Version History Table			
Date:	**Document**	**Changes Made:**	**Impacted Pages:**
6/2025	Deprivation of Resources Process Guide	Newly created document	All

Deprivation of Resources Process Guide

All manual references are from 477 NAC Chapter 23, unless noted otherwise.
Regulations can be accessed at the Secretary of State website.

Background: Deprivation is the elimination or reduction of recorded ownership or control of a resource for less than fair market value (FMV) (Ex: transfer, sale or change of ownership in a resource). The FMV of a resource at the time it was disposed of must be verified and compared to the equity value and any compensation received. Findings must be thoroughly documented in the case narrative regardless of whether a penalty is being imposed at the time. **477 NAC 23 003.04.**

Fair Market Value

The price of an item of a particular make, model, size, material, or condition will sell for on the open market in the geographic area involved. The fair market value of a resource at the time the resource was disposed of must be verified and the equity value of the resource must be determined by taking into consideration any encumbrances against the resource.

Public tax records or county assessor records may be used to determine the sale value of a resource. If there is a question as to the accuracy of the sale value determined by these records, verification may be obtained from a real estate agent, car dealer, or other appropriate individual. **477 NAC 23 003.03(D)(ii)**

Equity is the actual value of property, the price at which it could be sold, less the total of encumbrances against it. If encumbrances again the property equal or exceed the price for which the property could be sold, the client has no equity, and the property is not an available resource. **477 NAC 23 003.03(D)**, **23 003.03 (D)(i)**, and **23 003.03 (A)**

The criteria for fair market value are NOT met when:

1. The term of the financial instrument* exceeds the life expectancy of the individual;
   Example: An annuity purchased that will pay out for 15 years by a Medicaid eligible individual with a life expectancy of eight (8) years.
2. The financial instrument does not provide for equal monthly or annual payments commencing immediately during the term of the contract;
   Example: A land contract that a Medicaid eligible individual enters into with another individual. The contract is for 15 years total. Payments are for $800.00 per month for the first five (5) years of the contract, starting immediately. Then, starting year six (6) and continuing through year 15 the payments are $1,200 per month.
3. The financial instrument does not provide for the recovery of assets in the event of default;

Example: A contract drawn up between family members where one agrees to purchase a family member's home. The contract does not include a clause in it that protects the seller of the property (the Medicaid applicant). If the purchaser defaults on the loan (does not pay) there is no way the Medicaid applicant can get the property back from the purchaser due to them defaulting on the loan. The Medicaid applicant does not have the property and is also not receiving payments for the property they sold.

4. The financial instrument contains exculpatory or cancellation terms of balance due;

   Example: A contract drawn up for purchase of a car. The Medicaid applicant agrees to sell their car to their neighbor for $18,000 by paying $500 per month. The car is for the neighbor's 17-year-old son. The contract includes verbiage that it will terminate once the neighbor's son turns 18 years old (in 12 months). The applicant will not receive the amount due on the contract.

5. The purpose of a transaction is solely to become eligible; or

   Example: A Medicaid eligible individual receives an inheritance that includes a lot with a storage shed on it. The client reports the information to DHHS and it's discussed that the sale of the lot would put the client over resources for Medicaid. A VR is sent to the client for follow up on the sale of the lot. The client indicates they signed over ownership of the lot to the church next to it. The client received nothing in return.

6. The value received for the transfer of any resource is less than the expected value which would have been received on an open market for a similar resource of the same type.

   Example: A Medicaid eligible individual has a classic car that is valued at $25,000 by a classic car dealer. The client sells the car to their son for $10,000 because they want to give their son a good deal on the car for helping them keep it clean.

* Financial instrument includes, but is not limited to stocks, bonds, trusts, annuities, and contracts.

Deprivation must be reviewed if the individual or their spouse resides in a specified living arrangement (also known as Long-Term Care or LTC), which is defined as:

1. A nursing home;
2. Receiving skilled level of care in hospital;
3. Receiving Home and Community-Based Services (waiver services), including an assisted living waiver, Program of All-Inclusive Care for the Elderly (PACE services), or requesting and meeting the criteria for such services; and/or
4. An intermediate care facility (ICF).

