# MA-2230 FINANCIAL RESOURCES
**REVISED 02/01/12 – CHANGE NO. 03-12**

## I. POLICY PRINCIPLES

Resources are an important factor in determining Medicaid eligibility. Countable resources are compared to a limit established by federal law. An applicant/beneficiary (a/b) is ineligible for Medicaid if countable resources exceed the resource limit or the "reserve" limit. The DMA-5030, Reserve History Sheet must be used to document resources at application, change in situation and at redeterminations.

### A. Resource Policy Rules

1. Resources

Resources are all financial assets that a Medicaid a/b or a person who is financially responsible for him:

a. Owns, or has the right, authority, or power to convert to cash, and
b. Are legally available for the a/b's support and maintenance.

2. Resource Eligibility Determination

When determining Medicaid eligibility, some assets are countable resources and others are excluded. Always verify resources, determine their availability and whether available resources are countable.

3. Resource Limits

To qualify for Medicaid, the a/b's countable resources must be equal to or less than the limits listed below:

| Number of Persons | M-AABD, C, N, M Resource Limit | M-QB (Q/B/E) Resource Limit | M-WD Resource Limit | HCWD Resource Limit |
|---|---|---|---|---|
| Individual | $2,000 | $7,080 | $4,000 | Minimum Community Spouse Resource Allowance (see MA-2231) |
| Couple | $3,000 | $10,620 | $6,000 | |

4. First Moment

Verify the value of countable liquid resources (see definition in B.3. below) as of the first moment of the month. Increases of resources during the month do not affect eligibility for month of increase.

NOTE: While countable resources are only applied to the resource limit on the first moment of the month following receipt, if they are given away in the month of receipt, evaluate for transfer of resources according to MA-2240, Transfer of Assets

(I.A.4.)

5. Excess Resources

a. If countable resources exceed the allowable limit:

(1) Notify an applicant via the DMA-5097 of excess resources and the opportunity to rebut the value of those resources that can be rebutted (II.G.1.) or reduce the value of resources. Follow the policy in MA-2303, Verification Requirements for Applications, and MA-2304, Processing the Application, for time frames and disposition instructions when there are excess resources.

(2) Notify a beneficiary via the DMA-5097 of excess resources and the opportunity to rebut the value of those resources that can be rebutted (II.G.2.) or reduce the value of resources.

(a) Allow the beneficiary 12 calendar days to provide proof of rebuttal of value or reduction of resources.

(b) If proof of rebuttal or reduction is not received within 12 calendar days, send a timely notice proposing termination for excess resources. Terminate the case unless, the value of the resources are rebutted or resources are reduced prior to the effective date of termination.

b. Refer to I.C., II.G., VII.E., and VIII.E for further instructions on rebutting the value of resources. Refer to I.D. and XIII.H. for further policy on reduction of resources and MA-2240, Transfer of Assets, for allowable transfers that may reduce resources.

6. The following are not considered resources in determining Medicaid eligibility or transfer of assets.

a. Cash to purchase medical or social services, cash placed in an irrevocable burial account, (see XIII. for applying to the burial exclusion), money used as part of a Plan for Achieving Self-Support (PASS) see H. below, and past due SSI benefits placed in a Dedicated Account for a child under age 18 who has a representative payee, (see I. below).

For one calendar month following its receipt, cash paid by a recognized medical or social services program is not a resource provided the cash is not income and not repayment for a bill already paid.

b. Home energy assistance/support and maintenance assistance (HEA/SMA) regardless of how long a person retains it.

c. Certain stock in Alaska regional or village corporations. Do not include shares of stock held by a native Alaskan in a regional or village corporation as a resource.

**B. Types of Resources**

There are three types of resources considered when determining Medicaid eligibility - real property, personal property and liquid assets.

1. Real Property

Real property includes land and all buildings or dwellings which are permanently affixed to the land. This includes mobile homes if the county tax office considers them to be real property. Verify with the county tax office.

2. Personal Property

Personal property includes all personal effects and household goods as well as any types of motor vehicles, boats, trailers or farm and garden equipment. (i.e. mobile homes are considered personal property unless county tax office considers the mobile home to be real property. This can be verified by county tax records or office.)

3. Liquid Assets

Liquid assets include cash, bank accounts, certificates of deposit as well as any item that can be converted to cash (i.e. cash value bearing life insurance policy).

**C. Rebuttal of Resource Value for Real or Personal Property or Promissory Note**

If the value of the a/b's total resources exceeds the resource limit the a/b can disagree with and rebut the value of real or personal property or a promissory note. The a/b must be informed via the DMA-5097 or DMA-5097S that he has the right to rebut and prove that the resource has a lesser value.

**D. Reduction of Resources**

In addition to rebuttal, the a/b must be given the opportunity to reduce countable resources which exceed the resource limit. See MA-2303, Verification Requirements For Applications and MA-2304, Processing the Application, for application processing standards. A beneficiary may reduce resources within the timely notice time frame.

(I.)

**E. Burial Exclusion**

Up to $1,500 of otherwise countable liquid assets may be excluded for burial purposes. See Item XIII. below.

**F. Protection of Resources**

1. When a married applicant is "institutionalized" for long-term care or applies for CAP, the spouse who remains in the community may be able to keep a share of the couple's assets. This amount is excluded from the countable resources of the institutionalized or CAP spouse. This amount is known as the Community Spouse Resource Allowance (CRSA). See MA-2231, Community Spouse Resource Protection, for instructions.

2. For individuals with a community spouse, apply the Long Term Care Partnership Program disregard after applying the CRSA, if the individual is still over reserve. See XII.D below for instructions on how to apply the resource disregard for individuals with a qualified Long Term Care Partnership Program policy.

**G. Transfer of Assets**

Transfer of assets may result in a period of ineligibility known as a sanction if the a/b or a/b's spouse requests assistance with institutional services or receives in-home health services and supplies. See MA-2240, Transfer of Assets.

1. Always document in the case record any transfer of assets by the a/b or financially responsible spouse.

2. Include in the documentation the amount of the transfer, date of the transfer, and any other identifying information, etc.

3. Always complete the Assets Transfer Tracking Screen for any a/b to indicate that a transfer of assets evaluation has been completed. Refer to MA-2240, Transfer of Assets, for procedures.

**H. Plan to Achieve Self-Support (PASS)**

The Social Security Act authorizes the exclusion of resources of an individual who has a disability or is blind when the individual needs such income and resources to fulfill an approved Plan to Achieve Self-Support (PASS).

Verify the exclusion amount by viewing the notice of approval from the SSA office. Since the PASS is issued for a specific period of time and can be amended by SSA due to changes, it should be verified at each redetermination.

(I.)

### I. Dedicated Accounts for Individuals under Age 18

Section 213 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 requires that when an individual under age 18 becomes eligible for Supplemental Security Income (SSI), and is eligible for past due SSI monthly benefits, the representative payee must establish a dedicated account in a financial institution into which the past due benefits will be paid.

Other underpayments of SSI benefits may also be paid into this account by Social Security. No other funds may be deposited into a dedicated account. A dedicated account including any interest earned is excluded from income and is not a countable resource.

Obtain account statements to verify that only past due payments of SSI benefits have been deposited into the dedicated account. If other funds including regular monthly SSI benefit payments have been deposited into the account, it is no longer considered a dedicated account and should be evaluated for being a countable resource.

## II. FINANCIAL RESOURCE PROCEDURES

The following information contains procedures for verifying and counting resources. Detailed information about various topics in this section is referenced for convenience.

### A. Determine Whose Resources Are Counted

The a/b's available resources are always counted when determining eligibility. In addition, if the a/b is married or is under age 18, a spouse or parent(s) may be financially responsible for the a/b. The spouse's or parent's resources must be evaluated when determining eligibility. See III. below for information on how to determine whose resources are counted.

### B. Determine Availability of Resources

Even though an a/b, spouse or parent has financial assets, the assets may not be an available resource to the a/b under certain circumstances. Item IV. below provides information on how to determine availability of resources.

### C. Request and Verify Resources

1. Liquid Assets - First Moment Balance

   Always verify liquid assets as of the "first moment" of the month of verification. For all Medicaid classifications:

   a. Request the closing balance/value on the last working day of the month pre-ceding the verification month.

b. The closing balance/value on the last business day of the preceding month is the "first moment" balance/value of the verification month.

2. Personal and Real Property Assets

The value of personal property and real property changes only when re-evaluated for tax purposes. Verify the value at any time during the month.

**D. Resource Verification Month**

1. Applications

The month to verify resources is:

a. Ongoing Certification Period - The month of application, or, if there are excess resources, the month resources are reduced.

b. Retroactive Certification Period - Each month of any 1, 2, or 3 month period.

2. Redeterminations

For eligibility reviews, there is some flexibility as long as the "verification month" is:

a. No earlier than the month in which the review process (verifications, appointment letter, etc.) is started, and

b. No later than the first month of the new certification period

3. Change In Situation

Verify resources for the month of change. If countable resources exceed the allowable limit:

a. Notify the beneficiary via the DMA-5097 or DMA-5097S of excess resources and the opportunity to rebut or reduce the value of resources. Allow 12 calendar days to provide proof of rebuttal or reduction of resources.

b. If, at the end of 12 calendar days, proof of rebuttal or reduction of resources is not received, send a timely notice of termination.

(II.D.3.)

c. The beneficiary must provide proof that resources have been reduced no later than the effective date of termination.

d. If proof is submitted by the termination effective date, continue eligibility.

4. Appeal Reversals

Verify resources as of the first month of each certification period (c.p.). Begin with the retroactive 1-3 months and go forward by c.p.'s of 6 months. Verify any reported increases in resources during a c.p.

**E. Calculate Countable Resources**

1. Add the value of all countable real property assets. Include equity value based on tax value at this point. Rebuttal of current market value is only necessary if there are excess resources. See VII. below to determine how to count real property.

2. Add the value of all countable personal property assets. Include the equity value of excess vehicles. Rebuttal of personal property value is only necessary if there are excess resources. See VIII. to determine how to count personal property.

3. Add the value of all countable liquid assets. See X.-XII below to determine how to count trust funds, life insurance and other liquid assets.

4. Total all countable assets available to the a/b and financially responsible persons. See MA-2260, Financial Eligibility Regulations-PLA, for resource limits and parental deeming of resources. Refer to MA-2231, Community Spouse Resource Protection, when the a/b is institutionalized and has a spouse in the community. See XII.D below for instructions on how to apply a resource disregard for individuals with a qualified Long Term Care Partnership policy.

**F. Compare Countable Resources to Resource Limit**

1. Private Living Arrangement

The PLA a/b meets resource eligibility criteria if total countable resources are equal to or less than the resource limit for the a/b (individual or couple limit) on the first moment of the verification month.

(II.F.)

2. Long Term Care

   a. A single (unmarried or widowed) a/b in LTC meets resource criteria if total countable resources are equal to or less than the resource limit for one person.

   b. Married LTC a/b with a spouse in the community –

      Subtract the Community Spouse Resource Allowance (CSRA) from total countable resources of the couple. The a/b meets resource criteria if the remaining resources are equal to or less than the limit for one person. Rules and procedures for determining the amount of the CSRA are found in MA-2231, Community Spouse Resource Protection.

3. See G. - J. below if resources exceed allowable limits

**G. Rebuttal of Real/Personal Property Value or Promissory Note**

The a/b may rebut the value of real or personal property (including partial interest) or promissory note when countable resources exceed allowable limits. Rebuttal requirements are listed in items VII. and VIII. Refer also to instructions in MA-2303, Verification Requirements For Applications. When the a/b successfully rebuts the value of an asset, use the lesser value for all months for which eligibility is being determined, including retroactive months.

1. Rebuttal Requirements for Applications

   When total countable resources exceed the allowable limit and the total includes equity in real property, personal property or a promissory note, notify the applicant in writing on the DMA-5097, Request for Information (or DMA-5097S), of the right to rebut.

   a. Indicate the current value of countable resources and inform the applicant of the right to rebut the value and show that the asset has lesser value. State the latest date the rebuttal can be provided.

   b. Refer to MA-2304, Processing The Application, for information concerning processing time frames for applications.

2. Rebuttal Requirements for Ongoing Cases

   a. When total countable resources exceed the allowable limit and the total includes equity in real property, personal property or a promissory note, notify the beneficiary in writing on the DMA-5097, Request for Information, (or DMA-5097S) of the right to rebut the value of these resources.

      Indicate the current value of countable resources and inform the beneficiary of the right to rebut the value and show that the asset has lesser value. Allow 12 calendar days to provide proof of rebuttal of the value of the resource(s).

   b. If proof of rebuttal or reduction is not received within 12 calendar days, send a timely notice proposing termination for excess resources. Terminate the case unless, the value of resources are rebutted or resources are reduced prior to the effective date of termination.

## H. Burial Exclusion

Up to $1,500 of countable liquid assets for the a/b, spouse and financially responsible parent may be excluded for burial purposes. Using the burial exclusion is one method of reducing total countable resources which exceed the limit. See XIII. below.

## I. Approving/Denying the Application for Resources

Refer to MA-2260, Financial Eligibility Regulations – PLA, to determine if countable resources, as determined in this section, are within allowable limits.

1. Countable Resources are Within Limits

   Approve the application effective with the month that countable resources are equal to or below the allowable limit and all other eligibility criteria are met.

2. Countable Resources Exceed Limits

   a. Medically Needy - M

      If resources are reduced to allowable limits within the application processing time, authorize Medicaid as of the day that both resource and deductible requirements are met, whichever occurs last and all other requirements are met.

(II.I.2.)

b. Categorically Needy - N, Q, B, E, and MWD.

If resources are reduced to allowable limits within the application processing time, authorize Medicaid the month that resources are below the limit as of the first moment and all other requirements are met.

**J. Eligibility Redeterminations/Change in Situation**

1. Countable Resources Are Within Limits

The a/b is eligible if countable resources are equal to or below the appropriate limit as of the first moment of the verification month and all other eligibility requirements are met.

2. Countable Resources Exceed Limits

If the beneficiary has excess resources at redetermination or change in situation, he must reduce resources to the allowable limit prior to the effective date of termination.

a. Send a DMA-5097, Request for Information, (or DMA-5097S) notifying the beneficiary of excess resources including the resource limit and options for rebuttal of resources (whose value can be rebutted), burial exclusion, or other reduction of resources, that are applicable to the types of resources he owns. Allow 12 calendar days for him to provide proof of rebuttal or reduction of resources.

b. If the beneficiary does not provide proof of rebuttal or reduction of resources within 12 calendar days, send a timely notice proposing termination for excess resources. Terminate the case unless the values of the resources are rebutted or resources are reduced prior to the effective date of termination.

## III. WHOSE RESOURCES TO COUNT

In addition to resources owned by the a/b, the resources owned by a spouse or parent must be counted if they are available for the a/b's use. This principle is known as financial responsibility. This section describes who is financially responsible when determining Medicaid eligibility and how their resources are counted. See IV below for information on determining availability of resources.

