DEPARTMENT POLICY

Medicaid (MA) ONLY

Divestment results in a penalty period in MA, **not** ineligibility. Divestment policy does **not** apply to Qualified Disabled Working Individuals (QDWI); see Bridges Eligibility Manual 169.

Divestment is a type of transfer of a resource and not an amount of resources transferred.

Divestment means a transfer of a resource (see *resource defined* in this item and in glossary) by a client or his spouse that are all of the following:

- Is within a specified time; see *look back period* in this item.
- Is a transfer for *less than fair market value*; see definition in glossary.
- Is not listed in this item under *transfers that are not divestment*.

  Note: See *annuity not actuarially sound* and *joint owners and transfers* in this item and BEM 401 about special transactions considered transfers for less than *fair market v*alue.

During the penalty period, MA will **not** pay the client’s cost for:

- Long Term Care (LTC) services.
- Home and community-based services.
- Home help.
- Home health.

MA will pay for other MA-covered services.

Do **not** apply a divestment penalty period when it creates an undue hardship; see *undue hardship* in this item.

RESOURCE DEFINED

Resource means all the client’s and spouse's assets and income. It includes all assets and all income, even countable and/or excluded assets, the individual or spouse receive. It also includes all assets and income that the individual (or spouse) were entitled to but did **not** receive because of action by one of the following:

- The client or spouse.
- A person (including a court or administrative body) with legal authority to act in place of or on behalf of the client or the client's spouse.
- Any person (including a court or administrative body) acting at the direction or upon the request of the client or his/her spouse.

TRANSFER OF A RESOURCE

Transferring a resource means giving up all or partial ownership in (or rights to) a resource. **Not** all transfers are divestment. Examples of transfers include:

- Selling an asset for fair market value (not divestment).
- Giving an asset away (divestment).
- Refusing an inheritance (divestment).
- Payments from a **MEDICAID TRUST** that are **not** to, or for the benefit of, the person or his spouse; see BEM 401 (divestment).
- Putting assets or income in a trust; see BEM 401.
- Giving up the **right** to receive income such as having pension payments made to someone else (divestment).
- Giving away a lump sum or accumulated benefit (divestment).
- Buying an annuity that is **not** actuarially sound (divestment).
- Giving away a vehicle (divestment).
- Putting assets or income into a Limited Liability Company (LLC)
- Purchasing an asset which decreases the group's net worth and is not in the group's financial interest (divestment).

Also see Joint Owners and Transfers for examples.

Transfers to an LLC

Treat transfers to an LLC as a divestment unless the client retains the rights to the asset or income invested and may withdraw the asset invested on demand.

Treat transfers to an LLC that has no discernible product (goods and or services) produced as a divestment.

Transfers by Representatives

Treat transfers by any of the following as transfers by the client or spouse.

- Parent for minor.
- Legal guardian.
- Conservator.
- Court or administrative body.
- Anyone acting in place of, on behalf of, at the request of or at the direction of the client or the client’s spouse.

Joint Owners and Transfers

When a client jointly owns a resource with another person(s), any action by the client or by another owner that reduces or eliminates the client’s ownership or control is considered a transfer by the client.

Example: Mr. Jones is applying for MA. In 2005, he added his sister's name to his bank account. Each is free to withdraw as much money as desired so adding the sister's name did **not** affect the client’s ownership or control. On September 1, 2007, the sister withdrew $10,000 and deposited the money in her own bank account. Mr. Jones is considered to have transferred $10,000 on September 1, 2007, the day he no longer had ownership and control of his money.

Example: Mr. Jones is applying for MA. On September 1, 2007, Mr. Jones gave his sister half interest in real estate. His equity value at the time was $100,000. The ownership arrangement prevents either sibling from selling without the other's permission. Mr. Jones transferred a resource on September 1, 2007, the day he reduced his ownership and control by giving his sister part ownership and the power to prevent sale. The amount transferred depends on whether his sister is refusing to sell. The transferred amount is:

- $100,000 if she now refuses to sell.

