Transfer of Assets

Transfer of Assets

- Calculating penalty periods
- Actions preventing income or resources from being received
- Annuities
- Promissory Notes

Transfer of Assets

Transfer of Assets

- Life Estates
- Reverse Mortgage
- Mineral Rights
- Undue Hardship

Transfer of Assets

Period of Ineligibility

- Calculating a POI
  - Asset value
  - Yearly average NF private pay rate
  - Months and days
- Date penalty begins
  - Before February 8, 2006
    - When transfer occurred
  - On or after February 8, 2006
    - When otherwise eligible with approved application

Transfer of Assets

POI Exercise

- Client transferred a home valued at $100,000 in 2008
- Client is applying for benefits March 2011
- Client still owed $25,000
- Average private pay rate in 2011 is $6394

What is the penalty period?????

Transfer of Assets

Actions Preventing Access to Income and Resources

- 10 CCR 2505-10, Section 8.100.7.F.10
  - Waiving a pension
  - Waiving an inheritance
  - Diverting funds to a trust other than an income, disability, or pooled trust
  - Failure of a spouse to elect a share of a spouse's estate. Failure to obtain Family and Exempt Property Allowances CRS 15-11-403 and 15-11-404

Transfer of Assets

Actions Preventing Access to Income and Resources

- 10 CCR 2505-10, Section 8.100.7.F.10
  - Not accepting a personal injury settlement
  - Eliminating or restricting individual's access to assets (Family Limited Partnership or other irrevocable entity)
  - Refusal to take legal action for child support, alimony
  - Failure to insure equitable distribution of marital property and income in a divorce

Transfer of Assets

Annuities

- Annuities
  - Purchase date
  - Revocable or irrevocable
  - Countable non-countable resource
  - Transfer without fair consideration

Transfer of Assets

Annuities

- Annuities
  - Purchased on or after Feb. 8, 2006
    - Irrevocable & non-assignable
    - Actuarially sound
    - Equal payments
    - No deferral payments
    - Names HCPF as primary or secondary beneficiary

Transfer of Assets

Promissory Notes

10 CCR 2505-10, Section 8.100.5.M.3.n-p

10 CCR 2505-10, Section 8.100.7.G.1-3

- Medicaid Applicant as Lender
  - Before April 1, 2006 (Resource + Possible TWOFC)
  - On or after April 1, 2006 (Not resource + Not TWOFC IF certain criteria are met)
  - On or after March 1, 2007 (Resource + Possible TWOFC)

Transfer of Assets

Promissory Notes

- Medicaid Applicant as Borrower
  - Signed agreement with lender
  - Substantiate receipt of payment
  - Repayment terms

Transfer of Assets

Life Estate

- Life Estate
  - Life estate interest
  - Remainder interest

Transfer of Assets

Reverse Mortgage

- Owner occupied
- Not income
- Retained into the following month
- Payments transferred to another

Transfer of Assets

Mineral Rights

- Ownership interest in natural resources (coal, oil, natural gas)
- Ownership of land and mineral rights
  - Current market value includes value of mineral rights

Transfer of Assets

Mineral Rights

- Ownership of mineral rights only
  - Obtain estimate of current market value from knowledgeable source
    - Bureau of Land Management
    - U.S. Geological Survey
    - Mining company that holds leases

Transfer of Assets

Undue Hardship

- Notice of undue hardship exception
- Waiving the trust or transfer provisions
- All 4 conditions MUST be met
  1. Otherwise eligible
  2. Unable to obtain medical care without Medicaid
  3. Health or life would be endangered OR deprive of food, shelter, clothing or other necessities of life
  4. Assets are irretrievably lost AND exhausted all legal avenues to regain possession

Transfer of Assets

Questions and Comments