(III.)

**A. Applicant/Beneficiary**

Always count the a/b's available resources in determining eligibility. If the a/b does not have a spouse or parent (a/b under age 18) compare total countable resources to the resource limit for one person.

**B. Financial Responsibility - Spouse for Spouse**

A spouse is financially responsible for the a/b when they live together. Use the following procedures to determine whose resources to count and which resource limit to use when an a/b has a spouse:

1. Private Living Arrangement - Legal Spouses Live Together

   Compare the total countable resources of the couple to the resource limit for 2 persons unless one of them receives Work First Family Assistance (including Transitional Medicaid benefits), SSI or Medicaid under the Community Alternatives Program (CAP). Then use the resource limit for one. Refer to MA-2250, Income.

2. Private Living Arrangement - Legal Spouses Live Apart

   Compare total countable resources of the a/b to the resource limit for one person. Evaluate any jointly owned resources for availability as specified in IV.B.

3. CAP Beneficiary(s)

   a. One Spouse is CAP

      Deduct the Community Spouse Resource Amount (CSRA) from the total combined countable resources of the couple. Compare the remainder to the resource limit for one. See MA-2231, Community Spouse Resource Protection, for CSRA.

   b. Both Spouses are CAP

      Compare the total countable resources of each spouse to the resource limit for one. If resources are owned jointly, count 50% for each spouse.

4. Long Term Care - One Spouse is Institutionalized (Applies whether or not the institutionalized spouse is applying for help with long term care.)

(III.B.4.)

Refer to MA-2231, Community Spouse Resource Protection, for procedures for protecting resources for a spouse living in the community when the a/b began a continuous period of institutionalization on or after October 1, 1989.

a. Couple Apart More Than 12 Consecutive Months

If the couple had been apart for at least 12 consecutive months when one of them becomes institutionalized, compare the available resources of the a/b to the resource limit for one. Evaluate jointly owned assets for availability as specified in IV.B. - Assets Jointly Owned With a Non-Financially Responsible Individual.

b. Couple Apart Less Than 12 Consecutive Months

If the couple were living together or separated less than 12 consecutive months, deduct the Community Spouse Resource Amount from the total combined countable resources of the couple. Compare the remainder to the resource limit for one. See MA-2231, Community Spouse Resource Protection, for CSRA.

NOTE Do not count a prior period of institutionalization as part of the 12 month period of separation unless the couple was legally separated during this time.

c. CPI Prior to 10/1/89

If the current continuous period of institutionalization (see MA-2270, Long Term Care Need and Budgeting, for definition) began before 10/1/89:

(1) The legal spouse of the institutionalized a/b is not financially responsible beginning with the month after month of entry into a nursing level of care.

(2) Compare the total available assets of the institutionalized a/b to the resource limit for one.

(3) Do not apply spousal resource protection procedures.

(4) Evaluate any jointly owned assets for availability as specified in IV.B. below.

(III.B.)

5. Long Term Care - Both Spouses Institutionalized

a. Spouses In Separate LTC Rooms

The spouses are not financially responsible for each other. Compare available resources owned by each spouse who is an a/b to the resource limit for one. In addition:

(1) If both are beneficiaries, count half of any jointly owned assets for each spouse.

(2) If one spouse is not a Medicaid a/b, see Item IV.B. - Assets Jointly Owned With a Non-Financially Responsible Individual.

b. Spouses in Same LTC Room

If both spouses are beneficiaries and are in the same room, compare available resources of both spouses to the resource limit for two.

**C. Financial Responsibility - Parent for Children**

When establishing resource eligibility for disabled children under age 18 who live with their parents, evaluate available resources of the parent to determine if resources must be deemed to the child. See MA-2260, Financial Eligibility Regulations – PLA.

Do not count (or deem) the assets of the parents if:

1. The parent(s) receive SSI, Work First, or CAP.

2. The child has been out of the parents' home for more than one month, (Beginning with the 2nd month do not count the parents' resources. See MA-2260, Financial Eligibility Regulations – PLA, I.A.2.) or

3. The child is approved for CAP services (Community Alternatives Program).

## IV. AVAILABILITY OF RESOURCES

Only count a resource if it is available to the a/b. Available means that the a/b can access and use the resource. Resources of a financially responsible spouse or parent may also be countable (See III. above).

This section provides information on how to determine if countable resources held by the applicant/beneficiary or financially responsible person are available for the a/b's use.

(IV.)

**A. General Policy Rules**

1. Except as stated in 2. – 4. below, Resources

   a. Held solely by the a/b are considered available for the a/b's use.

   b. Held by a financially responsible spouse or parent are considered available and may be counted in determining the a/b's eligibility. See MA-2260, Financial Eligibility Regulations – PLA, for instructions.

2. Resources are considered available unless the a/b or financially responsible person shows evidence of legal restraints such as judgments, estates, boundary disputes, or legally binding agreements.

3. Resources may not be available if the a/b or financially responsible person is incompetent. Refer to VI. below.

4. The a/b or individual acting on his behalf is responsible for providing evidence that resources are not available.

**B. Shared Ownership of Resources**

1. A/B and Financially Responsible Spouse/Parent

   Countable resources owned jointly by the a/b and a financially responsible individual are available to the a/b when determining eligibility.

   Joint ownership of real property by persons who are not married is tenancy-in-common. (Spouses my also own real property as tenants-in-common, but absent a legally binding agreement to that effect, joint ownership of real property by spouses is as tenants-by-entirety. Refer to Definitions Relating to Real Property, in VII below.

   NOTE: Tenancy-in-common interest in real property is not countable. Do not count it even if owned by financially responsible individuals. Refer to MA-2240, Transfer of Assets, for policy on sanctioning transfers of tenancy-in-common interest in real property.

(IV.B.)

2. Individual Who is Not Financially Responsible

Countable resources owned jointly by the a/b or financially responsible spouse/parent with an individual who is not financially responsible may be available to the a/b.

a. Other Owner Receives Public Assistance

If the owner(s) are beneficiaries of Medicaid, Work First Family Assistance (WFFA), Special Assistance (SA) or SSI:

(1) If there is no legally binding agreement specifying the share of the resources owned by each individual, divide the value of the asset equally among the owners and count the resulting amount as available to the a/b, or

(2) If there is a legally binding agreement specifying the share of the resources owned by each individual, count the value of the share specified for the a/b or financially responsible person.

(3) Evaluate for transfer if resources are held jointly with a child for whom the A/B does not have financial responsibility.

b. Spouse of Financially Responsible Parent

If the other person is the spouse of the financially responsible parent (the a/b's stepparent) and does not receive Medicaid, WFFA, SSI, SA, or CAP:

(1) The value of liquid assets/personal property owned jointly by the financially responsible parent and his spouse is available and a portion may be deemed to the child a/b (see MA-2260, Financial Eligibility Regulations – PLA) if:

(a) The financially responsible parent can dispose of the assets/property without the consent and participation of the spouse, or

(b) The spouse agrees to and, if necessary, participates in the disposal of the assets/property.

(IV.B.2.b. (2)

(2) Unless specific shares have been specified by a legally binding agreement, one-half of the value of real property jointly owned by the financially responsible parent and spouse are available and a portion may be deemed to the child a/b (See MA-2260, Financial Eligibility Regulations – PLA.) if:

(a) The parent can dispose of the property without the consent and participation of the spouse, or

(b) The spouse agrees to and, if necessary, participates in the disposal of the property.

(3) If there is a legally binding agreement specifying that a share of the property is owned by the financially responsible parent, that portion of the resource is available to the parent and can be deemed to the child if:

(a) The parent can dispose of the property without the consent and participation of the spouse, or

(b) The spouse agrees to and, if necessary, participates in the disposal of the property.

c. Other Owner is Not a Spouse

If the other person is not a spouse of a financially responsible parent and does not receive Medicaid, WFFA, SSI, SA, or CAP the assets are available if:

(1) The a/b or financially responsible person can dispose of the asset without the consent or participation of the other owner, or

(2) If the consent/participation of the other owner is required, he agrees to and, if necessary, participates in its disposal.

NOTE: Joint ownership of real property by persons who are not married is tenancy-in-common. These interests are not countable. (Spouses may also own property as tenants-in-common, but absent a legally binding agreement to that effect, joint ownership of real property by spouses is as tenants-by-entirety. Refer to Definitions Relating to Real Property, in VII below.)

(IV.B.)

3. Obtaining Consent

If the a/b or financially responsible person jointly owns a resource with a person who is not financially responsible for the a/b and it requires the consent and participation of the other owner to dispose of the resource, verify with the other owner if he will consent to and participate in disposing of the resource.

This situation may occur when spouses own property as tenants-by-entirety but a separated and property division has not been accomplished. It may occur when a liquid asset requires the signatures of two persons to be accessed.

NOTE: The consent and participation of other tenants-in-common is not required for another tenant-in-common to dispose of his tenancy-in-common interest in real property.

a. Application Requirements

If the other owner:

(1) Consents to disposal - count the resource.

(2) Refuses to dispose - do not count the resource.

(3) Does not respond or cannot be located - do not count.

Follow policy in MA-2304, Processing the Application, that is related to inability to locate the applicant before excluding the resource. Document all attempts to locate. If you learn of the other owner's death, contact his family to determine the disposition of the resource and who, if anyone, is the current owner.

NOTE: Refer to MA-2304, Processing the Application, for notice requirements.

b. Redetermination/Change in Situation Requirements

(1) Attempt to re-verify the other owner's willingness to consent or participate. Allow 12 calendar days for the other owner to respond.

(2) If no response is received from the other owner, notify the beneficiary that the other owner's response is required. Allow the beneficiary 12 calendar days to provide the information. If the information is not provided, send timely notice proposing termination for excess resources.

**C. Additional Circumstances Affecting Availability**

An asset may be unavailable to the a/b because of an unsettled estate, resulting trust, or alleged incompetence.

1. Unsettled Estate

Verify if the a/b or financially responsible spouse/parent has a legal right to an asset if it is part of an unsettled estate. Assets are normally unavailable until the estate is settled (probated).

a. Contact the Clerk of Court to determine availability.

NOTE: Liquid assets may be available earlier if the account was joint with "right of survivorship" held by a/b. Contact the financial institution for verification.

b. An estate which has been filed for probate is normally open up to 12 months unless there is a continuation approved by the Clerk of Court. Document the date at which the estate should be probated and contact the Clerk of Court later to verify availability.

2. Resulting Trust/Legally Binding Agreement

Assets may not be available if there is a pre-existing agreement in which the a/b holds assets for another party but does not have an ownership interest. This pre-existing agreement is called a "resulting trust" or is sometimes referred to as a "legally binding agreement." See V. below for procedures to evaluate a resulting trust/legally binding agreement.

3. Incompetency

When countable resources exceed the allowable limit and it is alleged that the a/b is incompetent, assets may be excluded until a determination of competence can be completed. See VI. below for procedures when incompetence is alleged.

**D. Transfer of Assets**

When the a/b or the a/b's spouse is requesting or receiving assistance with a nursing facility or intermediate care facility for the mentally retarded, inappropriate level of care bed in a hospital, CAP waiver programs, or Program of All-Inclusive Care for the Elderly (PACE), and the a/b, or a/b's spouse, or legal guardian/POA makes a resource belonging to the a/b or a/b's spouse unavailable, evaluate for transfer of assets. Evaluate at each application, redetermination and applicable change in situation. Refer to MA-2240, Transfer of Assets.

(IV.D.)

**E. Applicant/Beneficiary Defrauded**

When it is determined that an a/b has been defrauded, i.e., the legal guardian/POA has taken an asset but refuses responsibility for the consequences, make a referral to Adult Protective Services for investigation.

1. Determine eligibility, excluding the assets in question.

2. Refer to MA-2240, Transfer of Assets, to determine how fraud affects the a/b's eligibility.

**F. Marital Separation, Prenuptial, and Postnuptial Agreements**

The terms of these agreements do not take precedence over Medicaid availability rules. Count the resources according to policy in IV. A. through E.

EXAMPLE: A prenuptial agreement specifies that savings and property owned by Mrs. Jones prior to marrying Mr. Jones are unavailable to him. This agreement does not matter should Mr. Jones apply for Medicaid. Count Mrs. Jones' assets when determining eligibility.

**G. Documentation**

Attempt to obtain a copy of existing legal documents related to availability. These documents provide leads and help determine ownership interest or legal right to sell. The following chart lists types of documents and their possible effect on availability for determining Medicaid eligibility.

| Documentation | Possible impact on availability |
|---|---|
| Separation agreement<br>Prenuptial agreement<br>Postnuptial agreement | NO impact – follow Medicaid rules. |
| Divorce decree with property settlement | If a/b's ownership interest is taken away by a divorce decree, the asset is unavailable. |
| Will | Liquid and personal property assets are unavailable until released by the Clerk of Court. |
| Deed | A signed deed is a valid document to consider for availability of real property. A deed of gift must be registered within two years from the date it is signed to remain valid. See VII.C.3. Only the court can "set aside" a valid deed. |

(IV G)

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|---|---|
| Court Orders | Refer all court orders which contradict availability rules to DMA, Medicaid Eligibility Unit, 919-855-4000. Send a fax of the court order to (919) 715-0801. |

## V. RESULTING TRUSTS/LEGALLY BINDING AGREEMENTS

### A. Policy Rules

1. It is presumed that a resource owned by an individual is also available to him, unless there are circumstances which make the resource unavailable.

2. The terms of a divorce decree, will, deed, court order, resulting trust or legally binding agreement may cause a resource technically owned by an individual to be unavailable to him.

3. A resulting trust exists when a person has a resource in his own name but is holding it for the benefit of another person and he:

   a. Retains no legal interest in the resource, and

   b. Will not benefit from the disposal of the resource.

4. If the a/b or a person financially responsible for the a/b alleging that a resource is held in trust for someone else continues to retain a legal interest in the resource and/or will receive the proceeds from the disposal of the resource, it is not considered to be held in trust for someone else and is a countable resource.

5. If the a/b or a person financially responsible for the a/b claims a resource is not available because of a resulting trust/legally binding agreement, he must cooperate by presenting necessary documentary evidence to show that the resource is unavailable.

6. A legally binding agreement may be either a written or a verbal contract. The evidence must be sufficient to:

   a. Convince others of the validity of the agreement,

   b. Show that the agreement existed at the time of the purchase/deposit of the resource, and

   c. Show that the legal title holder holds the resource/property in trust for the party applying the purchase price or making the deposit.

(V)

**B. Procedures**

1. When a resource is apparently owned by an individual who has applied for Medicaid, determine whether it may not be actually available to him because of a legally binding agreement or resulting trust.

   a. Written Contract

      (1) Review the contract and determine if it affects the availability of the resource.

