
AGENCY POLICY

Divestment means the transfer of assets for less than fair market value for any of the following reasons:

- To qualify for program benefits.
- To remain eligible for program benefits.

Transfer of assets means giving, selling or trading assets to an individual/someone other than an asset group member. This includes a change from sole to joint ownership.

Divestment occurred:

- If an asset group member knowingly transferred assets during the three calendar months before the month of the application date.
- Knowingly transferred after the household is determined eligible for benefits. If divestment occurred, calculate a disqualification period.

The following are not divestment:

- The individual transfers assets for at or near fair market value.
- The individual sold or traded the asset for another asset at or near equal value.
- The asset sold, traded or given away is excluded in policy; see Bridges Eligibility Manual (BEM) 400.

Reminder:

- Unavailable assets are included in determining divestment.
- Traditional Categorically eligible households do not have to meet an asset limit.

**DIVESTMENT
DETERMINATIONS**

The value of a divested asset(s) is the cash or equity the asset group member(s) would have received had they sold it for at or near its fair market value.

Disqualified Group Members

When divestment occurs, the FAP case is closed for the disqualification period. The adults 18 and over remain disqualified during the entire disqualification period, even if they become a member of another FAP group.

Exception: If a child(ren) under 18 in the disqualified group leaves the FAP group, they can regain eligibility in the new FAP group.

Calculated Amount Divested

Determine the amount divested as follows:

Value of Divested Asset + Other Countable Assets = Total Countable FAP Assets

Total Countable FAP Assets - FAP Asset Limit = Calculated Amount Divested

Length of Disqualification Period

The calculated amount divested determines the disqualification period as follows:

Calculated Amount in Excess of FAP Asset Limit	Disqualification Period
\$.01 - 249.99	1 Month
250 - 999.99	3 Months
1,000 - 2,999.99	6 Months
3,000 - 4,999.99	9 Months
5,000 or more	12 Months

Start the disqualification period with the month of application if it is verified the divestment occurred before the FAP EDG is certified.

Ensure timely notice of negative action if the FAP group is participating when the divestment is discovered. The DHS-1605 will explain the reason for and length of the disqualification period.

The disqualification will be effective the first month after the negative action date.

Note: If case is being reinstated, but the client will still be denied due to divestment, the specialist will need to send the client a DHS-176, Benefit Notice, to inform them of the divestment and the disqualification period.

Examples

Example 1: Sammy applies for FAP in September and has never received benefits. He is eligible for FAP so his case is opened in October. It is later discovered that he may have divested, so verification is requested. He has existing assets of \$1000 and it is determined he divested \$800 in May, \$550 in July and \$4,000 in August.

- $\$4,550$ (Value of Divested Asset) + $\$1000$ (Other Countable FAP Assets) = $\$5,550$ (Total Countable FAP Assets)
- $\$5,550$ (Total Countable FAP Assets) - $\$5,000$ (FAP Asset Limit) = $\$550$ (Calculated Amount Divested)

He is disqualified for three months, beginning in December.

Note: May's divestment of \$800 is not included because it is more than three months prior to the month of application.

Example 2: Sally and her children apply for FAP and are eligible for expedited processing. She has an existing divestment disqualification so her application is denied.

Example 3: Mom, dad and two children have an ongoing FAP case. They win \$10,000 in the lottery and have \$300 in other countable assets. Case closes for excess assets. The client calls during the negative action period and indicate they have \$500 left and gave the remainder to their family so they could still receive FAP.

- $\$10,000$ (Value of Divested Asset) + $\$300$ (Other Countable FAP Assets) = $\$10,300$ (Total Countable FAP Assets)
- $\$10,300$ (Total Countable FAP Assets) - $\$5,000$ (FAP Asset Limit) = $\$5,300$ (Calculated Amount Divested)

The disqualification period is 12 months and the case will close.

Using the previous example, dad and children move in with his girlfriend who receives FAP and is the head of household (HOH). They all purchase and prepare together. Dad continues to be disqualified for the remainder of the 12 month period, but the children are eligible group members on the girlfriend's case. Dad is working and all of his income is budgeted on the FAP case; see BEM 550. Any allowable expenses listed in BEM 554 are allowed.

RECOUPMENT

Disqualification periods are served forward and not retroactive therefore, recoupment is not necessary. When it is discovered an incorrect disqualification period was established, a policy exception override request is needed; see BEM 100. The Central Office staff will adjust the disqualification period.

Example: The value of the divested asset is entered as \$600 resulting in a three month disqualification period starting in June. In August a data entry error is discovered and it should have been \$6,000. The increased divested asset value results in a 12 month disqualification period. The central office exception staff will adjust the divestment period. The client will serve the remaining 11 month disqualification period starting with September and going through June. Send them a DHS-176, Benefit Notice, informing them of the change in the disqualification period.

VERIFICATION REQUIREMENTS

Verification of divestment is required when:

- The client's statement is unclear, inconsistent or conflicts with known facts.
- Existing information in the case record indicates divestment might have occurred.

When the client states a transfer has been made verify the transfer and the reason for the transfer.

Document the following in the case:

- The divestment determination.
- The date and method of verification.
- Verification sources.

Verification sources and reasons for the asset transfer include, but are not limited to, the following:

- Legal documents.
- Payment or tax records.
- Bills of sale.
- Court or attorney records.
- Correspondence regarding the transaction.
- Bank/credit union statements.

LEGAL BASE

FAP

7 CFR 273.8(h)