

Wisconsin Medicaid Divestment

What is divestment?

Divestment is when you or your spouse:

- Give away income and/or assets for less than fair market value. This includes giving gifts to people, such as your grandchildren.
- Avoid taking income or assets you are able to get, such as a pension income or an inheritance.
- Buy certain types of assets, such as a life estate, loan, or annuity.

What is fair market value?

Fair market value is an estimate of the price an asset could have been sold for on the open market at the time it was given away or sold below value.

What is an annuity?

An annuity is an investment that provides you a series of fixed income payments broken up over time.

How does divestment affect Medicaid?

Divestment can delay your ability to get Medicaid long-term care benefits. When you apply for Medicaid and you had a divestment within the past 60 months (five years), you may be asked to serve a divestment penalty period.

What is Medicaid long-term care?

There are two types of Medicaid long-term care coverage:

- Institutional Medicaid provides coverage of medical services if you reside in a medical care facility, such as skilled nursing facilities,

intermediate care facilities, institutions for mental disease, and hospitals, for 30 days or more.

- Home and community-based waiver programs allow you to get long-term care services in a community setting (for example, your home) rather than in a nursing home or hospital. These waiver programs include:
 - Family Care
 - Family Care Partnership
 - IRIS (Include, Respect, I Self-Direct)
 - PACE (Program of All-Inclusive Care for the Elderly)

What are Medicaid card services?

Medicaid card services include health care services, like doctor visits and lab work, but does not include long-term care services, like adult day care, home modifications, and supportive home care, or the costs associated with services provided for individuals living in a nursing home.

What is a divestment penalty period?

A divestment penalty period is the amount of time Medicaid will not cover long-term care benefits. If you have a divestment penalty period and are eligible for Medicaid, you cannot get coverage for long-term care services. If you are otherwise eligible, divestment may not affect your ability to get coverage for Medicaid card services, depending on the Medicaid program.

How long is a divestment penalty period?

To figure out the number of days for a divestment penalty period, divide the value of the income or assets you divested by the current average nursing home rate. The average nursing home daily rate is updated annually. The current rate, effective January 1, 2022, is \$307.40.

$$\frac{\text{The value of the income or assets you divested (\$)}}{\text{The current average nursing home daily rate (\$)}} = \text{Divestment penalty period (days)}$$

The divestment penalty period begins when you are first eligible to get Medicaid benefits. This could be:

- The date you applied for Medicaid long-term care benefits (institutional or community waiver programs).
- The date you entered a long-term care facility
- The date you were found eligible for home and community-based waiver programs, if it was after you applied.

Example 1

Paul gave \$10,000 to his niece on December 1, 2021. He was admitted to a nursing home and applied for Institutional Medicaid on January 1, 2022. Paul is eligible for Institutional Medicaid, but he will have a divestment penalty period because he gave away money that he could have used toward his care. To calculate Paul's divestment penalty period, divide the \$10,000 he divested to his niece by the nursing home average daily rate of \$307.40.

- The average cost of nursing home care is \$307.40 per day, so his divestment penalty

period is 32 days (\$10,000 divided by \$307.40 = 32.53).

- Partial days are rounded down to the nearest whole number (32.53 days is rounded down to 32 days).
- The penalty period starts January 1 and ends February 1 (31 days in January and 1 day in February = 32 days).
- On February 2, 2022, Paul can get coverage for his institutional long-term care.

Paul's divestment penalty period is 32 days. Paul can begin getting card services immediately, but he cannot start getting Institutional Medicaid until February 2.

Example 2

Jim sold his home to his daughter for \$100,000 on February 2, 2021. Because the fair market value of the home was \$200,000, the \$100,000 difference is considered a divestment. Jim was admitted to a nursing home and applied for Institutional Medicaid on January 19, 2022. Jim is eligible for Institutional Medicaid, but he will have a divestment penalty period because he divested money that he could have used toward his care. To calculate Jim's divestment penalty period, divide the \$100,000 he divested by the nursing home average daily rate, which is currently \$307.40.

- The average cost of nursing home care is \$307.40 per day, so his divestment penalty period is 325 days (\$100,000 divided by \$307.40 = 325.31).
- Partial days are rounded down to the nearest whole number (325.31 days is rounded down to 325 days).
- The penalty period starts January 19, 2022 and ends December 9, 2022.
- On December 10, 2022, Jim can get coverage for his institutional long-term care.

Jim can start getting card services immediately, but he cannot get full benefits until his divestment penalty period is complete.

Example 3

Tom divested \$25,000 on July 15, 2022. He is living in his home. Tom applied for Medicaid on July 20, 2022, to get long-term care services in his home through Family Care. Tom is over the income limit for other forms of Medicaid but he meets all of the rules for Family Care. Tom would be eligible for Family Care, a home and community-based waiver program, if he had not divested. Because Tom divested, he cannot get services through a home and community-based waiver program like Family Care until after his divestment period.

- The average cost of nursing home care is \$307.40 per day, so Tom's divestment penalty period is 81 days (\$25,000 divided by \$307.40 = 81.33). Partial days are rounded down to the nearest whole number (81.33 days is rounded down to 81 days).
- His penalty period starts July 20, and ends October 8 (12 days in July, 31 days in August, 30 days in September, and 8 days in October = 81 days).
- On October 9, 2022, Tom may be able to get coverage for the long-term care services he needs through a home and community-based waiver program. Tom must contact his aging and disability resource center (ADRC), www.findmyadrc.org, in the 45 days prior to his divestment penalty period ending to reapply for long-term care services.

Tom's assets are under \$2,000. Tom will have to meet a deductible before he is eligible for card services because he divested assets and is over the income limit for any other form of Medicaid.

Where can I get more information?

- Contact your local Aging and Disability Resource Center. Go to www.findmyadrc.com for contact information.
- Refer to the ForwardHealth Enrollment and Benefits Handbook, P-00079, www.dhs.wisconsin.gov/library/p-00079.htm.
- For more information on deductibles, refer to the Wisconsin Medicaid/BadgerCare Plus Deductible Plans, P-10052, www.dhs.wisconsin.gov/publications/p1/p10052.pdf.
- Call Member Services at 800-362-3002 (voice) or 711 (TTY).
- Contact your local income maintenance agency. Go to www.dhs.wisconsin.gov/forwardhealth/imagency/index.htm for contact information.

This document is being issued pursuant to 42 CFR § 447.205 — Public notice of changes in Statewide methods and standards for setting payment rates.

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U.S. Department of Health and Human Services
200 Independence Avenue, SW
Room 509F, HHH Building
Washington, D.C. 20201
800-368-1019, 800-537-7697 (TDD)

Complaint forms are available at <http://www.hhs.gov/ocr/office/file/index.html>.

Español (Spanish) ATENCIÓN: si habla español, tiene a su disposición servicios gratuitos de asistencia lingüística. Llame al 844-201-6870 (TTY: 711).	Deutsch (Pennsylvania Dutch) Wann du Deitsch (Pennsylvania Dutch) schwetztscht, kannscht du ebber griegie as dich helfe kann mit Englisch, unni as es dich ennich eppes koschte zellt. Ruf 844-201-6870 uff (TTY: 711).
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