      (2) Determine the intent and terms of the agreement between parties, including the type of resource, the date of the contract, reason for its existence, and specific terms of the agreement.

      (3) Contact the county or agency attorney if there are questions regarding the terms or validity of the written contract.

   b. Verbal Contract/Agreement

      Ask the a/b to submit 2 different types of the following evidence:

      (1) Written statement(s)/affidavit(s) from the parties involved in the verbal agreement:

         (a) Giving the type of resource,

         (b) The intent and terms of the agreement, and

         (c) Describing the involvement of the parties to the agreement.

      (2) Canceled checks or receipts for payments on a mortgage, loan, etc., showing who is making payments on the resource,

      (3) Letter(s) or statement(s) from finance companies, banks, credit unions, loan officers, automobile salespersons, insurance companies or agents, or others identifying the type of resource and supporting claims that the resource is held for another individual who is making payments on the resource, or

(V.B.1.b.)

(4) Written statements from at least 2 knowledgeable persons:

(a) Identifying the type of resource, and

(b) Giving the circumstances surrounding ownership, and

(c) Availability of the resource and the basis for their knowledge.

c. Real Property

(1) Contact the county attorney to request assistance in determining availability if the resource in question involves real property.

(2) Only a court can set aside a deed to real property.

d. Liquid Assets/Bank Accounts

Obtain the following documentation for a bank account the a/b alleges is in his name only for check cashing purposes or because the other individual needs the a/b or financially responsible person's name on the account in the event of absence, illness, or for other reasons:

(1) Primary Verification

A written statement from each individual whose name is on the account, attesting to actual ownership of the funds and why the a/b's or financially responsible person's name is on the account.

(2) Alternative Verification

A statement regarding the ownership of funds from the a/b or financially responsible person and one other knowledgeable source, such as:

(a) The parties involved in the agreement,

(b) Finance companies, banks, credit unions, loan officers, automobile salespersons, insurance companies or agents, or

(c) An individual who knows the circumstances surrounding ownership and availability of the resource.

(V.B.1.(2.))

e. Motor Vehicles
Obtain the documentation in (1) below and one of documents listed in items (2), (3), and (4), below for a motor vehicle in the name of the a/b or financially responsible person who alleges that he is not the owner:

(1) Written statement(s) or affidavit(s) from the a/b and the other party(ies) involved in a verbal contract:

(a) Giving the intent and terms of the agreement and the involvement of the parties to the agreement, and

(b) Stating that the true owner, who is not the a/b or financially responsible person, makes monthly payments on the vehicle and pays the insurance premiums or taxes on the vehicle.

(2) Cancelled checks or receipts for payments on a loan, etc., showing who is making payments on the vehicle.

(3) Letter(s) or statement(s) from finance companies, banks, credit unions, loan officers, automobile salesmen, insurance companies or agents, or others supporting claims of the cost or of responsibility for the vehicle.

(4) Written statements from at least 2 knowledgeable sources as to the circumstances surrounding ownership and availability of the vehicle. Include the basis for their knowledge.

2. Do not count the resource for the a/b who shows by the evidence that it is held in trust for another individual.

3. If the other individual applies for Medicaid, it must be counted as a resource for that individual.

## VI. INCOMPETENCY

### A. General

1. Resources owned by or in which the a/b or person financially responsible for the a/b has a legal interest are not available to the a/b if:

   a. The a/b or person financially responsible for him who owns countable resources is alleged to be incompetent and has no legal guardian or someone with previously established durable power of attorney (POA) to make the resources available, or

   b. He has a legal guardian/POA who does not act to make the resources available.

      1. If an a/b does not have resources that exceed the resource limit, incompetence is not an issue.

      2. When an a/b has excess resources and he is alleged to be incompetent **or** has been ruled incompetent by a North Carolina court, use the following policy to determine if the resources may be excluded.

### B. Definitions

1. Incompetent Adult

   "Incompetent adult" means an adult or emancipated minor who lacks sufficient capacity to manage the adult's own affairs or to make or communicate important decisions concerning the adult's person, family, or property whether the lack of capacity is due to mental illness, mental retardation, epilepsy, cerebral palsy, autism, alcoholism, senility, disease, injury, or similar cause or condition.

2. Guardian of the Estate

   A guardian of the estate which may be appointed by a court permanently, or for an interim period of time, allows the lawfully appointed guardian to act on behalf of the incompetent individual in any state where resources belonging to the individual are located. Court approval is needed for disposition of real property.

(VI.B.)

3. Guardian of the Person

A court may appoint a guardian of the person to take care of an individual's personal needs. The guardian of the person does not have authority to access resources of the individual.

4. General Guardian

A general guardian is a guardian of both the estate and the person. He can access the individual's assets.

5. Interim Guardian

An interim guardian is appointed only to handle an immediate crisis or need before an incompetence hearing process is completed. Interim guardianship may be of the person, the estate, or a general guardian. He may be able to access the individual's assets if the court so orders. Examine the order appointing the interim guardian to determine his authority.

6. Durable Power of Attorney

a. A durable power of attorney is a document by which an individual grants authority to (an) other individual(s) to serve as his attorney-in-fact to act on his behalf in legal matters.

b. It must be executed when the individual granting the POA is fully competent, and it remains valid after incompetence occurs.

c. It must be registered with the Register of Deeds with a copy provided for the Clerk of the Court for accounting purposes.

d. The date of execution of the document must predate the onset of incompetence.

e. If the power of attorney does not meet these criteria or is otherwise determined by the court to be invalid, the resources of an incompetent person are not available until a guardian is appointed and, for real property, until the court approves the sale. (See VI.D.6.b.)

7. General or Limited Power of Attorney

a. A general or limited power of attorney authorizes one or more persons to act in the absence of the person granting it.

c. It ends if the individual becomes incompetent. The resources become unavailable at this point until a guardian is appointed and, for real property, until the court approves the sale.

(VI.)

**C. Policy Rules**

1. Otherwise countable and available/accessible resources, held solely or jointly by an allegedly incompetent a/b, are exempt prior to a formal declaration of incompetence, appointment of a guardian, and, for real property, court approval of sale if:

   a. A written statement as described in VI.D.1.c., below, from a knowledgeable source supports the allegation of incompetence, and

   b. The a/b is allegedly incompetent for a period of at least 30 consecutive days or until his death (whether or not 30 days has elapsed since the period of incompetence began), and

      NOTE: If applicant has not yet been incompetent for 30 days hold application for the 30 day period.

   c. The resources cannot be accessed on behalf of the a/b because:

      (1) He has no legal representative/guardian/durable POA, or

      (2) His legal representative/guardian/durable POA is unable, fails, or refuses to act to make the resources available.

2. Incompetency for Medicaid eligibility purposes may be:

   a. Alleged by someone who is in a position to know, as indicated in VI.D.1.b., below, **or**

   b. Formally declared by a North Carolina court.

3. Incompetency may be alleged at any time including, but not limited to:

   a. During the application/redetermination process, or

   b. When an a/b receives new resources, or

   c. When unreported resources are discovered, or

   d. When a change in situation causes a previously exempt resource to become countable, or

   e. When the value of a resource increases; or

   f. When the a/b's medical condition changes.

(VI.C.)

4. Exclude otherwise countable resources of an allegedly incompetent individual if a representative has not been previously established who is legally authorized to act on the incompetent individual's behalf in legal matters, including accessing his resources.

5. For purposes of Medicaid eligibility, a formal judgment of incompetence is not required if the a/b has previously executed a valid durable power of attorney and his attorney-in-fact is able and willing to act in the a/b's behalf. See definition in B. above.

   a. Resources held by the incompetent a/b with a valid durable POA are considered available and countable, unless b. below applies.

   b. If the durable POA is unable or unwilling or otherwise fails or refuses to act on the a/b's behalf to make the resources available, the resources are unavailable, but a legal guardian of the estate must be established for the a/b. See VI.D.1 and 4 below for procedures.

6. When the a/b has been formally declared incompetent by a North Carolina court and a guardian of the estate has been appointed by the court, resources are available under certain conditions described in procedures below.

**D. Procedures – Incompetence**

1. Alleged Incompetence

   Inform the family member or representative of an a/b who may not be competent, including a public agency acting on the a/b's behalf, that:

   a. Otherwise countable resources may be exempt for a certain period of time if the a/b is alleged to be incompetent for a period of at least 30 consecutive days or until his death, (whether or not 30 days has elapsed since the period of incompetence began) and

      (1) The a/b does not have someone legally authorized to act on his behalf to access his resources, or

      (2) His legal representative/guardian/durable POA is unable, fails or refuses to act to make the resources available,

      and

   b. The alleged incompetence is supported by the written statement, or testimony at an incompetency hearing, by one of the following:

(VI.D.1.b.)

(1) A physician, or

(2) A nurse, social worker, or psychologist, and

c. The statement/testimony includes

(1) An explanation of the reasons the a/b is believed to be incompetent, such as medical conditions or diagnoses, and

(2) The approximate onset of the alleged incompetence, and

(3) Ending date of alleged incompetence, if the person has improved, and

(4) The basis for the knowledge or opinion of the individual alleging the incompetence.

2. Exclude Resources

Exclude all resources, beginning with the first month for which assistance is requested:

a. For all months that the evidence as defined in VI.D.1.b.& c., above, clearly shows that the a/b was incompetent, or

b. Until one of the following occurs:

(1) A North Carolina court rules that the a/b is incompetent and appoints a guardian of the estate or general guardian, and, in the case of real property, court approval of a sale has been obtained (See VI.D.6.b.), or

(2) The court rules that the a/b is not incompetent, or

(3) The court dismisses the case because of the death or recovery of the a/b.

(VI.D.)

3. Requirement to Formally Establish Incompetence

Inform the a/b's family or representative that steps must be taken to establish the a/b's incompetence formally in a North Carolina court. If the a/b's representative states that he is willing and able to act on the a/b's behalf, explain that:

a. All documents and petitions necessary to have the a/b formally declared incompetent must be filed with a North Carolina court in order to have a guardian of the estate or general guardian appointed by the court, and

b. The necessary legal documents must be filed with the court within 30 calendar days of the latter of:

(1) The date of application for Medicaid, or

(2) The discovery of a previously unreported resource or receipt of a new resource in an ongoing case.

4. Referral for Guardianship Services

Refer the case to the county dss director's designee in the services unit at any point that the a/b's representative:

a. Requests guardianship services, or

b. If the family or representative pursues guardianship, but only guardian of person is appointed, or

c. Is offered and accepts the assistance of the dss in filing the necessary legal documents, or

d. States that he is unwilling or unable to file the necessary documents, or

e. Refuses to participate or cooperate in the court proceedings required to make the resources available to the a/b, or

f. Fails to take the necessary steps outlined in VI.D.3., above, within 30 calendar days of contact by the IMC regarding his responsibilities.

NOTE: The County is to always pursue general guardian or guardian of the estate.

(VI.D.)

5. No Ruling of Incompetence

Count resources at the beginning of the next month if:

a. The court finds that the a/b is competent, or

b. The court dismisses the case because of the death or recovery of the a/b, or

c. The services unit determines that guardianship is not the appropriate alternative to meet the a/b's needs.

(1) Document the period of alleged incompetence, beginning and ending dates or date of death, as indicated in VI.D.1.c. above, or

(2) Document that prior to the date of a finding of competence the a/b's medical condition substantially improved.

6. Incompetence Is Established by the Court

When a formal declaration of incompetence has been determined by a North Carolina court and a general guardian or guardian of the estate appointed, regard the resources as follows:

a. Count liquid resources and personal property resources beginning with the first day of the month immediately following the month in which the legal guardian is appointed.

b. Count real property resources only after the Court has given final approval for sale of the property.

(1) Inform the guardian that he must petition the Clerk of Court for approval to dispose of or convert the real property resource.

(2) Count the value of the real property resource on the first day of the month immediately following the month in which the Court issues an "Order Confirming Sale", unless the guardian has taken steps to exclude it by converting it to an exempt resource.

(3) The "Order Confirming Sale" is a document issued to the guardian authorizing final sale of the property and must be signed by the Clerk of Court and a Superior Court Judge. It is only issued after a sales contract has been executed and no further bids have been received during a period of time allowed by the Court.

(VI.D.)

7. Failure of Legal Guardian to Act

   a. If a legal guardian fails to access liquid resources or fails to begin the process to access real property for the a/b's use within 30 calendar days of appointment, make a referral to the county director's designee.

   b. The county director's designee must:

      (1) Determine if the guardian is acting in the a/b's best interests, and

      (2) Inform the IMC either that the present guardian is acting in the a/b's best interests or that a new guardian must be appointed.

   c. The director's designee must make a referral to the Clerk of Court for intervention if he determines that the a/b's interests are not being served or are questionable.

   d. Continue to exclude the resources until the Clerk of Court acts to appoint a new guardian.

   e. Count the resources as described in VI.D.2.b., above, if the director's designee determines that the a/b's best interests are being served or if the Clerk of Court appoints a new guardian.

8. Documentation

   a. File copies of the durable power of attorney and/or order of guardianship in the a/b's case record.

   b. File copies of documents to show that all required steps have been taken to establish formal guardianship and that the guardian has taken the necessary actions to make the a/b's resources available.

9. Computation of Countable Resources

   a. Exclude all resources for any month or portion of a month for which assistance is requested and there is documentation that the a/b is not competent to access his resources.

   b. Count all resources that are available to the a/b either because he has recovered sufficiently to access his resources himself or because of the appointment of a legal guardian of the estate who has authority to access his resources, beginning with the first day of the month following his recovery or the appointment of a legal guardian (and in the case of real property, court approval of sale).

## VII. REAL PROPERTY ASSETS

Real property consists of land and any attachments such as dwellings and other buildings. Property other than the home site may be a countable resource unless it can be excluded for one of the reasons in VII.A. below. Please review the following for definitions of types of ownership and property interest.

**Single Ownership** - Property owned by one individual

**Tenancy-By-Entirety** - Property owned jointly by husband and wife
Most property owned by a husband and wife is held by them as tenants-by-the-entirety. If the conveyance of the property is made to the couple during the marriage, they hold the property as tenants-by-the-entirety even if it is not specifically stated in the deed. If the couple divorces, the tenancy-by-the-entirety is dissolved and the former spouses become tenants-in-common of the property and either person can market his half-share. Legal separation does not dissolve tenancy-by-the-entirety.

**Tenancy-In-Common** - Property owned jointly by two or more individuals who generally are not husband and wife. Property owned by 2 or more persons who generally are not married to one another or given to 2 or more persons by gift, will, or by intestate succession is held as tenancy-in-common. These related or unrelated persons have an undivided fractional interest in the whole property for the duration of the tenancy. An individual owner may sell or give his individual interest in the property to another without the consent and participation of the other owners, and he may file suit with the court for partition of the property.

