the lesser value established through the rebuttal process.

#### H. Resource Transferred Exclusively for Other Reasons

Except for the allowable transfers outlined in this section, presume all other transfers are made to make the individual eligible for SA. The a/r or representative may rebut the presumption and provide evidence that the transfer was made exclusively for a reason other than to establish eligibility for SA. Each situation must be evaluated by the county agency on a case-by-case basis. It may be done as part of the application process, redetermination, change in situation, or appeal.

1. When a non-allowable transfer is verified, presume the transfer was made to establish eligibility for SA and determine the sanction.
2. Advise the a/r he may rebut the presumption that the resource was transferred to establish or retain SA eligibility. The a/r must show by the greater weight of evidence that the resource was transferred exclusively for a reason other than qualifying for SA. The evidence presented (written or oral) must be more persuasive than all evidence presented to the contrary.
3. The rebuttal evidence may include:
  - a. The a/r's or legal representative's statement regarding the circumstances of the transfer. This includes the specific reason the resources were transferred, the date of transfer, the name and relationship of the person to whom the resources were transferred, and any compensation received. Question the a/r on how he expected to meet his living expenses and/or medical expenses without the resource and/or its income. **OR**
  - b. Evidence from other sources to support the allegation. Examples of evidence are oral or written statements from persons knowledgeable about the situation, medical records, and bank records.

4. Evaluate the evidence presented. The evidence might establish another reason for the transfer. However, if establishing eligibility for SA was also considered, the transfer was not exclusively for a purpose other than to establish or retain SA eligibility. In making the determination, consider the following:
  - a. The a/r's age, general health, living arrangement, and amount of resources retained to meet future needs at the time of the transfer, and
  - b. Whether the case record documents any inquiry by the a/r, legal representative or other interested party about resource limits for SA, income budgeting, etc., and
  - c. Whether the a/r consulted or hired an attorney for estate planning purposes, and
  - d. Whether the individuals who provided the knowledgeable statements stand to gain in any way from the transfer.
- I. All Transferred Resources Are Returned
  1. Do not apply a transfer sanction when all transferred resources have been returned to the a/r at the time of application, or if the resources are returned the same month as the transfer.
  2. If a sanction period has already been assigned when all or any portion of the resources is returned, refer to VIII.D. for instructions on lifting the sanction.

J. A/R Has Been Defrauded

Do not apply a transfer sanction when it appears the a/r is a victim of fraud and did not take the action with the intent of becoming eligible for SA. Refer the case to Adult Services, and/or the Clerk of Court if there is a legal representative, to pursue possible reversal of the action and return of the resource to the a/r.

## **VI. ALLOWABLE TRANSFERS TO A TRUST/ANNUITY**

A. Transfers to A Countable Trust

There is no sanction for transfers to a trust if the resources transferred to the trust continue to be a countable resource, or the entire trust is a countable resource. For example, if the a/r transfers \$3,000 into a revocable trust, the trust is a countable resource and no transfer sanction applies.



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- B. Transfers To A Trust/Annuity For The "Sole Benefit" of an Allowable Person
1. Transfers by the a/r to a trust for the "sole benefit" of another person are allowable. An allowable person is:
    - a. The a/r's spouse, or
    - b. The a/r's blind/disabled child (determined by SSA) of any age, or  

**Note: For purposes of determining whether an exception applies, child means biological child, adopted child, or stepchild of any marital status unless otherwise stated.**
    - c. Any other unrelated disabled individual (determined by SSA) who is under age 65 at the time the trust is established.
  2. To be allowable, a transfer to a third party for the "sole benefit" must meet the following criteria:
    - a. The resource cannot benefit anyone in any way but the allowable person at the time of the transfer and for the remainder of that person's life.
    - b. The transfer must be in the form of a trust document (or similar legal document) which legally specifies the conditions under which the transfer was made, who can benefit, and the amount of the benefit.
    - c. Trustee Rule: The trust may provide for reasonable compensation for a trustee to manage funds. Reasonable compensation is based on the time involved to manage the trust and the prevailing rate of compensation. Evaluate each situation on a case-by-case basis to determine if the compensation is reasonable.
  3. If the beneficiary of the trust applies for SA, evaluate the trust for its affect on the beneficiary's eligibility.
- C. Transfers to Special Needs or Pooled Trusts
1. In addition to transfers to trusts for the "sole benefit" of a disabled/blind individual, transfers of the a/r's resources to a Special Needs or Pooled trust are an allowable transfer when the terms of the trust meet all the criteria in SA-3200, Resources.

