

2640.10.10 DETERMINING THE TRANSFER REVIEW PERIOD

As stated in the preceding section, the transfer of property law is made an active consideration only by the applicant/recipient being or becoming institutionalized in a nursing facility (or receiving Home and Community-Based Services). When this factor is present in a case situation, the worker must then determine the time period that must be reviewed, during which transfers made could be violative. This time period is the "review period", or "look-back" period.

The review period for looking at a transfer involving non-trust property prior to November 1, 2009, is 36 months prior to the first date when the individual was institutionalized and had applied for Medicaid and continues indefinitely thereafter.

Upon November 1, 2014, the review period for looking at a transfer involving non-trust property is 60 months prior to the first date when the individual was institutionalized and had applied for Medicaid and continues indefinitely thereafter. (This date is referred to as the baseline date.)

The review period for looking at a transfer involving non-trust property between November 1, 2009, and November 1, 2014, extends back to November 1, 2009, when the individual was institutionalized and had applied for Medicaid, and continue indefinitely thereafter.

The review period for transfers involving trust funds in the circumstances explained in Section 2615.75.15 is 60 months prior to the baseline date defined above and continues indefinitely thereafter.

When a Medicaid recipient becomes institutionalized, **is a PACE member** or begins receiving Home and Community-Based (HCBS) waiver services, the baseline date is the date when both conditions, i.e., an application and institutionalization, or HCBS, are met. This would be the date of institutionalization or effective date of waiver services.

Example:

Individual living at home transfers property on January 10, 1995. She applies for Medicaid on April 7, 1995, and enters a nursing facility on September 11, 1995. The baseline date is September 11. Therefore, the transfer took place within the review period.

2640.10.15 ALLOWABLE TRANSFERS OF PROPERTY

If it is determined that a transfer occurred within the review period, the next step is to determine whether the transfer automatically qualifies as allowable. No transfer of property penalty can be invoked when an individual makes a transfer to:

- The applicant/recipient's spouse (or to another for the sole benefit of the spouse), or

- The applicant's/recipient's child who is blind or disabled, according to SSI criteria, or to a trust fund for such a child.
- The assets were transferred to a trust established solely for the benefit of an individual under sixty-five (65) years of age who is disabled.ⁱ

Additionally, the transfer of a home to certain individuals as explained in Section 2640.10.15.05 is allowable.

Transfers on and after 8-11-93, to certain types of trust funds, as defined in section 2615.75.15, for disabled individuals are allowable.

ⁱ 405 IAC 2-3-1.1(k)(5)