Though property owned jointly by husband and wife is owned by tenancy-by-entirety, a legally binding agreement can be made that creates tenancy-in-common between husband and wife.

**Life Estate Interest**
An individual may transfer his property to another and retain certain rights in the property, such as the right of possession and use of the property, the right to obtain profits from the property, and the right to sell his life estate interest for his lifetime. Its duration is measured by the lifetime of the tenant or of another person, or by the occurrence of some specific event, such as remarriage of the tenant. The contract establishing the life estate may restrain one or more rights of the individual. He does not have title to the property, and he does not have the right to sell the property.

**Remainder Interest**
Upon the death or occurrence of a previously designated specific event of the life estate holder, the remainder interest holder ("remainder man") will hold full title in fee simple. An owner of real property may designate several individuals as remainder men who would hold ownership in common by will or agreement. The remainder man can generally sell his remainder interest in the property during the life estate holder's tenancy.

(VII)

**Fee Simple Interest**
The owner(s) who hold(s) a fee simple title to the property has no restrictions or limitations on that ownership. The owner(s) may sell or transfer the ownership interest without time conditions imposed by others.

**Dower rights**
A type of life estate interest once granted to a widow in her husband's real property. If the a/b has a dower interest in real property it is probably life estate only. If questionable, consult with county attorney.

**Property agreement**
A pledge, or security of a particular property, for the payment of a debt or the performance of some other obligation within a specified time. On real property usually called mortgage, land contract, deed of trust, or promissory note. On personal property known as, chattel mortgages.

**A. Non-Countable Real Property**

Exclude the following when determining countable resources:

1. The Home site - equity of the home site used as the a/b principal place of residence is not counted. An a/b can have only one home site exclusion.

   a. The home site is any property in which the a/b or financially responsible person has an ownership interest and which is used as his principal place of residence.

   b. The home site may be either real or personal property, fixed or mobile, and located on land or water (i.e. motor home, houseboat).

      NOTE: If the a/b requests institutional services, see MA-2242, Home Equity Value & Eligibility For Institutional Services.

   c. Do not count the value of the home site if one of the following is true:

      (1) It is the a/b's (or financially responsible person's) principal place of residence.

      (2) The a/b (or financially responsible person) is not currently living in the home, but his legal spouse or his dependent relative lives there, regardless of whether the spouse or dependent relative lived there when the a/b left the home.

(VII.A.1.c.(2))

(a) Dependency may be of any kind. The relative may depend on the a/b for housing, financial support, food, clothing etc. Accept the a/b's statement or if the a/b is unable to state his intent, the written statement of his representative (guardian, power of attorney, spouse, or Medicaid representative as defined in MA-2301, Conducting a Face-to-Face Interview, II.B.) regarding who lives in the home and their dependency.

(b) Relative means the following:

1) Natural child, adopted child, stepchild, grandchild;
2) Parent, stepparent, grandparent;
3) Aunt, uncle, niece, nephew;
4) Brother, sister, stepbrother, stepsister, half-brother, half-sister;
5) Cousin, or
6) In-law.

(c) The written statement must specify:

1) Who lives in the home,
2) How they are related, and
3) How the person is dependent on him.

Complete the DMA-5160, Statement of Spouse or Dependent Relative in The Home, and file the completed and signed form in the Medicaid case record.

(3) The a/b (or financially responsible person), spouse, or dependent relative does not live in the home, but the a/b (or financially responsible person) states in writing his subjective intent to return home. The term "subjective intent" means that it is his intent, regardless of the circumstances of his absence from the home, to return home.) If the a/b is unable to state his intent, obtain the written statement of his representative (guardian, power of attorney, spouse, or Medicaid representative as defined in MA-2301, Conducting a Face-to-Face Interview, II.B.).

d. If an a/b (or financially responsible person) has left his home and it is not excluded under VII.A.1.c., it ceases to be his home site the month after he leaves the home. It remains the home site during the month he leaves.

(VII.A.1.(2))

e. Once ownership is established by the a/b or financially responsible person in a new principal place of residence, the former principal place of residence becomes non-home site property.

f. Temporary Absence from the Home by the Spouse or Dependent Relative

The home site remains excluded if the spouse or dependent relative is out of the home but intends to return. (See VII.A.1.c.(3) and VII.A.2.)

g. Exclude the home site when the home is damaged or destroyed by disaster and the a/b intends to repair/rebuild and return. Accept his statement of intent to repair/rebuild and return.

h. Home site out of state – Exclude the home site of a person who is in North Carolina with North Carolina residence (For example he is here for employment purposes, in an nursing facility or staying with a family member for an indefinite period of time.) if any one of the criteria in VII.A.1.c. is met.

2. Intent to Return Home

NOTE: Refer to MA-2242, Home Equity Value & Eligibility For Institutional Services.

Do not count the value of property that was the a/b's home site if he states his subjective intent to return to the home. (The term "subjective intent" means that it is his intent, regardless of the circumstances of his absence from the home, to return home.) Do not consider other factors, such as the a/b's age or physical condition, condition of the home or whether it is currently rented, or other circumstances when determining intent to return home. If he is mentally competent, age and physical condition are not factors in evaluating intent. The time of return may be indefinite, and there is no time limit on this exclusion. (See c. below if the a/b is unable to make a statement or makes a self-contradictory statement.)

a. Verify at application and each redetermination the a/b's intent to return home. Use the DMA-5159, Statement of Intent to Return Home. File the completed and signed form in the Medicaid case record.

Always accept the a/b's statement unless it is self-contradictory or the a/b has been determined legally incompetent. If the statement is self-contradictory or the a/b is incompetent, refer to c. below.

(VII.A.2.)

b. If the a/b is competent and his statement is not self-contradictory, the statement supersedes all other statements made by any other individuals. Do not request statements of others as to the a/b's intent and ignore any that are volunteered.

c. If the a/b's statement is self-contradictory, he is legally incompetent, or if he is unable to make a statement, obtain the signed statement (See VII.A.2.a.) from his representative (guardian, power of attorney, spouse, or Medicaid representative as defined in MA-2301, Conducting a Face-to-Face Interview, II.B.), as to the a/b's intent to return home.

Examples of self-contradictory statements:

"Sometimes I want to go home and sometimes I don't."
"I intend to go home, but I want to stay here."
"Yes, I want to go home, but I really don't know if I should."

3. Property Contiguous to the Home site – All or some of the tax value of property contiguous to the home site and the buildings located on that property, regardless of value, is excluded.

a. Contiguous means a shared boundary.

(1) Contiguous property is real property with boundaries that touch the principal place of residence.

(2) The presence of streets, roads, lakes, rivers, or streams is to be disregarded in determining whether property is contiguous.

b. If the a/b or financially responsible person has an ownership interest in the principal place of residence, the value of all contiguous property is excluded from countable resources. This is part of his home site and is excluded from countable resources as such.

c. If the a/b or financially responsible person has no ownership interest in the principal place of residence but does have ownership in the contiguous property, exclude up to $12,000.00 in the tax value of contiguous property. Refer to VII.B.1. below, to determine that portion that is countable. This exclusion is separate and apart from the home site exclusion.

(VII.A.)

4. Non-Countable Ownership Interests

Do not count the following types of ownership interest in real property:

a. Life estate interest in real property.

NOTE: Income produced from a life estate is countable to the life estate holder regardless of who receives the income.

b. Remainder interest if there is more than one remainder holder, unless the remainder interest is owned by a married couple as tenancy by the entirety.

c. Tenancy-in-common ownership in real property, including tenancy-in-common remainder interest. (Refer to MA-2240, Transfer of Assets, for possible sanctions resulting from a transfer of tenancy-in-common interest in real property.)

5. Non-Home site Property Which Meets Current Use Requirements

Property that meets the home site exclusions in VII.A.1., 2., 3. does not have to meet the current use requirements.

If "currently in use" for certain purposes, property may be excluded.

a. If the non-business property produces a net annual income of at least 6% of its equity, as calculated by the 6% test in Item IX., exclude up to $6,000 in its equity. The 6% income requirement may be waived if the lower return is for reasons beyond the a/b's control. (See IX.H.2.)

Non-business property cannot be made income-producing for a period of time which has already passed if there was no prior arrangement.

Real property that is excluded as the home (See VII.A.1., 2., and 3.) or that is otherwise excluded, may produce income. However, it is not subject to the 6% income test.

(VII.A.5.)

b. Property Used in Trade or Business (e.g. a family farm)

The property is excluded if actively involved in a trade or business regardless of value and amount of profit. However, it must be in current use as trade or business property or, if not in use for reasons beyond the individual's control, there must be a reasonable expectation that the required use will resume (Refer to VII.A.5.d.). The property maybe excluded if used in trade or business when:

(1) Active involvement exists—the a/b or financially responsible person must be actively involved in the business operation on a day to day basis. The information reported on the Schedule E, Supplemental Income and Loss, should be checked to determine whether the individual is actively engaged in the business. If the income is listed as Non-Passive Income (27k), the individual is actively engaged in the business. If it is listed as Passive Income (27h), he is not actively engaged in the business.

(2) Consider the following when determining if a trade or business exists in newly formed LLC's and/or questionable situations:

(a) Does the IRS regard it as a trade or business?

(b) Does the individual have documents to support the claim of trade or business? Examples include tax reports/returns SS-4.

(c) Does the individual have business licenses, permits, registration?

(d) Is the individual a member of a business or trade association?

(e) The good faith intention of making a profit or producing income.

(f) Continuity of operations, repetition of transactions, or regularity of activities.

(g) Regular occupation.

(h) Holding out to others as being engaged in the selling of goods or services.

(3) Verification

Obtain a copy of the business tax return (i.e., Form 1040 and the appropriate Schedules) for the tax year prior to the application or redetermination. If the current tax return is not available, obtain a copy of the latest tax return or business records. Obtain the a/b's statement describing the trade or business, business assets and the number of years in business.

c. Property Used to Produce Goods/Services for Home Consumption

Exclude up to $6,000 equity in non-business real or personal property used to produce goods or services solely for home consumption (i.e. land or equipment used to produce vegetables or livestock solely for home consumption). There is no requirement that the property produce a certain rate of return.

(1) The equity is the tax value less any encumbrances on the property.

(2) From the equity, deduct $6,000. The remainder is a countable resource.

This $6,000 exclusion is separate and apart from the $6,000 exclusion of non-business income producing property that produces a net annual income of 6% of its equity.

EXAMPLE: A/b owns 10 acres and uses 1 acre and a tractor to grow food - exclude the tractor and one acre in determining the equity value. The equity value in the acre is $3,000, and the equity in the tractor is $1,500. The total equity is $5,500, which is less than $6,000. The equity of the acre and the tractor is excluded.

d. Property Which Does Not Meet Current Use Requirements

Exclude property which does not meet current use requirements in a.-c. above if:

(VII.A.5.d.)

(1) It has been in use within 12 months, and

(2) That use will resume within 12 months.

6. Burial Spaces

Burial spaces include grave sites, crypts, mausoleums, urns, or other repositories customarily used for the remains of a deceased person.

Exclude the value of all burial spaces owned by the a/b or person financially responsible for the a/b in determining eligibility for MAABD, MQB-Q, MQB-B, MQB-E, and MWD.

7. Rights of Use

The a/b or financially responsible spouse/parent(s) may own rights of use in non-business real property. Rights of use are tied to land or the natural resources of land and may have countable value separate from the land.

Exclude $6,000 in equity of the right of use, if owned separately from the land by the a/b if it meets the 6% income producing criteria.

**NOTE**: Land is also income-producing if the a/b owns the land and rents or leases a right of use which produces net income. Up to $6,000 in equity in the land is excluded if it produces a net annual income of at least 6% of its equity based on criteria in Item IX.

Types of rights of use:

a. Mineral Rights – ownership interest in certain natural resources, such as coal, oil, sulfur, gas, etc., coming from the ground.

b. Timber Rights – ownership of timber growing on land, with or without ownership of the surface of the land.

c. Hunting or fishing rights

d. For every one acre of a farm's tobacco allotment, two acres of cleared land are tied to the tobacco allotment.

EXAMPLE: Farmer allotted 5 acres of tobacco. Farmer must have 10 (2X5) acres of cleared land.

(VII.A.7.)

e. The a/b may provide verification from the Tobacco Transition Payment Program of a different number of acres than the common 2:1 ratio.

f. Exclude up to $6,000 of equity in real property that is tied to a tobacco allotment (not already excluded due to being contiguous to the home site) if

(1) The allotment is rented to another individual, and

(2) The income produced by the tobacco allotment produces a net annual income of 6% of the equity in the acreage tied to the allotment. Refer to IX. below for determining if the property meets the 6% income test.

g. If an individual rents his tobacco allotment to someone else, consider the rental payment as annual rental income. Prorate for 12 months to determine monthly income.

8. The Tobacco Transition Payment Program (TTPP)

On October 22, 2004, Congress enacted the "Fair and Equitable Tobacco Reform Act of 2004" which repealed the tobacco quota system for certain types of tobacco grown in the United States and provides for compensating tobacco quota owners and quota growers with the value of lost quota. USDA established the Tobacco Transition Payment Program (TTPP), also known as the Tobacco Buy-Out. TTPP allowed eligible quota owners and quota growers who apply for the program to receive annual installment payments over a 10 year period (2005-2014) as compensation.

The TTPP does not provide a lump sum payment instead of the installment payments, however effective October 14, 2005, it allows the quota owner/grower to enter into an assignment or successor-in-interest contract with an approved financial institution and receive a discounted cash payment in exchange for the installment payments. The successor-in-interest option to sell to a family member was effective March 20, 2006.

Note: An individual could have multiple contracts if he owned quota or grew eligible tobacco in different counties.

(VII.A.8.)

Follow these procedures for the quota owners/growers participating in the TTPP:

a. Determine if the balance of the tobacco allotment contract can be sold to an approved financial institution for a lump sum cash payment. Contact one of the approved financial institutions listed on the National Tobacco Processing Center Participant List website at: http://www.fsa.usda.gov/Internet/FSA_File/siimasterlist2007.pdf and document the following.

   (1) Quota Type, Grower or Owner
   (2) Name of TTPP Contract Holder
   (3) Financial Institution Contacted
   (4) Date of Contact
   (5) Name/Title of Individual Contacted
   (6) Telephone Number
   (7) Outcome- Whether Contract is Salable or Not Salable

   The caseworker must document this information on the DMA-5030, Reserve History Sheet.

b. Once the balance of the allotment contract is verified as salable to an approved financial institution, the remaining discounted contract value is counted as a resource.

   (1) Determine the cash value of the TTPP contract by completing the following steps:

      (a) Does the quota holder have a copy of the Commodity Credit Corporation, CCC-960 document? If yes, using their CCC-960 document, verify his eligibility for the installment payments, whether the quota holder is a quota owner or a quota grower, and the total remaining amount payable in installment payments.

