

and regulations applicable to the Families and Children's categories outlined in Sections 8.100.2 through 8.100.5 and 8.100.8 through 8.106. Once eligibility is determined and the timeframe for an appeal has lapsed, the case file will be transferred to the county department in which the applicant(s) resides. The county department shall be responsible for the on-going maintenance and redetermination of the case.

8.100.2 GENERAL PROVISIONS (Continued)

- .23 The county department shall provide written information from the state department to the following people explaining the provisions of the Medical Assistance Estate Recovery Program and how those provisions may pertain to the applicant/client:
- A. Applicants age 55 and older.
 - B. Applicants who are institutionalized.
 - C. Applicants/clients who will turn age 55 before their next eligibility redetermination.
 - D. Clients approved for admittance to an institution.
- .235 An applicant and community spouse of an applicant for HCBS, PACE or institutional services shall disclose a description of any interest the applicant or spouse has in an annuity or similar financial instrument at the time of application, regardless of whether the annuity is irrevocable or treated as an asset.
- .236 The county department or medical assistance site shall provide written notice to any applicant for HCBS, PACE or institutional services that the Department shall be a preferred remainder beneficiary in any interest in any annuity or similar financial instrument of a Medicaid recipient or community spouse of a Medicaid recipient. This remainder beneficiary interest is for the total amount of medical assistance provided to the individual and applies to any annuity purchased on or after February 8, 2006.
- .237 The county department or medical assistance site shall notify in writing the issuer of any annuity or similar financial instrument described in 8.100.236 that the Department is a preferred remainder beneficiary in the annuity or similar financial instrument for the total amount of medical assistance provided to the individual. This notice shall require the issuer to notify the county department when there is a change in the amount of income or principal that is being withdrawn from the annuity.
- .24 A person who is eligible for medical assistance shall be free to choose any qualified and approved participating institution, agency, or person offering care and services

8.100.7 REDETERMINATION OF ELIGIBILITY (Continued)

- .74 A redetermination form, approved by the Colorado Department of Health Care Policy and Financing, shall be mailed to the person at least 30 days prior to the first of the month in which completion of eligibility redetermination is due. The redetermination form shall be used to inform the client of the redetermination and verification needed, but the form itself can not be required to be returned. The only verification that can be required at redetermination is the same minimal verification listed in Section 8.105.5 of this Staff Manual. The following procedures relate to mail-out redetermination:
- A. A Redetermination Form shall be mailed to the client together with any other forms to be completed;
 - B. A self-addressed, stamped, return envelope shall be mailed to the client with the required forms;
 - C. Required verification shall be returned by the client to the county department no later than ten working days after their receipt of the redetermination verification information requires form;
 - D. When the individual is unable to complete the forms due to physical, mental or emotional disabilities, or other good cause, and has no one to help him/her, the county shall either assist the client or refer him/her to a legal or other resource. When initial arrangements or a change in arrangements are being made, an extension of up to thirty days may be allowed. The action of the county department in assistance or referral shall be recorded in the case record.
 - E. The redetermination form shall require that a recipient and community spouse of a recipient of HCBS, PACE or institutional services disclose a description of any interest the individual or community spouse has in an annuity or similar financial instrument regardless of whether the annuity is irrevocable or treated as an asset. The redetermination form shall include a statement that the Department shall be a remainder beneficiary for any annuity or similar financial instrument purchased on or after February 8, 2006 for the total amount of medical assistance provided to the individual.
 - F. The county department shall notify in writing the issuer of any annuity or financial instrument described in 8.100.74.E. that the Department is a preferred remainder beneficiary in the annuity or similar financial instrument for the total amount of medical assistance provided to the individual. This notice shall require the issuer to notify the county department when there is a change in the amount of income or principal that is being withdrawn from the annuity.

8.110.5 FINANCIAL ELIGIBILITY REQUIREMENTS FOR INDIVIDUALS ELIGIBLE FOR THE COLORADO MEDICAID PROGRAM

8.110.55 Annuities

A. An annuity is a contract between an individual and a commercial company in which the individual invests funds and in return is guaranteed fixed substantially equal installments for life or a specified number of years.

