

I-1630 NEED - SSI-RELATED RESOURCES**I-1631 REQUIREMENT**

Countable resources shall not exceed the allowable limits of:

- \$2,000 per individual, or
- \$3,000 per couple.

Exception:

Grandfathered and/or converted beneficiaries shall have their resources compared to the limits established on or prior to December 31, 1973.

Effective October 1, 2019, all resources shall be disregarded in eligibility determinations for Qualified Medicare Beneficiary (QMB), Specified Low-Income Medicare Beneficiary (SLMB) and Qualifying Individual (QI) Programs.

Refer to [Z-900 Resource Limits by Program](#).

I-1632 RESOURCE UNIT

The resource unit is the individual or group of individuals whose resources must be considered in determining eligibility.

I-1633 GENERAL INFORMATION

Count resources as of the first moment of the first day of the month.

Changes in resources during the month do not affect resource eligibility for the month. If resources are acquired during the current month, re-evaluate resource eligibility as of the first day of the following month.

Since money shall not be considered as income and a resource in the same month, do not count as a resource any money considered as income.

Occasionally, a regular periodic payment (e.g., wages, title II, or VA benefits) is received in a month other than the month of normal receipt. Such funds are first subject to evaluation as resources in the month following the month of normal receipt. Refer to [I-1500 Need – Income](#) for how the income should be counted.

- **Income remaining the first day of the month after the month of receipt becomes a resource.**

Exception:

SSI and RSDI lump sum payments received prior to March 2, 2004 are excluded as resources for six months. Payments received after March 2, 2004 are excluded for nine months. Refer to **Lump Sum Payments**.

Money received to enable the beneficiary to pay outstanding debts for medical or social services (e.g., payment received from Medicare for an outstanding debt) is excluded as a resource for one full calendar month following the month of receipt. Any funds retained as of the first moment of the second month following receipt are included as a countable resource at that time.

Refer to [I-1660, Spousal Impoverishment Resource Provisions](#), for additional information regarding resources of LTC, HCBS or PACE applicants/beneficiary(s) with community spouses.

Refer to [I-1670, Transfer of Resources for Less Than Fair Market Value](#), for policy concerning transferred resources.

If the applicant/beneficiary is a child or a qualified non-citizen, refer to [I-1420, Need - Deeming](#).

Resources are available if:

- The resource unit has legal means to access,

Note:

"Legal means to access" includes property settlement and succession. If there is any way the person can legally obtain the resource, then it is considered available.

- The cash value is available to the resource unit, or
- Held by a representative payee, legal guardian, or curator on

behalf of an applicant/beneficiary. These resources are treated as though the applicant/beneficiary were controlling and managing them.

Consider the resource available to the applicant/beneficiary regardless of:

- Power of attorney,
- Interdiction,
- Need for interdiction, or
- The fact that a succession has not been opened or settled.

Equity value is the amount for which the resource can be expected to sell on the open market in the particular geographic area (fair market value) less legal encumbrances to the resource.

To establish equity, the encumbrance must be recognized as legally binding on the holder of the resources.

The inability to find a buyer for the resource does not affect the determination of countable value.

An encumbrance may also exist when the applicant/beneficiary has written a check and legally obligated funds from a bank account. Refer to **Bank Accounts**.

I-1634 TYPES OF RESOURCES (SSI-Related)

▪ Louisiana Achieving a Better Life Experience (ABLE) Account

Achieving a Better Life Experience (ABLE) account is a tax-advantaged savings account that enables individuals with disabilities to save money which can later be used to pay for qualified disability expenses (QDE).

Do not count funds in an ABLE account as a resource.

Note:

SSI counts as a resource the amount of an ABLE account that is over \$100,000. If the countable amount of the ABLE account causes the individual to have resources that exceed the SSI

resource limit, SSI benefits are suspended until the resources are reduced below the SSI limit. Medicaid eligibility continues during the suspension.

- **Accumulated Resources due to the COVID-19 Public Health Emergency**

Disregard resources accumulated from March 18, 2020 through March 31, 2023 that would have otherwise been part of an individual's liability for his or her institutional or home and community-based waiver services based on application of the post-eligibility treatment of income (PETI) rules. Such resources will continue to be disregarded through the twelfth month following the first full redetermination of the beneficiary's eligibility conducted after March 31, 2023.

Note:

If accumulated resources are commingled with countable funds, assume countable funds are spent first.

- **Agent Orange Settlement Payments**

Do not count unspent portions of Agent Orange Settlement payments.

Note:

Do not count as income any interest earned on the unspent portion. Any interest retained after the month of receipt becomes a resource.

- **Annuities**

For employment related annuities, refer to **Retirement Funds**.

For Medicaid eligibility purposes an annuity is considered a legal instrument or device similar to a trust (Refer to [I-1730, Trusts Established After August 11, 1993](#)). An annuity is defined as a contract or agreement by which one receives fixed non variable payments on an investment for a lifetime or a specified number of years.

Treatment of Annuities created January 1, 2003 thru February 7, 2006

An annuity containing a balloon payment will be considered an available resource. An annuity purchased by or for an individual using that individual's assets will be considered an available resource unless all of the following criteria are met. The annuity:

1. Is irrevocable;
2. Pays out principal and interest in equal monthly installments (no balloon payment) to the individual in sufficient amounts that the principal is paid out within the actuarial life expectancy of the institutionalized individual,
3. Names the State of Louisiana, Louisiana Department of Health (LDH) or its successor agency as the primary and permanent residual beneficiary of funds remaining in the annuity, not to exceed any Medicaid funds expended on the individual during their lifetime, and
4. Is issued by an insurer or other body licensed and approved to do business in the jurisdiction in which the annuity is established.

Annuities which do not meet all of the above criteria must be amended to comply with these requirements. Annuities which do not provide for pay out of principal and interest in equal monthly installments and for which documentation is received from the issuing company that the "pay out" arrangements cannot be changed, will be considered to meet the new requirements once amended to name the State of Louisiana, Department of Health and Hospitals or its successor agency as the primary and permanent residual beneficiary of funds remaining in the annuity, not to exceed any Medicaid funds expended on the individual during their lifetime .

Note:

The Department of Insurance web site can be used to determine if a company is licensed and approved to do business in LA. The site is www.lidi.state.la.us. Use the Industry Search feature, at Search Forms use Company Search Form. The name of the company is entered for the search.

Use [Z-1200 Life Expectancy Tables](#) to determine actuarial life expectancy of the annuitant when necessary.

Treatment of Annuities created on or after February 8, 2006

Effective February 8, 2006, all long term care applicants, including SSI beneficiaries, were required to disclose on their application and renewals for Medicaid assistance, a description of any interest the applicant or community spouse may have in an annuity. The disclosure is a condition for Medicaid coverage of long term care services, including nursing facility services and home and community based waiver services.

This disclosure requirement applies regardless of whether or not an annuity is irrevocable or is treated as an asset.

Note:

Application and renewal forms for long term care are required to include a statement that names the State as a remainder beneficiary on any annuity purchased on or after February 8, 2006 by virtue of the provision of medical assistance for institutional care.

Requirement to Name the State as Beneficiary

The requirement to name the state as a remainder beneficiary is not restricted to annuities purchased by or on behalf of an institutionalized individual who has applied for medical assistance for nursing facility or other long term care services. It applies to annuities purchased by an applicant or by a spouse, and to transactions made by the applicant or spouse.

An annuity must name the State as the remainder beneficiary in the first position for the total amount of Medicaid assistance paid on behalf of the institutionalized individual unless there is a community spouse and/or a minor or disabled child. If there is a community spouse and/or a minor or disabled child, the State may be named in the next position after those individuals.

If the state has been named beneficiary after a community spouse and or a minor or disabled child, and any of those individuals or their representatives dispose of any of the remainder of the annuity for less than fair market value, the State may then be named in the first position.

If the state is not named as a remainder beneficiary in the correct position, the purchase of the annuity will be considered a transfer for less than fair market value if it was obtained within the 60 month

lookback period. The full purchase value of the annuity will be considered the amount transferred. If the annuity was purchased outside of the lookback period, the full Fair Market Value should be counted as a resource.

For any annuity disclosed, Medicaid must also notify the issuer of the State's right as a preferred remainder beneficiary.

Medicaid may also require the issuer to notify it regarding any changes in disbursement of income or principal from the annuity.

The issuer of an annuity may disclose information about the State's position as remainder beneficiary to others who have a remainder interest in the annuity.

Refusal to disclose sufficient information related to any annuity will result in denial or termination of Medicaid entirely, based on the applicant's failure to cooperate in accordance with existing Medicaid policies.

When an unreported annuity is discovered after eligibility has been established and after payment for long-term care services has been made, appropriate steps to terminate payment for long term care services will be taken, including appropriate notice to the individual of the adverse action.

In addition to purchases of annuities, certain related transactions which occur to annuities on or after February 8, 2006 make an annuity, including one purchased before that date, subject to all of the annuity provisions that went into effect on February 8, 2006.

Any action taken on or after February 8, 2006 by the individual that changes the course of payment to be made by the annuity or the treatment of the income or principal of the annuity, including:

- Additions of principal,
- Elective withdrawals,
- Requests to change the distribution of the annuity,
- Election to annuitize the contract and similar actions taken by the individual.

Routine changes and automatic events that do not require any

action or decision after the effective date of the enactment are not considered transactions that would subject the annuity to treatment under these provisions that went into effect on February 8, 2006.

Treatment of Annuities in Determining Eligibility

The following types of annuities are not treated as a transfer of assets if the annuity meets the following conditions (these conditions do not apply to an annuity owned or purchased by the community spouse):

- a) The annuity is considered either :
 - (1) An individual retirement annuity (according to Section 408(b) of the Internal Revenue Code of 1986 (IRC)), or
 - (2) A deemed Individual Retirement Account (IRA) under a qualified employer plan (according to Section 408(q) of the IRC); or
- b) The annuity is purchased with proceeds from one of the following:
 - (1) A traditional IRA (IRC Sec. 408a); or
 - (2) Certain accounts or trusts which are treated as IRAs (IRC Section 408 §(c)); or
 - (3) A simplified retirement account (IRC Sec. 408 §(p)); or
 - (4) A simplified employee pension (IRC Sec. 408 §(k)); or
- c) The annuity meets all of the following requirements:
 - (1) The annuity is irrevocable and non-assignable; and
 - (2) The annuity is actuarially sound; and
 - (3) The annuity provides payments in approximately equal amounts, with no deferred or balloon payments.