      If no, contact the local USDA office to obtain the pertinent information. A list of the local USDA offices is available at www.fsa.usda.gov. Click on “contact us” in the tool bar. On the next screen, scroll down to the heading, “County Offices” and click on “Locate the Service Center closest to you.”

(b) Subtract from the total (10 year) amount due in installment payments the amount for all installment payments that the quota holder has already received or has assigned to a third party.

(c) Apply the current month CCC maximum discount rate in effect to the installment payment balance remaining on the USDA contract. To obtain the monthly discount rate for each month in the current year, go to the USDA's website at www.fsa.usda.gov. On the home page, click on "more" to the right of "News Releases: and scroll down to find the specific monthly release entitled, "USDA Announces CCC Lending Rates for (select month needed). To find monthly rates for previous years, on the home page enter the year in the "View News Releases by Year" field, and scroll down to the specific monthly release. Click on the item to open it.

(d) To compute the discounted amount, subtract the CCC discount rate for the current month from 100 percent. Multiply the total amount due in installment payments times the remaining percentage.

Example:
Ms. Jade applied for Medicaid on 09/15/2008. During the interview, she provided a copy of her CCC-960 document, indicating a notification date of 01/04/2005, and states she has 6 installment payments remaining since she has received 4 payments. The contract total is for $8,888.00. $8,888.00 divided by 10 payments equal $888.00 per payment. She has already received 4 payments totaling $3552.00. $8,888.00 minus $3552.00 equals $5,336.00 total for the remaining payments. The worker checks the USDA website for the current CCC maximum discount rate and determines it is 10 percent. 100 percent – 10 percent = 90 percent. The worker then multiplies $5,336.00 by .9 to determine the current resource value for the TTPP contract. $5,336.00 x .9 = $4,802.40.

c. If the balance of the allotment contract for a tobacco quota owner has been verified as non-salable to an approved financial institution for a lump sum payment:

(1) The annual payments received by the quota owner are counted as annual unearned income for the year in which they are received.

(2) The annual payments received by the quota grower are counted as annual self-employment income in each year of receipt. Refer to MA-2250, Income.

d. If you verify that the balance of the allotment contract has been sold to an approved financial institution by a tobacco quota owner, this is considered a conversion of a resource in the transaction month. If there is any cash payment remaining in the following month it is a countable resource.

Any cash payment received from entering into an assignment or successor-in interest contract with an approved financial institution by a tobacco quota grower or those who rent the land is considered net earned self-employment income for the year in which the assignment or contract was completed. Refer to MA-2250, Income.

Since each contract must meet the TTPP guidelines, the cash received is considered fair market value for the installment payments, and would not require an evaluation for a Transfer of Assets.

Follow these steps for tobacco quota owners/growers who have entered into an assignment or completed a successor-in-interest contract to receive lump sum cash payment from an approved financial institution for the tobacco transition installment payments.

(1) Verify that the Commodity Credit Corporation approved the assignment by obtaining a copy of CCC assignment form from the a/b or financially responsible person or by contacting the local USDA office. To verify a successor-in-interest contract, if a copy is not available from the a/b or financially responsible person, contact the National Tobacco Processing center at 1-800-673-2331.

(2) Determine the parties involved, the amount assigned, and obtain a copy of the third party agreement between the a/b or financially responsible person and the financial institution to verify the amount and when the cash payment was received.

(VII.A.8. (2))

e. The TTPP does not apply the maximum discount rate to contracts made between a participating quota owner/grower with family members, transfers upon death of a tobacco quota owner or grower, individuals who entered into an assignment or successor-in-interest contract prior to 10/22/2004, and one year contracts made with TTPP approved financial institutions. Evaluate for a potential Transfer of Assets using fair market value. Refer to MA-2240, Transfer of Assets.

f. For an assignment contract made with a third party in exchange for other property, the property obtained is a conversion of a resource in the month the contract is completed, and becomes the new resource as of the first moment of the month following the assignment month. Refer to MA-2240, Transfer of Assets, as a sanction may apply.

9. Uncleared Land, Woodlands, Forests

Exclude up to $6,000 in equity as income-producing if the property meets the 6% net income criteria in Item IX. and:

a. The a/b has a written contract to sell the timber on a specified date,

AND

b. The a/b can produce documentation that the timber is cut on a regular basis. Examples of such evidence include but are not limited to:

(1) Old contracts for cutting/sale of timber, or

(2) Evidence of purchase of seedlings for replanting of cut timberland, or

(3) Statements of forest service personnel or other such officials that the individual is engaged in tree farming.

10. Property Agreements/Promissory Notes

Exclude the value of any property agreement which is not legally negotiable (cannot be sold). This includes promissory notes, loan agreements, etc. (Refer to MA-2240 Transfer of Assets, IX.C.)

a. Examine the terms of the agreement or note to determine if the owner has the legal right to sell his interest without the participation of the buyer/borrower. If salable, the note is a countable resource.

b. If there is a clause which prevents sale or transfer of the note, it is not a countable resource.

(VII.A. 10)

c. Contact the agency/county attorney for assistance if negotiability cannot be determined from the terms of the agreement.

d. Count any payments as unearned income.

**B. Countable Real Property**

The following are countable resources:

1. Property Contiguous to the Principal Place of Residence

a. When the a/b or financially responsible person has no ownership interest in the principal place of residence but does have ownership interest in contiguous property, count the tax value of contiguous property in excess of $12,000.

FOR EXAMPLE: An applicant lives in the home of his son. His son owns the house and lot. The applicant owns the lot next to his son. The applicant's lot has a tax value of $30,000. Exclude up to $12,000 in tax value of the applicant's lot. The remaining tax value, $18,000, is a countable asset unless otherwise excluded. Refer to VII.A. for exclusions.

b. Property contiguous to the principal place of residence with a tax value of $12,000 or less is excluded.

2. Former Home site

a. Count the former home site as a resource when it can no longer be excluded for reasons listed in A.1., above or cannot be excluded as income producing property.

b. Transfer of home site or former home site

Transfer of a home site or former home site, even after it is made income producing, may result in a sanction for transfer of assets if the a/b or ar's spouse is requesting or receiving assistance with institutional services or in-home health services and supplies after institutional care. Refer to MA-2240, Transfer of Assets.

3. Non-home site Property

a. Count the value of non-home site real property owned solely by the a/b or financially responsible spouse or parent, unless it meets current use requirements in VII.A.5. above. Refer to MA-2260, Financial Eligibility Regulations – PLA, for procedures to deem resources from a parent to a child a/b.

(VII.B.3.)

b. If a single owner dies without leaving a will, property may be unavailable to a spouse until released by the clerk of court. See item IV.C.1.

4. Remainder Interest in Real Property

a. Count the remainder interest in real property. A remainder interest in real property is created when a person owns real property but another individual retains the right to use the property for the remainder of his life (a life estate). The person to whom the property was transferred has a remainder interest in the property. Refer to VII above, for definitions of types of property interest.

b. To determine the value of a remainder interest, multiply the total tax value of the real property on the date the life estate is transferred by the Remainder % from the Life Estate and Remainder Interest Tables, based on the age of the individual whose life determines the length of the life estate. The resulting amount is the tax value of the remainder interest. Refer to https://secure.ssa.gov/poms.nsf/lnx/0501140120

5. Unused Tobacco Allotment

Count the value of the land if the allotment is not being used, unless it can be excluded another way.

6. Time Shares

a. A time share is the right to use property, such as a resort property, for a specific time period, usually no more than a few weeks.
b. A time share interest is a fee simple property interest.
c. If the time share is an available asset, it is countable as a resource. If there is an individual deed to the property, it is considered available. Obtain a copy of the deed.
d. Count 15% of the purchase price as the established value.

7. Salable Property Agreement/Promissory Note

A property agreement (usually a promissory note) which can be sold is a countable resource. (Refer to MA-2240, Transfer of Assets, IX.C.)

a. Count the balance due on the note as an available resource.

b. The a/b may rebut the value of the agreement. See procedures in VII.E. below.

**C. Verify Ownership of Real Property**

During the interview question the a/b about real property. Use the Resource Interview Guide, located at http://www.ncdhhs.gov/dma/county/medicaidtraining.htm.

Search the following county records. Document the description and tax value of all property listed:

1. County tax listings – Check tax listings as follows:

   a. At every application; and

   b. Redeterminations – check tax listings once per year (in the first redetermination of the year) and at the first redetermination which follows an increase in tax rates or property values.

2. Grantee/Grantor books - Registrar of Deeds

   a. Check at application.

   b. Redeterminations

      (1) PLA – Check annually. At every other review, ask if property has been given or received since the date of the last Grantee/Grantor check and obtain verification, if needed. Document the change/transfer on the Reserve History Sheet.

      (2) LTC – Check at each review. Check at change in situation from PLA to LTC. Determine if any property has been transferred to or from the a/b or the financially responsible person since the last tax listing.

   c. Search under the names of all financially responsible persons and their parents and spouses, particularly if deceased. Check in the county where the person last lived and check variations of names, (i.e. John Doe for Jon Doe).

   d. Check Clerk of Court records for recorded wills or probated estate files if a budget unit member has died or if the budget unit member is a possible heir.

3. Copy of the Deed – Verify ownership interest in real property by a copy of the deed. A deed does not have to be registered or notarized to be valid. It must be signed by the grantor, delivered, and accepted by the grantee. However, a deed of gift must be registered within two years of the date the deed is signed to remain valid.

4. Look for the following leads that ownership interest may exist in the eligibility record: copies of wills, tax bill or statement, evidence of judgments, liens, or boundary disputes.

**D. Calculate the Value of Real Property to Include in Resource Total**

Calculate the value of all property which is not excluded from the resource determination process.

1. Determine the Current Market Value

   a. Verify and record tax value of real property by using county tax office records. For Medicaid determinations, the tax value is the current market value (CMV), unless rebutted according to VII.E.

   b. Deduction for Individual Over Age 65 - If the person was age 65 or older, or permanently disabled on January 1 of the current tax year, county tax offices make a deduction from the assessed value before taxes are computed. For resources, the tax assessed value, before any such deduction, is the CMV.

2. Verify Encumbrances

   For property that is not excluded, verify encumbrances by written or verbal statement of the creditor. Also, verify encumbrances for income producing property when determining if it meets 6% requirement. See Section IX.

   a. Encumbrances reduce the a/b's equity in a countable asset. Examples of encumbrances are:

      (1) Liens and mortgages by banks or loan companies,

      (2) Lien by a hospital, nursing home or other medical provider. Must specifically identify the asset which is attached and there must be an outstanding bill for a/b. County dss must see lien.

(VII.D.2.)

b. It is the a/b's responsibility to provide a dated, signed written statement or provide the name of creditor, loan number, or other information necessary to verify encumbrances.

c. Verify the amount needed to pay off the mortgage or lien as of the date of the verification, rather than the sum of the remaining payments.

d. Remainder Interest - Multiply any amount needed to pay off the mortgage/lien on the property by the Remainder % from the Life Estate and Remainder Interest Tables, based on the age of the life estate holder. (If there is more than one life estate holder, use the age of the youngest life estate holder.) Deduct this amount from the value obtained in VII.B.4.b. to establish equity. Refer to the chart at, https://secure.ssa.gov/poms.nsf/lnx/0501140120

3. Deduct Encumbrances

Subtract encumbrances from the CMV of the countable property interest to arrive at countable equity.

a. Count equity in the resource total unless otherwise exempt.

b. Encumbrance on Excluded and Countable Property

If there is a single encumbrance (loan, etc.) on both excluded and countable real property:

(1) Divide the CMV of the countable property by the total CMV of everything which is mortgaged. The result is the percentage of the total encumbrance that applies to the countable property.

(2) Multiply the amount needed to pay off the mortgage by this percentage.

(3) Subtract this amount from the tax value of the countable property to determine equity.
EXAMPLE: Applicant owns two tracts of land which are mortgaged together. They are not contiguous to the home site. One tract consists of 5 acres used to produce goods and services for home consumption. It has a CMV of $13,000. The other tract is 10 uncleared acres that are not used in any way. The CMV of this property is $20,000. Mortgage pay-off amount is $15,000 on the first day of the month of application.

| | |
|---|---|
| CMV of 5 acres | $13,000 |
| CMV of 10 acres (counted) | 20,000 |
| Total CMV of encumbered land | 33,000 |

Determine the encumbrance on the countable acres by dividing the CMV of countable acres by total CMV of encumbered land and applying the resulting percentage to the total payoff amount:

$20,000 divided by $33,000 = .606 or 61% of land is countable. (Round down if .49 or lower, round up if .50 or over).

61% of the $15,000 pay-off amount is $9,150.

| | |
|---|---|
| CMV of countable acres; | $20,000 |
| Encumbrance on these acres | -9,150 |
| Countable equity | 10,850 |

4. Count the Equity of Real Property

   a. Determine equity for all types of interest or estate in countable real property by following steps 1. - 3. above.

   b. Document verification source and amount of liens on the eligibility form.

   c. Do not count the value of any property which is excluded.

   d. The remaining equity in countable real property is countable resources for Medicaid. If countable assets exceed the resource limit, the value of the real property may be rebutted.

**E. Rebuttal**

The current market value of real property, based on its tax value (See VII.D.1.), may be rebutted by documentary evidence to establish a lesser value.

NOTE: Also follow these instructions for rebuttal of the current market value of a promissory note. (Refer to MA-2240, Transfer of Assets, IX.C.)

1. Documentary evidence is a statement from a knowledgeable source located in the same geographic area as the property. (For rebuttal of personal property, see VIII.E.)

   NOTE: Geographic area is the same area as covered by local radio, television, newspaper and other media.

(VII.E.)

2. The statement from the knowledgeable source must be written, signed and have enough information to identify the source easily. It must:

   a. Be specific as to the value and the point in time for which the estimate is made,

   b. Provide a reason for the value of the resource being less than the value established by the policy in this section, and

   c. Include the basis for his knowledge or expertise.

3. If the statement is questionable, the county must obtain an estimate from another knowledgeable source and use the average value.

   The county must use its judgment as to whether or not a statement of lesser value is questionable. It must document in the record the reason for doubting the statement. The statement may be questionable if:

   a. The value of the resource provided in the statement is substantially lower (more than half) than the value determined following the policy in this section,

   b. The reason given for the lower value does not seem to support the lower value,

   c. The source providing the statement of a lesser value does not have experience with valuing real property in the county or surrounding counties,

   d. The source providing the statement of a lesser value has an interest in the property or stands to gain from the property's valuation, e.g. is one of the tenants-in-common, is the remainder interest holder, stands to inherit the property, etc., or

   e. For other reason that causes the county to doubt the statement.