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2. Forward a copy of the trust document to DMA, Third Party Recovery Section, 2508 Mail Service Center, Raleigh, N.C. 27699-2508. The telephone number is 919-814-0240.

D. Purchase of an Irrevocable Burial Contract

Resources used to purchase an irrevocable burial contract are an allowable transfer and create a trust when:

1. It is purchased for the benefit of the a/r or the a/r's spouse, child under 21, or blind/disabled child of any age, and
2. The contract lists each burial item and/or service.

**VII. SPECIAL CONSIDERATIONS FOR CERTAIN NON-ALLOWABLE TRANSFERS**

After excluding the above allowable transfers and exceptions, apply transfer policy to all remaining transfers in the lookback period. Do not apply a sanction for transfers prior to 11/1/02. Some transfers have special rules based on the type of resource transferred. Apply the following rules:

A. Date of Transfer for Real Property

The date of transfer for real property is the day the deed is signed by the grantor, delivered, and accepted by the grantee. Unless fraud is suspected, it is presumed this is the date recorded on the front of the deed. The deed does not have to be notarized or registered in order to be a valid title transfer. It must be signed by the grantor, delivered, and accepted by the grantee. However, a deed of gift must be registered within two years of the date the deed is signed to remain valid.

B. Date of Transfer for Liquid Resources

The date of transfer for liquid resources is the date the owner gives or mails the cash, check, or other liquid resource to another person. This is the date the a/r no longer has access to or control of the resource.

Example: A/R withdraws writes and mails a check to his son on August 28 but it does not clear the bank account until September 12. The date of transfer is August 28.

C. Tenancy-in-Common Property Interest

1. Evaluate for transfer of resources when the a/r changes ownership interest in property from sole ownership or tenancy-by-the-entirety to tenancy-in-common interest.

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- a. The date of transfer is the date the ownership interest is changed to tenancy-in-common.
  - b. The uncompensated value is the equity value of the a/r's percentage of the property that is changed to tenancy-in-common, less any compensation received.  
  
Example: The a/r owns property with an equity value of \$65,000. He gives his brother a 1% share (worth \$650) and receives no compensation. The uncompensated value is the value of the 1% share changed to tenancy-in-common, \$650.
2. If the a/r transfers an existing tenancy-in-common interest in property, the value transferred is the equity in his tenancy-in-common share. Refer to [SA-3200, Resources](#), for instructions on determining the equity in the tenancy-in-common share.  
  
Example: The a/r owns property with his three brothers, and each brother owns 25%. The tax value of the property is \$100,000 and there are no liens. The value of the a/r's share is \$25,000. He transfers his share to his sister. The uncompensated value of the transfer is \$25,000.

D. Life Estate

1. Evaluate for transfer of resources when the a/r transfers real property and retains a life estate.
  - a. The date of transfer is the date the remainder interest is granted.
  - b. The uncompensated value is the equity value of the remainder interest granted, less compensation received. Refer to [SA-3200, Resources](#), for instructions on determining the equity in a remainder interest.
2. Evaluate for transfer of resources when the a/r transfers a life estate in real property.
  - a. The date of transfer is the date of the deed or agreement transferring ownership of the life estate.
  - b. The uncompensated value is the equity value of the life estate less any compensation received. Refer to [SA-3200, Resources](#), for instructions on determining the equity value of a life estate. If the a/r has provided rebuttal evidence to establish that the life estate has no market value, the uncompensated value of the transfer is \$0.

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E. Joint Ownership of Liquid Resources

1. If the a/r has access to a joint bank account without the consent of the other account holder, the full amount of the account is a countable resource. Transfer of a countable resources is subject to a sanction if transferred by the a/r or by the other account owner (unless it is transferred by the a/r to the spouse).

NOTE: If it appears the a/r has been defrauded, refer to V.J. for referral to Adult Services.