Applicants or their responsible or authorized representative will be responsible for providing documentation from the financial institution for verifying qualifying IRS annuities. Absent such

documentation, the purchase of the annuity will be considered a transfer for less than fair market value which is subject to penalty. The full purchase value of the annuity will be considered the amount transferred.

Even if the purchase of an annuity is not treated as a transfer, if the annuity or income stream from the annuity is transferred, it may be subject to a penalty except when transferred;

- To or for the spouse's sole benefit,
- To their child who is under age 21 or blind or disabled,
- Or to a trust established solely for the benefit of an individual under 65 years of age who is disabled,

Consideration of Income and Resources from an Annuity

Even when an annuity is not penalized as a transfer of resources, it must still be considered in determining eligibility, including spousal income and resources, and in the post eligibility calculation.

Count Income or resources derived from an annuity in determining eligibility.

The state is required to notify the issuer of any annuity disclosed under these provisions of the state's rights as a preferred beneficiary. The state may require the issuer to notify it regarding any changes in disbursement of income or principal from the annuity.

▪ Bank Accounts

Count the balance shown by the bank for the first moment of the first day of each month for which eligibility is considered.

Advise the applicant/beneficiary and/or the authorized representative:

- Of their responsibility to furnish information on all bank accounts, and
- That a computer match to the IRS 1099 file will be done.

Investigate all accounts declared by the applicant/*beneficiary/ authorized representative or reported by any other source.

Do not count income received in a month and deposited in a bank account in determining resource eligibility for that month.

An encumbrance is defined as a legal obligation to pay a debt. An encumbrance may exist when a check has been written from a bank account, and it has not cleared by the first moment of the first day of the month in which eligibility is considered. To establish the equity value of a bank account, an encumbrance may be deducted from the bank account balance.

When the applicant/beneficiary and/or the authorized representative allege that a check was written that legally obligated funds in an account, determine that:

- The check was written prior to the month for which eligibility is considered (copy of check and/or check registry),
- The amount of the check was deducted from the bank account the month which eligibility is considered, and
- The check was not written with the purpose to reduce resources in order to qualify for Medicaid (establish historical patterns).

Example:

The applicant's bank statement shows an account balance of \$2,050 as of May 1. The applicant alleges the statement balance includes a rent check of \$500 which was written and given to the landlord on April 25, but the landlord has not yet cashed the check.

Review of the applicant's bank statement shows a \$500 check was written on April 25, and the check cleared the bank and has been deducted from the applicant's account. Further review of the applicant's bank statements shows a history s/he has written a \$500 check to their landlord for rent on the 25th of each month for the last six months.

Since there is evidence that the applicant has written the check and has legally obligated those funds in the account, and their records provide a complete and consistent picture of the account, deduct the \$500 check from the May 1 account balance of \$2,050 as of May 1.

The new balance of \$1,550 is considered in determining resource eligibility.

Count direct deposits made at the end of a month for the following month as income in the month for which it is intended. The balance is considered a resource the first day of the following month (e.g., SSA income).

Bank accounts can be set up in a variety of ways including individual accounts, joint accounts, funds held in the account of another, or charitable funds accounts.

Verify and document bank account balances. Banks statements can be used as verification only if the balance as of the last day of the month is included.

Individual Accounts

Count the value of funds maintained in a checking or a savings account on which the applicant/beneficiary's name appears.

Joint Accounts

Restricted Access ("and") Accounts

Count the value of the applicant/beneficiary's ownership interest in the account less encumbrances if:

- The funds are held jointly with an ineligible individual(s), and
- The applicant/beneficiary has restricted access.

Ownership interest is presumed to be the applicant/beneficiary's equal share, unless the applicant/beneficiary rebuts this presumption.

Rebuttal for Restricted Access Accounts

The applicant/beneficiary may rebut the presumption(s) if:

- Access is denied by the other owners, or
- The applicant/beneficiary does not consider

themselves owner of at least an equal share of the account.

The following documentation is required to rebut the presumption:

- A written statement from the applicant/beneficiary or authorized representative giving their statement regarding:
 - Ownership of the funds,
 - The reason the joint account was established,
 - Who made deposits to or withdrawals from the account,
 - How the withdrawals were spent, and
- Corroborating statements from the other account holder(s).

The applicant/beneficiary must:

- Change the account designation to remove their name, or
- Establish a new account in his/her name which contains only their funds.

The applicant/beneficiary must submit the original new or revised account records to document the change.

If the rebuttal is successful, consider the change in the "and" account effective the date of application.

Presumption of equal share is upheld if the applicant/beneficiary:

- Chooses not to rebut the presumption, or
- Does not provide all documents necessary to rebut the presumption.

If the presumption is upheld, count an equal share of the joint account(s).

Unrestricted Access ("or") Accounts

The applicant/beneficiary is presumed to be the owner of all of the funds held in an unrestricted access account.

Count the total value of the account less encumbrances regardless of the source of the funds if:

- The funds are held jointly with an ineligible individual(s), and
- The applicant/beneficiary has unrestricted access.

Count an equal share of the account regardless of the source of the funds if:

- Two or more eligible applicants/beneficiaries are holders of the same joint account with or without ineligible individuals, and
- Each has unrestricted access to the funds in the account.

Rebuttal for Unrestricted Access Accounts

The applicant/beneficiary may rebut the presumption(s) if:

- There is unrestricted access, and
- The applicant/beneficiary does not consider themselves owner of all or part of the funds.

The following documentation is required to rebut the presumption of full or partial ownership:

- A written statement from the applicant/beneficiary or responsible party giving their statement regarding:
 - Ownership of the funds,
 - The reason the joint account was established,

- Who made deposits to or withdrawals from the account, and
- How the withdrawals were spent,
- Corroborating statements from the other account holder(s),
- A change in the name of the account(s) to correctly reflect ownership, or establishment of a new account in the applicant/beneficiary's name which contains only their funds if they claim partial ownership, and
- Submittal of the original new or revised account records to document the change.

If the rebuttal is successful, consider the change in the "or" account effective the date of application.

Presumption of ownership is upheld if the applicant/beneficiary:

- Chooses not to rebut the presumption,
- Does not provide all documents necessary to rebut the presumption, or
- Does not change the account and submit documentation as required after a successful rebuttal.

If the presumption is upheld:

- Count the full value of the joint account(s) if held with an ineligible person(s), or
- Count an equal share of total funds if held with one or more eligible person(s).

Funds Held In The Account of Another

Count the value of funds held for an applicant/beneficiary in the account of another if:

- The holder of the account agrees that the funds belong to the applicant/beneficiary, and
- The funds are available to the applicant/beneficiary.

Encourage the applicant/beneficiary to:

- Correctly name the account at the financial institution, or
- Convert their share to a correctly named account.

Do not count the value of the funds if the holder(s) of the account:

- Will not acknowledge the applicant/beneficiary's ownership of the funds, or
- Denies the applicant/beneficiary access to the funds.

Documentation shall include written statements from the applicant/beneficiary and the holder of the account.

Charitable Funds Bank Accounts

Count the value of funds in an account set up to receive and hold charitable contributions if:

- The name of the applicant/beneficiary is on the account, and
- The funds are available to the applicant/beneficiary.

Dedicated Accounts

Do not count as a resource. Account set up for a person under 18 years of age with a representative payee, who is eligible for a lump sum for past-due SSI benefits. If the lump sum is 6 times the FBR, SSA requires the representative payee to establish a dedicated account in a financial institution for the money to be deposited. Subsequent past due benefits may be but are not required to be deposited in the account. The money is to be kept separate from other money and used for certain expenses. Do not count interest earned on the accounts as income or resources.

Direct Express Card Account

The Direct Express Card allows individuals receiving Social Security or Supplemental Security Income payments to have their benefit directly deposited in their card account. Count direct deposits as income in the month for which it is intended. The balance is considered a resource the first day of the following month.

▪ **Bonds**

A bond is:

- A written obligation to pay a sum of money on a future, specified date,
- Not cash but a promise to pay cash,
- A negotiable instrument, and
- Transferable.

Municipal, Corporate, and Government Bonds

A municipal bond is an obligation of a:

- State,
- Locality (county, parish, city, town, village), or
- Special-purpose authority (e.g., a school district).

Corporate bonds include bonds and debentures of private corporations.

U.S. government bonds are distinct from U.S. Savings Bonds as they are transferable obligations issued or backed by an agency of the federal government.

Count the current bond market value.

A municipal or corporate bond must be held until the specified date of maturity for it to be redeemed for the stated value.

The current cash value of a bond before maturity is determined by the bond market.

It is the applicant/beneficiary's responsibility to provide a written statement from a securities dealer verifying the value.

U. S. Savings Bonds

A U.S. Savings Bond:

- Is an obligation of the federal government,
- Is not transferable,
- Can only be sold back to the government,

Savings bonds are issued as traditional paper bonds or as book-entry securities. Book-entry securities (also called savings security instruments or electronic savings bonds) are sold online by the U.S. Treasury Department.

The individual in whose name a U.S. Savings Bond is registered is the owner. The owner may name a beneficiary of the bond but retains sole ownership rights throughout their lifetime. Upon death of the owner the beneficiary then becomes the new owner.

Paper bonds may have co-owners. Each individual owns equal shares of the redemption value of the bond.

Some electronic bonds called "with" bonds may have the owner listed with one additional person. The additional person listed has authority to cash the bond but has no ownership rights.

Ownership of paper bonds is noted on the front of the bond and can be verified by viewing the bond itself. Ownership of electronic bonds is maintained by the Treasury Department and verification is obtained by the owner downloading a record of the holdings from the Treasury Department.

Physical possession of a paper bond is a requirement for redeeming it. If a person other than the applicant/beneficiary will

not relinquish possession of the bond, it is not a resource. This applies to sole and co-ownership bonds. Obtain a statement from this other person verifying that s/he:

- Has physical possession of the bond,
- Will not allow the bond to be cashed, and
- In the case of a co-owner, will not cash the bond and give the individual their share of its value.

Physical possession does not apply to electronic bonds.

