

Determining if a Transfer of an Asset is Disqualifying

A transfer of an asset is not disqualifying if the requirements of OAR [461-140-0242](#) or one of the following sections are met:

- (1) The asset was excluded as personal belongings as described in OAR [461-145-0390](#).
- (2) The asset was sold or traded for compensation equal to or greater than fair market value.
- (3) The transfer settled a legally enforceable claim against the asset or individual.
- (4) The amount of the resource was equal to or less than the amount that was excluded at the *initial month* (see OAR [461-001-0000](#)) of eligibility under OAR [461-160-0855](#) due to payments received under a *qualified partnership policy* (see OAR [461-001-0000](#)).
- (5) Except for individuals applying for or receiving Department-based nursing facility services or *home and community-based care* (see OAR [461-001-0030](#)), one of the following is true:
 - (a) A court ordered the transfer;
 - (b) The individual was a victim of fraud, misrepresentation, or coercion, and legal steps have been taken to recover the asset; or
 - (c) The asset was transferred between members of the same financial group, including members who are ineligible noncitizens or disqualified people.
- (6) For individuals applying for or receiving Department-paid nursing facility services or *home and community-based care*, one of the following is true:
 - (a) The transfer occurred more than 60 months before the *date of request* (see OAR [461-115-0030](#)).

- (b) The asset is an annuity purchased on or after July 1, 2006, and the annuity meets the requirements of OAR [461-145-0022](#)(10).
- (c) The individual was a victim of fraud, misrepresentation, or coercion, and one of the following is true:
 - (A) Legal steps have been taken to recover the asset; or
 - (B) The individual is unable to take legal action due to incapacity, there is no legal representative who can act on their behalf, and a referral has been made to Oregon Adult Protective Services.
- (d) There is an *institutionalized spouse* (see OAR [461-001-0030](#)) and one of the following is true:
 - (A) The transfer is made in accordance with OAR [461-160-0580](#)(3).
 - (B) The asset was transferred to either spouse prior to completing the calculation under OAR [461-160-0580](#) and remains countable for purposes of completing the calculation.

Statutory/Other Authority: ORS [409.050](#), [410.070](#), [411.060](#), [411.070](#), [411.404](#), [411.816](#), [412.049](#), [413.085](#), [414.042](#), [414.685](#)

Statutes/Other Implemented: ORS [409.010](#), [410.070](#), [411.060](#), [411.070](#), [411.404](#), [411.708](#), [411.816](#), [412.049](#), [414.025](#)

There is no previous rules dated January 1, 2014 or later.

This website displays **unofficial** administrative rules with an effective date of January 1, 2014 and after. For official administrative rules, please visit the [Secretary of State Chapter 461 website](#). For administrative rule versions effective before January 1, 2014, submit a public records request to the [Secretary of State public records request website](#).