1. Treatment of annuities purchased prior to July 1, 1995:

a. An annuity purchased prior to July 1, 1995 is not an available resource if it is annuitized and regular returns are being received by the annuitant. The funds received are income in the month received.

b. If the annuity purchased by the applicant/ client or his/her spouse has not been annuitized it shall be considered an available resource regardless of the irrevocable status.

2. Treatment of annuities purchased on or after July 1, 1995.

a. The purchase of an annuity shall be considered as a transfer of assets without fair consideration unless the following criteria are met:

1) The annuity is purchased from a life insurance company or other commercial company that sells annuities as part of its normal course of business; and,

2) The annuity is annuitized for the applicant/client or his/her spouse; and,

3) The annuity is purchased on the life of the applicant/client or his/her spouse; and,

4) The annuity provides payments for a period not exceeding the annuitant's projected life.

8.110.5 FINANCIAL ELIGIBILITY REQUIREMENTS FOR INDIVIDUALS ELIGIBLE FOR THE COLORADO MEDICAID PROGRAM

3. Treatment of annuities purchased on or after April 1, 1998.
 - a. The county department shall determine the MMMNA of the community spouse, if applicable. If the monthly payment amount provided by the annuity to the community spouse exceeds the MMMNA, the amount of the annuity which causes the monthly annuity payment to exceed the MMMNA shall be considered a transfer without fair consideration in determining the institutionalized spouse's eligibility. This subsection applies only to the extent that the transferred amount causes the CSRA to exceed the maximum.
 - b. The county department shall determine if the applicant/client is receiving substantially equal installments from the annuity for the period of the annuity. If the annuity is not paid in substantially equal installments, the original purchase price of the annuity shall be considered as a transfer without fair consideration.
 - c. For annuities purchased before February 8, 2006, if an annuity was purchased more than 36 months prior to the date of application, the penalty period for a transfer without fair consideration has expired. Any income received from the annuity shall be considered as income in the month received.
4. Provisions for annuities purchased on or after February 8, 2006. These provisions are in addition to those listed in 8.110.55.A.3.
 - a. An applicant for HCBS, PACE or institutional services shall disclose a description of any interest the individual or his or her community spouse has in an annuity or similar financial instrument, regardless of whether the annuity or financial instrument is irrevocable or is treated as an asset.
 - b. By providing HCBS, PACE or institutional services, the Department shall be a remainder beneficiary of the annuity or similar financial instrument.
 - c. The county shall notify the issuer of the annuity that the Department is a preferred remainder beneficiary in the annuity for medical assistance provided to the individual. This notice shall include a statement requiring the issuer to notify the county when there is a change in the amount of

8.110.5 FINANCIAL ELIGIBILITY REQUIREMENTS FOR INDIVIDUALS ELIGIBLE FOR THE COLORADO MEDICAID PROGRAM

income or principal that is being withdrawn from the annuity.

d. The purchase of an annuity shall be treated as a transfer without fair consideration unless:

- 1) The Department is named as the remainder beneficiary in the first position for the total amount of medical assistance paid on behalf of the individual; or
- 2) The Department is named as the remainder beneficiary in the second position after the community spouse or minor or disabled child and is named in the first position if such spouse or a representative of such child disposes of any such remainder for less than fair market value; or
- 3) The annuity is an Individual Retirement Annuity as described in Section 408(b) of the Internal Revenue Code of 1986; or
- 4) The annuity is part of a deemed Individual Retirement Account under a qualified employer plan as described in Section 408(q) of the Internal Revenue Code of 1986; or
- 5) The annuity was purchased with proceeds from:
 - a) An Individual Retirement Account as described in Section 408(a) of the Internal Revenue Code of 1986.
 - b) An account established by an employer or association of employers as described in Section 408(c) of the Internal Revenue Code of 1986.
 - c) A simple retirement account as described in Section 408(p) of the Internal Revenue Code of 1986.
 - d) A simplified employee pension as described in Section 408(k) of the Internal Revenue Code of 1986.

