

ALASKA ADULT PUBLIC ASSISTANCE MANUAL

CHAPTER CONTENTS

Section		Page
433	SPECIAL RESOURCE PROVISIONS	M-1
433-1	TRANSFER OF RESOURCES	M-1
	A. DEFINITIONS.....	M-1
	1. FAIR MARKET VALUE.....	M-1
	2. EQUITY VALUE	M-1
	3. TRANSFER.....	M-1
	4. COMPENSATION	M-1
	5. UNCOMPENSATED EQUITY VALUE	M-1
	B. TRANSFERS THAT DO NOT AFFECT ELIGIBILITY	M-2
	C. DETERMINING INTENT OF TRANSFER.....	M-3
	D. UNDUE HARDSHIP.....	M-4
	1. GENERAL RULE.....	M-4
	2. LOSS OF SHELTER.....	M-4
	3. COUPLE CASES.....	M-4
	E. DISQUALIFICATION PERIOD.....	M-5
	F. COORDINATION WITH SSI.....	M-6
	1. LENGTH OF DISQUALIFICATION PERIOD.....	M-6
	2. SSI HARDSHIP PROVISIONS.....	M-7
	G. ONE SPOUSE MOVES AWAY	M-7
	H. MULTIPLE TRANSFERS	M-7
	I. EFFECT OF RESOURCE TRANSFERS ON INSTITUTIONAL MEDICAID OR MEDICAID WAIVER SERVICES	M-8
433-2	CONDITIONAL BENEFITS	M-8
	A. ELIGIBILITY FOR CONDITIONAL BENEFITS	M-8
	B. MANDATORY SSI CLIENTS	M-9
	C. NON-SSI CLIENTS	M-10
	D. REPAYMENT OBLIGATION	M-10
	E. DISPOSAL PERIOD	M-10
	F. CONDITIONAL BENEFITS PERIOD.....	M-11
	G. DEFINITION OF REASONABLE EFFORTS	M-11
	H. CONTINUED EXCLUSION OF REAL PROPERTY AFTER A PERIOD OF CONDITIONAL BENEFITS.....	M-12
433-3	PERMANENT FUND DIVIDEND.....	M-13

ALASKA ADULT PUBLIC ASSISTANCE MANUAL

THIS PAGE LEFT BLANK INTENTIONALLY

ALASKA ADULT PUBLIC ASSISTANCE MANUAL

433 SPECIAL RESOURCE PROVISIONS

433-1 TRANSFER OF RESOURCES

If an individual (or spouse) transfers a resource for less than its fair market value to become or remain eligible for Adult Public Assistance (APA), the individual or couple may be disqualified for up to 36 months. This disqualification will only apply to transfers made on or after October 1, 2001.

A. DEFINITIONS

1. Fair market value

Fair market value is current market value of a resource at the time the resource is transferred. The current market value of a resource is the going price for which it can reasonably be expected to sell on the open market in the geographic area involved.

2. Equity value

Equity value means the fair market value of a resource less any amounts owed or other legal encumbrances.

3. Transfer

Transfer means any action taken to sell, trade, or give away a resource.

4. Compensation

Compensation is the cash or other valuable consideration provided in exchange for the resource.

5. Uncompensated Equity value

Uncompensated equity value is the difference between the equity value of the resource and the amount of compensation received by the individual in exchange for the resource.