U.S. Savings Bonds are subject to a mandatory retention period before they can be redeemed and therefore are excluded from resources as following:

- Series E, EE, and I bonds issued prior February 1, 2003 for the first 6 months,
- Series EE and I bonds issued on or after February 1, 2003 for the first 12 months, and
- Series H and HH bonds for first 6 months regardless of the issue date.

Count the current cash value as a resource the month following the last month of the exclusion period.

To determine the value of E, EE and I Paper Bonds:

- Use the tools at [TreasuryDirect.gov](https://www.treasurydirect.gov)
- Use a current copy of the Table of Redemption Values for U.S. Savings Bonds; or
- As a last alternative, obtain the value from a local bank.

To determine the value of E, EE, or I Electronic Bonds ask the applicant/beneficiary to obtain the “Current Holdings” list from the Treasury Direct web site, <http://www.savingsbonds.gov/>. Electronic bonds have no set denominations (can be purchased in any amount between \$25 and \$30,000) so the value cannot be determined the same as paper bonds.

If the individual alleges that the Current Holdings list cannot be obtained because the password or account number has been lost, the individual must contact the Treasury Department to retrieve them.

Series E, EE and I bonds accrue interest which is added to the redemption value of the bonds. Owners do not receive interest payments.

Series H and HH are only issued as paper bonds. They are issued at their face value and do not increase in value. Interest is paid to the owner every six months. Do not count the interest as income in the month of receipt. The cash value is the bond's face value and is obtained from the bond itself.

- **Bond for Deed**

A Bond for Deed is a contract for the sale of property in which the transfer of ownership is delayed until the property is paid for in full or paid down to an agreed upon level. The seller no longer has legal rights to sell the property or convert it to cash, therefore, it is no longer available to them and NOT a countable resource. A Bond for Deed contract may be cancelled if the buyer fails to make the scheduled payments. If the Bond for Deed is cancelled, the property becomes a countable resource to the seller.

Count interest and principal portion of payments received on a Bond for Deed as unearned income in month of receipt.

- **Burial Contracts**

A burial contract is a resource if it is revocable or salable, and conditions for its liquidations do not present a significant hardship. However –

- Any portion of the contract that clearly represents the purchase of burial space, may be excludable, and
- Some or all of the remaining value may be excludable as burial funds.

A burial contract is not a resource if it cannot be revoked and cannot be sold without significant hardship.

Note:

The \$1,500 (\$10,000 for Non-MAGI Related Medically Needy program, MPP and the special income level group [LTC, individual in a medical institution for at least 30 days or receiving waiver services for 30 consecutive days]) burial fund exclusion is reduced by the value of the irrevocable contract.

Significant hardship means an unrealistic demand on the buyer, e.g., having to move out of state. If conditions creating hardship are not evident on the face of the contract, count the contract as a resource unless the applicant/beneficiary provides evidence to the contrary.

Use the value of the amount payable upon revocation or use its current market value if the contract is not revocable but is salable as the countable resource value.

A life insurance funded burial contract involves an individual purchasing a life insurance policy on their own life and then assigning, revocably or irrevocably, either the proceeds or ownership of the policy to a third party, generally a funeral provider to fund the contract. The value of the burial arrangement is the value of the life insurance policy.

Example #1:

Mrs. Jones files an application for LTC. Her resources consist of two life insurance policies with a total face value of \$14,500 and CSV of \$2,850 and an irrevocable burial contract of \$12,000. Since the total face value exceeds \$10,000, count the CSV of the policies. Since the maximum excludable amount of funds for burial is met by the irrevocable burial contract, no further burial exclusion is allowable and Mrs. Jones is ineligible for medical assistance because her countable resources of \$2,850 are above the allowable limit.

Example #2:

Mr. White is a resident of a Medicaid facility. He applies for Medicaid. His resources consist of two life insurance policies with a total face value of \$1,000 and a savings account with a balance of \$10,000, which he intends to use for burial. The face value of the life insurance policies meets \$1,000 of the \$10,000 allowable exclusion. The additional \$9,000 that may be excluded for burial

reduces the savings account balance to \$1,000 (\$10,000 - 9,000). This is within the resource limit. Mr. White is eligible because the entire fund is designated for burial.

Example #3:

Mrs. Green applies for Extended Medicaid. Her countable resources consist of three whole life insurance policies with a total face value of \$2,500 and total CSV of \$1,950 and a checking account with a balance of \$525. Mrs. Green designates the countable CSV of her life insurance policy for her burial. The total CSV of \$1,950 minus the limit of \$1,500 for burial leaves \$450 in non-excluded CSV of life insurance policies. Mrs. Green's countable resources have a total value of \$975, \$450 plus \$525 (checking account). This is within the resource limit, and Mrs. Green is eligible.

Irrevocable Arrangements

A pre-need funeral contract may be excluded as a countable resource if it is an irrevocable contract and includes an itemized list of services with a total value equal to the pre-paid amount.

A burial fund contract funded by life insurance may be excluded as a countable resource if:

- The ownership of the life insurance is irrevocably assigned to a funeral home; or
- The owner has signed an amendment irrevocably waiving their rights under the policy to surrender the policy for cash, to obtain a loan against the policy or to change the ownership.

Obtain a copy of any irrevocable burial contracts, trusts, or arrangements.

Irrevocable arrangements including placing funds in a burial trust are considered a purchase and not a transfer regardless of the date of the transaction.

▪ Burial Funds

Funds set aside for the burial expenses of the applicant/beneficiary and/or their spouse may be excluded if certain criteria regarding use and total value of the burial funds are met.

Burial funds are:

- All or part of the CSV of all life insurance policies which were used to determine total countable resources because the total face value was over \$1,500 (\$10,000 for Non-MAGI Related Medically Needy program, MPP, and the special income level group [LTC, individual in a medical institution for at least 30 days or receiving waiver services for 30 consecutive days]).
- Revocable burial contracts;
- Revocable burial trusts;
- Other revocable burial arrangements (including the value of certain installment sales contracts for burial spaces);
- Cash;
- Savings or checking accounts; or
- Other financial instruments with a definite cash value (stocks, bonds, certificate of deposit, etc.).

Funds must be clearly designated for the individual's or spouse's burial expenses. Property other than listed above will not be considered as burial funds.

A maximum exclusion of up to \$1,500 (\$10,000 for Non-MAGI Related Medically Needy program, MPP, and the special income level group [LTC, individual in a medical institution for at least 30 days or receiving waiver services for 30 consecutive days]) each in funds set aside is allowed for:

- The burial expenses of the individual; and
- The burial expenses of the individual's spouse.

The burial fund exclusion is separate from and in addition to the burial space exclusion. Burial funds may include payments made on installment contracts for burial spaces which do not qualify for the

burial space exclusion.

The maximum \$1,500 (\$10,000 for Non-MAGI Related Medically Needy program, MPP, and the special income level group [LTC, individual in a medical institution for at least 30 days or receiving waiver services for 30 consecutive days]) burial fund exclusion is reduced by the following:

- The face value of burial insurance which has no cash surrender value. Refer to **Life Insurance**.
- The full face of any life insurance policies which were disregarded as resources because the total face value was \$1,500 (\$10,000 for Non-MAGI Related Medically Needy program, MPP, and the special income level group [LTC, individual in a medical institution for at least 30 days or receiving waiver services for 30 consecutive days]) or less and any accumulated dividends. Refer to **Life Insurance**.
- The value of a prepaid burial contract excluding the value of burial spaces if their value can be identified in the contract. Any unidentified portion of a contract that implies it covers burial space items but does not identify them is considered burial funds. Refer to **Burial Contracts**.

A subsequent purchase of a disregarded life insurance policy or an irrevocable burial contract reduces the amount of exclusion effective the month after the month in which the life insurance or the irrevocable burial contract was purchased.

Determine the excludability of funds set aside for burial. In order to be excluded, the funds must be:

- Kept separate from non-burial related resources,
- Separately identifiable for each spouse, and
- Designated for burial.

Written verification that the resource is separately held and not co-mingled with non-burial assets is required.

Funds which are not co-mingled can be designated for burial by a written statement signed by the applicant/beneficiary and/or their

spouse.

The statement shall contain:

- The specific resource which is designated for burial (e.g., countable life insurance CSV, burial contract, bank account),
- The amount of funds set aside for burial,
- For whose burial the funds are set aside,
- The date the funds were set aside, and
- The individual's acknowledgement that any money withdrawn from funds set aside for burial will be counted as income in the month of withdrawal.

Separately held funeral funds may be excluded to the later of the following dates:

- The first day of the month following the month in which funds are separately held and not commingled,
- November 1, 1982, or
- Month of application.

Exclude from resources (and from income) any increase in the value of excluded funds because of accumulated interest or appreciation of the funds. This includes interest earned by burial funds, provided the interest is left to accumulate as part of the funds.

Once a fund is designated for burial purposes, it remains a burial fund until:

- Eligibility terminates,
- Part or all of the fund can no longer be excluded as a burial fund because the individual purchased excluded life insurance or an irrevocable burial contract which partially or totally offsets the available burial fund exclusion, or,
- The individual uses the funds for another purpose.

Note:

Transferring excluded burial funds from one form of burial exclusion to another is not considered "use for another purpose".

If excluded burial funds are used at any time for a purpose other than burial-related expenses, the amount used will be considered as income in the month of withdrawal. Reconsider the burial fund as an excludable resource. Immediately count all interest or other assets that have accumulated in the burial fund account.

Exception:

No penalty applies if on the first day of the month in which the excluded funds were used for another purpose the individual's resources would not have exceeded the limits even if the burial funds were counted.

Only actions taken by the individual who designated the excluded burial fund or by someone acting as that individual's agent are construed as "use for another purpose".

Actions by a joint owner of a designated burial fund who withdraws funds for their own use are not construed as "use for another purpose" by the owner of the burial exclusion.

▪ Burial Spaces

A fully paid burial space or agreement which represents the purchase of a burial space held for the burial of the individual, their spouse, or immediate family is an excluded resource regardless of value.

Note:

The burial space exclusion is in addition to, and has no effect on, the burial fund exclusion.

A burial space is a(n):

- Burial plot;
- Gravesite;
- Crypt;
- Mausoleum;
- Casket;

- Urn;
- Niche; or
- Other repository customarily and traditionally used for the deceased's bodily remains.

The term burial space also includes:

- Vaults;
- Headstones, markers, or plaques;
- Burial containers; and
- Arrangements for opening and closing the gravesite.