Note: The transferred amount is used to calculate the divestment penalty. It is not used towards the countable asset limit for Mr. Jones' eligibility.

- $50,000 if she now agrees to sell.

  Note: Unless otherwise excluded, one-half the equity for the month being tested is a countable asset for purposes of Mr. Jones' asset eligibility and the other half is used to calculate the divestment penalty.

The same policy applies to resources the client's spouse owns jointly with other persons.

Exception: No penalty is imposed if the parties involved verify that the resource transferred actually belonged solely to the person to whom it was transferred.

Annuity Not Actuarially Sound

Purchase of an annuity that is **not** actuarially sound is a transfer for less than fair market value. The transfer was made by the annuity's owner.

Owner means the person who pays the premium for the annuity.

Annuitant means the person to whom the annuity payments are made during the guarantee period of the annuity.

An annuity is **not** actuarially sound if the annuitant is **not** expected to live until the end of the guarantee period of the annuity. Use the Life Expectancy Tables, EXHIBIT I - FEMALE or EXHIBIT II - MALE to make this determination.

Note: Guarantee period may be called annuity certain or period certain.

Example: John purchased an annuity at age 65 with a guarantee period of 10 years and payments starting at purchase. John's life expectancy is 16.67 years. The annuity is actuarially sound.

Example: Sally purchased an annuity at age 70 with a guarantee period of 15 years and payments starting five years after purchase. The annuity is **not** actuarially sound because Sally's life expectancy at purchase was 15.72 years while the guarantee period ends in 20 years (five-year delay plus 15 years).

Example: Diane purchased an annuity at age 65 with a guarantee period of 25 years. The annuity is not actuarially sound because Diane's life expectancy is only 19.50 years.

The amount transferred for less than fair market value for an annuity that is **not** actuarially sound is the amount that would be paid after the end of the person's life expectancy. The amount transferred for less than fair market value is the value of the payments due in the last 5.5 years of the annuity (25 minus 19.50 = 5.50).

Example: Sally purchased an annuity at age 70 with a guarantee period of 15 years and payments starting five years after purchase. The annuity is **not** actuarially sound because Sally's life expectancy at purchase was 15.72 years while the guarantee period ends in 20 years. The amount transferred for less than fair market value is the value of the payments due in the last 4.28 years of the annuity (20 - 15.72 = 4.28).

LOOK-BACK PERIOD

The first step in determining the period of time that transfers can be looked at for divestment is determining the **baseline date;** see *baseline date* in this item.

Once the baseline date is established, you determine the look-back period. The look back period is 60 months prior to the baseline date for all transfers made after February 8, 2006.

Entire Period

Transfers that occur **on** or **after** a client's baseline date must be considered for divestment. In addition, transfers that occurred within the 60-month look-back period must be considered for divestment.

Penalty Situation

A divestment determination is **not** required unless, sometime during the month being tested, the client was in a penalty situation.

To be in a penalty situation, the client must be eligible for MA (other than QDWI) and be one of the following:

- In an LTC facility.
- APPROVED FOR THE WAIVER; see BEM 106.
- Eligible for Home Help.
- Eligible for Home Health.

Baseline Date

A person's baseline date is the **first** date that the client was eligible for Medicaid and one of the following:

- In LTC.
- APPROVED FOR THE WAIVER; see BEM 106.
- Eligible for Home Health services.
- Eligible for Home Help services

A client's baseline date does **not** change even if one of the following happens:

- The client leaves LTC.
- The client is no longer APPROVED FOR THE WAIVER; see BEM 106.
- The client no longer needs Home Help.
- The client no longer needs Home Health.

LESS THAN FAIR MARKET VALUE

Less than fair market value means the compensation received in return for a resource was worth less than the fair market value of the resource. That is, the amount received for the resource was less than what would have been received if the resource was offered in the open market and in an *arm's length transaction* (see glossary).

Note: Also see *annuity not actuarially sound* in this item.

Compensation must have tangible form and intrinsic value.