433-1 Continued

B. TRANSFERS THAT DO NOT AFFECT ELIGIBILITY

Evaluate each transfer to determine if it causes ineligibility for APA. The following transfers do not affect eligibility, but questionable situations may require verification such as receipts, legal documents, and collateral contacts:

1. Transfers of exempt resources;
2. Compensation received was greater than or equal to the equity value of the resource;
3. Resources that would not have caused ineligibility if they had been retained;
4. Transfers made to satisfy a court order or settle a debt;
5. Transfers made as the result of theft, fraud or coercion against the person who transferred the resource;
6. Transfers to a Special Needs or Pooled Trust (as described in Medicaid manual section 5028);
7. Transfers to a trust established for the sole benefit of the individual's child of any age who is blind or disabled;
8. Transfers to the individual's spouse, to another person for the sole benefit of the individual's spouse, or to the individual's child of any age who is blind or disabled;
9. Transfer of a non-exempt home (i.e., a home that the individual does not consider to be his or her principal place of residence) that is made to the individual's spouse, the individual's child under age of 21, or to the individual's child of any age who is blind or disabled; and
10. Transfers returned in the same month the resource was transferred. If the entire resource is returned in a subsequent month, eligibility begins the month after the entire resource is returned.

433-1 Continued

C. DETERMINING INTENT OF TRANSFER

When a transfer does not fall into one of the above categories, it is presumed that the client intentionally transferred the resource to become or remain eligible for APA. However, the individual must be given an opportunity to rebut this presumption and to provide proof that the transfer was made unintentionally or for a different purpose.

To determine intent, ask the client why the resource was transferred. If they admit that the transfer was made to qualify for APA, then calculate the disqualification period and take appropriate action on the case.

When intent is questionable, consider the following: What was the client's life situation and economic health in the time period surrounding the transfer? Did they just lose a job, or did they quit? Have they recently been denied APA for excess resources? How have they survived up until this point? Although these questions are commonly asked during interviews, they can be especially helpful in deciding whether a resource was intentionally transferred to become or remain eligible for APA.

Unless there is good reason to believe otherwise, examples of resource transfers that will not result in a disqualification penalty include situations where:

- The individual did not believe the transfer would affect eligibility for APA; or
- The individual was not an APA recipient at the time, and did not expect to apply for assistance when the resource was transferred.

Case workers may wish to investigate further and require additional proof to establish whether or not the transfer was made for the purpose of qualifying for APA.

433-1 Continued

D. UNDUE HARDSHIP

The transfer of resource disqualification period may be waived if it appears the individual will suffer an undue hardship as a result of not getting APA benefits. If none of the other exceptions apply, the case worker must determine whether benefits are payable based on undue hardship before applying a transfer of resource disqualification period.

1. General Rule

Undue hardship exists if:

- Failure to receive APA benefits would deprive the individual of food or shelter, and
- The individual's total available funds (income and liquid resources) are less than the applicable APA payment standard.

2. Loss of Shelter

An individual would be deprived of shelter if:

- He or she would be subject to eviction from the current residence if APA benefits were not received; and
- There is no other affordable housing available, or there is no other housing available with necessary modifications for a disabled individual.

3. Couple Cases

When determining total available funds for an eligible couple or an individual with an ineligible spouse, use:

- The couple's applicable APA payment standard; and
- the total available funds (income and liquid resources) of both spouses.

ALASKA ADULT PUBLIC ASSISTANCE MANUAL

433-1 Continued

E. DISQUALIFICATION PERIOD

Use the uncompensated equity value of the transferred resource to determine the disqualification period. The disqualification period may not exceed 36 months. It begins on the first day of the month following the month of the transfer, and continues without interruption until the end of the disqualification period.

To calculate the disqualification period, divide the uncompensated equity value by the individual's or couple's applicable maximum payment standard. The result, rounded to the nearest whole number, is the individual's or couple's period of ineligibility.

$$\frac{\text{Uncompensated Equity Value}}{\text{Maximum Payment Standard}} = \text{Disqualification Period}$$

(rounded to the nearest whole month)

Example 1 - Applicant:

An individual in an independent living arrangement applies for APA in December 2001. In October 2001, the individual transferred property for \$800. The property's equity value was \$5,000.

$$\begin{array}{r} \$5,000 \text{ Equity Value} \\ - 800 \text{ Compensation} \\ \hline \$4,200 \text{ Uncompensated Equity Value} \end{array}$$

$$\frac{\$4,200 \text{ Uncompensated Value}}{\$892 \text{ Max. Pymt. Standard}^*} = 5 \text{ Months}$$

(4.71 Rounded to the nearest whole month)

The disqualification period is five months beginning with the month of November, the month after the month of transfer. The individual is not eligible until April 1. Deny the application.