An agreement which represents the purchase of a burial space is a contract with a burial provider for a burial space held for the eligible individual or a member of their immediate family.

If the agreement does not entitle the person to the burial space items until the full purchase price has been paid, the burial space is not "held for". Consider any amount paid on the installment burial contract as burial funds until such time the installment payments are completed. Refer to **Burial Funds**.

▪ **Cash**

Count the value of cash on hand including cash in a safety deposit box.

Do not count cash from any source for the replacement or repair of a lost, damaged, or stolen excluded resource. This cash is an excluded resource for nine (9) months from the date of receipt. The exclusion can be extended for up to an additional nine (9) months if circumstances beyond the control of the applicant/beneficiary:

- Prevent repair or replacement of the lost, damaged, or stolen resource, and
- Keep the applicant/beneficiary from contracting for such repair

or replacement.

The exclusion of cash received for replacement or repair of an excluded resource due to the result of a catastrophe which is declared to be a major disaster by the President of the United States can be extended for an additional twelve (12) months. The exclusion period of eighteen (18) months, plus an additional twelve (12) months for a maximum non-resource counting period of thirty (30) months if:

- The excluded resource is geographically within the disaster area as defined by the presidential order,
- The individual intends to repair or replace the excluded resource and,
- The individual presents evidence of good cause. (Good cause is present when circumstances beyond the individual's control prevent repair or replacement of the lost, damaged, or stolen property; or keep the individual from contracting for such repair or replacement.)

If such cash is commingled with other funds assume that non-excluded funds are withdrawn first.

Note:

Exclude as income the proportionate share of interest paid on a commingled account.

▪ **Certificates of Deposit**

Refer to **Time Deposits**.

▪ **Contributions from Tax-exempt Organizations**

Do not count as resources the following gifts, made on or after October 28, 1996, from tax-exempt organizations, such as the Make-A-Wish Foundation, to children under age 18 who have a life-threatening condition;

- Any in-kind gift, not converted to cash; and

- A cash gift to the extent that the cash excluded does not exceed \$2,000 in any calendar year. Retained cash in excess of \$2,000 received in a calendar year is subject to regular resource counting rules.

Count any interest earned on unspent portion as unearned income in the month of receipt and as a resource the following month.

- **Crops in Storage**

Count the equity value.

Legal debts may include storage costs, liens, and chattel mortgages.

Have the applicant/beneficiary obtain verification in writing from a knowledgeable source of the value of crops in storage.

- **Death Benefits**

If expenses of last illness and burial have been verified but the applicant/beneficiary has not yet paid the expenses:

- Assume that s/he will pay them, and
- Disregard any death benefits (e.g., SSA or VA death benefits) that are less than or equal to the verified expenses.

In the month following the month of receipt, count as a resource only that portion of death benefits that exceeds the verified costs of the last illness and burial.

- **Disaster Assistance**

Permanently exclude any assistance received because of a catastrophe which is declared to be a major disaster by the President of the United States. Funds should be identifiable as disaster funds. 'The Road Home' program money is considered disaster assistance.

Note:

Exclude as income and resources any interest earned.

Many types of Pandemic-related assistance under the Coronavirus Aid, Relief, and Economic Security Act (CARES ACT), the Consolidated Appropriations Act (CAA), and the American Rescue Plan Act (ARPA) are considered disaster assistance and will be permanently disregarded for SSI-related income and resources for all individuals involved in computation of benefits. The Pandemic-related assistance meeting criteria for disaster assistance exclusions are:

- Economic Impact Payments
- All Unemployment Benefits (regular and pandemic) during the pandemic period,
- Paycheck Protection Program
- Economic Injury Disaster Loan Program
- Tribal Payments from the Coronavirus State and Local Fiscal Recovery fund
- State Stimulus Payments
- COVID-19 Funeral Assistance
- Emergency Rental Assistance
- Emergency Assistance for Rural Housing Assistance
- Homeowner Assistance Fund
- Housing Assistance and Supportive Services Programs for Native Americans
- Higher Education Emergency Relief Fund
- Supporting Foster Youth and Families during the Pandemic
- COVID-19 Veteran Rapid Retraining Assistance Program
- Emergency Assistance to Children and Families through the Pandemic Emergency Assistance Fund
- Coronavirus Food Assistance Program-Direct Payments to Farmers and Ranchers

- Farm Loan Assistance for Socially Disadvantaged Farmers and Ranchers
- USDA Assistance and Support for Socially Disadvantaged Farmers, Ranchers, Forest Land Owners and Operators, and Groups.
- Chicago Resilient Communities Cash Assistance Pilot

▪ **Dividend Accumulations from Life Insurance**

Dividend accumulations are dividends that the policy owner has received but left in the custody of the insurer to accumulate interest (similar to money in a bank account). They are not a value of the policy as the owner can obtain them at any time without affecting the policy's face value or cash surrender value.

Dividend accumulations cannot be excluded under the life insurance exclusion, even if the policy itself is excluded as a resource.

Count as a resource unless they can be excluded under another provision (e.g., designated for burial).

Do not count interest as income in the month of receipt.

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▪ **Earned Income Tax Credits (EITC) and Child Tax Credits (CTC)**

Exclude from countable resources any EITC or CTC payment received prior to March 2, 2004 either as an advance or refund for one month following the month of receipt. For those payments received on or after March 2, 2004, exclude for nine months following the month of receipt. For those payments received on or after January 2, 2013, exclude for twelve months following the month of receipt. Any funds retained as of the first moment of the month following the exclusion period are a countable resource.

Count interest paid on unspent portion as unearned income in the month of receipt and as a resource the following month.

▪ **Economic Impact Payments**

Refer to **Disaster Assistance**

- **Escrow Accounts**

An escrow account is a deed, bond, money, or piece of property delivered to a third party. The third party in turn delivers it to the granter only upon the fulfillment of a condition.

Count any portion that is accessible.

Example:

A homeowner pays a certain amount to the mortgage company to be held in escrow for payment of insurance. The insurance company then bills the mortgage company who pays the premium from the escrow account. Any amount in excess of the insurance premium is countable if accessible to the homeowner.

- **Estate**

An estate is the assets and liabilities left by an individual at death.

Count the applicant/beneficiary's share of an undivided estate as a resource the first day of the month following receipt. Receipt is deemed to be the day of death in the case of a direct descendant or when there is an uncontested will designating the individual as beneficiary.

Refer to the specific type of SSI-related resource.

- **Home Property**

Refer to **Property**.

- **Inheritances**

Consider an inheritance as a resource the month following the month in which it meets the definition of income.

Refer to the appropriate kind of resource.

- **Jointly Owned Resources**

Refer to the appropriate kind of resource to determine what to count.

Refer to **Bank Accounts, Joint Accounts, Rebuttal** if a disagreement concerning ownership of funds occurs.

- **Life Insurance**

Life insurance is a contract under the terms of which the insured pays premiums to the insurer for the period specified in the policy (contract) and the insurer agrees to make a cash payment of a specified amount at the death of the insured.

The face value is the amount of basic death benefit contracted for at the time the policy is purchased.

A policy's cash surrender value (CSV) is a form of equity value that it acquires over time. A life insurance policy is a resource if it generates a CSV.

Types of Life Insurance

Burial

A policy is considered burial insurance if:

- It accumulates no cash surrender value, and
- It can be used only to pay for burial expenses.

If a "burial" policy has a cash surrender value to which the owner has access, the policy is not burial insurance. Refer to **Ordinary Life**.

Ordinary Life

Ordinary life insurance:

- Is also called whole life and straight life,
- Is a contract under the terms of which the insured pays premiums:
 - For their lifetime,
 - To age 100,
 - By single premium, or
 - By letting the dividends accumulate, and
- Usually has a cash surrender value after the second year.

Term Life

Term life insurance:

- Provides protection only for the months or years that the premium is paid, and
- Accumulates no countable cash surrender value.

Determining Countable Value

Do not count life insurance which has no potential cash surrender value in determining total countable resources.

For policies owned by the applicant/beneficiary, total the face values of all policies with cash surrender value for each insured:

- If the total face value of all life insurance policies on an insured person does not exceed \$1,500 (\$10,000 for Non-MAGI Related Medically Needy program, MPP, and the special income level group [LTC, individual in a medical institution for at least 30 days or receiving waiver services for 30 consecutive days]), then no part of the CSV of any such policy or policies shall be counted as a resource.
- If the total face value of all life insurance policies on an

insured person exceeds \$1,500 (\$10,000 for Non-MAGI Related Medically Needy program, MPP, and the special income level group [LTC, individual in a medical institution for at least 30 days or receiving waiver services for 30 consecutive days]), then the cash surrender value of all such policies must be counted as resources.

Examples:**Owner has three policies on herself**

Mrs. Lambert, an aged individual, owns three life insurance policies on herself with the following values:

- \$400 FV with \$700 CSV,
- \$500 FV with \$1000 CSV, and
- \$200 FV with \$400 CSV

The total FV of her policies is \$1100 ($\$400 + \$500 + \$200 = \1100) and the total CSV of the policies is \$2100 ($\$700 + \$1000 + \$400 = \2100). Even though the total CSV is more than the resource limit of \$2000, the life insurance policies are entirely disregarded because they are for the same insured person and the total FV is less than \$1500 (\$10,000 for Non-MAGI Related Medically Needy program, MPP, and the special income level group [LTC, individual in a medical institution for at least 30 days or receiving waiver services for 30 consecutive days]).

Owner has policies on herself and others

Mrs. Lambert, from above, also owns three additional life insurance policies on other insured people. In this case, calculate the total FV for each insured individual. If the total FV of the policies on each insured individual is less than \$1500 (\$10,000 for Non-MAGI Related Medically Needy program, MPP, and the special income level group [LTC, individual in a medical institution for at least 30 days or receiving waiver services for 30 consecutive days]), those policies are disregarded.

Transfer of a disregarded life insurance policy for less than FMV may result in a penalty period. Refer to [MEM I-1670 Transfer of Assets for Less Than Fair Market Value](#)

If counting the CSV results in ineligibility, the CSV may be excluded if the life insurance policy, subject to the \$1,500 burial fund limit (\$10,000 for Non-MAGI Related Medically Needy program, MPP,

and the special income level group [LTC, individual in a medical institution for at least 30 days or receiving waiver services for 30 consecutive days]), is intended for the applicant/beneficiaries burial.