Relatives can be paid for providing services; however, assume services were provided for free when no payment was made at the time services were provided. A client can rebut this presumption by providing tangible evidence that a payment obligation existed at the time the service was provided (for example a written agreement signed at the time services were first provided). The policy in Bridges Administrative Manual (BAM) 130 allowing use of best available information or best judgment as verification does **not** apply.

Value of Transferring Right to Income

When a person gives up his right to receive income, the fair market value is the total amount of income the person could have expected to receive.

Use **EXHIBIT I - LIFE EXPECTANCY TABLE - FEMALE or EXHIBIT II - LIFE EXPECTANCY TABLE - MALE** to compute the fair market value of a lifetime income source such as a pension. Base the calculation on the person's sex and age on the date of transfer.

Personal Care & Home Care Contracts

Personal Care Contract means a contract/agreement that provides health care monitoring, medical treatment, securing hospitalization, visitation, entertainment, travel/transportation, financial management, shopping, home help or other assistance with activities of daily living.

Home Care Contract means a contract/agreement which pays for expenses such as home/cottage/care repairs, property maintenance, property taxes, homeowner's insurance, heat and utilities for the homestead or other real property of the client's.

Home Care and Personal Care contracts/agreements may be between relatives or non-relatives. A relative is anyone related to the client by blood, marriage or adoption.

Note: When relatives provide assistance or services they are presumed to do so for love and affection and compensation for past assistance or services shall create a rebuttable presumption of a transfer for less than fair market value. Fair market value of the services may be determined by consultation with area businesses which provide such services. Contracts/agreements that include the provision of companionship are prohibited.

All Personal Care and Home Care contracts/agreements, regardless of whether between a client and a relative or a client and a non-relative, must be considered and evaluated for divestment.

Personal Care and Home Care contracts/agreements shall be considered a transfer for less than fair market value unless the agreement meets all of the following:

- The services must be performed **after** a written legal contract/agreement has been executed between the client and the provider. The contract/agreement must be dated and the signatures must be notarized. The services are not paid for until the services have been provided (there can be no prospective payment for future expenses or services); **and**
- At the time the services are received, the client cannot be residing in a nursing facility, adult foster care home (licensed or unlicensed), institution for mental diseases, inpatient hospital, intermediate care facility for individuals with intellectual disabilities or be eligible for home and community-based waiver, home health or home help; and
- At the time services are received, the services must have been recommended in writing and signed by the client’s physician as necessary to prevent the transfer of the client to a residential care or nursing facility. Such services cannot include the provision of companionship; and
- The contract/agreement must be signed by the client or legally authorized representative, such as an agent under a power of attorney, guardian, or conservator. If the agreement is signed by a representative, that representative cannot be the provider or beneficiary of the contract/agreement.
- MDHHS will verify the contract/agreement by reviewing the written instrument between the client and the provider which must show the type, frequency and duration of such services being provided to the client and the amount of consideration (money or property) being received by the provider, or in accordance with a service plan approved by MDHHS.

Assets transferred in exchange for a contract/agreement for personal services/assistance or expenses of real property/homestead provided by another person after the date of application are considered available and countable assets.

Transferring Non-countable or Excluded Resources

Transfers of resources that are excluded or **not** countable assets under SSI-related MA policy may be divestment.

Transfer of the following may be divestment:

- Homestead of L/H and waiver client (see BEM 106) or the L/H and waiver client's spouse even if the transfer occurred before the client was institutionalized or approved for the waiver.

- Assets that are **not** countable because they were unavailable or **not** salable.

TRANSFERS THAT ARE NOT DIVESTMENT

Transferring Excluded Income

Transferring income that is **not** countable income for SSI-related MA according to BEM 500 is **not** divestment.

Transfers Involving Spouse

It is **not** divestment to transfer resources from the client to:

- The client's spouse.
- Another SOLELY FOR THE BENEFIT OF the client's spouse.

Transfers from the client's spouse to another SOLELY FOR THE BENEFIT OF the client's spouse are **not** divestment.

Transfers Involving Child

A transfer to the client's blind or disabled (see BEM 260) child, regardless of the child's age or marital status, are **not** divestment. This includes transfers to a trust established SOLELY FOR THE BENEFIT OF the child.

