

249F.1 Definitions.

As used in [this chapter](#), unless the context otherwise requires:

1. “Medical assistance” means “mandatory medical assistance”, “optional medical assistance”, “discretionary medical assistance”, or “Medicare cost sharing” as each is defined in [section 249A.2](#) which is provided to an individual pursuant to [chapter 249A](#) and Tit. XIX of the federal Social Security Act.

2. a. “Transfer of assets” means any transfer or assignment of a legal or equitable interest in property, as defined in [section 702.14](#), from a transferor to a transferee for less than fair consideration, made while the transferor is receiving medical assistance or within five years prior to application for medical assistance by the transferor. Any such transfer or assignment is presumed to be made with the intent, on the part of the transferee; transferor; or another person acting on behalf of a transferor who is an actual or implied agent, guardian, attorney-in-fact, or person acting as a fiduciary, of enabling the transferor to obtain or maintain eligibility for medical assistance or of impacting the recovery or payment of a medical assistance debt. This presumption is rebuttable only by clear and convincing evidence that the transferor’s eligibility or potential eligibility for medical assistance or the impact on the recovery or payment of a medical assistance debt was no part of the reason of the transferee; transferor; or other person acting on behalf of a transferor who is an actual or implied agent, guardian, attorney-in-fact, or person acting as a fiduciary for making or accepting the transfer or assignment. A transfer of assets includes a transfer of an interest in the transferor’s home, domicile, or land appertaining to such home or domicile while the transferor is receiving medical assistance, unless otherwise exempt under paragraph “b”.

b. However, transfer of assets does not include the following:

(1) Transfers to or for the sole benefit of the transferor’s spouse, including a transfer to a spouse by an institutionalized spouse pursuant to section 1924(f)(1) of the federal Social Security Act.

(2) Transfers to or for the sole benefit of the transferor’s child who is blind or has a disability as defined in section 1614 of the federal Social Security Act.

(3) Transfer of a dwelling, which serves as the transferor’s home as defined in 20 C.F.R. §416.1212, to a child of the transferor under twenty-one years of age.

(4) Transfer of a dwelling, which serves as the transferor’s home as defined in 20 C.F.R. §416.1212, after the transferor is institutionalized, to either of the following:

(a) A sibling of the transferor who has an equity interest in the dwelling and who was residing in the dwelling for a period of at least one year immediately prior to the date the transferor became institutionalized.

(b) A child of the transferor who was residing in the dwelling for a period of at least two years immediately prior to the date the transferor became institutionalized and who provided care to the transferor which permitted the transferor to reside at the dwelling rather than in an institution or facility.

(5) Transfers of less than two thousand dollars. However, all transfers by the same transferor during the five-year period prior to application for medical assistance by the transferor shall be aggregated. If a transferor transfers property to more than one transferee during the five-year period prior to application for medical assistance by the transferor, the two thousand dollar exemption shall be divided equally between the transferees.

(6) Transfers of assets that would, at the time of the transferor’s application for medical assistance, have been exempt from consideration as a resource if retained by the transferor, pursuant to 42 U.S.C. §1382b(a), as implemented by regulations adopted by the secretary of the United States department of health and human services, excluding the home and land appertaining to the home.

(7) Transfers to a trust established solely for the benefit of the transferor’s child who is blind or permanently and totally disabled as defined in the federal Social Security Act, section 1614, as codified in 42 U.S.C. §1382c.

(8) Transfers to a trust established solely for the benefit of an individual under sixty-five years of age who is disabled, as defined in the federal Social Security Act, section 1614, as codified in 42 U.S.C. §1382c.

3. “Transferee” means the person who receives a transfer of assets.

4. “*Transferor*” means the person who makes a transfer of assets.

93 Acts, ch 106, §1; 96 Acts, ch 1107, §3; 96 Acts, ch 1129, §66; 97 Acts, ch 23, §23; 2000 Acts, ch 1060, §4, 5; 2010 Acts, ch 1031, §352, 353; 2010 Acts, ch 1061, §180; 2013 Acts, ch 138, §74; 2014 Acts, ch 1092, §175

Subsection 2, paragraph b, subparagraphs (7) and (8) amended