The CSV of an insurance policy can only be designated for the burial of the named insured. Refer to **Burial Funds**.

Note:

Do not include the face value of dividend additions in determining whether a policy is a countable or excludable resource. If the policy is a countable resource, include the CSV of dividends in determining the resource value of the policy.

Verification

Verify face value of an insurance policy by:

- Viewing the policy, or
- Direct contact (letter or telephone) with the insurance company.

Verify cash surrender value of insurance policies at application and each renewal, if face value exceeds limit, by direct contact with the insurance company.

Use cash surrender value tables attached to the policies only if no other verification is available.

Documentation

Document the value of life insurance by:

- Filing copies of policies and correspondence from insurance companies,
- Recording telephone calls to insurance companies,
- Filing written statements of separately identifiable financial instruments designated for burial by the applicant/beneficiary, or
- Filing written statements from financial institutions of the value of financial instruments designated for burial by the

applicant/beneficiary.

- **Livestock**

Count the value of livestock that:

- Is not used for home consumption, or
- Is not excluded as a business asset (refer to **Business Assets**).

- **Loans**

A loan is a transaction whereby one party advances money to, or on behalf of another party, who is obligated to repay the lender in full, with or without interest. The loan agreement may be written or oral, and is enforceable under State law.

The loan agreement must be in effect at the time that the lender provides the cash to the borrower. Money or property given to an individual with no obligation to repay is not considered a loan and such a transaction cannot be altered to become a loan at a later date.

If the applicant/beneficiary is the borrower, count any portion of the proceeds retained after the month of receipt.

When the applicant/beneficiary is the lender, count the outstanding principal balance as a resource. The loan must meet the following criteria:

- The repayment term must be actuarially sound;
- Payments must be made in equal amounts and no balloon payments; and
- The loan must prohibit the cancellation of the balance upon the death of the lender.

If the criteria is not met treat the loan as a transfer of resources for less than fair market value.

Refer to **Mortgages and Promissory Notes**.

Refer to [I-1534 Types of Income \(SSI-Related\)](#), **Loans**

- **Lump Sum Payments**

Lump sum payments are non-recurring cash payments countable as income in the month of receipt and as a resource beginning the month after receipt. Refer to [I-1534 Types of Income \(SSI-Related\)](#), **Lump Sum Payments**.

Exclude SSI and RSDI received prior to March 2, 2004 from countable resources for the six months following the month of receipt. For those payments received on or after March 2, 2004, exclude for nine months. Any portion of the SSI or RSDI lump sum retained as of the first day of the month following the exclusion period is included as a countable resource. See **Dedicated Accounts** at Section I-1634.3.

Note:

SSI and RSDI lump sum payments deposited in Medicaid Qualifying Trusts are considered available immediately. Refer to [I-1700 Trusts](#).

Except as cash reimbursement of medical or social services expenses already paid for by the beneficiary, exclude from countable resources any cash paid to the beneficiary which is intended to enable the individual to pay for medical or social services for one full calendar month following the month of receipt (e.g., payment received from Medicare for an outstanding debt). Any funds retained as of the first moment of the second month following receipt are included as a countable resource at that time.

The money from SSI and RSDI lump sum payments must be kept separately identifiable from other resources for the six-month exclusion to apply. Effective the first month that the lump sum payments cannot be distinguished from other resources, they shall be considered with other countable resources.

Count interest paid on unspent portion as unearned income in the month of receipt and as a resource the following month.

VA Aid and Attendance and Other Types of Lump Sum Payments

Count as a resource any portion remaining as of the first day of the month following receipt.

Property Insurance

Do not count as resources the lump sum payments received due to claims resulting from natural disasters as long as the funds are used for replacement and repair of property. The funds should be identifiable as disaster funds. When funds are withdrawn from an account with commingled funds always assume that non-excluded funds are withdrawn first, leaving as much of the excluded funds in the account as possible.

Victims Compensation Payments

Effective May 1, 1991, exclude Victims Compensation payments from countable resources for a period of nine months after the month of receipt.

Bob Dean Unspent Settlement Funds

Disregard from resources unspent funds received as a class member of the settlements from Nancy Anderson, et al. v Bob Dean Jr., et al., 34th Judicial District Court, Parish of Jefferson, No. 820-839.

NOTE:

If Bob Dean Settlement funds are commingled with countable funds, assume countable funds are spent first.

▪ **Mortgages and Promissory Notes**

A mortgage is a pledge of a particular property:

- For the payment of a debt, or
- For the performance of some other obligation within a prescribed time period.

Mortgages may be held on real estate or personal property other than real estate. Mortgages on real estate deal with land and buildings. Mortgages on personal property other than real estate (e.g., crops,

fixtures, and inventory) are called chattel mortgages.

A promissory note is a written unconditional promise signed by the person who promises to pay a specified sum of money:

- At a specified time, or
- On demand to the person, company, corporation or institution named on the note.

The mortgage or promissory note must meet the following criteria:

- The repayment term must be actuarially sound;
- Payments must be made in equal amounts during the term of the loan with no deferral of payments and no balloon payments; and
- The loan must prohibit the cancellation of the balance upon the death of the lender.

If the criteria is not met treat the promissory note or mortgage as a transfer of resources for less than fair market value.

Value

Consider the value of the outstanding principal balance as the countable resource. Also the portion of the payment received which represents repayment of the principal is counted as a resource, and must be excluded as income because it is conversion of a resource from one form to another.

Verification and Documentation

Copy the mortgage or promissory note.

Document the names, titles, and addresses of sources used to determine value.

▪ Mutual Fund Shares

A mutual fund is a pool of shared investment assets managed by a fund manager. The manager is authorized to buy and sell securities

and other property for the purpose of producing earnings and increasing the value of the assets. For this service, the mutual fund is allowed to charge the investor for the purchase, exchange, and liquidation of shares in the mutual fund. In return for this investment, the owner of a mutual fund shares in the earnings/losses of the fund in proportion to the number of shares owned.

Count the equity value of mutual fund shares. The value of mutual fund shares is expressed on a "bid" and "asked" or "buy" and "sell" basis. To determine the value of a mutual fund share, use the closing price (bid or buy) on the last business day of the month prior to application or renewal.

- **Now Accounts**

Refer to **Bank Accounts**.

- **Patient Fund Accounts**

Count the amount of cash in the patient fund account at a LTC facility.

- **Pension Funds**

Refer to **Retirement Funds**.

- **Promissory Notes**

Refer to **Mortgages and Promissory Notes**.

- **Property**

Ownership of Property

Property can generally be divided into two categories:

- Movable property, and

- Real property (immovable property).

Movable property is governed by the laws of the state in which the owner resides. Real property is governed by the laws of the state in which the property is located. These laws vary widely from state to state. When dealing with real property located in another state, accept verification only from a knowledgeable source familiar with property laws in that state. Knowledgeable sources include but are not limited to:

- Real estate brokers,
- The local office of the Farmer's Home Administration (for rural land),
- The local office of the Agricultural Stabilization and Conservation Service (for rural land),
- Banks, savings and loans and loan associations, mortgage companies and similar lending institutions,
- An official of the local property tax jurisdiction (i.e., parish assessor)

Note:

Be sure to obtain the individual's market estimate rather than the office's assessment.

- The County/Parish Agricultural Extension Service.

The file date of ownership and/or transfer of property indicated in courthouse records is recognized as the date that ownership and/or transfer of property officially occurred.

Significance of Ownership

Ownership interests in property, whether real or personal, can occur in various types and forms. Since the type and form of ownership may affect the value of property and even its status as a resource, they are significant in determining resource eligibility.

Types of Ownership

- Sole vs. Shared Ownership

An individual may have sole ownership of a property or share its ownership with others.

Sole ownership of (real or personal) property means that only one person may sell, transfer or otherwise dispose of the property. Sole ownership may be subject to conditions imposed by others, for example, sole ownership of a remainder interest in property.

Shared ownership of (real or personal) property means that two or more people own it concurrently.

- Fee Simple Ownership

Fee simple ownership, which relates only to real property, is completely free of conditions imposed by others.

- Less Than Fee Simple Ownership

- Usufruct interest conveys ownership of a limited duration. A usufruct is a form of legal ownership and usually created through a deed or will or by operation of law.
- Equitable ownership can occur when an individual does not have legal title to property. For example, an individual who is making mortgage payment on a piece of property or an individual who has ownership interest in an un-probated estate have an equitable ownership in the property.

- Property Rights without Ownership

An individual may have certain rights with respect to property without also having the right to dispose of the property. The individual may have the right to sell their right but not the property.

Verification of Value of Real Property

Verify the value in at least one of the following ways:

- By current assessment, only if the assessed value makes the applicant/beneficiary ineligible. When property is

assessed for a percentage of the total value, divide the assessed value by that percentage to determine the total value,

Note:

Dividing the total value by the percentage of ownership may overstate what the person could sell their undivided interest for on the open market. The market value is what the market will pay. The value of the undivided interest shall be obtained from a knowledgeable source.

- By record of sale, offer of sale, mortgage, judgment, or other documentary evidence less than one year old, or
- By an appraisal that is less than one year old. The applicant/beneficiary is responsible for the cost of obtaining the appraisal.

The market value of an interest in undivided real property is likely to be less than the proportional share of the entire property's current market value. Therefore, the value of an interest in undivided real property should be obtained from a knowledgeable source.

Community Property

Louisiana is a community property state. Community property is:

- Acquired during the marriage with community funds, and
- Not divided during the lives of both members of the couple. Neither spouse can sell their interest unless both sell the entire property.

Note:

Disregard pre-nuptial agreements, matrimonial agreements, and legal separation of community property during the marriage. Ownership of property for Medicaid eligibility shall be determined in accordance with policy regarding community and separate property as detailed in this section.

Separate property is:

- Property brought into the marriage by either spouse,

- Property inherited by either spouse during the marriage, or
- Property purchased by either spouse with separate funds during the marriage, unless the spouse has made it community property.

When one spouse dies, the survivor:

- Retains one-half ownership interest in the community property, and
- Has usufruct of the deceased spouse's half of the community property, unless the decedent's will provides otherwise.

The right to usufruct of community property terminates if the surviving spouse remarries, unless the decedent's will provides otherwise.