Change Effective 2/1/2025:

Individuals who have income below 100% FPL and request waiver services will now be exempt from the deprivation review process. This includes those individuals receiving waiver services at home and those receiving waiver services in a residential facility. Any person who resides, or will likely reside, in a medical facility (Hospital, Nursing Facility, or ICF) for more than one full calendar month will still be subject to a deprivation of resources review.

The following eligibility groups will not be subject to a deprivation of resources review if waiver services are requested:

1. 100% FPL Aged and Disabled;
2. Disabled Adult Children (DAC);
3. Pickle Group:
4. ARF Widow(er)s;
5. Disabled Widow(er)s;
6. Former Foster Care (FFC);
7. MIWD;
8. Medicaid recipients who received State Supplement (AABD Grant);
9. SSI recipients; and
10. 1619b beneficiaries.

    However, these eligibility groups will still be subject to a deprivation of resources review if they transition into a medical facility for more than one full calendar month (referenced above).

    **Similarly, these eligibility groups would become subject to a deprivation review while receiving waiver services if there is a change in circumstance which moves them into a different eligibility group, like medically needy.*

It is important to narrate if you are aware of any potential deprivation of resource issues in the event that they become subject to a deprivation review.

For all initial waiver requests at initial or new applications:

The worker must compare the individual's verified countable income to the 100% FPL. This is done because the worker may not be sure of the Medicaid category the individual may be eligible for initially.

1. If the individual's income is below the 100% FPL amount, then the worker does not need to complete the deprivation review.
    a. Proceed with a referral to E&E to begin determining eligibility for the requested waiver.
2. If the individual's income is above the 100% FPL amount, then the worker must complete a deprivation review. (A deprivation review is needed prior to waiver services being activated.)

Delayed COLA provisions apply for determinations made between December and the implementation of the new FPL amounts the following year. (This is recurring each year).

Some exceptions to this include:

1. If the applicant has earned income, this is an indication of possible MIWD eligibility;
2. If the applicant is receiving a "C" claim from SSA and has resources less than $2,000, then the worker must review for DAC eligibility.

Determining countable income may include certain considerations:

Most of the time, it should be easy to determine whether the applicant's income is below the 100% FPL or not.

1. For cases where it is unclear consider the following:
   a. Countable income is determined by taking the applicant's gross income minus the $20 General Disregard, the earned income disregard, and the cost of any private health insurance premiums.
   b. If a waiver recipient begins to receive income which would put them over 100% FPL, then a deprivation review will be needed.
   c. For households with more than one person, compare the verified countable income to the limit for the appropriate household size.
   d. For Spousal Impoverishment (SIMP) cases requesting waiver, the income of both spouses is used to compare to the appropriate household size.
   e. Some individuals may have a share of cost because their income is above the SSI FBR, but will not be subject to deprivation because their income is below 100% FPL.
   f. For Assisted Living Waiver cases:
      i. These budgets appear as Medically Needy (MN).
      ii. First consider whether the individual was eligible in one of the exempt categories.
         - If so, then no deprivation review is needed.
      iii. If it is a new application, then the worker must review the countable income.
         - If the countable income is below the 100% FPL, then no deprivation review is needed.

NOTE: The individual may still have a SOC for their Assisted Living-Waiver (ALW) budget, but for the deprivation review we look at their eligibility category.

REMINDER: If an applicant/client was eligible while living at home, would they have a spenddown?

i. If the answer is **yes**, then a deprivation of resources review is needed.
ii. If the answer is **no**, then a deprivation of resources review is not needed and the worker must move forward with referring the individual OR approving waiver services.

Example 1: Jane Dough, age 72, has been living in her home, receiving Medicaid for the past six years. She has income of $1107 per month. Jane recently began to have mobility issues and needs assistance with her ADLs. She is looking at assisted living facilities and is requesting waiver. Is a deprivation review necessary?

Answer: No review is needed because her income is less than 100% FPL.

Example 2: Jane has moved into assisted living and loves all of the extra help that waiver services provide. Her uncle, Plain Dough, recently passed away. Plain left Jane an annuity that provides $500 per month in income for life. What next steps are needed?

Answer: Verify the annuity information and submit it for review. If her countable income has increased by $500/month, then a deprivation review will be needed because her income has increased above 100% FPL.