Transfer to Funeral Plan

See Life Insurance Funded Funeral in BEM 400 when a person has irrevocably transferred ownership in life insurance or a similar device designated for funeral expenses.

Transfer to Trust

Transfers to a trust established SOLELY FOR THE BENEFIT OF a disabled (see BEM 260) person under age 65 are **not** divestment.

Purchase of Funeral Contract

Placing money in an irrevocable prepaid funeral contract (see BAM 805) is **not** divestment.

Asset Conversion

Converting an asset from one form to another of equal value is **not** divestment even if the new asset is exempt. Most purchases are conversions.

Example: Using $5,000 from savings to buy a used car priced at $5,000 is conversion for equal value.

Example: Trading a boat worth about $8,000 for a car worth about $8,000 is conversion for equal value.

Payment of expenses such as one's own taxes or utility bills is also **not** divestment.

Transferring Homestead to Family

It is **not** divestment to transfer a homestead to the client's:

- Spouse; see Transfers Involving Spouse above.
- Blind or disabled child; see Transfers Involving Child above.
- Child under age 21.
- Child age 21 or over who:
  - Lived in the homestead for at least two years immediately before the client’s admission to LTC or BEM 106 waiver approval, **and**

  - Provided care that would otherwise have required LTC or BEM 106 waiver services, as documented by a physician's (M.D. or D.O.) statement.

- Brother or sister who:

  - Is part owner of the homestead, **and**
  - Lived in the homestead for at least one year immediately before the client’s admission to LTC or BEM 106 waiver approval.

Transfers for Another Purpose

As explained in this item, transfers exclusively for a purpose other than to qualify or remain eligible for MA are **not** divestment.

A transfer of resources to a religious order by a member of that order in accordance with a vow of poverty are transfers for another purpose.

Assume transfers for less than fair market value was for eligibility purposes until the client or spouse provides convincing evidence that they had no reason to believe LTC or waiver services might be needed.

Example: Mr. Smith, age 40, was in good health when he gave his vacation cottage to his nephew. The next day Mr. Smith was in an automobile accident. His injuries require long-term care. The transfer was **not** divestment because Mr. Smith could **not** anticipate his need for LTC services.

Exception:

- Preservation of an estate for heirs or to avoid probate court is **not** acceptable as another purpose.

- That the asset or income is **not** counted for Medicaid does **not** make its transfer for another purpose.

Trustee Fees

Trusts which designate a business as trustee (for example a bank) usually must compensate the trustee. Reasonable compensation is **not** divestment. Reasonable compensation means compensation within the prevailing rate for the community. For example, banks usually base their fee on a percentage of the value of the principal.

There may be a basic charge in addition to the percentage or the percentage may vary based on the value of the trust.

SOLELY FOR THE BENEFIT OF

All of the following conditions must be met for a transfer or for a trust to be solely for the benefit of a person.

- The arrangement must be in writing and legally binding on the parties.
- The arrangement must ensure that none of the resources can be used for someone else during the person's lifetime, except for trustee fees.
- The arrangement must require that the resources be spent for the person on an actuarially sound basis. This means that spending must be at a rate that will use up all the resources during the person's lifetime. Life expectancies are in Exhibit I - FEMALE OR EXHIBIT II- MALE.

PENALTY PERIOD

No Maximum Penalty

There is no maximum limit on the penalty period for divestment. There is no minimum amount of resource transfer before incurring a penalty, determine a penalty on **any** amount of resources that are transferred and meet the definition of a divestment even if the penalty is for one day. Divestment is a type of transfer **not** an amount of transfer.

Any penalty period established under previous policy continues until it ends.

Apply the penalty policy in place at the time of transfer for any transfers made before February 8, 2006.

Computing Penalty Period

Compute the penalty period on the total Uncompensated Value of all resources divested.

Determine the Uncompensated Value for each resource transferred and combine into a total Uncompensated Value.

Divide the total Uncompensated Value by the average monthly private LTC Cost in Michigan for the client's Baseline Date. This gives the number of full months for the penalty period. Multiply the fraction remaining by 30 to determine the number of days for the penalty period in the remaining partial month.