** This example is based on the January 1, 2001 APA maximum payment standard for an individual in an independent living situation.*

ALASKA ADULT PUBLIC ASSISTANCE MANUAL

433-1

Continued

Example 2 - Recipient:

In October 2001, an APA recipient in an independent living arrangement inherits a farm worth \$100,000. After all taxes are paid, the equity value is \$50,000. In October 2001, the individual transfers the title to his sister for \$1,000. The individual reports the transfer in December 2001.

\$50,000 Equity Value
– 1,000 Compensation
\$49,000 Uncompensated Equity Value

$\frac{\$49,000 \text{ Uncompensated Value}}{\$892 \text{ Max Pymt. Standard}^} = 55 \text{ Months}$*
(54.93 Rounded to the nearest whole month)

The individual is ineligible for 36 months beginning in November 2001, the month after the month of the transfer. Although the individual's disqualification period is calculated to be 55 months, the actual penalty cannot exceed 36 months. The individual will not be eligible again until November 1, 2004. The case must be closed and an overpayment claim established for any ineligible months.

** This example is based on the January 1, 2001 APA maximum payment standard for an individual in an independent living situation.*

F. COORDINATION WITH SSI

1. Length of Disqualification Period

SSI program may also apply a disqualification period if an individual (or spouse) transfers a resource for less than its value. However, because of the SSI program's lower payment standards, the SSI disqualification period may be different than the APA disqualification period.

433-1

Continued

If the APA disqualification period ends before the SSI disqualification period, the individual (or couple) may qualify for APA benefits after the end of the APA disqualification period. To qualify for assistance, the individual must meet all other APA eligibility requirements except for receipt of SSI benefits. When the SSI disqualification period ends, the individual will be required to apply for and pursue SSI benefits.

2. SSI Hardship Provisions

The SSI program may decide not to impose a transfer of resource penalty if it determines the penalty would work an undue hardship on the individual. An SSI decision not to impose a transfer of resource penalty because of undue hardship is sufficient reason not to impose an APA disqualification period for transfer of resources.

G. ONE SPOUSE MOVES AWAY

In some transfer of resource situations, the transferred resource may have belonged to only one spouse. If the spouse who transferred the resource moves away, the disqualification follows that individual. The other spouse is not affected by any months remaining in the disqualification period. The remaining spouse may apply and be found eligible for APA.

H. MULTIPLE TRANSFERS

For cases involving multiple transfers where the disqualification periods overlap, combine the uncompensated equity value for each transfer and begin the disqualification period the first day of the month following the month of the first transfer.

Example:

An individual applies for APA in December 2001. The individual made two intentional transfers with an uncompensated equity value of \$3,000 each, one in October and the other another in November.

$$\frac{\$6,000 \text{ Uncompensated Value}}{\$892 \text{ Max. Pymt. Standard}^*} = 7 \text{ Months}$$

(6.73 Rounded to the nearest whole month)

ALASKA ADULT PUBLIC ASSISTANCE MANUAL

433-1 Continued

Because the transfers were so close together, the disqualification periods for each transfer overlap. The disqualification period is therefore calculated using the combined uncompensated equity value from both transfers. The individual is ineligible for seven months, beginning November 1, 2001 and ending May 31, 2002.

** This example is based on the January 1, 2001 APA maximum payment standard for an individual in an independent living situation.*

I. EFFECT OF RESOURCE TRANSFERS ON INSTITUTIONAL MEDICAID OR MEDICAID WAIVER SERVICES

The transfer of a resource for less than fair market value may affect an individual's eligibility for institutional Medicaid or Home and Community-Based (HCB) waiver services (see Medicaid manual section 5630.6). The case worker must document in the case record any information received regarding the individual's (or spouse's) transfer of a resource for less than fair market value. The Social Security Administration will provide information to the Division of Public Assistance regarding any such transfers by SSI clients that are discovered.