4. Examples of types of knowledgeable sources are:

   a. Licensed real estate brokers;

   b. Local Farm Service Agency office;

   c. Local office of the Farmer's Home Administration;

d. Commercial banks, savings and loan association, mortgage companies and similar lending institutions;

e. An official of the local real property tax jurisdiction, or

f. County Agricultural Extension Service;

g. Professional appraisers;

h. For promissory notes, companies which are in the business of buying and selling promissory notes.

5. Applications

See MA-2303, Verification Requirements for Applications and MA-2304, Processing the Application, for processing time frames and requirements for providing rebuttal evidence.

6. Redeterminations

Allow a beneficiary twelve calendar days to provide evidence to establish a lesser value. If at the end of the 12 calendar days, he has not provided the evidence, send a timely notice proposing termination for excess resources.

7. Updating Rebuttal Evidence

a. Real property - Verify the rebuttal value in the first redetermination of the year and at the first redetermination which follows an increase in tax rates or property values. This is the same timeframe for verifying the tax value of the real property.

b. Promissory note - Verify the rebuttal value at each redetermination. This is necessary due to the potential for change for a liquid asset.

## VIII. PERSONAL PROPERTY ASSETS

Personal property consists of an individual's personal effects, household goods, motor vehicles and other property which is not classified as real property (e.g. mobile home, motor home, boat, etc.).

(VIII.)

**A. Non-Countable Personal Property Excluded From Countable Resources**

Do not count as an available resource:

1. Personal effects and household goods

   Includes all clothing, jewelry, furniture, appliances, artwork and other decorative items, etc.

   NOTE: Assets that are inventory of a discontinued business are a countable resource. These resources are not the personal property of the a/b.

2. Mobile home/motor home used as the home site

   Exclude the principal residence, regardless of location.

3. Motor Vehicles used for transportation

   a. Vehicle Exclusion

      Exclude only one motor vehicle if the a/b lives:

      (1) At home and the motor vehicle is used for transportation of the eligible a/b and/or a person living in the home with the a/b.

      (2) In a nursing facility and the motor vehicle is used to transport the a/b, a community spouse or a dependent/disabled child.

      Assume the motor vehicle is used for transportation unless there is evidence to the contrary. Evidence that may be used to show the vehicle is not used for transportation is that the vehicle is unlicensed or an individual cannot travel by car but must be transported by ambulance.
      If there is doubt as to the use of the vehicle, obtain a statement regarding how the vehicle is used for transportation for the individual. For example, for a vehicle owned by an individual in a nursing facility to be excluded, it would have to be used to transport the applicant/beneficiary, a community spouse or a dependent/disabled child. Obtain a statement from the person who has the vehicle that the vehicle is used to transport the a/b, community spouse or dependent/disabled child and the nature of the transportation. If the statement appears questionable, count the vehicle as a resource.

(VIII.A.3.)

b. Applying the Exclusion When More Than One Automobile That is Used for Transportation is Owned

Apply the exclusion in the manner most advantageous to the individual. If the eligible a/b owns more than one automobile used for transportation of the eligible a/b or a member of the eligible a/b's household, the total exclusion applies to the automobile with the greater equity value.

Count the equity value of any automobile, other than the one excluded, as a resource when it is owned by an eligible a/b. See VIII.D.3. to determine the equity value.

c. Reduction of Resources

When the equity value of an unlicensed vehicle causes the a/b to be over the reserve limit and that vehicle then becomes licensed, evaluate for reduction of reserve. Reduction of resources occurs on the day a vehicle becomes licensed. Reduction of resources does not go back to the date of application.

4. Property Excluded Due to Usage

a. Business Property

Exclude personal property used in the operation of a trade or business, self-employment enterprise, or farm regardless of equity value or whether there is a net profit. Refer to VII.A.5.b.for further instructions to exclude business property.

(1) Property includes operating capital and fixed assets of the business such as equipment, livestock, vehicles, etc.

(2) Liquid assets – Exclude liquid assets of the business if not co-mingled with personal funds.

(3) Active involvement – The a/b or financially responsible person must be actively involved in the business on a day to day basis.

b. Income Producing Property

Exclude up to $6,000 in non-business, income producing personal property which meets the 6% net annual income test criteria in Item IX.

(VIII.A.4.)

c. Property Which Produces Goods or Services for Home Consumption

Exclude up to $6,000 in total combined equity of all non-business personal and real property used to produce goods and services solely for home consumption (i.e. a tractor and garden used to produce vegetables for home consumption).

d. If the property is not currently in use for one of the reasons for exclusion in a., b., or c. above, exclude it if:

(1) It has been in use within 12 months, and
(2) It will resume within 12 months.

**B. Countable Personal Property**

Count as an available resource property not otherwise excluded.

Count the value of property such as boats, motors, campers, trailers, farm and garden equipment, equipment from a discontinued business, mobile home, motor home, houseboat, unlicensed vehicle, etc. as an available resource if it cannot be excluded per VIII.A. above:

1. Based on usage
2. As the home site, or
3. As an essential vehicle.

**C. Verify Ownership of Personal Property**

1. Interview

During the interview, question the a/b about personal property. Use the Resource Interview Guide, located at, http://www.ncdhhs.gov/dma/county/medicaidtraining.htm. Accept the client's statement of ownership unless questionable. Verify ownership if questionable.

2. Vehicle Licensed by DMV:

a. Primary verification source is DOT/DMV computer inquiry into vehicle valuation system.

(1) Check full names of all financially responsible adult members.

(2) The owner of a vehicle is the person whose name is on the title unless the parties involved can establish that a legally binding agreement/resulting trust exist. Refer to Item V. for information on resulting trusts/legally binding agreements.

(VIII.C.2.)

b. Alternative sources of verification of ownership to be used if ownership is questionable include:

(1) County tax records
(2) Vehicle registration
(3) Vehicle title
(4) Insurance policy on vehicle
(5) Records of firm that financed the purchase
(6) Evidence of a legally binding agreement such as records that indicate who has been making payments or maintaining insurance coverage on the vehicle.

3. Personal property valued by tax office and not licensed by DMV:

a. Accept as verification the a/b's verbal statement of ownership.

b. Check full names of all financially responsible adult case members against county tax records.

c. List all items of personal property owned by the a/b and financially responsible spouse/parents.

**D. Calculate and Establish the Value of Countable Personal Property**

If the personal property cannot be excluded,

1. Verify the current market value:

a. Through Vehicle Valuation Inquiry (VVI) if licensed and valued by DMV.

b. Through the county tax office if valued by the tax office and not licensed by DMV.

c. Use the NADA book or internet site www.nadaguides.com for unlicensed vehicles not registered in the tax office. If the unlicensed vehicle is older than those listed, use the last value given in NADA. All vehicles licensed or unlicensed have a value.

2. Verify encumbrances (amount owed on a car loan) by either the written or verbal statement of the loan holder. Ask for the payoff as of the first day of the verification month, rather than the sum of the remaining payments; i.e., future interest payments are not an encumbrance.

3. Equity value is current market value minus encumbrances.

   Subtract the payoff amount from Current Market Value. Current Market Value (CMV) is established by VVI or a/b's rebuttal.

4. For all personal property, the amount of equity counted in resources is the total equity value of all countable personal property.

5. Rebuttal

   If the a/b has excess resources, and owns non-exempt personal property, the a/b has the right to rebut the value of personal property by establishing a lesser value. It is the tax value that is rebutted, not equity or encumbrances. Follow procedures in E. below.

**E. Rebuttal Procedures**

The a/b has the right to rebut the equity value of any type of personal property counted in total countable resources. When the tax/DMV value of an excess motor vehicle or the equity value of any other personal property e.g., boats, trailers, unlicensed vehicles, campers, etc., results in excess resources:

1. Send the DMA-5157, Notice of Total Countable Resources; The Right to Rebut Value, to the a/b to be completed and signed by the a/b and returned by the deadline date. File the completed and signed form in the Medicaid case record.

2. Explain that the a/b has the right to disagree with (rebut) that value, and provide a signed and dated statement from a car dealer or dealer of item in question that verifies:

   a. Make, model, year, color and general description of the vehicle/personal property, and

   b. Market value of the vehicle/personal property (what it could reasonably be sold for, not what he would offer on a trade-in).
   c. For applications, notification must be made on a DMA-5097, Request for Information (or DMA-5097S). Put information under "other". For redeterminations or change in situation also use the DMA-5097/DMA-5097S, Request for Information.

EXAMPLE: "We have verified the value of your motor vehicle at $700 through the Department of Motor Vehicles. This $700 counts toward your resource limit of $2,000. If you disagree with the $700 value, you must provide a written statement from a car dealer, which shows the make, model, year, color, general description and value of the car. Statement must be received by (date)."

3. Notify a/b immediately if it becomes apparent during application or review process that the value will not result in ineligibility and verification of lesser value is no longer needed.

4. If a/b disagrees with the DMV/tax/CMV:

   a. Applications

      See MA-2303, Verification Requirements for Applications and MA-2304 Processing the Application, for processing time frames and requirements for rebuttal.

   b. Redeterminations

      Allow a beneficiary twelve calendar days to provide evidence. If at the end of the twelve calendar days, evidence has not been provided, send a timely notice proposing termination.

5. Proceed with denial of application or termination using the DMV/tax/CMV if a/b:

   a. Fails or refuses to provide rebuttal evidence by deadline; or

   b. Fails to respond at all to notification of assigned value; or

   c. Agrees with the assigned value.

6. Document in the eligibility record:

   a. Date and how the a/b was contacted about value of the personal property; and

   b. A/B's response and the date he responded. If no response, indicate this also.

(VIII.E.)

7. File a copy of the appraisal/verification of rebutted value from the dealer in the case record.

8. When the tax/CMV of personal property has been successfully rebutted, do not re-verify the rebuttal value at redetermination unless the DMV/tax/CMV has increased, or there is some indication of a change in the value of the property.

## IX. INCOME PRODUCING REAL/PERSONAL PROPERTY

The 6% test is used to determine if up to $6,000 in equity of real or personal property (usually rental property), which cannot otherwise be excluded (e.g. a home site to which the a/b intends to return, business property, property of an incompetent person with no power of attorney or guardian, etc.) is excluded from countable resources because it is "income producing." To exclude $6,000 equity, the property must produce a net annual income of at least 6% of its equity after all expenses related to producing income are deducted.

The 6% net annual income requirement is waived when property that has formerly produced income is anticipated to resume to do so within 12 months. (See VII.A.4.d., VIII.A.4.d., and IX.H.2.)

### A. Overview of Steps for a Single Piece of Income Producing Property

Use these steps and the DMA-5158, Income Producing Property Guide, to determine if $6,000 equity in real/personal property can be excluded as income producing property. The steps are explained in greater detail in C. - G. below.

1. Determine the equity value of the income producing property based on the CMV (tax value) of the property.

2. Regardless of the amount of income produced, subtract $6,000 from the equity value. Add this amount to the value of other countable resources.

   a. If the total is over the resource limit, do not determine how much income the property produces. Stop here.

   b. If the total does not exceed the resource limit, proceed to determine if the property produces a net annual income of at least 6% of the property's equity.

3. Determine the equity value of the property based on the present use value. (If no present use value is assigned, use the tax value.) Multiply that equity value by .06 to determine the 6% net annual income the property must produce.

4. Determine the amount of net annual income produced by the property.

5. Compare the 6% figure to the net annual income.

   If the net annual income produced by the property is equal to or greater than 6% of the equity value, the property is income producing, exclude $6,000 of the property's equity.

**B. Overview of Steps When There is More Than One Piece of Income Producing Property**

If the individual owns more than one piece of income producing property, the $6,000 exclusion applies to the total equity of all property that produces a net annual income of 6% of its equity.

1. Total the equity value of all properties producing income, and follow steps in IX.A.2.a & b.

2. If the property's equity value after deducting $6,000 and the value of other countable resources does not exceed the resource limit (IX.A.2.b.) apply the 6% income requirement to each piece of income producing property separately. Each separate property must meet the 6% income test for any of its equity to be excluded.

   Follow steps in IX.A.3. – 5 to determine if a piece of property meets the 6% income test.

3. Total the equity of all pieces of property that meet the 6% income test, and deduct $6,000. The equity over $6,000 is a countable resource, unless otherwise excluded.

   Refer to IX.H.5. & 6. for detail instructions when the a/b owns more than one piece of income producing property.

**C. STEP 1: Determine the Equity Value of the Property Based on the Tax Value:**

Current Market Value (CMV) – Encumbrances/liens = Equity Value.

(IX.C.)

1. Real Property Value

   Real property includes land and everything attached to it that produces rent or land use fees, such as mineral or timber rights, trailer rent, hunting/fishing rights, mortgages, rent of buildings, etc.

   The CMV is the tax value of the land. Always use the tax value (unless rebutted) for the following:

   a. When determining equity of income producing property for the $6,000 portion of the $6,000/6% test.

   b. When counting real property as a resource, use the tax value to calculate the countable equity value.

2. Personal Property Value

   Use the CMV as determined in VIII. to determine the equity.

3. Subtract the encumbrances (loans, mortgages, liens) on the property (Refer to VII.D.3.) from the CMV. (Refer to IX.C.1.) The result is the equity value of the property to use in determining the value of the property for the $6,000 exclusion.

**D. STEP 2: Determine if the A/B is Ineligible Based on Countable Resources, Regardless of the 6% Net Annual Income Test.**

1. From the total equity value of all property alleged to be income producing, deduct $6,000.

2. Add the remaining equity value to the value of all other countable resources.

   a. If the resulting total of countable resources exceeds the resource limit, the a/b is ineligible. Proceed no further. Notify the a/b via the DMA-5097/DMA-5097S, Request for Information, of his opportunity to rebut the value of resources and to reduce resources, as instructed in I.A.5. If proof of rebuttal or reduction of resources is not provided within 12 calendar days, deny or send advance notice proposing termination.

   b. If the resulting total of countable resources does not exceed the resource limit, go to Step 3.

(IX.)

**E. STEP 3: Determine the Equity Value for the 6% Income Test and the Amount of Income the Property Must Produce.**

1. Use the equity determined in Step, unless a "present use value" is assigned by the tax office.

2. Present Use Value - The present use value is based on the value of the land in its current production use and is less than the tax value. (The county may use another term for present use value such as land use value, etc).

   If a present use value is assigned, use it only for determining equity for the 6% net income test. (Do not use the present use value for the $6,000 portion of $6,000/6% test.) Deduct encumbrances from the present use value.

3. Multiply the equity value by .06 to determine the net annual income that the property must produce for the 6% test.

**F. STEP 4: Determine Net Annual Income Produced**

Verify the annual income amount produced by each piece of property. Use this amount only to determine if the property can be excluded from countable resources.

1. Calculate Gross Income

   a. If the same amount is received monthly, multiply this amount by 12 months (i.e., amount X 12 months = gross annual income).

   b. If received other than monthly, calculate a gross annual income amount, according to instructions in MA-2250, Income.

   c. If gross annual income has changed in the past 12 months (base period), use the amount currently being received to determine gross annual income.