Note:

The one-half ownership interest is an undivided interest. The value may be less than one-half the value of the complete piece of property. Dividing the total value by the percentage of ownership may overstate what the person could sell their undivided interest for on the open market. The market value is what the market will pay. The value of the undivided interest shall be obtained from a knowledgeable source.

No Will

If the decedent dies without a will (intestate), the laws of intestate succession determine who receives the decedent's property and how much of it they receive.

Inheritance of the decedent's separate property and of their one-half share of community property occurs as follows:

- Descendants

The first heirs of property are the descendants (children) of the decedent and the descendants of any child who is also deceased. Current Louisiana law of forced heirship does not distinguish between:

- Legitimate and illegitimate children;

- Children of the present marriage and children of a prior marriage; or
- Natural children and adopted children.

Each of these children are entitled to a share of their parent's estates. An adopted child is entitled to a share of their natural parents' estates and to a share of their adoptive parents' estates.

Note:

The entire property is inherited by the decedent's child(ren), if there are any, in equal proportions. An only child is entitled to the entire estate of the decedent (both the decedent's community half and all the decedent's separate property). If there are two or more children, each is entitled to an equal share of the decedent's entire estate (both the decedent's community half and all the decedent's separate property).

A descendant may accept or reject an inheritance:

- If s/he accepts, s/he is deemed to have accepted from the moment of the decedent's death,
 - If s/he rejects, refer to [I-1670 Transfer of Resources for Less than Fair Market Value](#).
- No Descendants
 - Decedent's one-half share of community property - If the decedent leaves no descendants, the surviving spouse succeeds to the decedent's share of community property.
 - Decedent's separate property - If the decedent is survived by parent(s) and sibling(s) or descendants of deceased siblings, then the siblings (or their descendants) succeed to the remainder interest (naked ownership) of the separate property subject to a usufruct (life estate) in favor of the surviving parent(s). If the decedent is not survived by parent(s) and sibling(s), relatives are first heirs to separate property in the following order:

- Spouse,
- Aunts and/or uncles,
- Cousins.

If the decedent leaves no blood relatives, the state inherits the separate property.

Real Property Rights

Count as a resource the value of real property rights. These rights are separate resources for which values can be determined.

Note:

If the individual owns the land to which the property rights pertain, the value of the land can be assumed to include the value of the property rights. If the individual does not own the land, obtain the value of property rights from a knowledgeable source. Sources may include:

- The Bureau of Land Management;
- The U.S. Geological Survey;
- Any mining or timber company that holds leases.

Real property rights include:

- Surface rights, including timber rights and easements,
- Water rights,
- Mineral rights to oil, natural gas, gravel, sand, coal, and salt,
- Usufruct, and
- Remainder interest.

Note:

The terms usufruct and naked ownership are used in Louisiana law. Other states use a variety of different terms (e.g., life estate, remainder interest). For purposes of this policy, the terms "usufruct" and "remainder interest" are

used.

Usufruct

Usufruct conveys upon an individual or individuals the following rights to property:

- The right of possession,
- The right to use of the property,
- The right to obtain profits from the property, and
- The right to sell the usufruct interest.

The contract establishing usufruct:

- May restrain any one or more of these rights,
- May measure the duration of the usufruct by:
 - The lifetime of the owner of usufruct or of another person, or
 - The occurrence of some specific event, such as the remarriage of the owner of the usufruct.

The owner of the usufruct does not have title to the property or portion of the property for which he has been granted usufruct.

Note:

The right to sell the property is the right of the remainder man.

Valuation of Usufruct

Consumables: If there is usufruct over consumables such as money, Certificates of Deposit, promissory notes, bank accounts, stocks of merchandise, etc. count the entire amount (100%) of the asset's value as available to the person gaining usufruct. Under Louisiana law, a usufruct over a consumable actually transfers ownership at creation of the usufruct.

Non-consumables: If there is usufruct over items such as land, houses, shares of stock, vehicles, furniture, animals, etc. determine usufruct value as follows:

Determine the value of usufruct held by the applicant/beneficiary using the following steps:

- Determine the equity value of the proportionate share of the property to which the applicant/beneficiary has separate usufruct rights.
- Refer to [Z-1300 Usufruct and Remainder Interest Tables](#).
- Select the line for the age at the last birthday of the owner of usufruct on the chart.
- Multiply the figure in the usufruct column for the age by the equity value of the proportionate share of the property.
- The result is the usufruct value.

Unless the instrument (will or deed) establishing the usufruct places restrictions on the rights of the usufruct owner, the owner has the right to possess, use, and obtain profits from property and to sell their usufruct interest. The market value of usufruct interest is likely to be reduced since such a sale is subject to the remainder interest.

Remainder Interest

An individual may convey usufruct to one person for that person's life and convey ownership to a second person. The person to whom ownership is conveyed is referred to as the remainder man.

Unless restricted by the instrument establishing the remainder interest, the remainder man is generally free to sell their interest in the physical property even before the life estate interest expires. In such cases, the market value of the remainder interest is likely to be reduced since such a sale is subject to the life estate interest.

At the death of the usufruct owner, the remainder man will hold

full title. If there are two or more remainder men, the remainder interest will be shared among the remainder men.

Valuation of Remainder Interest

Determine the value of the remainder interest held by the applicant/beneficiary by using the following steps:

- Determine the equity value of the proportionate share of the property to which the applicant/beneficiary has remainder man rights.

Note:

If the remainder interest is in undivided real property, the market value is further reduced. Therefore, the value of a remainder interest in undivided real property should be obtained from a knowledgeable source.

- Refer to [Z-1300 Usufruct and Remainder Interest Tables](#).
- Select the line for the age at the last birthday of the holder of the usufruct on the chart, and
- Multiply the figure in the remainder column by the equity value of the proportionate share of the property.
- The result is the remainder value.

Types of Property

For Medicaid purposes, property includes:

- Business assets,
- Home property,
- Household goods and personal effects, and
- Other real property.

Business Assets (Property Essential For Self-Support)

Effective May 1, 1990, exclude from resources all property used in a trade or business and all property used by an employee in connection with employment when the assets are necessary to the individual in maintaining their basic needs.

Property essential to self-support includes the necessary capital and operating assets of a business, such as:

- Real property,
- Buildings,
- Inventory,
- Equipment,
- Machinery,
- Livestock,
- Motor vehicles, and
- Tools, safety equipment, uniforms, etc., used in self-employment.

Property, including property used by an individual as an employee, must be in current use in the type of activity that qualifies it as essential to self-support. Exclude property that is not in current use only if:

- It has been in use, and
- There is a reasonable expectation that the use will resume.

Resumption of use must be expected within twelve months of last use. MEDT may grant an extension of any additional twelve-month period if the applicant/beneficiary's illness or disability prevents current use.

If the applicant/beneficiary is blind or disabled and has an SSA approved plan for self-support which permits retention of business assets for future use, request the additional extension

if use will not resume within twelve months.

Note:

If an individual does not expect the property to be put back into use, the property becomes a countable resource the month following the month of last use.

If the business has existed for one year or less, or if there is a question that a business exists, determine and document that a valid business exists.

Disregard the cash and bank accounts of a trade or business which are required for the business to function. Accept the applicant/beneficiary's written statement as to the amount of cash or money on deposit needed for the operation of the business. For this provision to apply, the individual or spouse must be actively involved in the operation of the business.

If personal funds are commingled with business funds in one bank account, disregard the amount required for the business. Count the personal funds. Accept the applicant/beneficiary's statement regarding the amount of business funds in the account.

Seasonal Business

If a business is seasonal or there are seasonal fluctuations in the amount of business expenditures, the reasonable amount limit may be significantly higher during the peak seasonal periods. Obtain the applicant/beneficiary's written statement as to the amount of operating cash needed during peak periods, as well as during non-peak periods. Use business records from the previous year to establish peak seasonal periods.

Home Property

Definition of Home Property: property in which s/he has an ownership interest and that serves as their principal place of residence.

Home property includes:

- The house or lot which is the usual residence,

- All contiguous property, and
- Any other buildings on the home property.

Property is contiguous to the residence if it is touching the residential property (even corner to corner) and is not separated by property owned by others. Property separated by a public right of way, such as a road, is considered contiguous.

Note:

Do not rely on Homestead Exemption status for determining home property.

Do not count home property **or the value of any ownership interest the applicant/beneficiary may have in the property, including usufruct**, if the applicant/beneficiary is living:

- In the home,
- Away from home temporarily because of natural disaster, such as a flood,
- Away from home because of their medical condition, and
 - Is keeping their home available, and
 - Intends to use it as his/her home when their condition permits, or
- Away from home, and
 - The spouse and/or dependent relative lives there, or
 - An SSI eligible individual has joint ownership of the home;
 - It is income-producing and meets the \$6,000/6% return rule. Refer to **Other Real Property**.
 - Its sale would cause undue hardship, due to loss of housing for a co-owner of the property, or

- Left the home due to domestic abuse and has not established a new principal place of residence.

Home Property in Trust

Home property placed in a revocable or irrevocable trust loses the exclusion as a home property and becomes a countable resource. Refer to [I-1700 Trusts](#).

Individuals with Substantial Home Equity

An individual who is applying for Long Term Care on or after November 1, 2007 may not be eligible for payment of nursing home cost (vendor payment) if the individual's equity interest in the home property less encumbrance exceeds the allowable home equity limit (Refer to [Z-2300 Home Equity Limits by Year](#)). This is not a change in the general rule that excludes a home of any value for purposes of determining eligibility for Medicaid. It applies only to the payment for nursing facility services, or other long-term care services

Exception:

The limitations on home equity do not apply if the spouse of the individual, the individual's child under 21, or the individual's blind or disabled child is residing in the home.

An individual who is applying for home and community-based waiver services cannot be eligible for waiver services if their equity interest in the home property less encumbrance exceeds the allowable limit and no exception is allowed.

The individual must be given the opportunity to apply for an undue hardship exception. Refer to [H-860 Undue Hardship and Undue Hardship Exception](#).

If the home property includes property used in a trade or business, consider the current use of the property to determine if the property can be excluded. Refer to **Business Assets** (Property Essential For Self Support).

Sale of Excluded Home Property

If the home property is offered for sale, it is no longer excludable based on intent to return. "Intent to return" applies only to the continued exclusion of property which met the definition of the individual's home property prior to the time the individual left the property.

Note:

A Nursing Facility resident cannot establish a new home property while residing in a facility as they would have never lived there and the new residence would not meet the definition of home property.