This information must be retained in the case record for action in case a client enters a nursing home or applies for HCB Medicaid waiver services.

433-2 CONDITIONAL BENEFITS

An individual or couple who meets all nonresource eligibility requirements of the APA program, but fails to meet the resources requirement solely because of excess **nonliquid** resources may receive conditional APA benefits for a limited period of time. Conditional payments are available because it can take a long time to convert nonliquid resources to cash.

A. ELIGIBILITY FOR CONDITIONAL BENEFITS

Conditional benefits are available only if the individual or couple meets both of the conditions below:

ALASKA ADULT PUBLIC ASSISTANCE MANUAL

433-2

Continued

1. The individual or couple must agree in writing to dispose of excess nonliquid resources at their current market value and repay from the net proceeds of the disposal the amount of assistance received during the term of the agreement.
2. The individual's or couple's **liquid** resources may not exceed 3 times the applicable SSI payment standard. In 2000, liquid resources may not exceed \$1,536 ($\$512 \times 3 = \$1,536$) for an individual or \$2,307 ($\$769 \times 3 = \$2,307$) for a couple. (There is no limit to the amount of **nonliquid** resources an otherwise eligible applicant or recipient may own and qualify for conditional payments.)

Conditional payments are made only if the applicant or recipient is otherwise eligible for regular APA benefits. Interim Assistance payments are not available to individuals under this provision because Social Security does not establish an SSI conditional benefits agreement until the individual is actually found to be otherwise eligible for SSI payments, and APA policy requires that SSI and APA conditional benefits be paid concurrently.

Note: Conditional benefits are not available to APA-related Medicaid-only cases because the Medicaid program does not have any pay-back provisions. (Refer to Medicaid manual section 5020.)

B. MANDATORY SSI CLIENTS

APA applicants and recipients who are required to participate in the SSI program must enter into binding agreements with both SSI and DPA to repay the amount of benefits paid during the term of the conditional benefits agreement. For APA purposes, the agreement must be completed using form APA #11, "Agreement to Sell Property".

Conditional benefits for both the SSI and APA programs must be paid concurrently (for the same benefit months), since the APA client is eligible for conditional benefits only during the months that he or she is also eligible for SSI conditional benefits. The case worker must coordinate the payment of APA conditional benefits with the SSA claims representative handling the SSI case.

ALASKA ADULT PUBLIC ASSISTANCE MANUAL

433-2 **Continued**

C. NON-SSI CLIENTS

APA applicants and recipients who are not required to apply for SSI, are required only to enter into a binding agreement with DPA to repay the amount of APA benefits paid during the term of the agreement. This agreement is completed using form APA #11, "Agreement to Sell Property".

D. REPAYMENT OBLIGATION

The client is obligated to repay any APA benefits received during a conditional benefits period from the net proceeds received from the sale of the nonliquid resource(s) which caused the client's assets to exceed the resource limit. Net proceeds are the amounts received from the sale, less the costs incurred in selling the property and less any legal encumbrances or debts owed on the property.

Once the nonliquid resource is sold, the client must use the net proceeds or profit from the sale to repay the APA conditional benefit payments. If the client also received conditional benefit payments from the SSI program, the net proceeds are applied first to the repayment of SSI conditional benefits, and then to the repayment of APA conditional benefits.

The client is obligated to repay conditional benefits only up to the amount of the net proceeds of the sale, or the amount of conditional benefits, whichever is less. If the net proceeds of the sale are not enough to repay all of the conditional benefit payments that the client received, the amount of conditional benefits that exceeds the net proceeds of the sale is not an overpayment.