8.110.5 FINANCIAL ELIGIBILITY REQUIREMENTS FOR INDIVIDUALS ELIGIBLE FOR THE COLORADO MEDICAID PROGRAM

- e) A Roth IRA as described in Section 408A of the Internal Revenue Code of 1986; or
- 6) The annuity:
 - a) Is irrevocable and nonassignable; and
 - b) Is actuarially sound; and
 - c) Provides for payments in equal amounts during the term of the annuity, with no deferral and no balloon payments made.

8.110.5 FINANCIAL ELIGIBILITY REQUIREMENTS FOR INDIVIDUALS ELIGIBLE FOR THE COLORADO MEDICAID PROGRAM

8.110.56 Analysis of annuity to determine if purchase was a transfer without fair consideration

- A. To determine if a transfer of assets without fair consideration has occurred in the purchase of an annuity, the eligibility technician must review the annuity and:
 - 1. Determine the length of time of the return the annuity exceeds the reasonable life expectancy of the annuitant. The amount to be considered as a transfer of assets without fair consideration for this type of annuity shall be computed by using the Life Expectancy Tables contained in these regulations.
 - a. Determine the date on which the annuity was purchased.
 - b. Determine the amount of money used to purchase the annuity and the time period of return to the annuitant.
 - c. Determine the age of the annuitant at the time the annuity was purchased.
 - d. Determine the life expectancy of the annuitant at the time the annuity was purchased from the table contained in this section of these regulations. The appropriate table for male or female must be used.
 - e. If the return from the annuity exceeds the life expectancy of the annuitant, a transfer of assets without fair consideration exists for the portion of the annuity return that exceeds the life expectancy of the annuitant.
 - f. If the return of the annuity over its lifetime is less than the original purchase price, the difference shall be considered a transfer without fair consideration.
 - g. For annuities purchased before February 8, 2006, if the annuity was purchased more than 36 months prior to the date of application, the transfer period has expired and any income shall be considered as income in the month received.
 - h. If the return is equal to or more than the original purchase price, the annuity is not a transfer without fair consideration and the money received by the annuitant from the annuity is considered as income in the month received.

8.110.5 FINANCIAL ELIGIBILITY REQUIREMENTS FOR INDIVIDUALS ELIGIBLE FOR THE COLORADO MEDICAID PROGRAM

LIFE EXPECTANCY TABLE – MALES FOR ANNUITIES PURCHASED BEFORE FEBRUARY 8, 2006

<u>Age</u>	<u>Life Expectancy</u>	<u>Age</u>	<u>Life Expectancy</u>	<u>Age</u>	<u>Life Expectancy</u>	<u>Age</u>	<u>Life Expectancy</u>
0	71.80	30	44.06	60	18.42	90	3.86
1	71.53	31	43.15	61	17.70	91	3.64
2	70.58	32	42.24	62	16.99	92	3.43
3	69.62	33	41.33	63	16.30	93	3.24
4	68.65	34	40.23	64	15.62	94	3.06
5	67.67	35	39.52	65	14.96	95	2.90
6	66.69	36	38.62	66	14.32	96	2.74
7	65.71	37	37.73	67	13.70	97	2.60
8	64.73	38	36.83	68	13.09	98	2.47
9	63.74	39	35.94	69	12.50	99	2.34
10	62.75	40	35.05	70	11.92	100	2.22
11	61.76	41	34.15	71	11.35	101	2.11
12	60.78	42	33.26	72	10.80	102	1.99
13	59.79	43	32.37	73	10.27	103	1.89
14	58.82	44	31.49	74	9.27	104	1.78
15	57.85	45	30.61	75	9.24	105	1.68
16	56.91	46	29.74	76	8.76	106	1.59
17	55.97	47	28.88	77	8.29	107	1.50
18	55.05	48	28.02	78	7.83	108	1.41
19	54.13	49	27.17	79	7.40	109	1.33
20	53.21	50	26.32	80	6.98	110	1.25
21	52.29	51	25.48	81	6.59	111	1.17
22	51.38	52	24.65	82	6.21	112	1.10
23	50.46	53	23.82	83	5.85	113	1.02
24	49.55	54	23.01	84	5.51	114	0.96
25	48.63	55	22.21	85	5.19	115	0.89
26	47.73	56	21.43	86	4.89	116	0.83
27	46.80	57	20.66	87	4.61	117	0.77
28	45.88	58	19.90	88	4.34	118	0.71
29	44.97	59	19.15	89	4.09	119	0.66

