

Document: Proposed Rule

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**TITLE 405 OFFICE OF THE SECRETARY OF
FAMILY AND SOCIAL SERVICES**

Proposed Rule
LSA Document #01-175

DIGEST

Adds 405 IAC 2-3-1.2 concerning Medicaid penalties for transferring assets for less than fair market value. Specifies that the purchase of an annuity or similar arrangement is considered a transfer of assets for less than fair market value unless the annuity is irrevocable, commercially issued, actuarially sound, and provides substantially equal monthly payments with no balloon payment. Effective 30 days after filing with the secretary of state.

405 IAC 2-3-1.2

SECTION 1. 405 IAC 2-3-1.2 IS ADDED TO READ AS FOLLOWS:

405 IAC 2-3-1.2 Transfers involving annuities

Authority: IC 12-8-1-9; IC 12-8-6-5; IC 12-15-1-10

Affected: IC 12-15-4

Sec. 1. (a) For purposes of this section, "annuity" means a policy, certificate, contract, or other arrangement between two (2) or more parties whereby one (1) party pays a lump sum of money or other valuable consideration to the other party in return for the right to receive payments in the future.

(b) The purchase of an annuity, any instrument purporting to be an annuity, or any other arrangement that meets the definition of an annuity in subsection (a) shall be considered an uncompensated transfer of assets resulting in a penalty under section 1.1 of this rule unless the following criteria are met:

(1) The annuity is irrevocable and cannot be assigned to another person.

(2) The annuity is purchased from an insurance company or other commercial company that sells annuities as part of the normal course of business.

(3) The annuity provides substantially equal monthly payments of principal and interest and does not have a balloon or deferred payment of principal or interest. Payments will be considered substantially equal if the total annual payment in any year varies by five percent (5%) or less from the payment in the previous year.

(4) The annuity will return the full principal and interest within the purchaser's life expectancy as determined by life expectancy tables published by the office.

(Office of the Secretary of Family and Social Services; 405 IAC 2-3-1.2)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on October 4, 2001 at 9:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room C, Indianapolis, Indiana the Office of the Secretary of Family and Social Services will hold a public hearing on a proposed new rule concerning Medicaid penalties for transferring assets for less than fair market value. Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W451 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

John Hamilton
Secretary
Office of the Secretary of Family and Social Services