Example 3**:** Ralph Roll, age 38, has been disabled for the last several years. He lives in an apartment and receives $1200 per month in SSDI. He recently decided to try working part-time for extra money. Ralph now earns $750 per month from his job. The job is taking a toll, though. After his first month, Ralph requests waiver services to get some additional help. Is a deprivation review needed?

Answer: Refer Ralph to MIWD. If he is eligible for MIWD, then no deprivation review is needed.

Example 4: Cathy Cake has submitted a Medicaid application. She is 80 years old, and lives in assisted living. She is requesting waiver services because she has several service needs. She receives $1400 in RSDI and a pension of $700 each month. Her savings had dropped to $3,000 due to the high cost of assisted living. What next steps are needed?

Answer: Cathy will need a referral to begin the process of assessing her for waiver. A deprivation review will also be needed because her income is above 100% FPL.

Example 5: Brad Bread receives SSI. He has been living with a friend for the past few years. Brad's health has deteriorated lately, and he needs much more assistance than his friend can provide. Brad has asked you about waiver services and now wants to apply. His assessment shows that he meets the Level of Care requirement. Is a deprivation review needed?

Answer: No deprivation review is needed. Brad is receiving SSI benefits and is requesting waiver services.

Example 6: Brad receives waiver services for several months, but his health continues to worsen. At the recommendation of his service provider, Brad has now moved into a nursing facility. What are your next steps?

Answer: A deprivation review will be needed now that Brad has moved into a medical facility.

Example 7: Cinnamon Twist is a disabled mother, living with her two children, who are both in high school. She receives SSDI of $1550 per month and long-term disability insurance of $400 per month. Cinnamon has been having increasing difficulties with mobility lately and is now requesting waiver services. Is a deprivation review needed?

Answer: No deprivation review is needed because her income is below 100% FPL for this household size.

Example 8: Cinnamon has now been receiving waiver services for the past year. Her oldest son, Oliver, just graduated. He received a scholarship to the University of Maine and will be moving there next month. What are your next steps?

Answer: If you confirm that her son has left, then a deprivation review will now be required. Her income is more than 100% FPL after the change to a household size of two.

Example 9: Peter Pastry has been eligible as a QI-1 for the past several years. You receive a change report from the local hospital that he will be moving to assisted living tomorrow. Waiver services have been requested, and it is expected that he will meet the LOC. What are your next steps?

Answer: Peter Pastry's income level is above 100% of the FPL and a deprivation review will be needed prior to waiver services being activated.

If a Medicaid case is identified as requiring a deprivation review it must be assigned to the appropriate position number, unless the program case is already assigned to a Long-Term Care (LTC) SSW. See Medicaid Position Numbers for Case Assignments.

When an applicant or participant is not currently residing in a specified living arrangement and therefore not subject to a penalty period, and a transfer of assets is discovered or suspected, staff must document details of the transfer in the case record.

Best practice is to add a narrative in the Deprivation sub-heading with a description and date of the transfer and the verification date and source, if applicable.

Example 1: Applicant is not in a facility or requesting LTC services. The application indicates a vehicle was sold within the last 60 months. Attestation is accepted for eligibility, however a narrative including details listed on the application about the transfer is entered in the Deprivation sub-heading.

Example 2: A renewal is completed for an ongoing client who is not currently in a facility or requesting LTC services. AVS returns a flag on a known bank account. Details about the AVS flag are documented in the Deprivation sub-heading.

Example 3**:** Agency receives a renewal form and bank statement from an ongoing client who is not currently in a facility or requesting LTC services. The bank statement provided shows several large checks written from the account. The worker adds a Deprivation narrative including the dates of questionable checks and the sequence number of the bank statement in document imaging.

General Information: The deprivation look back period is 60 months. Additional information about deprivation and the look back period can be found at **23-003.04** to **003.04(L)**.

Deprivation that occurred during the look back period must be considered for new LTC applicants as well as ongoing clients who are transitioning into institutional care. This also applies to individuals in current pay SSI status and to minor children.

- For children's waiver cases, ask the parent if the child had sold, traded, or given away any assets in the look back period. If yes, request verification as needed. If no, this must be documented in the case. There are no electronic data sources for the resources of a minor. (A deprivation review will be needed prior to waiver services being activated.)