8.110.5 FINANCIAL ELIGIBILITY REQUIREMENTS FOR INDIVIDUALS ELIGIBLE FOR THE COLORADO MEDICAID PROGRAM

LIFE EXPECTANCY TABLE – MALES FOR ANNUITIES PURCHASED ON OR AFTER FEBRUARY 8, 2006

<u>Age</u>	<u>Life Expectancy</u>	<u>Age</u>	<u>Life Expectancy</u>	<u>Age</u>	<u>Life Expectancy</u>	<u>Age</u>	<u>Life Expectancy</u>
0	74.14	30	45.90	60	19.72	90	3.70
1	73.70	31	44.96	61	18.96	91	3.45
2	72.74	32	44.03	62	18.21	92	3.22
3	71.77	33	43.09	63	17.48	93	3.01
4	70.79	34	42.16	64	16.76	94	2.82
5	69.81	35	41.23	65	16.05	95	2.64
6	68.82	36	40.30	66	15.36	96	2.49
7	67.83	37	39.38	67	14.68	97	2.35
8	66.84	38	38.46	68	14.02	98	2.22
9	65.85	39	37.55	69	13.38	99	2.11
10	64.86	40	36.64	70	12.75	100	2.00
11	63.87	41	35.73	71	12.13	101	1.89
12	62.88	42	34.83	72	11.53	102	1.79
13	61.89	43	33.94	73	10.95	103	1.69
14	60.91	44	33.05	74	10.38	104	1.59
15	59.93	45	32.16	75	9.83	105	1.50
16	58.97	46	31.29	76	9.29	106	1.41
17	58.02	47	30.42	77	8.77	107	1.33
18	57.07	48	29.56	78	8.27	108	1.25
19	56.14	49	28.70	79	7.78	109	1.17
20	55.20	50	27.85	80	7.31	110	1.10
21	54.27	51	27.00	81	6.85	111	1.03
22	53.35	52	26.16	82	6.42	112	0.96
23	52.42	53	25.32	83	6.00	113	0.89
24	51.50	54	24.50	84	5.61	114	0.83
25	50.57	55	23.68	85	5.24	115	0.77
26	49.64	56	22.86	86	4.89	116	0.71
27	48.71	57	22.06	87	4.56	117	0.66
28	47.77	58	21.27	88	4.25	118	0.61
29	46.84	59	20.49	89	3.97	119	0.56

Concl.

