

HOW TRANSFERS OF ASSETS AND LUMP SUMS AFFECT YOUR ELIGIBILITY FOR NEED-BASED BENEFITS

This brochure explains how receiving monetary lump sums and transferring your assets may affect your eligibility for need-based benefits, such as welfare cash assistance, food stamps, QUEST, Medicaid, and Supplemental Security Income (SSI).

How a Cash Lump Sum Will Affect Your Benefits If You Are Receiving Cash Assistance:

Your worker will apply the Lump Sum Rule to your household if you are receiving cash assistance from Department of Human Services (DHS) when you get the cash lump sum. Cash assistance includes Temporary Assistance to Needy Families/Other Needy Families (TANF/TAONF), General Assistance (GA), and Aid to the Aged, Blind, and Disabled (AABD).

Under the Lump Sum Rule, if you receive a cash lump sum while you are getting cash assistance from DHS, then you will be ineligible for cash assistance for a certain period of time. DHS determines this period of ineligibility by dividing the lump sum amount by the Standard of Need (SON). The result is the number of months you will be ineligible for cash assistance. See the examples for more information.

Example #1:

Julie received an inheritance of \$10,000 from her grandmother. There are 2 people in Julie's household. The current Standard of Need for a household of 2 is \$1313. To determine how long Julie cannot receive welfare you divide \$10,000 by \$1313, which is approximately 7. Julie will be ineligible for cash assistance for about 7 months.

Useful Definitions

LUMP SUM means any kind of cash that you receive, including cash awards, legal settlements, such as from a personal injury or worker's compensation lawsuit, or inheritance.

TRANSFERRING YOUR ASSETS means giving away money or assets, including real property (land or a house), automobiles, or money.

If you are ineligible for benefits, the period of time can be shortened if:

- 1) an event occurs that would have changed your aid amount, such as an increase in family size;
- 2) money becomes unavailable due to circumstances beyond your control, such as loss or theft verified by a police report, or the person with control over the lump sum leaves the household with all or some of the money;
- 3) you must pay medical expenses, or funeral or burial expenses for a spouse, son, daughter, or parent; OR
- 4) you incur and pay for medical expenses in a month of ineligibility.

To avoid the ineligibility period you should take yourself off cash assistance the month before you expect to get the money. Then spend the money down (see below). Reapply for benefits the month AFTER you spend down the lump sum.

Example #2:

Mark received lump sum payments from a worker's compensation settlement totaling \$5,000. These payments made Mark's family of 3 ineligible for DHS cash assistance for about 3 months (the SON for a family of 3 is \$1645). Right after Mark received the settlement, his wife gave birth to their second child making his household size 4. The SON for a family of 4 is \$1,980. His period of ineligibility is shortened to 2 months since you can now divide the lump sum by the new SON.

How a Cash Lump Sum Will Affect Your Benefits If You Are Receiving Food Stamps:

- Cash lump sums are counted as an asset.
- You will have too many assets to qualify for food stamps if your cash lump sum is over the \$2,000 limit for one able-bodied person or \$3,000 for a person who is disabled or age 60 or older.
- Assets are counted as what you have at the first of the month. In the month you receive the money, you will be financially ineligible for Food Stamps, so you will have an overpayment for that month.
- If you get the money in multiple payments, then it counts as income when you receive it. You will be ineligible for benefits if your total monthly income is over the program's limit.

NOTE that if your lump sum comes from retroactive payments (e.g. SSI), retroactive annual adjustment from a VA disability pension, or a lump sum insurance settlement, DHS will not consider the amount when determining eligibility in the month received and as an asset thereafter.

How a Cash Lump Sum Will Affect Your Benefits If You Are Receiving SSI:

- Cash lump sums are counted as unearned income.
- A cash award would make you over the income limit in the month you receive it and over the asset limit in the following months if the amount you keep is over the \$2,000 asset limit for a single person or \$3,000 for a couple.

How a Cash Lump Sum Will Affect Your Benefits If You Are Receiving Medicaid or QUEST:

- Most cash lump sums are counted as unearned income.
- A cash award would make you over the income limit in the month you receive it and over the asset limit in the following months if the amount you keep is over the \$2,000 asset limit for a single person or \$3,000 for a couple.
- If you are also receiving cash assistance from DHS and it is terminated because of the lump sum, DHS will assume that your household has unearned income in the amount of the Standard of Need for a household of your size and add that to your other income when calculating eligibility. DHS will do this for the same number of months that you are ineligible for financial assistance.

Example #3

Sarah receives \$8,000 for a personal injury case. She was receiving cash assistance and QUEST when she got the lump sum. DHS will count the SON for a household of 1, which is \$980, as unearned income for the same number of months that Sarah is ineligible for cash assistance. The \$8,000 lump sum divided by the \$980 SON is approximately 8. Since Sarah is ineligible for cash assistance for 8 months, DHS will count \$980 as unearned income for 8 months. Sarah will still be eligible for QUEST if her total monthly income is less than the QUEST limit (the limit is 100% of the Federal Poverty Level, which is \$997 for a household of 1 in 2008).