2. Verify Operational Expenses

   Regardless of whether income is received monthly or other than monthly:

   a. Verify operational expenses for the previous calendar year based on expenses on the tax form if using tax statements to determine income, or

(IX.F.2.)

b. Verify operational expenses for the twelve months prior to the application or redetermination interview for a business if using business records.

**(Do not include unexpected expenses as part of the 6% test.)**

3. Deduct gross annual allowable operational expenses paid by the a/b.

Deduct predictable expenses paid by the a/b which are necessary for the production or collection of income. Allowable expenses include but are not limited to the following:

a. The interest portion of a mortgage payment,
b. Property taxes,
c. Insurance,
d. Maintenance,
e. Utility costs paid by the a/b,
f. Labor costs,
g. Real estate agent's fees,
h. Sales taxes,
i. Advertising for tenants,
j. Verified transportation costs related to a rental property operation,
k. Interest payments on loans for equipment necessary to produce the rental income.

4. Non-allowable Expenses

Do not deduct the following expenses from rental income:

a. Expenses paid by a third party unless reimbursed by the a/b.

b. The principal portion of a mortgage payment. (The principal is deducted from the CMV as an encumbrance.)

c. A capital expenditure. This is an expense for an addition to or increase in the value of the property and is subject to depreciation for tax purposes (e.g., principal portion of mortgage payment, additions to existing structure).

d. The property depreciation amount claimed as a federal income tax deduction.

e. Replacement of an existing feature of the property which could have been repaired. (e.g., furnace could be repaired but is replaced with new heating system).

f. Replacement of an existing feature of the property which could not be repaired with one that is greater in value (e.g., replacement of shingle roof with brick tile roof) which results in improvement and increases the value of the property.

5. Calculate Net Annual Income.

Subtract gross allowable operational expenses from gross annual income. **DO NOT ROUND!**

Gross annual income
\- Gross annual operational expenses
Net annual income

**G. STEP 5: Compare Net Annual Income Amounts**

For each piece of income producing property, compare the net annual income produced (STEP 4) to the net annual income that must be produced to exclude up to $6,000 equity in the property (STEP 3).

1. If the net annual income produced is less than the net annual income that must be produced, the property does not meet the 6% net annual income requirement. Count all of the equity, based on the tax value, of the property as a resource.

2. If the net annual income is equal to or greater than the net annual income that must be produced, then the property produces 6% net annual income.

3. Total the equity value (based on the tax value) of the pieces of property that produce a net annual income of at least 6% of their equity value. Only those pieces of property that meet the 6% income test can be included in the $6,000 exclusion. See IX.B. For detail instructions on multiple pieces of property, see IX.H.5. & 6.

a. From the total equity of the property that meets the 6% income requirement, subtract $6,000.

b. The equity over $6,000 is a countable resource.

NOTE: Re-verify encumbrances and income produced at each application and redetermination as they are subject to change.

(IX.G.3.b.)

**EXAMPLE 1:**

| | | | |
|---|---|---|---|
| CMV (Tax value) of property | $70,000 | Present Use Value | $58,000 |
| Property tax per year | $ 300 | Insurance per year | $ 300 |
| Other operational expenses per month | $ 100 | Monthly gross rent | $ 450 |

A/B pays all expenses himself. Principal amount of the mortgage on the property is $10,000.

**STEP 1** Determine equity value of the property based on the tax value.

| | |
|---|---|
| $70,000 | CMV (tax value) |
| - $10,000 | Encumbrances (principal of mortgage) |
| $60,000 | Equity |

**STEP 2** Determine if the a/b is ineligible based on countable resources, regardless of the 6% net annual income test.

| | |
|---|---|
| $60,000 | Equity based on CMV (tax value) |
| - $ 6,000 | D |
| $54,000 | |

After deducting $6,000 that could be excluded if the property produced a net annual income of at least 6% of its equity value, $54,000 would still be counted. The a/b is ineligible due to excess resources. Send DMA-5097/DMA-5097S, Request for Information, to offer opportunity to rebut the value. If proof of rebuttal not provided within 12 calendar days, deny or send timely notice of termination. (See I.A.5.)

**EXAMPLE 2:**

| | | | |
|---|---|---|---|
| CMV (tax value) of property | $70,000 | Present Use Value | $65,000 |
| Property tax per year | $ 300 | Insurance per year | $ 300 |
| Principal amount on mortgage | $63,000 | Annual interest on mortgage payment | $ 3,850 |
| Other operational expenses per month | $ 100 | Monthly gross rent | $ 600 |

A/b pays all expenses himself. His only other resource is a bank account with a balance of $550.

(IX.G.3.b)

**STEP 1** Determine equity value of the property based on the tax value.

| | |
|---|---|
| $70,000 | CMV (tax value) |
| - $63,000 | Encumbrances (principal of mortgage) |
| $ 7,000 | Equity |

**STEP 2** Determine if the a/b is ineligible based on countable resources, regardless of the 6% net annual income test.

| | |
|---|---|
| $ 7,000 | Equity based on CMV (tax value) |
| - $ 6,000 | |
| $ 1,000 | Equity after deduction of potential $6,000 exclusion |
| +$ 550 | Bank account |
| $ 1,550 | Total countable resources |

**EXAMPLE 2:**

| | | | |
|---|---|---|---|
| CMV (tax value) of property | $70,000 | Present Use Value | $65,000 |
| Property tax per year | $ 300 | Insurance per year | $ 300 |
| Principal amount on mortgage | $63,000 | Annual interest on mortgage payment | $ 3,850 |
| Other operational expenses per month | $ 100 | Monthly gross rent | $ 600 |

A/b pays all expenses himself. His only other resource is a bank account with a balance of $550.

**STEP 1** Determine equity value of the property based on the tax value.

| | |
|---|---|
| $70,000 | CMV (tax value) |
| - $63,000 | Encumbrances (principal of mortgage) |
| $ 7,000 | Equity |

**STEP 2** Determine if the a/b is ineligible based on countable resources, regardless of the 6% net annual income test.

| | |
|---|---|
| $ 7,000 | Equity based on CMV (tax value) |
| - $ 6,000 | |
| $ 1,000 | Equity after deduction of potential $6,000 exclusion |
| +$ 550 | Bank account |
| $ 1,550 | Total countable resources |

(IX.G.3.b.)

$1,550 is less than the $2,000 resource limit. If the property produces a net annual income of at least 6% of the equity value (based on the present use value), $6,000 is excluded from the equity (based on the CMV [tax value]) and the a/b can meet the resource requirement.

**STEP 3:** Determine the equity value for the 6% income test.

| | |
|---|---|
| $65,000 | Present use value |
| - $63,000 | Encumbrance (principal of mortgage) |
| $ 2,000 | Equity based on present use value to use in the 6% income test |
| x .06 | |
| $ 120 | The property must produce a net annual income of $120 to meet the 6% net annual income test. |

**STEP 4:** Determine the net annual income.

| | |
|---|---|
| $ 600 | Gross monthly rent |
| x 12 | Months |
| $ 7,200 | Gross annual rent |
| - $ 3,850 | Interest on mortgage |
| - $ 300 | Property taxes |
| - $ 300 | Insurance |
| - $ 100 | Other operational expenses |
| $ 2,650 | Net annual income |

**STEP 5:** Compare net annual income to 6% of the equity value based on the present use value determined in Step 3.

The net annual income of $2,650 is greater than $120, which is 6% of the equity value of the property, based on the present use value. $6,000 is excluded from the equity based on the CMV (tax value) of the property and the remainder, $1,000 is a countable resource.

## H. Special Instructions for Income Producing Property

1. If income is verified according to instructions in MA-2250, Income, and included in the monthly budget, then the income is considered received for purposes of the 6% income test. This is true even if it is discovered that the income was not actually paid to the a/b. The income is counted in the person's budget and is included in his deductible or patient monthly liability.

(IX.H.)

2. The 6% net annual income requirement is waived when property which has formerly produced annual income produces no income due to natural disaster.

   EXAMPLE: Storms, drought, fire, hurricanes, etc.

   a. A statement to this effect from the local ASCS office (for crop damage), insurance company, FEMA, or county extension agent is necessary as verification.

   b. The property would have to produce an income in the next 12 months for the income producing exemption to continue, unless the conditions, which prevented the production of income, were beyond the a/b's control.

3. An asset is income-producing on the day that a contract for rental/lease is signed or a verbal agreement is made (rent may be paid monthly, quarterly, semi-annually, annually, etc., and may be due at some point after the date of the contract/verbal agreement).

   a. For classifications N, Q, B, or E or if the case is MWD or QI-2, begin excluding $6,000 equity on the first day of the month following the month contract or agreement is signed/made.

   b. For classification M, begin excluding $6,000 equity on the day that the contract or agreement is signed/made.

4. If there is no contract or prior agreement, the asset is income-producing on the day that the first payment is paid.

   a. For classifications N, Q, B, or E or if the case is MWD or QI-2, begin excluding $6,000 equity on the first day of the month following the month the first payment is made.

   b. For classification M, begin excluding $6,000 equity on the day that the first payment is made.

      EXAMPLE: Applicant applies in October for September retro and on-going coverage. At the intake interview, he learns that he has equity in real property which causes resource ineligibility, but that it can be excluded if rented.

(IX.H.4.b.)

He states his brother has been hunting on the property in the retro period, but he has not been paid and there was no prior agreement to rent the property. The property cannot be excluded as income-producing until the day the payment is paid or contract signed for Medically Needy and until the first day of the following month if classified N, Q, B, or E, or if the case is MWD or QI-2.

5. Different Pieces of Land

a. If the individual owns different pieces of property, each piece of property must meet the 6% test to be excluded as income producing.

b. The equity of all pieces of property that meet the 6% test is combined when applying the $6,000 exclusion.

c. Different parcels of contiguous property are treated as separate pieces of property. Contact the tax office to verify if property is divided into parcels.

(1) Each piece of land identified by the tax office as a separate parcel is treated as a separate piece of property. It must produce net income which is at least 6% of its equity.

(2) The tax office may list a piece of property as one parcel even if separate values are shown for portions of the property such as woodland and farmland. The separate portions do not have to meet the 6% requirement, but the entire parcel must.

(3) The entire parcel does not have to be rented, however, the total income for the parcel must meet the 6% requirement.

(4) The operational expenses paid by the a/b on the non-income producing portion of a parcel (i.e., taxes, insurance) must be deducted from the gross income when determining if the 6% requirement is met.

6. Applying the 6% Test When There Are Multiple Pieces of Property/Multiple Income Producing Activities

a. Total the equity value of all properties producing income.

(IX.H.6.)

b. Regardless of the amount of income produced, subtract $6,000 from the total equity value. Add this amount to the value of other countable resources.

   (1) If the total is over the reserve limit do not determine how much income the various properties produce. The a/b is ineligible due to excess resources even with $6,000 deducted from the equity of income producing property.
   (2) If the total does not exceed the resource limit, proceed to determine which individual properties meet the 6% income test.

c. If verification specifies the amount received for each piece of property, total the amounts received for a piece and compare to the 6% amount required for that piece.

d. If verification does not specify the amount received for each piece, the a/b must provide a statement specifying the amount of income to apply to each piece.

e. If two or more individuals make payments for portions of a piece of property to the a/b and their statements do not identify separate amounts, the a/b must specify the amount of income from each person to apply to each piece.

f. Use the statements to determine if the property meets the 6% criteria.

   NOTE: While the a/b's statement is not acceptable for the amount of income received, it is acceptable for apportioning the income among separate pieces of property.

   EXAMPLE: The applicants are a married couple over age 65. They own 2 separate pieces of land not contiguous to their home site. Each piece contains woodland and farmland. Two individuals rent different parts of the 2 pieces of land. Each renter pays one amount for all the land he rents. #1 rents the farmland on both pieces for $300 annually and #2 rents the woodland on both parcels for $250 annually. As part of the agreement they also pay the taxes on the properties. There are no other expenses. The rental statements do not specify an amount of rent for each piece of property.

   Property 1 has equity of $5,000.
   Property 2 has equity of $3,000.

The total equity of the property is $8,000. Subtracting $6,000 leaves a remaining equity of $2,000. The applicants have a bank account with a $429 balance and no other countable resources. Total resources after subtracting $6,000 equity from the income producing property is $2,429 which would meet the resource requirement. Proceed to determine if the property meets the 6% income test

6% of property 1's equity is $300. 6% of property 2's equity is $180.

Request that the a/b's specify the amount of rent for each property.

**Scenario 1 -**
The a/b's state that of the $300 farmland rental from renter #1, $200 is for property 1 and $100 is for property 2. Of the $250 woodland rental from renter #2, $150 is for property 1 and $100 is for property 2.

Total rental for property 1 - $200 (farm) + $150 (woodland) = $350
Property 1 meets the 6% test.

Total rental for property 2 - $100 (farm) + $100 (woodland) = $200
Property 2 also meets the 6% test.

Since both properties meet the 6% test, the equity value of both is combined ($8,000). $2,000 is a countable resource.

**Scenario 2 –**
The a/b's state that of the $300 farmland rental from renter #1, $225 is for property 1 and $75 is for property 2. Of the $250 woodland rental from renter #2, $175 is for property 1 and $75 is for property 2.

Total rental for property 1 - $225 (farm) + $175 (woodland) = $400
Property 1 meets the 6% test.

Total rental for property 2 - $75 (farm) + $75 (woodland) = $150 Property 2 does not meet the 6% test. It must produce $30 more to produce the required $180.

Only property 1 meets the 6% test. Since its equity is less than $6,000 it is fully excluded. Property 2 does not meet the 6% test, so its equity ($3,000) is counted.

## X. LIQUID ASSETS

Liquid assets include cash, bank accounts, certificates of deposit or any asset which can be converted to cash. Trust Funds (Section XI.) and life insurance policies (Section XII.) are also considered to be liquid assets.

### A. Ownership of Liquid Assets

Ownership affects the availability of a liquid asset.

1. One Owner - Unlimited access

   If there is only one owner of a bank account, insurance policy, etc., access by the owner is unlimited. The asset is totally available.

   When ever policy indicates that a liquid asset is available but a/b states that it is owned by someone else refer to Section V. for policy on resulting trusts.

2. Jointly Owned Bank Accounts

   a. "OR" account—Either owner may withdraw all funds without the permission of other owner(s). The liquid asset is 100% available.

   b. "AND" account—Signatures of both owners are required to withdraw any funds.

      (1) If the other owner consents to or participates in withdrawal for a/b, the asset is 100% available for the a/b.

      (2) If the other owner refuses to consent or participate, the asset is not available. However, a transfer of assets penalty may apply if the a/b is institutionalized. Refer to MA-2240 Transfer of Assets, for transfer of assets policy.