It may still be excludable if:

- The spouse and/or dependent relative lives there.
- An SSI eligible has joint ownership of the home.
- The proceeds of the sale are used to purchase another excluded home within three full calendar months from the receipt of the proceeds.
- The proceeds are received under an installment contract, the proceeds are the down payment and that portion of subsequent payments that is not interest. The contract is excludable if the individual:
 - Plans to use the entire down payment and entire principal portion of each installment payment to buy another excluded home, and
 - Does so within three full calendar months of receipt of the down payment or installment payment.

Note:

"Within three full months" means by the end of the third month following the month of receipt of the payment.

- If the proceeds are received in a lump sum, the proceeds are the net amount the seller receives at settlement.

Example:

An installment contract has a principal balance of \$5,000 as of July 1. On July 10, the buyer makes a payment of \$200. As of October 31, the beneficiary has used only \$150 of the July payment in connection with the purchase of a new home. The exclusion of the unused \$50, and of the installment contract itself, is revoked back to July 10. As a result, the \$50 and the value of the contract as of August 1 (\$4,800) are included in a revised determination of resources for August.

Proceeds may be used to pay any costs associated with the purchase of another excludable home. These costs include but are not limited to:

- Down payment,
- Settlement costs,
- Loan processing fees and points,
- Moving expenses,
- Necessary repairs or replacement to the new home that are identified and documented prior to occupancy (e.g., roof, plumbing, appliances), and
- Mortgage payments.

Obtain from the beneficiary a statement of intent regarding the use of the proceeds in purchasing another excludable home within three full calendar months from the receipt of a lump sum payment or installment payments.

Out of State Home Property

Count the value of home property in another state, unless:

- The spouse and/or dependent relative lives there,
- An SSI eligible has joint ownership of the home, or

- It is income-producing and meets the \$6,000/6% return rule. Refer to **Other Real Property**.

Grandfathered/Converted Individuals

Apply policy in effect in December, 1973 for home property whether it was acquired before or after January 1, 1974 for:

- Beneficiaries converted to SSI effective January 1, 1974,
- Grandfathered beneficiaries who entered LTC facilities after January 1, 1974 and continued to meet grandfather provisions, and
- Individuals who were receiving only Medicaid nursing home vendor payments in December, 1973.

Policy as of December, 1973 provides that property shall continue to be considered home property, not excess property, if:

- The beneficiary is forced to live away from home and s/he is keeping the property available and intends to use it as his/her home when their condition permits, or
- The beneficiary is forced to live elsewhere because of the need for nursing care or medical care or had to leave their home temporarily because of a natural disaster.

Household Goods and Personal Effects

Exclude household goods and personal effects from resources, regardless of value.

Household Goods

Household goods are items of personal property customarily found in the home and used in connection with the maintenance, use, and occupancy of the premises as a home. They include, but are not limited to:

- Furniture,
- Household appliances,
- Televisions,
- Carpets,
- Cooking and eating utensils, and
- Dishes.

Personal Effects

Personal effects are items of personal property that are worn or carried by an individual or that have an intimate relation to them. They include, but are not limited to:

- Clothing,
- Jewelry,
- Personal care items,
- Educational/recreational items such as books, musical instruments, hobby materials.

Other personal property

Property that an individual acquires or holds because of its value or as an investment is a countable resource (unless excluded under a different provision) and is not considered a household good or personal effect for the purposes of this exclusion.

Examples of other personal property:

- Gems;
- Jewelry that one does not wear or does not hold for family significance;
- Animals for investment purposes, such as a horse or dog for breeding, for resale, or investment; and

- Collectibles

Other Real Property

Count the total equity value of other real property that:

- Is not income producing, or
- Is income-producing and does not earn at least a 6% annual net rate of return.

Count the equity value over \$6,000 if the property is income-producing and earns at least a 6% annual net rate of return.

Note:

For income-producing property, refer to \$6,000/6% Rule and Business Assets.

Count as an available resource the applicant/beneficiary's ownership interest in an undivided estate that has not been settled whether or not a succession has been opened, if the applicant/beneficiary is an heir of the deceased.

Count as an available resource the applicant/beneficiary's undivided ownership interest in real property when succession has been completed but the property has not been divided.

Note:

The value of an individual's ownership interest in jointly owned real property is excluded for as long as sale of the property would cause undue hardship, due to loss of housing, to a co-owner.

Do not count the equity value of property which has been sold at public auction for non-payment of taxes. Verify accessibility of the property at each renewal for three years after the date of the auction.

\$6,000/6% Rule

If property not excluded as trade or business property

produces income at an annual net rate of return of 6% or more of the equity value, up to \$6,000 of the equity value may be excluded.

Determine the number of separate pieces of property. Property is separate if it is not contiguous, that is, separated by property owned by others at all points.

Exception:

Property separated by a public road or right of way is still contiguous.

Apply the following to each separate piece of income producing property:

- Determine the equity value.
- Determine the annual net income (gross income less allowable deductions).
- Determine the annual net rate of return:

Annual net income ÷ Equity value = Annual net rate of return

If the annual net rate of return is at least 6% of the equity value:

- Exclude up to \$6,000, and
- Count the amount over \$6,000 towards the resource limit.

If the annual net rate of return is less than 6% of the equity value, count the full equity value.

Exception:

Less than 6% annual return may be used to exclude the equity value if the reduced return is caused by circumstances beyond the applicant/beneficiary's control, such as a fire or flood, and there is a reasonable expectation of a future 6% annual return.

EXAMPLES OF \$6000/6% RULE

Equity Value	Annual Rate of Return	Countable Value
\$6,000 or less	6% or more	None
\$6,000 or less	Less than 6%	Count the entire equity value.
Greater than \$6,000	6% or more	Count the equity value over \$6,000.
Greater than \$6,000	Less than 6%	Count the entire equity value.
\$6,000 or less on the total of more than one income producing property	6% or more on the equity value of each property	Exclude the total equity values of the properties.
\$6,000 or less on the total of more than one income producing property	Less than 6% on one or more of several properties	Count the entire value of any property not meeting the 6% annual rate of return requirement.
Greater than \$6,000 on the total equity values of more than one income-producing property	6% or more on the equity value of each property	Total the equity values and count the amount in excess of \$6,000.
Greater than \$6,000 on the total equity values of more than one income-producing property	Less than 6% on the equity value of one or more of the several properties	Count the entire equity value of any property not meeting the 6% annual rate of return requirement, as well as any excess over \$6,000.

- **Recreational Vehicles (Boats, Motors, and Campers)**

Count the equity value unless the resource has been excluded as necessary for self-support.

Note:

The current NADA "Blue Book" trade-in value may be used. Information is also online at <http://www.nadaguides.com>. Use average trade-in value when obtaining values from the online service.

Refer to **Vehicles**.

- **Relocation Assistance**

Exclude from resources unspent relocation assistance payments from the federal government.

Exclude **only** for nine months unspent relocation assistance payments from a state or local government which are received after May 1991. The last month this exclusion may apply is April 1994.

Note:

Count as unearned income in the month of receipt any interest paid on unspent federal, state or local government payments and as a resource the following month.

- **Reparation Payments**

Exclude from resources reparation payments received from the Republic of Germany or from the Austrian General Social Insurance Act, the Nazi Persecution Victims Eligibility Act or Netherlands WUV payments.

Note:

Do not count as unearned income any interest paid on unspent reparation payments as income in the month of receipt, but as a resource the following month.

- **Restitution Payments**

Exclude from resources restitution payments made by the U.S. government to individual Japanese-Americans (or their survivors) or to Aleuts who were interned or relocated during World War II.

Note:

Do not count as income in the month of receipt any interest earned on these payments, but as a resource the following month.

- **Retirement Funds**

Retirement plans include:

- Plans administered by an employer or union:
 - Pensions,
 - Disability plans, and
 - Retirement plans, and
- Funds put into an individual retirement accounts:
 - 401(K), and
 - KEOGH plans.

Employment related retirement funds

Individuals who have retirement funds through a plan at their place of employment will not have access to these funds until employment ends. When employment has terminated, the retirement fund generally becomes available.

If the individual is eligible for periodic (usually monthly) retirement benefits, he is required to apply for the benefits. The application for monthly benefits makes the funds no longer available. Count the fund balance as a resource through the month of application for periodic/monthly benefits is filed. Count the monthly retirement fund payment as unearned income effective the month following the month the application for periodic payment is filed.

If an applicant/beneficiary is not eligible for periodic payments but has the option of withdrawing the funds, count the retirement fund as a resource.

Note:

If application for periodic payments is denied, count the value of the retirement funds as a resource effective the month following the month of the denial notice.

If an employed applicant/beneficiary must terminate employment in order to file for a retirement fund, do not count the fund as a resource.

IRAs

Money put into an IRA can usually be withdrawn regardless of whether or not the individual is working. Count funds in an IRA as a countable resource.

When retirement funds are an available/countable resource, use the following information to determine the countable value of the retirement fund:

- If there is a penalty assessed for early withdrawal, count the amount available after the penalty is deducted.
- If there are taxes owed on the funds, count the amount before taxes are deducted.
- If the actual withdrawal is delayed for reasons beyond the control of the applicant/beneficiary, count the value as a resource effective the first month the funds were actually available, even though the funds are not actually received until a later month.

Exclude retirement funds held separately by an ineligible spouse in determining total countable assets for a couple in the SSI related deeming process only.

Count retirement funds owned separately by the community spouse in the LTC determination of combined countable couple assets or spousal income assignment, depending on availability of fund balance.

- **Safe Deposit Boxes**

Count the value of any countable resource contained in a safety deposit box. Advise the applicant/beneficiary not to open the box until the contents can be verified.

Contents of a safety deposit box may be verified by:

- Written verification from the financial institution, or
- Sworn statements from third parties who view the contents.

Note:

The applicant/beneficiary's statement of the contents is not acceptable verification/documentation.

If the applicant/beneficiary is unable to provide verification, at the request of the applicant/beneficiary the agency representative may accompany them to the financial institution and view the contents of the safety deposit box.

- **Saving Bonds**

Refer to **Bonds**.

- **Savings Certificates**

Refer to **Time Deposits**.

- **Stocks**

Shares of stock represent ownership in a corporation.