Benefits NOT Affected By Cash Lump Sums

Federal public housing and Section 8 (HUD) programs do not have asset limits and do not count cash lump sums as income. Usually a cash lump sum will not affect your eligibility for these programs.

Medicare, Social Security Disability Insurance (SSDI), Widows Benefits, Dependents Benefits, Retirement Benefits, and other employment-based Social Security benefits are not need-based and do not have income and asset limits. Receiving a cash lump sum will not affect your eligibility for benefits.

How to Use Your Lump Sum Wisely:

Temporarily Remove Yourself from Cash Assistance

- To avoid the lump sum disqualification period (see above) in TANF/TAONF, GA and AABD programs, **you should remove yourself from benefits the month *BEFORE* you receive the money.** After you receive the lump sum, spend the money down (see below). Reapply for benefits the month *AFTER* you spend the lump sum.
- If the person who is to receive the lump sum must be included in the household unit, then the whole household unit must withdraw.
- *Reminder: You are only subject to the lump sum rule if you receive cash assistance from the welfare office (DHS).*

Spend Money Down Below the Asset Limits

- If you want to start receiving benefits again as soon as possible, spend the cash lump sum on assets that are considered exempt, (see below) or simply spend it down below and asset limits.
- The asset limit for TANF/TAONF is \$5,000 regardless of household size, and the asset limit for GA, AABD, Food Stamps, QUEST/Medicaid and SSI is \$2,000 for one person and \$3,000 for a couple.
- **This means that all of your assets, not just the lump sum, must be under those limits for you to be eligible for benefits.**
- The month *AFTER* you have spent the money down, reapply for benefits.

What Kind of Assets Are Exempt?

- ✓ The house you live in;
- ✓ All cars for TANF/TAONF, GA, AABD, Food Stamps, QUEST, and Medicaid;
- ✓ One car for SSI;
- ✓ Individual Development Accounts (IDA's) for TANF/TAONF;
- ✓ Burial plots;
- ✓ Funeral plans worth up to \$1,500; and
- ✓ Household goods and furnishings up to \$2,000.

Helpful Hints on Spending Down

- **Always keep receipts** to show how and when you spent the money. You may have a difficult time getting your benefits back if you don't keep receipts.
- Make sure you get the full value for the money you spend.
- Try to get the cash award early in the month (but after the first) so that you have about a month to spend it.
- Plan how you will spend the money before you receive it.

- You can also use the money to take a trip, prepay your rent or other bills, make home renovations, or get dental work or plastic surgery. NOTE: If you prepay rent, then get a receipt from your landlord that indicates for which future months the rent is paid.

Example #4: Julie receives cash assistance, food stamps, and QUEST from DHS and is about to get \$10,000. She does not want the lump sum rule to apply so she takes herself off of cash assistance the month before she gets the \$10,000. After receiving the money, she needs to spend it down below the asset limit. She can use the money to prepay her rent. She can also prepay other bills, such as water, electricity, and telephone. She does not have to use all of her cash award, just enough to keep her under the asset limit. Julie should also remember to keep all of her receipts so she can prove she spent the money wisely in the month. After she has spent the money down, she can reapply for cash benefits. Julie can keep her food stamp and QUEST cases open, because these programs do not have the lump sum rule. In other words, although you must report any money you receive, once you have spent the money, you can be eligible again.

Transfer of Asset Rule: DO NOT GIVE THE MONEY AWAY:

- If you want to continue receiving benefits, you should **not** give any of the money away. *This includes voluntarily placing the money into a trust.*
- If you get rid of your assets for less than the fair market value (FMV), you may be ineligible for benefits.
- *NOTE: There are NO transfer of assets penalties for QUEST or Medicaid recipients who are not inpatients at nursing homes.*

TANF/TAONF, GA and AABD

Within **24 months** before applying: If you dispose of assets worth more than \$5,000 for less than FMV in order to get cash aid, you will be ineligible.

The maximum period of ineligibility is **24 months**.

Food Stamps

Within **3 months** before applying: If you dispose of assets for less than FMV, you will be ineligible.

The maximum period of ineligibility is **one year**.

Public Housing and Section 8 (Housing and Urban Development “HUD”)

Within **2 years** before the date of application or reexamination:

If you dispose of the excess value of any family or business assets for less than FMV you may be ineligible.

If the asset was disposed of as part of a separation or divorce settlement, it will not be considered to be less than FMV if you received some kind of important compensation that is difficult to measure in dollar terms.

Medicaid (Inpatients Receiving Nursing Facility Care ONLY)

Within **36 months** before becoming an inpatient at a nursing home: If you or your spouse dispose of assets for less than FMV, then you will be ineligible for Medicaid coverage of nursing care for a period of time.

Within **60 months** before becoming an inpatient at a nursing home: If you or your spouse transfer your assets into an *irrevocable trust*, you will be ineligible for nursing care for a period of time.