2. Determine if a resulting trust exists. If a resulting trust is verified, there is no sanctionable transfer.
3. Determine the ownership of funds to determine if there has been a non-allowable transfer of resources. If both owners have deposited money into an account and both have equal access, either owner may spend the funds without a sanction period.

Example: Mr. Durham and his brother Mr. Greene live together and have had a joint bank account for a number of years. Both deposit their Social Security income into the account and they pay their shared household expenses from the account. The account balance is about \$5,000. Mr. Durham applies for SA and the full balance of the account is a countable resource. To reduce resources, Mr. Durham uses money from the account to pay off some outstanding medical bills. Mr. Greene uses money from the account to pay off a credit card balance and to repair his car. This is not a transfer because the funds belong to both account holders and the money was spent down to meet their needs.

4. Evaluate for transfer of resources when the a/r takes any action that eliminates his ownership or reduces his control of a liquid resource. Examples include when the a/r adds another individual to a bank account or certificate of deposit.
5. The date of transfer depends on the action:
  - a. The date of transfer for an "or" account is the date the resource is actually reduced.

Example: The a/r added his niece's name to his \$30,000 savings account in January so either party could access the account independently. This is an "OR" account. (For SA purposes, the entire \$30,000 would still be considered available to the a/r.) In April, the niece withdraws the \$30,000 from the joint account and puts it into her own account. The date of transfer is the date the niece actually withdrew the funds. However, if the niece withdraws the money and uses it on behalf of the a/r, there is no transfer.

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- b. The date of transfer for an "and" account is the date the a/r reduces his control of the resource.

Example: The same situation as above, but the account is changed to an "AND" account. An "and" account requires the signature of both parties to access. The date of transfer is the date the niece's name was added to the account because that is the day the a/r reduced his control of the resource.

F. Transfers Involving Countable Trusts

Any time you learn the a/r created a trust or is the beneficiary of a trust, report it to DMA, Third Party Recovery Section. The telephone number is 919-647-8100.

1. Except for the specific trusts described in VI, evaluate trusts created by the a/r with his funds as either:
  - a. An available resource to the a/r, or
  - b. A transfer of resource.
2. Refer to SA-3200, Resources, to determine what portion of the trust is an available resource to the a/r. The amount that is unavailable to the a/r is subject to a transfer sanction.
3. Revocable Trust
  - a. The date of transfer for a revocable trust is the date a disbursement from the trust is made to someone other than the a/r.
  - b. The uncompensated value of the transfer is the actual amount paid to an individual other than a/r.

4. Irrevocable Trusts

If the a/r uses his own funds to establish an irrevocable trust, a portion of that trust may be countable. Refer to SA-3200, Resources to determine if an irrevocable trust is countable. The portion of the trust that is not countable is subject to a transfer sanction.

- a. The date of transfer is the date the trust is established.

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- b. The uncompensated value is the portion of the trust that was made unavailable to the a/r on the date the trust is established. Do not subtract any payments made from the trust after the trust was established.
  - c. Treat additions to existing trusts as a new transfer based on the date of the addition. Additions include undistributed interest earned on the trust principal.
- G. Stream of Income Or Income Diversionary Trusts
- 1. A stream of income is income received on regular basis such as a pension or rental income.
  - 2. A diversionary trust is one in which the a/r diverts regular income into a trust. Refer to [SA-3200, Resources](#), for rules regarding treatment of diversionary trusts.
  - 3. When a stream of income is transferred or diverted, treat each payment as a separate transfer.
- H. Transfers for "Love and Consideration"
- Evaluate for transfer of resources when an a/r gives cash or other resources to a family member, relative, or friend for care or services that were provided for free in the past. Unless there was a written agreement for compensation at the time the care or service was received, the transfer is uncompensated.
- I. Transfer of Income Producing Property, Other than Income Producing Home sites
- If non-home site income producing property is transferred, evaluate for transfer of resources. The sanction is based on the full amount of the uncompensated value, regardless of whether the property met the 6% test. Do not deduct \$6,000.

**VIII. SANCTION PERIOD FOR TRANSFER OF RESOURCES**

- A. Determine the Uncompensated Value of the Transfer
- 1. List each non-allowable transfer occurring on or after the lookback date through the current date.
  - 2. Determine the date of transfer.
  - 3. Determine the uncompensated value of each transferred resource based on policy in [SA-3200, Resources](#).