Apply the total penalty months and days. Apply a penalty even if the total amount of the penalty is for only a partial month.

Apply the penalty to the months (or days) an individual is eligible for Medicaid and actually in LTC, Home Health, Home Help, or the MIChoice Waiver. Do not apply the divestment penalty to a period when the individual is not eligible for Medicaid for any reason (that is the case closes for **any** reason or is eligible for Medicaid but is **not** in LTC, Home Help, Home Health, or the MIChoice Waiver. Restart the penalty when the individual is again eligible for Medicaid and in LTC, Home Help, Home Health, or MIChoice Waiver. When a medical provider is paid by the individual, or by a third party on behalf of the individual, for medical services received, that month is not a penalty month. Do not count that month as part of the penalty period. This does not include payments made by commercial insurance or Medicare; see Resources Returned in this item.

Note: An individual is not eligible for MA in a month they have prepaid for LTC. Because federal law directs a resident in a nursing facility must have access to all monies held by the facility for the resident, count the money held by a nursing facility as cash.

A group 2 deductible eligible individual is not eligible for Medicaid until the deductible is met. Apply the penalty only to the days of the month after the deductible is met.

The 1st day the client is eligible to receive MA coverage for LTC, MIChoice, home help, or a home health service is the 1st day after the penalty period ends.

Baseline Date In Calendar Year	LTC Cost
2019	$8469
2018	$8261
2017	$8018

Baseline Date In Calendar Year	LTC Cost
2016	$8282
2015	$8084
2014	$7867
2013	7631
2012	$7032
2011	$6816
2010	$6618
2009	$6362
2008	$6191
2007	$5938
2006	$5549
2005	$5367
2004	$5250
2003	$5043
2002	$4703
2001	$4518
2000	$4331
1999	$3981
1998	$3711
1997	$3507
Before January 1997	$3441

The penalty period starts on the date which the individual is eligible for Medicaid and would otherwise be receiving institutional level care (LTC, MIChoice waiver, or home help or home health services), and is not already part of a penalty period. When a medical provider is paid by the individual, or by a third party on behalf of the individual, for medical services received, the individual is not eligible for Medicaid in that month and the month is not a penalty month. That month cannot be counted as part of the penalty period. This does not include payments made by commercial insurance or Medicare.

Note: If a past unreported divestment is discovered or an agency error is made which should result in a penalty, a penalty must be determined under the policy in place at the time of discovery. If a penalty is determined for a transfer in the past, apply the penalty from the first day after timely notice is given; see Recipient Exception in this item.

Recipient Exception

Timely notice must be given to LTC recipients and (BEM 106) waiver recipients before actually applying the penalty. Adequate notice must be given to new applicants.

Uncompensated Value

The uncompensated value of a divested resource is

- The resource's cash or equity value.
- Minus any compensation received.
- The uncompensated value of a promissory note, loan, or mortgage is the outstanding balance due on the baseline date.

Spouses Sharing a Penalty

Penalize a client if her or his spouse divests. The penalty is imposed on whichever spouse is in a penalty situation; see BEM 211, MA Group Composition. If both spouses are in a penalty situation, the penalty period (or any remaining part) must be divided between them.

Example: Mr. and Mrs. Brown divested themselves of assets prior to Mr. Brown entering an LTC facility and applying for Medicaid. Mr. Brown is in LTC and under a divestment penalty for 24 months. When Mrs. Brown enters the facility 6 months later, the remaining 18 months of Mr. Brown’s penalty are divided between them, giving Mr. and Mrs. Brown each 9 months of the penalty still to complete. If either Mr. or Mrs. Brown dies before they complete their penalty the remainder of their penalty is transferred to their spouse.

Example: Mr. Brown enters a LTC facility and applies for Medicaid. He is found eligible for Medicaid. During the presumed asset eligibility period Mrs. Brown transfers Mr. Brown’s assets to herself and then transfers the assets to her children (the first transaction is permitted the second transaction is divestment). Mr.

