

Modify means changing the beneficiaries or the availability of principal or income.

ANNUITY DEFINED

Annuity- A written contract, with a commercial insurance company, establishing a right to receive specified, periodic payments for life or for a term of years. They are usually designed to be a source of retirement income.

TRANSFERS TO AN ANNUITY EFFECTIVE 9/1/05

Converting countable resources to income through the purchase of an annuity or the amendment of an existing annuity on or behalf of an annuitant who has applied for medical assistance with respect to nursing facility services or other long-term care services on or after 09/01/05, is considered a transfer for less than fair market value unless the annuity meets the conditions listed below:

- Is commercially issued by a company licensed in the United States and issued by a licensed producer (a person required to be licensed under the laws of this state to sell, solicit, or negotiate insurance), and
- Is irrevocable, and
- Is purchased by an applicant or recipient for Medicaid or their spouse and solely for the benefit of the applicant or recipient or their spouse, and
- Is actuarially sound and returns the principal and interest within the annuitant's life expectancy, and
- Payments must be in substantially equal monthly payments (starting with the first payment) and continue for the term of the payout (no balloon or lump sum payments) and
- If the annuity was purchased or amended by, or on behalf of, the applicant or recipient on or after February 8, 2006 the State of Michigan must be named as the remainder beneficiary in the first position, or as the second remainder beneficiary after the community spouse or minor or disabled child, for an amount at least equal to the amount of the Medicaid benefits paid on behalf of the institutionalized individual. The naming of the state in the first or second position must be verified at

application or redetermination. If the State of Michigan is not named as a beneficiary as required in the paragraph, the total purchase price of the annuity will be considered to be the amount transferred for less than fair market value.

- If an annuity is actuarially sound and provides for payment only to the community spouse during his/her lifetime then the annuity is considered to be for the sole benefit of the applicant's spouse, and it is not a transfer for less than fair market value and does not have to name the State of Michigan as a remainder beneficiary.

**Annuities Funded
With Certain
Retirement
Resources**

An annuity purchased by or on behalf of an annuitant who has applied for Medical assistance with respect to nursing facility services or other long-term care services on or after 2/8/2006 is **not** a transfer for less than fair market value if it is funded with certain retirement resources and established under any of the following sections of the Internal Revenue Code (IRC)

1. The annuity is considered either:
 - An individual retirement annuity under section 408(b) of the IRC; or
 - A deemed Individual Retirement Account under a qualified employer plan under section 408(q) of the IRC; or
2. The annuity is purchased with proceeds from on of the following:
 - A traditional individual retirement account (IRA) under section 408(a) of the IRC; or
 - Certain accounts or trusts which are established by employers or certain association of employees under section 408(c) of the IRC; or
 - A simple retirement account under section 408(p) of the IRC; or
 - A simplified employee pension under section 408(k) of the IRC; or

- A Roth IRA under section 408A of the IRC

Annuities established under any sections of the Internal Revenue Code reference above do **not** have to be irrevocable or actuarially sound, and do not have to provide for equal monthly payments.

MEDICAID TRUST CRITERIA

A Medicaid trust is a trust that meets conditions 1 through 5 below:

1. The person whose resources were transferred to the trust is someone whose assets or income must be counted to determine MA eligibility, an MA post-eligibility patient-pay amount, a divestment penalty or an initial asset assessment (IAA) amount. A person's resources include his spouse's resources (see definition).
2. The trust was established by:
 - The person.
 - The person's spouse.
 - Someone else (including a court or administrative body) with legal authority to act in place of or on behalf of the person or the person's spouse, or an attorney, or adult child.
 - Someone else (including a court or administrative body) acting at the direction or upon the request of the person or the person's spouse or an attorney ordered by the court.
3. The trust was established on or after August 11, 1993.
4. The trust was not established by a will.
5. The trust is **not** described in Exception A, Special Needs Trust, or Exception B, Pooled Trust in this item.

Exception A, Special Needs Trust

A trust is **not** a Medicaid trust if it meets all the following conditions:

- The trust must be unchangeable with regard to the provisions that make it an Exception A, Special Needs Trust. This is