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- a. Establish the current market value of the transferred resource at the time of the transfer.  
  
The value of certain transferred resources can be rebutted. If a resource's value has already been successfully rebutted as part of the application process, use the established rebutted value, or zero value if proven non-salable or no current market value.
- b. Subtract any encumbrances from the current market value to establish the equity value of the resource.
- c. Establish the amount or value received for the transferred resource.
- d. Subtract from the equity value the amount received. This is the uncompensated value.

B. Determine the Sanction Period

1. The **maximum** length of each consecutive sanction period is **36 months**.
2. To determine the sanction period for a single transfer:
  - a. Divide the total uncompensated value of the transfer by **\$2,000**. This is based on the current average private rate for cost of care in an adult care home and is subject to change. DSS will issue changes in the rate as appropriate.
  - b. Round this number down to the lowest whole number.
  - c. The result is the number of months in the sanction period.  
  
$$\text{Uncompensated Value} \div \$2,000 = \text{Months of Sanction}$$
  - d. Begin the sanction period with **the month following the month in which the transfer occurs**.
  - e. There is no sanction if the uncompensated value of the transfer is less than \$2,000.

Example: Applicant transferred property valued at \$12,500 on 12/12/02. The sanction period is 6 months, 1/03 – 6/03. ( $\$12,500 \div \$2,000 = 6.25$  round down to 6)

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3. When there are multiple transfers in the lookback period, determine when the uncompensated value of the transfers equals \$2,000. Begin the sanction period with **the month following the month in which the transfers equal \$2,000.**
  - a. Once the transfers equal \$2,000, evaluate the transfers separately unless the sanction periods overlap.
  - b. If the sanction periods overlap, add the uncompensated value of all overlapping transfers in the lookback period and divide by \$2,000.
  - c. Round this number down to the lowest whole number.
  - d. The result is the number of months of sanction.
  - e. Stop adding and end the sanction period with the first month in which:
    - (1) No transfer occurred, and
    - (2) No sanction applies to that month from an earlier transfer.

Example of Multiple Transfers That Do Not Overlap: Application made for SA on 12/10/03. Mr. Pitt transferred a non-homesite trailer valued at \$8,000 on 11/5/02 and \$10,000 in cash on 8/10/03.

Sanction period for trailer transfer = 12/02– 3/03 ( $\$8,000 \div \$2,000 = 4$  mo).  
Sanction period for cash transfer = 9/03–1/04 ( $\$10,000 \div \$2,000 = 5$  mo).

These sanction periods do not overlap and are imposed separately. Mr. Pitt is ineligible until 2/04.

Example of Multiple Transfers That Do Overlap:

Application made for SA on 4/12/03. Ms. Burke transferred real property valued at \$26,000 on 11/5/02, a boat valued at \$2,800 on 12/5/02 and stock valued at \$7,325 on 6/8/03.

Sanction period for property transfer is 12/02–12/03 ( $\$26,000 \div \$2,000 = 13$  mo).  
Sanction period for boat transfer is 1/03 ( $\$2,800 \div \$2,000 = 1$  mo).  
Sanction period for stock transfer is 7/03–9/03 ( $\$7,325 \div \$2,000 = 3$  mo).



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These sanction periods do overlap, so add the total of all transfers together.

$$\$26,000 + \$2,800 + \$7,325 = 36,125 \div \$2,000 = 18.063 \text{ round down to } 18 \text{ mo.}$$

The sanction period is 12/02 – 5/04. Ms. Burke is ineligible until 6/04

4. If other transfers occur during an established sanction period, add the uncompensated value of those transfers to the total and divide the total by \$2,000. Round down each total. This is the revised number of months in the sanction period. The beginning month of the sanction period does not change.
5. For transfers that occur after the sanction period has ended, begin a new sanction period with the month following the month the total transfers equals \$2,000.

C. Sanction Period When An Individual Leaves the Facility

A sanction period runs continuously from the first month of the sanction period through the last month of the sanction period, regardless of whether the individual stays in the adult care home or is otherwise eligible for SA.