A penalty for the deprivation of resources cannot be imposed unless the individual is otherwise eligible for Medicaid, except for the deprivation. If both spouses are applying and are otherwise eligible, the period of ineligibility is divided equally between the spouses.

If a deprivation of resources has been determined, but not yet imposed (client has **not** been noticed) then the client **can** withdrawal their waiver request and remain in a Medicaid Spenddown budget.

If we have imposed the deprivation of resources penalty (client **has** been noticed) the client **cannot** withdraw their waiver request and the deprivation penalty must remain and be served. This results in their Medicaid case closing. Once the penalty period lapses the client may reapply.

Per **23-003.04(A)** A Deprivation of Resources is any action taken by the applicant or client, or any other person or entity, which reduces or eliminates the applicant's, client's, or spouse's recorded ownership or control of the asset for less than fair market value (FMV).

1) The FMV of a resource at the time the resource was disposed of must be verified and the equity value of the resource must be determined by taking into consideration any encumbrances against the resource.

A deprivation of a resource includes, but is not limited to:

1) Recorded transfer of ownership of real property;
2) Not receiving the spousal share of an augmented estate;
3) Purchase of a life estate in another individual's home without meeting the 12-month requirement to reside there;
4) Promissory notes, loans, mortgages, and contract sales for less than fair market value or which are for at least fair market value and are not enforced;
5) Purchase of an irrevocable, non-assignable annuity, if Medicaid is not the preferred beneficiary and the annuity is issued on or after February 8, 2006;
6) Any transfer above the protected spousal reserved amount to a community spouse;
7) Purchase of any contract or financial instrument, including an endowment or insurance, where the criteria for fair market value are not met;
8) Resources transferred to a pooled trust established for the benefit of a person 65 years old or greater at the time of transfer; and
9) Transfer or gift of any resource to a third party for less than fair market value.

Regular tithing, charitable contributions, giving over time is generally not a deprivation if there is a consistent pattern of this activity. However, any amount given with the apparent intent of transferring assets to become Medicaid eligible is a deprivation. Policy review is required if resource deprivation is unclear.
Any transfer that raises concern must be addressed and documented in the case for auditing purposes. Critical thinking must be used to determine if a transfer meets the criteria of a deprivation or if it's reasonable to believe this is normal spending for the individual. Examples of normal spending may include, but are not limited to:

***Example 1*:** A bank statement shows ATM withdrawals of $600 most months. The worker speaks with the client, who states she likes to pay her bills in cash. This appears to be a reasonable explanation based on the lack of expense charges in the account.

Example 2: Bank records show monthly transfers into another person's account. The worker speaks with the Power of Attorney (POA), who states this is the client's portion of their shared shelter expense. This appears to be reasonable as the client and the POA share a residence, and the amount is not questionable.

Example 3: A flag is indicated in AVS for a decrease in the checking account and the worker requests bank statements for verification. Upon review, there is a payment of $3500 to an unknown source as well as multiple out of state debit card and ATM transactions. The worker reaches out to the Authorized Representative and finds out the participant took a vacation to Florida. This is a reasonable explanation of the account debits.

Example 4: Bank records show routine charitable contributions of $50 per week for the last 2 years. This appears to be a consistent pattern of giving with no apparent intent to transfer assets to become eligible for Medicaid.

Example 5: Bank statements show point of sale debits in the amount of $2100, $16,000, and $8400 in the previous calendar year. The participant indicates these were trips he made to nearby casinos, and he had no winnings. Upon further review of the statements, the charge descriptions do appear to be similar to local gaming establishments. This is a reasonable explanation of the transfers.

Example 6: Bank statements show purchases made from a few stores and an online merchant on a monthly basis ranging from $50 to $200 each. The worker speaks with the client, who states she likes to shop for personal items, clothing, etc. for herself on occasion. She also states she often stops at a local restaurant and treats herself once she is done shopping as well. This is a reasonable explanation of the account debits.

NOTE: When a transaction seems unusual, ask questions and document the findings in the case narrative.