Brown incurs the divestment penalty. Mrs. Brown then enters the LTC facility. Mr. and Mrs. Brown divide the remainder of the incurred divestment penalty.

Resources Returned

Cancel a divestment penalty if either of the following occurs before the penalty is in effect:

- All the transferred resources are returned and retained by the individual.
- Fair market value is paid for the resources.

Recalculate the penalty period if either of the following occurs while the penalty is in effect:

- All the transferred resources are returned.
- Full compensation is paid for the resources.

Use the same per diem rate originally used to calculate the penalty period.

Once a divestment penalty is in effect, return of, or payment for, resources **cannot** eliminate any portion of the penalty period already past. However, recalculate the penalty period. The divestment penalty ends on the later of the following:

- The end date of the new penalty period.
- The date the client notified you that the resources were returned or paid for.

UNDUE HARDSHIP

Waive the penalty if it creates undue hardship. Assume there is no undue hardship unless you have evidence to the contrary.

Undue hardship exists when the client's physician (M.D. or D.O.) says:

- Necessary medical care is **not** being provided, and
- The client needs treatment for an emergency condition.

A medical emergency exists when a delay in treatment may result in the person's death or permanent impairment of the person's health.

A psychiatric emergency exists when immediate treatment is required to prevent serious injury to the person or others.

See BEM 100, Policy Exception Request Procedure.

VERIFICATION REQUIREMENTS

Verification is not required when the client states he and his spouse have not transferred resources **unless:**

- The client's statement is unclear, inconsistent or conflicts with known facts, **or**
- Existing information in the case record indicates divestment may have occurred.

Verify the following to document divestment:

- Date of transfer.
- Fair market value or cash value.
- Uncompensated value.

Obtain a statement from the LTC or waiver client's physician (M.D. or D.O.) to verify:

- Undue hardship, **or**
- The client's non-disabled child age 21 or older provided care that would otherwise have required LTC or waiver services.

Verify the child's length of residence if a homestead was transferred to a nondisabled child age 21 or older.

Verify the sibling's ownership interest and length of residence in the homestead if a homestead was transferred to a sibling.

Verify disability and blindness according to BEM 260.

Verification Sources

Sources to verify transfers and the reasons for them include, but are *not* limited to, the following:

- Legal documents.
- Payment or tax records.
- Bills of sale.

- Court or attorney records.
- Correspondence regarding the transaction.
- Bankbooks or statements.

Sources to verify ownership interest in a homestead include, but are *not* limited to:

- Deeds.
- Mortgages.
- Purchase agreements.
- Contracts.
- Other court or county records.

Sources to verify length of residence in a homestead include, but are not **limited to:**

- Driver's license or State I.D.
- Income tax returns.
- Voter registration.
- Cancelled mail.
- Other type of I.D., which has both name and address.
- Written statement from one of the following who has knowledge of length of residence in the homestead:
  - Physician.
  - Clergy.
  - Other professional.

PET CODE

Program enrollment type (PET) code EXM-DIVM indicates a divestment penalty.

EXHIBIT I - LIFE EXPECTANCY TABLE – FEMALE

FEMALE LIFE EXPECTANCY TABLE					
Age	Life Expectancy	Age	Life Expectancy	Age	Life Expectancy
0	81.05	40	42.43	80	9.64
1	80.49	41	41.48	81	9.05
2	79.52	42	40.54	82	8.48
3	78.54	43	39.60	83	7.94
4	77.55	44	38.66	84	7.42
5	76.56	45	37.73	85	6.92