Exceptions to the ineligibility rule:

- you transfer your home to certain family members;
- you or your spouse transfer assets other than your home to certain individuals;
- the assets you transferred are returned to you;
- you transferred the assets for reasons other than obtaining Medicaid; or
- a denial of coverage of nursing level care would cause undue hardship.

Supplemental Security Income (SSI)

SSA will look back **36 months** *before your application date* for any assets that you or your spouse transferred for less than FMV. SSA will also look at transfers that occur *while you are receiving SSI*. (SSA only looks at assets transferred on or after 12/14/99.)

These transfers may result in a period of ineligibility. The number of months you would be ineligible for SSI equals the total uncompensated value of any assets transferred divided by the full monthly SSI amount. The ineligibility period begins the month after the transfer.

The maximum period of ineligibility is **36 months**.

Exceptions to the ineligibility rule:

- you transfer assets to certain kinds of trusts;
- institutionalized individual or his/her spouse transfers a home to certain family members;
- you transfer assets other than your home to certain individuals;
- the assets you transferred are returned to you;
- you transferred the assets for reasons other than obtaining SSI; or
- a denial of SSI would cause undue hardship.

Other Related Matters:

You Have a Right to Fair Hearing or Other Appeal

If your benefits are denied, terminated, reduced, suspended, or if other “adverse action” is taken, then you have a **right to a fair hearing or other appeal**. You must file a timely written appeal. For more information, contact your caseworker or the Legal Aid Society immediately.

You Can Get Continued Medical Coverage If You Have High Medical Expenses

If you have medical expenses that are more than your cash award or excess income, you can still receive medical assistance. You may be eligible for QUEST/Medicaid, but with a **cost share**.

- The cost share amount is determined by subtracting the medically needy standard for your household size from your gross income.

Example #5: Mark has medical bills that total about \$1,000 per month. His gross monthly income is \$850. The medically needy standard for his household of 1 is \$469. Therefore, he must pay \$381 of his medical bills before his Medicaid coverage begins. Medicaid will then cover the rest of his medical expenses for that month.

$$\begin{array}{r} \$850 \text{ gross monthly income} \\ - \quad \$469 \text{ medically needy standard} \\ \hline = \quad \$381 \text{ monthly cost-share} \end{array}$$

- If you do not meet the cost-share for 3 consecutive months, then your medical assistance case will be closed.

You Have a Duty to Report Changes

You must immediately report cash lump sums that you receive to DHS, the Social Security Administration (“SSA”), Section 8, HUD, Hawai‘i Public Housing Authority (HPHA), or any other agency that gives you need-based benefits.

How Do I Make A Report?

- Make a written report.
- Copy your report. Either hand deliver the original and get your copy date-stamped or mail the original by certified mail and request a return receipt.
- If you are required to file a Six Month Eligibility Report Form (“SMRF”), then report the lump sum on the SMRF unless it is more than the allowed limit.
- If you are not required to file a SMRF, then you must report the lump sum within 10 calendar days of receiving the money.
- If an attorney represented you, then you are considered to have received the lump sum when your attorney received it on your behalf.



This brochure was created through the AmeriCorps Access to Justice Project at the Legal Aid Society of Hawaii.

Legal Terms to Know

AABD (Aid to the Aged, Blind, and Disabled): A state financial assistance program for people with a long-term disability.

Appeal: When you ask an agency to rethink its decision.

Cost Share: When you become over the QUEST/Medicaid income or asset limits, this is the amount you must pay toward your medical bills each month before your medical assistance begins.

Department of Human Services (DHS): This is the state agency that administers welfare cash assistance, Food Stamps, and QUEST/Medicaid.

GA (General Assistance): A state financial assistance program for people with a short-term disability.

Gross Monthly Income: This is the amount of money you receive each month before taxes are deducted.

Medically Needy Standard: This is a percentage of the 1993 Federal Poverty Level. DHS uses this number to determine what your cost share amount will be if you are over the financial limits for medical assistance.

SMRF (Six Month Eligibility Report Form): The form you must fill out every six months to report any changes in your income, assets, household size, or living situation.

Period of Ineligibility: This is the number of months you will be ineligible for DHS cash assistance because you received a cash lump sum while you were getting TANF, TAONF, GA or AABD.

Social Security Administration (SSA): The government agency that distributes SSI, SSDI, and Social Security.

SSI (Supplemental Security Income): A federal program that pays benefits to aged or disabled people who are financially needy.

Standard of Need (SON): This is the July 1993 Federal Poverty Level. DHS uses this number for the lump sum rule to determine the length of the ineligibility period.

TANF (Temporary Assistance to Needy Families)/TAONF (Temporary Assistance to Other Needy Families): This is a DHS cash assistance program for needy families with dependent children.

Unearned Income: This is money you receive that is not earned, such as legal settlements and inheritances.

Legal Aid Society of Hawai`i

www.legalaidhawaii.org

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