

2640.10.40

TRANSFER PENALTY HARDSHIP EXCEPTION

The hardship procedures explained in this section are used when a transfer penalty has been imposed on an individual for a transfer of property occurring on and after November 1, 2009, except when the penalty is due to an annuity purchase. There is no hardship exception for an annuity purchase.

POLICY: When a penalty is imposed, the eligibility system generated notice will explain that an appeal based on the merits of the penalty determination can be filed, *or* a hardship exception can be requested if the individual alleges and can document that such a hardship exists. Procedures for filing the Request for Hardship Exception-Transfer of Property directly to the FSSA Office of Medicaid Policy & Planning (OMPP) are explained in the notice. (The text of the hardship language on the eligibility notice is at the end of this section.) The request for an undue hardship exception will serve as admission by the individual that a transfer of assets for less than adequate consideration was made, and that the agency's penalty determination was correct.

The penalty will be removed or modified under a hardship exception if documentation substantiates that the recipient's health is endangered as result of the penalty or that the recipient will be deprived of food, clothing, shelter, or other necessities of life.

PROCEDURE: A hardship exception request must be filed within 30 days of the notice imposing the transfer penalty. ***The Request for Hardship Exception – Transfer of Property State Form 54167 must be submitted to:***

**Mail Stop 07
Family & Social Services Administration
Office of Medicaid Policy & Planning – Eligibility
405 W Washington Street
Indianapolis, IN 46204**

The following people can apply for a hardship exception:

- The recipient
- The recipient's authorized representative, or
- The nursing facility in which the recipient currently resides if written consent from the recipient or the recipient's personal representative is given for the nursing facility to file the request.

OMPP will make the decision to waive all, or a portion of the transfer penalty based solely on the evidence submitted with the request. The Notice of Decision on Transfer of Property Hardship Exception Request will be issued by OMPP to the requestor within 45 days of receiving a request for an exception. A denial of a hardship exception is subject to administrative appeal. A copy of

the Notice of Decision on Transfer of Property Hardship Exception Request will be sent to the Division of Family Resources.

An approval of a hardship exception must be acted upon by the Division within 10 days (normal change processing requirements) to remove or shorten the penalty as approved.