FEMALE LIFE EXPECTANCY TABLE					
Age	**Life Expectancy**	**Age**	**Life Expectancy**	**Age**	**Life Expectancy**
6	75.57	46	36.81	86	6.44
7	74.58	47	35.89	87	5.99
8	73.58	48	34.97	88	5.57
9	72.59	49	34.06	89	5.19
10	71.60	50	33.16	90	4.80
11	70.60	51	32.27	91	4.45
12	69. 61	52	31.38	92	4.13
13	68.62	53	30.49	93	3.89
14	67.63	54	29.62	94	3.57
15	66.64	55	28.74	95	3.34
16	65.65	56	27.88	96	3.12
17	64.67	57	27.01	97	2.93
18	63.68	58	26.16	98	2.76
19	62.70	59	25.31	99	2.60
20	61.72	60	24.46	100	2.45
21	60.75	61	23.62	101	2.30
22	59.77	62	22.78	102	2.17
23	58.80	63	21.95	103	2.03
24	57.82	64	21.13	104	1.91
25	56.85	65	20.32	105	1.78
26	55.88	66	19.52	106	1.67
27	54.91	67	18.73	107	1.56
28	53.94	68	17.95	108	1.45
29	52.97	69	17.18	109	1.35
30	52.01	70	16.43	110	1.26
31	51.04	71	15.68	111	1.17
32	50.08	72	14.95	112	1.08
33	49.11	73	14.23	113	1.00
34	48.15	74	13.53	114	0.92

FEMALE LIFE EXPECTANCY TABLE					
Age	Life Expectancy	Age	Life Expectancy	Age	Life Expectancy
35	47.19	75	12.83	115	0.85
36	46.23	76	12.16	116	0.78
37	45.28	77	11.50	117	0.72
38	44.33	78	10.86	118	0.67
39	43.37	79	10.24	119	0.61

Example: In January 2004, Mrs. Jay established a Medicaid trust and ordered her $500 per month pension paid to the trust. She was 78 years old. The trustee cannot use the pension for Mrs. Jay. Mrs. Jay transferred $63,120 ($500 X 12 months X 10.52 years).

Exhibit II - Life Expectancy Table - Male

MALE LIFE EXPECTANCY TABLE					
Age	Life Expectancy	Age	Life Expectancy	Age	Life Expectancy
0	76.28	40	38.53	80	8.20
1	75.78	41	37.61	81	7.68
2	74.82	42	36.70	82	7.19
3	73.84	43	35.78	83	6.72
4	72.85	44	34.88	84	6.27
5	71.87	45	33.98	85	5.84
6	70.88	46	33.08	86	5.43
7	69.89	47	32.19	87	5.04
8	68.90	48	31.3	88	4.68
9	67.90	49	30.44	89	4.34
10	66.91	50	29.58	90	4.03
11	65.92	51	28.73	91	3.74
12	64.92	52	27.89	92	3.47
13	63.93	53	27.05	93	3.23
14	62.94	54	26.23	94	3.01
15	61.96	55	25.41	95	2.82
16	60.99	56	24.61	96	2.64
17	60.02	57	23.82	97	2.49

MALE LIFE EXPECTANCY TABLE					
Age	Life Expectancy	Age	Life Expectancy	Age	Life Expectancy
18	59.05	58	23.03	98	2.36
19	58.09	59	22.25	99	2.24
20	57.140	60	21.48	100	2.12
21	56.20	61	20.72	101	2.01
22	55.27	62	19.97	102	1.90
23	54.33	63	19.22	103	1.80
24	53.40	64	18.48	104	1.70
25	52.47	65	17.75	105	1.60
26	51.54	66	17.03	106	1.51
27	50.61	67	16.32	107	1.42
28	49.68	68	15.61	108	1.34
29	48.75	69	14.92	109	1.26
30	47.82	70	14.24	110	1.18
31	46.89	71	13.57	111	1.11
32	45.96	72	12.92	112	1.04
33	45.03	73	12.27	113	0.97
34	44.10	74	11.65	114	0.90
35	43.17	75	11.03	115	0.84
36	42.24	76	10.43	116	0.78
37	41.31	77	9.85	117	0.72
38	40.38	78	9.28	118	0.67
39	39.46	79	8.73	119	0.61

Example: In January 2004, Mr. Jay established a Medicaid trust and ordered his $500 per month pension paid to the trust. He was 78 years old. The trustee cannot use the pension for Mr. Jay. Mr. Jay transferred $52,800 ($500 X 12 months X 8.80 years).

LEGAL BASE

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Social Security Act, Sections 1902(a)(18), 1917