Guideline for Evaluating Annuities

Use this guide to determine if an annuity transaction is a potential transfer of asset. Do not use for IRA or annuities that were established by an employee or their employer relative to work.

Step 1	Was one or more of the following annuity transactions made on or after November 1, 2007 (within the look-back period) by or on behalf of an applicant/recipient? 1. purchase of an annuity; 2. addition of funds to an annuity; 3. elective withdrawals (other than regular scheduled payments) from the annuity; 4. changes to the annuity distribution; or 5. annuitizing of an annuity purchased prior to the November 1, 2007.	If **Yes**, continue to step 2. If **No**, evaluate the annuity under pre-Deficit Reduction Act (DRA) policies and go to step 9 if there is a community spouse.
Step 2	Is the annuity irrevocable? Check annuity language. If annuity language does not state "irrevocable", consider the annuity can be revoked, unless evidence to the contrary is provided.	If **Yes**, continue to step 3. If **No**, count as an asset the amount the purchaser would receive from the annuity issuer if the account was cancelled.
Step 3	Is the annuity non-assignable? Check annuity language. If annuity language does not state "nonassignable", consider the annuity assignable, unless evidence to the contrary is provided.	If **Yes**, continue to step 4. If **No**, count as an asset the amount the annuity can be sold for on the secondary market.
Step 4	Is the annuity actuarially sound (pays back all principal and interest within the life expectancy of the annuitant)? (Refer to 1640.0609.02 for procedure to determine actuarially sound).	If **Yes**, continue. If **No**, apply transfer of assets policies.
Step 5	Does the individual have a spouse, minor child or a disabled adult child in the community?	If **Yes**, continue to step 6. If **No**, go to step 7.
Step 6	If **Yes** to step 5, does the annuity name the spouse, minor child, or disabled adult child in the first beneficiary position and the state in either the first position or the second remainder beneficiary position?	If **Yes**, go to step 8. If **No**, apply transfer of asset policies.
Step 7	If **No** to step 5, does the annuity name the state (AHCA) in the first position as remainder beneficiary?	If **Yes**, continue to step 8. If **No**, apply transfer of asset policies.
Step 8	Does the annuity pay the applicant/recipient interest and principal in equal monthly payments with no balloon payments?	If **Yes**, do not consider the annuity under transfer of asset provision; exclude the annuity as an asset; count payments (principal & interest) as unearned income in eligibility and patient responsibility and continue to step 9 if there is a community spouse. If **No**, apply transfer of assets policies. Refer to section 1640.0600 and continue to step 9 if there is a community spouse.
Step 9	At the point of application by institutionalized spouse (or HCBS, PACE), was one or more of the following annuity transactions made on or after November 1, 2007 (look-back period) by or on behalf of a community spouse? 1. purchase of an annuity; 2. addition of funds to an annuity; 3. changes to the annuity distribution; or 4. annuitizing of an annuity purchased prior to the November 1, 2007.	If **Yes**, go to step 10. If **No**, evaluate the annuity under pre-DRA policies.
Step 10	Does the community spouse's annuity name the state (AHCA) in the first position as remainder beneficiary and is the community spouse's annuity actuarially sound? (Refer to 1640.0609.02 for procedure to determine actuarially sound).	If **Yes**, apply no transfer of asset policies. If community spouse asking for income allowance, count payments of principal and interest as community spouse's unearned income when determining the applicant/recipient's patient responsibility. If **No**, apply DRA transfer of assets policies.