8.110.5 FINANCIAL ELIGIBILITY REQUIREMENTS FOR INDIVIDUALS ELIGIBLE FOR THE COLORADO MEDICAID PROGRAM

LIFE EXPECTANCY TABLE – FEMALES FOR ANNUITIES PURCHASED BEFORE FEBRUARY 8, 2006

<u>Age</u>	<u>Life Expectancy</u>	<u>Age</u>	<u>Life Expectancy</u>	<u>Age</u>	<u>Life Expectancy</u>	<u>Age</u>	<u>Life Expectancy</u>
0	78.79	30	50.15	60	22.86	90	4.71
1	78.42	31	49.19	61	22.06	91	4.40
2	77.48	32	48.23	62	21.27	92	4.11
3	76.51	33	47.27	63	20.49	93	3.84
4	75.54	34	46.31	64	19.72	94	3.59
5	74.56	35	45.35	65	18.96	95	3.36
6	73.57	36	44.40	66	18.21	96	3.16
7	72.59	37	43.45	67	17.48	97	2.97
8	71.60	38	42.50	68	16.76	98	2.80
9	70.61	39	41.55	69	16.04	99	2.64
10	69.62	40	40.61	70	15.35	100	2.48
11	68.63	41	39.66	71	14.66	101	2.34
12	67.64	42	38.72	72	13.99	102	2.20
13	66.65	43	37.78	73	13.33	103	2.06
14	65.67	44	36.85	74	12.68	104	1.93
15	64.68	45	35.92	75	12.05	105	1.81
16	63.71	46	35.00	76	11.43	106	1.69
17	62.74	47	34.08	77	10.83	107	1.58
18	61.77	48	33.17	78	10.24	108	1.48
19	60.80	49	32.27	79	9.67	109	1.38
20	59.83	50	31.37	80	9.11	110	1.28
21	58.86	51	30.48	81	8.58	111	1.19
22	57.89	52	29.60	82	8.06	112	1.10
23	56.92	53	28.72	83	7.56	113	1.02
24	55.95	54	27.86	84	7.08	114	0.96
25	54.98	55	27.00	85	6.63	115	0.89
26	54.02	56	26.15	86	6.20	116	0.83
27	53.05	57	25.31	87	5.79	117	0.77
28	52.08	58	24.48	88	5.41	118	0.71
29	51.12	59	23.67	89	5.05	119	0.66

8.110.5 FINANCIAL ELIGIBILITY REQUIREMENTS FOR INDIVIDUALS ELIGIBLE FOR THE
COLORADO MEDICAID PROGRAM

LIFE EXPECTANCY TABLE – FEMALES FOR ANNUITIES PURCHASED ON OR AFTER
FEBRUARY 8, 2006

<u>Age</u>	<u>Life Expectancy</u>	<u>Age</u>	<u>Life Expectancy</u>	<u>Age</u>	<u>Life Expectancy</u>	<u>Age</u>	<u>Life Expectancy</u>
0	79.45	30	50.53	60	23.06	90	4.47
1	78.94	31	49.56	61	22.24	91	4.15
2	77.97	32	48.60	62	21.43	92	3.86
3	77.00	33	47.63	63	20.63	93	3.59
4	76.01	34	46.67	64	19.84	94	3.35
5	75.03	35	45.71	65	19.06	95	3.13
6	74.04	36	44.76	66	18.30	96	2.93
7	73.05	37	43.80	67	17.54	97	2.75
8	72.06	38	42.86	68	16.80	98	2.58
9	71.07	39	41.91	69	16.07	99	2.43
10	70.08	40	40.97	70	15.35	100	2.29
11	69.09	41	40.03	71	14.65	101	2.15
12	68.09	42	39.09	72	13.96	102	2.02
13	67.10	43	38.16	73	13.28	103	1.89
14	66.11	44	37.23	74	12.62	104	1.77
15	65.13	45	36.31	75	11.97	105	1.66
16	64.15	46	35.39	76	11.33	106	1.55
17	63.17	47	34.47	77	10.71	107	1.44
18	62.20	48	33.56	78	10.11	108	1.34
19	61.22	49	32.65	79	9.52	109	1.25
20	60.25	50	31.75	80	8.95	110	1.16
21	59.28	51	30.85	81	8.40	111	1.07
22	58.30	52	29.95	82	7.87	112	0.99
23	57.33	53	29.07	83	7.36	113	0.91
24	56.36	54	28.18	84	6.88	114	0.84
25	55.39	55	27.31	85	6.42	115	0.77
26	54.41	56	26.44	86	5.98	116	0.71
27	53.44	57	25.58	87	5.56	117	0.66
28	52.47	58	24.73	88	5.17	118	0.61
29	51.50	59	23.89	89	4.81	119	0.56