Any retained funds remaining after the sale of the nonliquid resource and repayment of conditional benefits must be evaluated as a resource the month after the funds are received.

E. DISPOSAL PERIOD

The disposal period for individuals who are required to apply for SSI begins on the date that the client signs an agreement with both SSI and APA. The disposal period for clients who are not required to apply for SSI begins on the date the client signs an agreement with APA. The disposal period continues until the end of the last full calendar month for which the client has been approved for conditional benefits.

433-2 Continued

F. CONDITIONAL BENEFITS PERIOD

The conditional benefits period for nonliquid **personal** property is 3 months, with a possible 3-month extension for good cause. Good cause exists if, despite reasonable efforts to sell the property, circumstances beyond the client's control prevent a sale.

The conditional benefits period for **real** property (land or buildings) is 9 months. There is no extension for good cause available for the real property conditional benefits period.

Eligibility for conditional benefits begins the month **after** the agreement to repay conditional benefits is signed and continues until the client sells the property, stops making reasonable efforts to sell the property, does not sell the property within the conditional benefits period, or requests cancellation of the agreement in writing.

Example:

An individual signs an agreement on January 12, to dispose of real property which causes the client's assets to exceed the resource limit for the APA program. The first month that the individual can receive conditional APA benefits is February. If no sale occurs, the last month that conditional benefits may be paid is October.

G. DEFINITION OF REASONABLE EFFORTS

Reasonable efforts to sell property mean that :

1. Within 30 days of signing an APA conditional benefits agreement, the owner must have listed the property with an agent or begun to advertise in at least one of the appropriate local media; and,
2. Except for gaps of no more than one week, the owner must maintain efforts to sell; and,
3. The owner must not reject any reasonable offer to buy the property. A reasonable offer is a cash offer at least as great as the amount that similar property in the area where the property is located will sell for.

ALASKA ADULT PUBLIC ASSISTANCE MANUAL

433-2 Continued

APA recipients who receive SSI payments are presumed to be making reasonable efforts to sell property.

H. CONTINUED EXCLUSION OF REAL PROPERTY AFTER A PERIOD OF CONDITIONAL BENEFITS

Real property that an individual has made reasonable but unsuccessful efforts to sell throughout a 9-month period of conditional benefits will continue to be excluded for as long as:

1. the individual continues to make reasonable efforts to sell the property (as defined in manual section 433-2G above); and
2. including the property as a countable resource would result in a determination of ineligibility because of excess resources.

Eligibility for APA will continue only so long as reasonable efforts to sell the property are maintained.

Benefits payable under this provision are regular APA benefits, not conditional benefits. If the property is finally sold, only benefits paid during the term of the conditional benefits period are required to be repaid from the net proceeds.

If APA eligibility ends for any reason following a 9-month conditional benefits period and there is at least a one-month period of ineligibility, this exclusion does not apply upon a new application for benefits. Before the property may again be excluded under this provision, the individual must go through a new 9-month period of conditional benefits.

There is no continued exclusion of **personal** property after a period of conditional benefits. However, the fact that the property did not sell may indicate that it has a lower fair market value than was originally determined. The client should be given the opportunity to provide a revised estimate of its current fair market value and the APA case reevaluated to determine if the client is resource eligible.

Note: The exclusion of real property after a period of conditional benefits does not apply to APA-related Medicaid-only determinations. (see Medicaid manual section 5020.)

ALASKA ADULT PUBLIC ASSISTANCE MANUAL

433-3 PERMANENT FUND DIVIDEND

Permanent Fund Dividend (PFD) payments are not counted as either income or resources for the APA program. However, the SSI program considers PFD payments as countable income and resources when determining eligibility and benefit amounts. Refer to the PFD Hold Harmless Manual for more information on the treatment of PFD payments for SSI purposes.

ALASKA ADULT PUBLIC ASSISTANCE MANUAL

THIS PAGE LEFT INTENTIONALLY BLANK