Transfers that are not considered a deprivation include: 23-003.04(K) and **003.04(L)**

1) Transfer to the spouse, or a disabled or blind child;
2) Transfer to a POA/guardian/conservator for the applicant participant or their spouse's sole benefit;
3) Transfer to a trust solely for the benefit of someone 64 years of age or younger who is disabled; and
4) Transfer of a home to certain relatives, if certain criteria are met and documented.

Workers may become aware of a deprivation in a few different ways (*this list is not all-inclusive*):

1) **Spousal Impoverishment (SIMP) Assessment** - No application is on file however the individual is in the process of completing an IM-73 with the agency.
    a. Documentation of the SIMP assessment and details of what was found by the worker regarding a deprivation of resources, or potential for deprivation, must be included in the narrative. This information must be followed up on later if the agency receives a Medicaid application for either spouse, if residing in LTC.
2) **At initial application:**
    a. Information reported on the application or in verification received may provide a lead that more information is necessary.
        1. If the application states a resource has been sold, traded, or given away in the previous 60 months.
        2. If AVS returns flagged months. See AVS Procedural Guide

3. If AVS returns undisclosed property (these are sometimes displayed in AVS as 'currently owned' when ownership has transferred).
    a. Further follow-up may be needed regarding property that is found by AVS:
        i. The worker would need to check County Assessor's websites, etc. (Sometimes sold property still shows in AVS).
4. If paper verification provided shows potential transfers (large checks written, transfers to unknown accounts, large cash/ATM withdrawals).

b. Information provided during a call with the applicant or their representative.

3) **At renewal application:**
    a. Information reported on the renewal form or in verification received may provide a lead that more information is necessary.
        1. If the renewal form states a resource has been sold, traded, or given away in the previous 60 months.
        2. If AVS returns flagged months. See AVS Procedural Guide
        3. If AVS returns undisclosed property (these are sometimes displayed in AVS as 'currently owned' when ownership has transferred).
        4. If paper verification provided shows potential transfers (large checks written, transfers to unknown accounts, large cash /ATM withdrawals).
    b. Information provided during a call with the applicant or their representative.
    c. A previously known resource is no longer being declared.

4) **At change report:**
    a. Living arrangement change:
        1. An ongoing client moves into a facility.
        2. A request for waiver services has been received and/or a referral for waiver LOC has been sent, which would constitute the need for the deprivation review to begin. (A deprivation review will be needed prior to waiver services being activated.)
        3. An alert or change report is received indicating the client meets LOC for waiver.
        4. A request to open waiver is received.
    b. Liquidation period
        1. Property is reported as sold.
    c. Property held in life estate is sold.
    d. A known resource is reported sold, traded, or given away.
        1. This includes non-countable vehicles.

5) **Spousal Impoverishment (SIMP) specific: 477 NAC 26-003.02(D)**
    a. Although transfers between spouses is not generally considered a deprivation, if the Medicaid spouse transfers assets to the community spouse, it must be determined that this transfer did not result in the community spouse having resources above their reserved amount, as indicated on the IM-73. Any amount transferred over the reserved amount would be considered a deprivation.

b. The community spouse's resources do not require verification annually after the first renewal period for the Medicaid spouse. However, any known transfer of an asset that was owned by the community spouse must be reviewed for FMV to see if a deprivation exists. (This review would occur when a transfer of assets becomes known to the agency).
    1. This does not necessarily mean the community spouse must have assets within the reserved amount. However, they are not allowed to transfer an asset for less than FMV for the Medicaid spouse to maintain eligibility.

Look Back Period and Verification of Resources:

Resource Verification WINK-ed	Resource Verification WINK-ed	Resource Verification Q&A
Real Property Training	Property Sold on Contract 477-000-031	Trust and Annuity Process Guide

The dates of the look back review period depend on the circumstances of the case: **23-003.04(G)**

1) If it's a new application and retroactive Medicaid was requested, the look back would start from the oldest retroactive month requested.
2) If it's a new application and retroactive Medicaid was not requested, the look back would start with the application month.
3) For an ongoing client, the look back will begin with the month they went into LTC or when they requested and met the criteria for LTC services (waiver or PACE, for example).

