

**0360****RESOURCE TRANSFER****0360.05****LEGAL BASIS**

REV:12/2000

The Omnibus Budget Reconciliation Act (OBRA) of 1993 provides a penalty for institutionalized individuals who transfer or have transferred assets for less than fair market value on or after 8/11/93 when the transfer was made:

- o within 36 months immediately prior to or anytime after the date the individual was both institutionalized and applied for MA; or,
- o if the transfer involves a trust, within 60 months immediately prior to or anytime after the individual was both institutionalized and applied for MA.

The penalty is a period of RESTRICTED MA ELIGIBILITY during which payment is denied for Long Term Care Services, including nursing facility services, Intermediate Care Facility Services for the Mentally Retarded, administratively necessary days in a hospital, and home and community based waiver services.

See Section 0384 for a detailed discussion of this topic.