**Section 240.820 Asset Transfers**

a) The following transactions are considered transfers of assets:

1) when a participant buys, sells or gives away real or personal property; or

2) if the participant changes the way real or personal property is held.

b) Transfers of assets that are exempt at the time of transfer do not affect eligibility.

c) Transfers of non-exempt assets completed within 60 months before the date of request for CCP services shall be considered in determining eligibility. If a fair market value was not received, the value of the transferred asset shall be considered toward non-exempt assets and any excess amount shall be considered available to meet service costs unless it is proven that the participant did not transfer the property to qualify for or increase the need for CCP.

1) If real property was transferred, fair market value is to be determined by use of statements from reputable realtors or other community members recognized as knowledgeable of property value (e.g., bankers, tax assessors, auctioneers).

2) If personal property was transferred, fair market value is to be determined by use of a statement from an institution having knowledge of the property at the time of the transfer, or from an individual who has specific knowledge of the transfer and/or the value of the asset at the time of the transfer.

3) Factors to be considered when determining whether a transfer of property was made to qualify for or increase the need for CCP include but are not limited to:

A) the participant's physical and mental condition at the time of transfer;

B) the participant's financial situation at the time of transfer;

C) the participant's need for services at the time of transfer;

D) changes in the participant's living arrangements at the time of transfer; and

E) how soon after the transfer the participant applied for services.

d) If after consideration of these factors the participant is ineligible, the period of ineligibility begins at the date of request for services for participants and the date of termination for participants. The period of ineligibility lasts from the initial date for as long as the asset would meet the cost of CCP services if it were available to the participant, but in no case shall it last longer than 60 months after the date of transfer.

e) A participant determined ineligible under subsection (d) may become eligible if the following occurs:

1) the property is reconveyed to the participant; or

2) an adequate consideration is paid to the participant.

f) It shall be the responsibility of a participant to report all property transfers to the CCU within 5 days after the date of the transaction.

g) If an unreported transfer of property was made by a participant within 60 months prior to the date of request for services or was made after the submission of the request for services but before CCP services were authorized, and services to which the participant was not entitled were received as a result of the failure to report the transfer, services shall be terminated.

h) Involuntary transfers do not affect eligibility.

i) When the property transfer was made to obtain support or care, and the terms of the agreement are being met, only those needs not included in the agreement may be met through CCP.

j) Transfers because of separation, divorce or other settlement shall not affect eligibility if:

1) they are court ordered; or

2) if there is no court order and the participant and his/her spouse divide the property in half.

k) Transfers from an individual bank account to a joint bank account do not affect eligibility if the participant retains access to the money and the money continues to be used for the participant's needs.

l) Income tax refunds are available assets. If the refund is based on a joint income tax return, one-half of the refund is to be considered as belonging to the participant.

(Source: Amended at 42 Ill. Reg. 20653, effective January 1, 2019)