Process to Verify Resources in the Look Back Period:

1) Review to determine if we have AVS consent as applicable.
    a. If yes, submit an ad hoc request in AVS using the appropriate request type (RT) code (NA or SA, as appropriate).
    b. If no, contact the individual and/or spouse to obtain AVS consent using the Consent Line and to obtain attested resource information, if needed.
        1. If AVS consent and resource attestation is received, submit an ad hoc request in AVS using the appropriate request type (RT) code (NA or SA, as appropriate).
        2. If contact with the individual is unsuccessful the worker must send a VR requesting the individual to contact Medicaid to provide consent to access resource information electronically and gather additional resource information.
2) Continue to monitor and follow up on AVS results per the AVS Procedural Guide.
    a. AVS will automatically search 60 months if the RT code is submitted as NA or SA.
        1. If AVS shows flags indicating transfers that cannot be reasonably tied to facility payments, bank statements for months surrounding the flags must be requested and reviewed. During review, the worker must attempt to reconcile the transferred amounts and review other leads to unreported resources, income, or expenses.
        2. If AVS does not return the full 60 months of records:

a) Review the application to determine if any transfers were attested to;
b) Review the case file (narrative, document imaging, etc.) to determine if there are any leads to a transfer;
c) Review the records that were received in AVS to determine if there are any flags present that are not reasonably tied to facility payments;
d) Document findings in a case narrative; and
e) Only request the additional months of bank statements that were not returned by AVS if there is an indication that a deprivation occurred.

3) Review case narrative within the lookback period to determine if there was a transfer noted.
4) Review address history in NFOCUS and SDX/BDE to determine if there was property owned previously.
   a. Review pertinent county assessor websites and follow up as needed.
5) Review previous budgets in NFOCUS, if applicable. Determine if there were any previously owned assets (countable or not countable) to ensure FMV was received.

Example 1: The client owned a vehicle that was excluded for ABD budgeting and no longer declares ownership.

Example 2: The client previously owned a life insurance policy with a cash value and no longer declares ownership.

6) Review document imaging of financial accounts and other assets for leads to transfers.
7) Follow up on any flags or leads that indicate a transfer may have occurred. Document findings in case narrative.

Documentation:

Details about deprivation findings must be documented in case narrative under the Deprivation sub-heading when an individual is in a LTC arrangement, even when a penalty is not being imposed.

1) If no deprivation is found, a narrative must be entered indicating the case was reviewed. Any transfers that were questioned and resolved must be documented for auditing purposes.
2) If deprivation is found, a narrative must be entered including the following details:
   a. Description of transferred asset;
   b. Date(s) of transfer;
   c. Who the asset was transferred to;
   d. Verification source;
   e. Equity value transferred; and
   f. Calculation used.

Deprivation Related to Life Estate:

1) Real Property Transfers with the Creation of Life Estate:
    a. When a life estate is first created (within the look back period) the **remainder interest value** of the property must be determined, as this is the value that was transferred. Details about the transfer must be documented to include:
        1. Assessed value of the property at the time the ownership was transferred, and the life estate was created;
        2. Mortgages or other liens subtracted from the assessed value;
        3. Resulting equity value; and
        4. Remainder value at the time of the transfer, calculated using the **remainder column** of the Life Estate and Remainder Interest Table. This value, minus any compensation received, would be used in the deprivation calculation, if applicable.

    b. To determine the remainder value, multiply the **equity value** by the corresponding **remainder interest** from the chart, based on the age of the life tenant at the time of creating the life estate.

    Example: Client, age 83, transferred property to her children 2 years ago but retained a life estate. The equity value of the property is $1 million. The penalty would be $580,330 (remainder value at the time of transfer, age 81).

Life Estate Remainder Chart (rev. September 15, 2009)		
AGE	LIFEESTATE	REMAINDER
80	.43659	.56341
81	.41967	.58033
82	.40295	.59705
83	.38642	.61358

2) **Sale of Property Held in Life Estate:**

    a. When an existing life estate interest is sold or transferred, the life tenant must receive a lump sum of the FMV from the net proceeds. A life tenant is an individual who possesses the right to use and benefit from a property for the duration of their lifetime or for the life of another person designated in a life estate agreement. They have the right to occupy, rent, or otherwise use the property, but they cannot sell or transfer it outright.
    b. Additional details about the sale or transfer must be documented to include:
        1. Assessed value of the property at the time of the sale or transfer;