D. Lifting or Reducing the Sanction Period

1. When transferred resources are returned to the a/r prior to application, do not apply a sanction.
2. When transferred resources are returned during the same month the transfer occurred, do not apply a sanction. Determine eligibility based on the value of resources on the first moment of the month.
3. When transferred resources are returned to the a/r after a sanction period has already been assigned, the sanction period continues until the month after the resources are returned. Beginning the month after the resource is returned; determine eligibility including the returned resources.
4. Resources are considered returned when:
  - a. The actual resource is transferred back to the a/r, or
  - b. The a/r receives fair market value as compensation for the resource after the transfer. Value may be received in cash or money spent on the a/r's behalf. Examples of money spent on the a/r's behalf are: paying for cost of care, or purchasing a burial plot for a/r, or paying outstanding bills for the a/r. The cash or money spent on the a/r's behalf does not have to come from the person to whom the resource was originally transferred.

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- c. Verify any money spent on the client's behalf is, in fact, paid. For example, the adult care home verifies the outstanding bill has been paid.
  
  5. When only a portion of the transferred resource is returned or money spent on the recipient's behalf, the sanction period can be modified. For example, when half the value of the resource is returned, the sanction period is reduced by one-half. You must still reverify resources to determine whether the a/r is eligible based on the resource limit.
- E. Budgeting During Sanction Period
1. An individual who is sanctioned due to transfer of resources is totally ineligible for SA. Always evaluate for Medicaid. Because of differences in transfer policy, an individual who is ineligible for SA due to a transfer may be eligible for Medicaid.
  
  2. Determining the Sanction When Both Spouses Are Recipients
    - a. If a married couple transfers jointly own resources, and both spouses are SA a/r's, divide the sanction between them. Divide the total value of the transferred resources by the average cost of care; then divide by two to get the number of months in the sanction period for each spouse.

Example: Mr. and Mrs. Tyrrell are private pay residents in an assisted living facility. They make a non-allowable transfer of \$40,000 in stocks to their church on August 10. In November the couple applies for SA. They meet the income requirements but each of them is subject to a 10 month sanction ( $\$40,000 \div \$2,000 = 20$  months  $\div 2 = 10$  months) beginning December.

Example: Mr. and Mrs. Macon transferred cash and stocks valued at \$60,000 to their daughter on September 10. In January Mr. Macon suffers a stroke and enters a nursing home. Mrs. Macon is unable to live alone and enters an adult care home in February. They both apply for assistance with cost of care. Mrs. Macon is subject to a 15 month SA sanction beginning in October ( $\$60,000 \div \$2,000 = 30$  months  $\div 2 = 15$ ). Mr. Macon is subject to a 7 month Medicaid sanction beginning in September ( $\$60,000 \div \$4,200 = 14$  months  $\div 2 = 7$ ).

## IX. NOTIFICATION OF SANCTION PERIOD AND OPPORTUNITY TO REBUT

When it is established that the a/r has a sanction period due to a non-allowable transfer, notify the a/r of the sanction period. The a/r may rebut the value of the transferred resource or that the transfer was made exclusively to qualify for SA. This may be done at application, redetermination, change in situation, or through the fair hearing process.

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A. Applications

1. Use the [DMA-5097, Request for Information](#), to notify the applicant:
  - a. He is ineligible for SA due to transfer of resources without receiving adequate compensation.
  - b. The transfers considered, the sanction period, and the right to rebut the presumption and provide evidence to prove the transfer was made exclusively for a purpose other than establishing eligibility. Refer to [SA-3200, Resources](#), for rebuttal requirements.
2. Pend the application to allow the applicant an opportunity for rebuttal. If the a/r states he does not rebut the sanction, or if the evidence does not establish an allowable transfer, deny the SA application.

B. Ongoing Cases

Upon learning of a non-allowable transfer and determining the sanction period, send a timely notice to propose termination for transfer of assets. Advise the recipient of the sanction period. Refer the case to the local dss Program Integrity staff if it is determined an overpayment has occurred due to unreported resources or transfer of resources.

C. Hearing Process

The a/r has the right to a hearing if he disagrees with the transfer sanction. Refer to [SA-3340, Hearings](#), regarding the hearing process.