Most stocks, for incorporation purposes, are assigned a certain value known as "par value". Par value has no relation to the actual market value of a stock. The value of a stock is normally determined by the demand for it when it is bought and sold. As a result of trading, the value of stocks varies from day to day.

Stocks may be traded:

- On the New York Stock Exchange,
- On the American Stock Exchange, or
- NASDAQ (over-the-counter exchange).

To establish the value of a stock, use the closing price on the last business day of the month prior to application or renewal. This determination of value applies to stocks (common and preferred) as well as to warrants, rights, and options to purchase common stocks.

To establish the value of stock in a privately-owned or closed corporation (not publicly traded), have the applicant/beneficiary provide the value from a knowledgeable source.

Verification

Verify by consulting a newspaper for the closing price on the last business day of the month prior to the month of application or renewal.

If the closing price of a stock is not shown in the next day's newspaper, have the applicant/beneficiary contact a local securities firm to determine its value.

The applicant's statement that a stock is worthless should be supported by a local securities dealer's statement that there is no market for the stock.

Documentation

Document and file the:

- Copy or certification of the stock certificate,
- Statement of a local securities dealer, or
- Newspaper (financial section).

▪ Tax Refunds and Advanced Tax Credits

Exclude all Federal tax refunds and advance tax credits from resource counting for a period of 12 months after the month of receipt. Any

funds retained as of the first moment of the month following the exclusion period are a countable resource.

- **Time Deposits**

A time deposit is a contract between an individual and a financial institution whereby the individual agrees to leave funds on deposit for a specified period and the financial institution agrees to pay interest at a specified rate for that period. Certificates of Deposit (CDs) and savings certificates are common forms of time deposits.

Withdrawal of a time deposit before the specified period expires incurs a penalty, which usually is imposed against the principal. This penalty does not prevent the time deposit from being a resource, but does reduce its value as a resource.

Occasionally, the terms of a time deposit will prohibit early withdrawal.

If the owner of a time deposit cannot under any circumstances withdraw it before it matures, it is not a resource. It becomes a resource, not income, on the date it matures and may affect countable resources for the following month.

Note:

If the owner has no access to the interest before the deposit matures, accrued interest is not a resource. Do not count the interest as income in the month the deposit matures but as a resource the month after maturity.

The resource value of a time deposit at any given time is the amount the owner would receive upon withdrawing it at that time, excluding interest paid that month. Generally, this is:

- The amount originally deposited,
- Plus accrued interest for all but the current month,
- Minus any penalty specified on the certificate for early withdrawal.

Examination of a time deposit certificate should reveal:

- The date of maturity,

- The date the funds can be withdrawn without penalties, and
- Any penalties for early withdrawal.

Contact the financial institution that issued the certificate to resolve any questions.

Verification

Copy the certificate or use bank records.

Documentation

If contact with the financial institution is necessary to determine the value or whether withdrawal is possible, document the name and address of the financial institution and the name and title of the official contacted.

▪ Trusts

A trust is a legal arrangement involving property and ownership interests. Property held in trust may or may not be considered a resource.

A trust or similar legal device established prior to August 11, 1993 which is not a resource for SSI purposes may affect Medicaid eligibility. Refer to [I-1710 Medicaid Qualifying Trusts](#).

Trusts created on or after August 11, 1993 must first be evaluated under the rules established by the Omnibus Budget Reconciliation Act of 1993 (OBRA 1993) to determine impact on Medicaid eligibility. Refer to I-1720.

Trusts that meet the exception requirements of policy [I-1710](#) are to be evaluated under the following rules of the SSI cash assistance program to determine if they are countable resources for Medicaid eligibility purposes.

Definitions

Trust - a trust is a property interest whereby property is held by an individual (trustee) subject to a fiduciary duty to use the property for the benefit of another (the beneficiary).

Grantor - (also called a settlor or trustor) is a person who creates a trust. An individual may be a grantor if an agent, or other individual legally empowered to act on their behalf (e.g., a legal guardian, person acting under power of attorney or conservator), establishes the trust with funds or property that belong to the individual.

Trustee - a trustee is a person or entity who holds legal title to property for the use or benefit of another.

Trust Beneficiary - a trust beneficiary is a person for whose benefit a trust exists.

Trust Principal - the trust principal is the property placed in trust by the grantor which the trustee holds, subject to the rights of the beneficiary plus any trust earnings paid into the trust and left to accumulate.

Whether a trust is counted as a resource depends on the applicant/beneficiary's role as trust beneficiary, trustee, or settlor, and the specific terms of the trust.

If the trustee has no access to the funds for their personal use, the trust is not a resource to the trustee. However, there are some trusts which allow the trustee access to the funds for their personal use and these trusts are counted as resources to the trustee.

Even though the trust beneficiary does not hold legal title to the trust, under certain circumstances the trust is counted as a resource to them.

When the trust is considered a resource:

- Count the total value of the trust, and
- Count any interest or distributions the month following the month of receipt. Distributions are counted as income in the month of receipt while interest is excluded as income.

Note:

Do not count as income any withdrawals made from a trust which is a countable resource, because the funds have already been counted as a resource.

Applicant/Beneficiary as Trustee

Count the trust as a resource, regardless of whose funds were

originally deposited into the trust, if the applicant/beneficiary:

- Is the trustee, and
- Has the legal right to:
 - Revoke the trust, and
 - Use the money for their own benefit.

Applicant/Beneficiary as Trust Beneficiary

Count the trust as a resource if the applicant/beneficiary is trust beneficiary and has unrestricted access to the trust.

Note:

The authority for trustee discretion in the use of trust funds assumes that the trustee has the best interests of the beneficiary in mind.

Unless the trust specifically states the amounts and time frames for disbursement, the amounts and time frames for distribution decided by the trustee shall not be questioned.

Trustee discretion in the use of trust funds should not be misconstrued to mean that the principal is available or unavailable to the applicant/beneficiary.

Do not count the trust as a resource if the trust beneficiary's access is restricted (i.e., only the trustee or court can invade the principal), even if:

- It can be revoked by someone other than the trust beneficiary, or
- It provides a regular specified payment from the principal to the beneficiary for their use, or
- It designates a representative payee or legal guardian as trustee.

Note:

Count as income all payments made to the trust beneficiary from a restricted trust.

Applicant/Beneficiary as Settlor

Count the trust as a resource if the applicant/beneficiary is the settlor (created the trust) and:

- Has the right to revoke it, and
- Can use the funds for their own benefit.

Consider penalties under the transfer of resource policy (refer to [I-1670 Transfer of Resources For Less Than Fair Market Value](#)) if the applicant/beneficiary:

- Created the trust,
- Does not have the right to revoke it, and
- Cannot use the principal for their own benefit.

Verification

Verify the following information for all trusts:

- Applicant/beneficiary's role as trustee, trust beneficiary, and/or settlor,
- The applicant/beneficiary's access to the principal, and
- If access to principal is restricted, whether the applicant/beneficiary created the trust and imposed the restrictions.

If the trust document does not clearly provide the above information, refer the document to the Medicaid Eligibility Policy Unit at Medicaid.EligibilityPolicyUnit@la.gov.

Documentation

File a copy of the trust document.

- **Uniform Gifts to Minors Act and Uniform Transfers to Minors Act (UGMA/UTMA)**

UTMA and UGMA accounts are taxable investment accounts set up to benefit a minor, but controlled by an adult custodian until the minor reaches their age of majority. UGMA accounts allows donors to make gifts to minors that are free of tax burdens but were limited to only gifts of cash or securities. UTMA accounts allow any kind of property (real or personal, tangible or intangible) to be transferred from a donor to a custodian for the benefit of a minor.

Donor: Money and assets transferred are no longer resources of the donor beginning the month after the month of the transfer. The transfer of resources provision may apply if the donor is an eligible individual or individual's spouse.

Custodian: The accounts assets are not the custodian's resources because they may not legally use any of the funds for their own support.

Minor is under age 18:

- These accounts property, including additions or earnings, is neither income nor a resource to the minor unless it can be considered a device similar to a trust. If funds belonging to the minor are placed in one of these type accounts, the account may be considered a device similar to a trust and you would evaluate the account under the trust rules;
- The custodian's accounts disbursements to the minor are income to the minor in month of disbursement and a resource beginning the following month.

Minor turns age 18:

- In the month the minor attains age 18, all the account property becomes available to the individual and is subject to income counting. The accounts property becomes subject to resource counting the following month.

- **Vehicles**

Consider as vehicles passenger cars and other conveyances, whether

registered or not registered, used as transportation.

Exclude only one vehicle per household, regardless of its value if anyone in the applicant/beneficiary's household uses it for transportation.

Note: Donating or giving away an “excluded” vehicle does not result in a transfer of resources for less than fair market value since the value of the vehicle is not counted towards the resource limit.

Assume the vehicle is used for transportation unless there is evidence to the contrary.

Apply exclusion in a manner most advantageous to the individual.

The exclusion applies to temporarily inoperable vehicles which are expected to be repaired and used for transportation within the next 12 months.

If the applicant/beneficiary owns more than one vehicle the exclusion applies to the car with the greater equity value, regardless of which car is actually used.

Count the equity value of all other vehicles, including inoperable vehicles and vehicles used for show (e.g., antique cars).

The current NADA "Blue Book" trade-in value may be used. Information is also online at www.nadaguides.com. Use average trade-in value when obtaining values from the online service.

▪ **Victims' Compensation Payments**

Effective May 1, 1991, do not count unspent portions of victims' compensation payments for nine months following the month of receipt.

Note:

Count any interest earned on unspent portions as unearned income in the month of receipt and as a resource the following month.

- **Workers' Compensation Medicare Set-Aside Arrangement (WCMSA)**

A Workers' Compensation Medicare Set-Aside Arrangement (WCMSA) is an allocation of funds from a workers' compensation-related settlement, judgment, or award which are set aside to pay for future medical services and/or prescription drug expenses related to the workers' compensation injury or disease.

Medicare does not pay for an individual's workers' compensation (WC) related medical services and drug expenses when that individual received a WC settlement, judgment, or award that includes funds for future medical expenses, until all such funds are properly expended.

The funds set aside in the WCMSA are not available or countable as resource unless they are actually used for food or shelter (i.e., rent, mortgage payments, utilities, etc.). There may be cases in which funds in a Medicare set-aside arrangement are placed in trusts. Refer to MEM [I-1700, Trust](#), to determine how the trust is counted for eligibility purposes.