2. Mortgages or liens subtracted from the assessed value (or the sale price, if greater than assessed value);
3. Resulting equity value; and
4. Individual's life estate value at the time of the sale or transfer, calculated using the **life estate column** of the chart at Life Estate and Remainder Interest Table. This value, minus any compensation received, would be used to determine if FMV was received by the life tenant.

c. To determine the life estate value, multiply the equity value by the corresponding life estate interest from the chart, based on the age of the life tenant at the time of the sale or transfer.
   1. If the property is sold for less than FMV, the life tenant must receive proceeds equal to their percentage of FMV.
   2. Alternatively, the entire net proceeds could be placed into an investment where the individual who had life tenancy receives all the income. 23-003.04(E)

   Example: LTC client transferred property 10 years ago, retaining life estate interest. The life estate is not a countable resource in determining eligibility. At renewal, it's stated the property has been sold. Client is 78 years old, and the equity value of the property was $200,000 at the time of the sale.
   - Client must receive at least $94,098 from the net proceeds to avoid a penalty.
   - Proceeds received are a countable resource to the client.

Life Estate Remainder Chart (rev. September 15, 2009)		
AGE	**LIFEESTATE**	**REMAINDER**
74	.53862	.46138
75	.52149	.47851
76	.50441	.49559
77	.48742	.51258
78	.47049	.52951
79	.45357	.54643

Period of Ineligibility:

To Calculate the Total Deprivation Amount:

1. Verify the fair market value (FMV) of the resource at the time the resource was disposed of:
   a. Verify and subtract any encumbrances or liens against the resource that reduced the equity value;
   b. Subtract any compensation received by the individual for the transfer;

c. If multiple deprivations exist, they must be added together for a total amount; and
d. This sum will be used to determine the period of ineligibility and penalty months, as described in *How to Determine the Length of the Penalty Period* below.

NOTE: Details about the values, encumbrances and calculation used must be documented in the case.

The period of ineligibility represents the amount of time the individual is not covered by Medicaid, it is **not** a dollar amount the individual must pay before becoming Medicaid eligible. 23-003.04(H).

To Determine the Length of the Penalty Period:

1. Determine the **monthly private rate** for care. Call the facility to obtain the current daily rate and multiply this by 30 (average days in the month).
2. Divide the **total deprivation** amount by the **monthly private rate** to determine the length of the penalty.
   a. If the deprivation results in a fraction, the fraction is converted to a dollar amount (see step 4) and this amount is included as unearned income for the applicable month.
3. Multiply the number of whole months from the **length of penalty** by the **monthly private rate** to determine the **whole month total**.
4. Subtract the **whole month total** from the **total deprivation amount** to determine the **partial month penalty**.

   DEPRIVATION EXAMPLE: The total deprivation amount is $48,590 and the daily rate at the facility is $285. See steps below for the calculations. In this example, there would be 5 whole months of ineligibility, and $5,840 would be added as unearned income in the 6th month.

Step 1 - Multiply the daily private rate at the facility by 30.

$285.00 (per day)

× 30

$8,550.00 = monthly private rate

Step 2 - Divide the **total deprivation amount** by the **monthly private rate**.

$48,590.00 (total deprivation amount)

÷ $8,550.00 (monthly private rate)

5.6830 = length of penalty

Step 3 - Multiply the number of whole months by the **monthly private rate**.

5 (whole months from step 2)

× $8,550.00 (monthly private rate)

$42,750.00 = whole month total

Step 4 - Subtract the **whole month total** from the **total deprivation amount**.

$48,590.00 (deprivation amount)

− $42,750.00 (whole month total)

$5,840.00 partial month penalty

Notice of Action

When imposing a deprivation penalty, include any necessary explanations on the notice and include policy language (found at 23-003.04(J)(i)) informing the individual of the ability to apply for hardship waiver.

Hardship Waiver:

Hardship waiver requests are sent to policy for review and determination. Deprivation of Resources Hardship Waiver Procedure

APS Referrals:

If the worker has reason to believe the individual may have been victim to exploitation or abuse, refer to the Adult Protective Services (APS) page for additional information and contact details. DHHS employees are considered mandatory reporters if there is evidence that an individual has been abused, defrauded, scammed, or exploited.