

2640.10.15.10 DE MINIMIS TRANSFER OF PROPERTY ALLOWANCE

~~Beginning with applications filed on 10-1-09,~~ An annual transfer amount is allowed that will not invoke a transfer penalty and will be excluded from the total uncompensated value of an improper transfer under the circumstances explained below. This is referred to as the de minimis transfer allowance; the annual amount allowed per year is \$1200.⁸⁷

The de minimis transfer allowance is applicable if the gift is made by the applicant/recipient, during the review period directly to:

- A family member who is related to the applicant by blood, adoption, or existing marriage, or
- A nonprofit organization qualified under Section 501(c) of the Internal Revenue Code as amended, which gives the organization tax-exempt status, and
- ~~The application for Medicaid long term care services (Medicaid facility or HCBS waiver services) is filed on or after 10-01-09.~~

The de minimis allowance is subtracted after any and all transfers have been evaluated. ~~in terms of being permissible or improper.~~ Up to \$1200 per year is deducted from the uncompensated value of transfers that are otherwise improper.

Example 1:

A member residing in a nursing facility applies for Medicaid on 10-15-09 and reports the following transfers:

- \$10,000 to an irrevocable funeral trust
- \$1200 to the applicant's child

The purchase of the funeral trust ~~was permissible~~ is allowable without penalty. ~~The gift to the child was determined to be for the purpose of becoming eligible for Medicaid without adequate consideration.~~ The gift to the child does not invoke a transfer penalty because it did not exceed the de minimis allowance and was made to a family member.

No penalty is imposed.

The de minimis allowance is an annual total for all otherwise improper transfers, regardless of how many individuals received gifts from the member.

Example 2:

Gift 1: \$800 is given to member's grandchild

Gift 2: \$900 is given to a non-profit charity ~~for one year~~

The 2 gifts are combined for a total of \$1700. \$1200 is subtracted from the total gifted amount, resulting in an improper transfer amount of \$500.

The de minimis transfer allowance does not apply to transfers made by the member's spouse.

Example 3:

Gift 1: The member ~~Applicant~~ gives \$400 to their son.

Gift 2: The individual's spouse gives \$600 to their sister.

The de minimis transfer allowance is \$400, because the de minimis allowance does not apply to the transfer made by the individual's spouse.

The year of calculation for de minimis gifting is based upon the established baseline date and each calendar year of the review period. Any excess over \$1200 in a calendar year does not carry over to a subsequent year. The de minimis allowance can be applied to more than one qualifying individual or non-profit organization each year, however, not more than \$1200 in any one calendar year is allowed.

To allow a de minimis transfer allowance, the member is required to establish the relationship of the individual being claimed as a family member and the tax-exempt status of any organization to which a gift was made. Required Documentation in the Case File includes:

- The name, date of birth, and relationship lineage of a family member must be provided by the member. Signed statements from the member and family member(s) will suffice unless contradicting information is known to the worker, in which case clarifying information must be provided.
 - For example, documentation of a gift to a grandchild would include a statement that the grandchild is the child of the member's child, giving the child's birth date, and the names of the child, parent, and grandparent.
- Collateral documentation of the 501(c) tax exempt status of an organization must be provided by the member. It is customary practice for these organizations to give receipts for gifts so that donors will have documentation for their own tax purposes. This type of receipt is sufficient documentation. Information about the organization should reveal its status as well, if the receipt is not available, such as brochures, websites, etc. In addition, proof of payment to the organization whose status is being documented must be provided.
 - For example, if a gift is reported to Charity #1 and a cancelled check to Organization #2 is provided, the de minimis allowance cannot be applied until the discrepancy is reconciled.

Documentation of the proof necessary to apply a de minimis transfer allowance is the responsibility of the applicant/recipient. It is the agency's responsibility to explain what type of documentation is required and follow existing procedures for obtaining documentation.

⁸⁷ IC 12-15-2-23 as added by P.L.14-2009