      (3) If the other owner does not respond or cannot be located, the asset is not legally available to the a/b. Assume the other owner is refusing to dispose after the 2 standard requests for information.

   c. "FOR" account - A guardian is established for the depositor. The guardian has no ownership interest.

3. Funds held For a Minor

   The funds belong to the minor if:

   a. It can be shown that the funds originally belonged to the minor and a resulting trust (See Section V.) exists in favor of the minor; or

b. The funds did not originally belong to the minor but:

(1) The minor's name and Social Security number were put on the account, or

(2) Documentation, provided in accordance with V., establishes that the funds have been transferred to the child and a resulting trust exists. If the original owner was the a/b, evaluate for transfer of assets.

4. Checking and Savings Accounts of a Deceased Spouse

Assets are unavailable until released by the clerk of court (usually when the estate is probated).

5. Resulting Trust

Refer to Section V. if an a/b states that assets are being held for another individual.

6. Incompetency

Refer to Section VI. if incompetency on the part of the a/b is alleged.

**B. First Moment Verification Requirement**

Always verify liquid assets as of the first moment of the first day of the month. Request the account balance as of close of business on the last working day of the preceding month.

**C. Non-Countable Liquid Assets**

Do not count as an available resource:

1. Monthly income - The portion used by the a/b to pay monthly bills, whether deposited in an account or not.

2. Life Insurance - See Item XII.

3. Relocation Assistance - Exclude assistance provided under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 for nine months.

4. Retirement accounts (including IRA's)

Exclude a retirement account if the funds cannot be withdrawn in a lump sum payment. This includes profit sharing or funds which can only be paid out in a monthly repayment plan.

NOTE: Do not deem retirement accounts from spouse or parent in PLA budgeting. Count available retirement funds in the assessment for spousal resource protection MA-2231, Community Spouse Resource Protection).

5. Irrevocable pre-need burial contract/trust.

   Do not count the value of an irrevocable contract. Refer to Burial Exclusion in Section XIII.

6. Bank accounts

   a. Exclude accounts which are solely in the name of a deceased spouse or parent of the a/b until released by the clerk of court.

   b. Exclude accounts used solely in the operation of a trade, business, farming operation or self-employment enterprise.

   c. Exclude "AND" accounts which are not available. See X.A.2. above.

7. Home Replacement Funds

   When an a/b sells an excluded home, exclude the proceeds of the sale if the a/b plans to use them to buy another excluded home and does so within 3 full calendar months of receiving the proceeds. If the proceeds of the sale of the home are given away without purchasing another home, apply transfer of resource policy in MA-2240 Transfer of Assets.

8. Lump Sum Payments

   a. Social Security (RSDI) and SSI

      Exclude any portion of the lump sum of SSI or RSDI from resources for the 9 calendar months following the month of receipt. This includes SSA/SSI lump sums that are prorated and paid out over a period of time.

   b. Federal Disaster Relief

      Permanently exclude payments from Federal Disaster Relief and Emergency Assistance Act of 1974 (Public Law 93-288), or some other Federal statute because of a presidentially declared major disaster.

(X.C.8.)

c. Cash and In-kind Receipts for Replacement or Repair of Lost, Damaged, or Stolen Excluded Resources:

Exclude for 9 months from the date of receipt. Extend the exclusion for up to an additional 9 months for cash receipts if, for the first 9 months, circumstances beyond the a/b's control:

(1) Prevent repair or replacement of the lost, damaged, or stolen property; and

(2) Keep the a/b from contracting for such repair or replacement.

(3) Exclude interest earned by these funds from income and resources for the time the funds are excluded.

(4) Document the circumstances for excluding the resources.

d. Victims' Compensation Payments

Exclude payments from a fund established by a state to aid victims of crime from resources for 9 months from date of receipt.

(1) To be excluded, the a/b must demonstrate that the payment was compensation for expenses incurred or losses suffered as the result of crime.

(2) Do not exclude interest earned from income or resources.

e. Child Tax Credit (CTC), North Carolina Earned Income Tax Credit (NC EITC) and Federal Earned Income Tax Credit (EITC)

Exclude refunds of Child Tax Credit (CTC), North Carolina Earned Income Tax Credit (NC EITC), and Federal Earned Income Tax Credit (EITC) for 12 calendar months beginning the month the refund or payment is received.

f. Exclude all other Federal and State tax refunds for 12 calendar months beginning the month the refund or payment is received,

g. Verification

(1) Verify the amount by examining the check or award letter, or by contacting the source.

(2) Ask the a/b if any portion of the payment remains, such as cash on hand or in a bank account, and verify according to the guidelines given for the specific asset.

(X.C.8.f.)

(3) If a/b states that a lump sum payment that might have resulted in excess resources for the budget unit has been spent, accept the a/b's written statement of the following facts:

(a) When and how the money was spent;
(b) Whether or not any of the money is still available;
(c) Whether or not any of the money was given away.

h. If lump sum payments are given away in the month of receipt, evaluate for transfer of resources according to MA-2240, Transfer of Assets.

9. Income Received Other Than Monthly

Payments or deposits of income, which are received other than monthly are prorated as income. Do not count as a resource for any months in which the payment is counted as income.

Examples: Annual rental payments - Do not count as an available resource for 12 months following receipt.

Promissory note payments received semi-annually - Do not count as an available resource for 6 months following receipt.

10. German Reparation Payments

Do not count German Reparation Payments as an available resource, even when retained in the month following receipt.

11. Funds established as a result of the class settlement in the case of Susan Walker v. Bayer Corporation, et al. The case involved hemophiliacs who contracted the HIV virus from contaminated blood products.

Note: If the payments are placed in an account that earns interest, the interest may be countable. Follow procedures in MA-2250, Income, VIII. M. to calculate interest income.

12. Grants, scholarships, and fellowships are amounts paid by private nonprofit agencies, the U.S. government, instrumentalities or agencies of the U.S., state and local governments, foreign governments, and private concerns to enable qualified individuals to further their education and training by scholastic or research work, etc.

(X.C.12.)

a. Any portion of educational assistance that is not used to pay current tuition, fees or other necessary educational expenses, but will be used for paying this type of educational expense at a future date is excluded from resources for 9 months beginning the month after the month it was received. This applies to undergraduate as well as graduate students.

b. All financial assistance received by undergraduate/graduate students for educational purposes made under the Higher Education Act of 1965 (HEA) or Bureau of Indian Affairs (BIA) student assistance programs is excluded from income and resources regardless of use. Refer to MA-2250, Income.

**EXAMPLES:** Perkins Loans; Stafford Loans such as the National Direct (Defense) Loan; Federal Supplemental Educational Opportunity Grant (FSEOG); Pell Grants, College Work-Study Programs including PACE, NC Student Incentives Grants; Upward Bound; etc.

**D. Countable Liquid Assets**

1. Life Insurance (See Section XII.)

2. Trust Funds (Refer to Section XI. for instructions for determining if funds are a countable resource.)

3. All other liquid assets as defined in X. E. - P. below. These are:

   a. Cash
   b. Patient Accounts of an Institutionalized Individual
   c. Bank Accounts
   d. Retirement Plans, IRA's and 401-K Plans
   e. Stocks and Mutual Funds, including stock owned by an individual in his/her own Corporation
   f. Bonds and Securities
   g. Promissory Notes
   h. Countable Lump Sum Payments
   i. Liquid Assets of a Business
   j. Proceeds of a Loan
   k. Revocable Burial Contract
   l. Proceeds of a Reverse Mortgage

4. Medicare Medical Health Savings Accounts

   Count annual deposits made into an individual's account by Medicare. If others make deposits, count those deposits as resources. These plan account funds are a countable resource for Medicaid purposes.

(X.D.)

5. Dividends and Interest

   Count dividends and interest earned on resources. If any of the dividend or interest is retained in the month after receipt, it is a countable resource.

**E. Cash**

1. Count cash on hand as of the first moment of the month in the resource total. This includes currency and undeposited checks.

2. Verification—accept the a/b's statement. If the a/b denies having cash on hand, record his statement.

**F. Patient Accounts for Institutionalized Individuals**

Patient accounts are those held by the nursing facility. Contact the business manager to verify the first moment balance.

Also question whether the representative holds or has the a/b's money in a bank.

**G. Bank Accounts**

Liquid assets held by a bank or other financial institution (checking, savings, certificate of deposit (CD), money market, EBT account, Medicare Health Savings Account, etc.)

1. Verification

   Ask if the a/b or financially responsible spouse/parents have an account at a bank, savings and loan, credit union, EBT account, or other financial institution. Ask a/b or financially responsible spouse/parents if their federal benefits (SSA/SSI or VA) are deposited into an EBT account and the money is withdrawn with a debit card. It may appear from the client's situation that there is a possibility of bank accounts, even though it is denied.

   a. If the client reports that he cashes his check at a bank or other financial institution, contact the bank asking for any accounts in the client's name.

   b. If the client reports that he has an EBT account verify the balance through the North Carolina EBT Production System that is located in each county.

      NOTE: Verify the 1st moment balance of the EBT account by viewing the credits at the end of the previous month and subtracting what was spent (debits) to get the 1st moment balance.

   c. Do not pend an application or delay a redetermination for the response.

d. Third Party Verification Sources

(1) Bank statement, or

(2) Account ledger or passbook, or

(3) Written contact with the bank or savings institution.

2. Use form DSS-3431, Request for Financial Information, when contacting financial institutions.

a. Instructions for using the DSS-3431, Request for Financial Information are as follows:

(1) Complete Page 1 of the form, giving the name and address of the financial institution and the name and identifying information for the a/b.

(2) Explain the provisions of the Financial Privacy Act. Have the client sign and date page 2. The caseworker must complete each field on page 2, and complete page 3 as needed.

b. Ensure that the a/b understands that:

(1) He has the right not to give his consent;

(2) Once consent is given, it may not be revoked;

(3) The consent is valid for a period not to exceed twelve months; and

(4) Giving consent is not a condition of doing business with any financial institution.

(5) It is the responsibility of the a/b to obtain consent from all of the joint owners of the account(s).

c. The provisions are:

(1) Financial Records are treated as confidential.

(2) Customer's authorization is required prior to the release of financial records from any financial institution.

(X.G.2.c.)

(3) Any disclosure of financial records outside of the provisions of the Financial Privacy Act, including any government authority participation to solicit information in violation of the Act, will be liable to the customer.

d. Refusal to give consent for DSS-3431, Request for Financial Information, will result in denial or termination of benefits for failure to cooperate in establishing eligibility.

3. Documentation

Document the following in the application/redetermination workbook:

a. Type of account (checking, savings, certificate of deposit (CD), money market, EBT account, Medicare Health Savings Account, etc.)

b. Type of ownership/interest

c. Account number and name of financial institution

d. A/B's statement of first moment balance for the verification month

e. Source and date of third party verification, if required

4. Deduct Outstanding Checks

a. Deduct from the first moment balance the amount of any check written by the a/b or financially responsible person which:

(1) Is mailed or delivered prior to the first moment of the verification month; and

(2) Had not cleared the bank prior to the first moment of the verification month.

b. Do not deduct the check if it:

(1) Was written as prepayment to a Medicaid provider for a service which is covered by Medicaid; or

(2) Is more than six months old. Six months from the date a check is written it becomes stale dated and will not be honored by the bank.

(X.G.4.)

c. For MN cases over the resource limit as of the first moment, deduct checks written after the first moment as of the day the check is written.

d. Verify the date a check cleared the bank by the bank statement, or by written or verbal contact with the bank.

EXAMPLE: A check dated 10/12 did not clear the bank until 11/5. The check is "outstanding" on November 1st.

e. If a check has not cleared the bank, compare the check book register or stubs to the bank statement to verify the date, check number, and payee of the outstanding check and sequence of checks.

f. If the check book register (or check stub) is not available, verify outstanding status of the check by:

(1) A signed, dated statement, DMA-5156, Statement of Outstanding Checks, from the a/b (or the person who actually signed the check) which includes: check number, date the check was mailed or hand-delivered, amount of the check, and that the check is for payment of a valid expense;

AND

(2) Written or verbal verification from the bank that a stop payment against the check has not been requested.

5. Deduct Direct Deposit Social Security/Railroad Retirement Checks.

Deduct Social Security or Railroad Retirement payments directly deposited into the bank account prior to the first day of the month from the first moment balance of that month. Do not deduct any deposits on or after the first day of the month until the first day of the next month.

6. Other Deposits

Do not deduct other income routinely deposited during the preceding month from the first moment balance.

a. Count these funds as income in the month received, and

b. Count as a resource any amount remaining on the first moment of subsequent months.

7. Interest which is accumulated or reinvested automatically is included in countable resources the month following month of receipt.

(X)

**H. Retirement Plans, IRA's, 401-K Plans**

Retirement accounts can be with a company or privately held at a bank.

1. Determine Availability

   Contact the administrator of the retirement fund or the financial institution holding the funds to verify if the funds can be withdrawn, even if penalties may be charged for early withdrawal.

2. Verify and Document

   a. Gross value of the account, and

   b. The type and amount of penalties.

3. Countable Benefits

   a. A/B's Account

      If the retirement account/fund can be withdrawn, it is an available resource. Count the value of the account if it were to be surrendered.

   b. Spouse/Parent's Account

      (1) Do not deem/count this type of resource when owned by the financially responsible spouse or the parent(s) in PLA budgeting. See MA-2260, Financial Eligibility Regulations, II.B.2.b.

      (2) Count available retirement funds in the assessment process for spousal resource protection. (See MA-2231, Community Spouse Resource Protection.)

   c. There is a standard 10% IRS tax penalty for early withdrawal. Subtract 10% of the GROSS in addition to any other penalties if the beneficiary is under age 59 ½ and is not disabled.

   d. Count the remainder as an available resource as of the first month for which assistance is requested, even if the account is not actually withdrawn.

(X)

**I. Stocks, Mutual Funds**

1. Definition

   a. Stock is a "share" of the capital or assets of a corporation.

   b. A mutual fund represents stock in multiple corporations and business ventures.

2. Verify Shares

   Verify the number of shares of stock in a corporation, or in the mutual fund, by:

   a. Viewing the last monthly or quarterly statement from the brokerage firm, if available; or

   b. Contact with the corporate office of a publicly held corporation.

   c. The a/b's statement. Copy the certificates if available. Document the certificate numbers and compare to any certificates or numbers brought in as verification in the future.

      NOTE: The FRR report may be used as a "lead" but is not verification of stock value.

3. Verify Value

   Verify the current value of each share of the stock by the best of the following alternatives:

   a. The last monthly or quarterly statement from the brokerage firm;

   b. Stock values listed in the newspaper. Most newspapers report on some stock values in the New York, American, and NASDAQ Stock Exchanges.

   c. If not listed, contact a stock broker, or check the Wall Street Journal.

   d. Contact the corporate office, or the accountant if the corporation is privately held.

      NOTE: Never use the original cost of stock or the face value on a stock certificate to establish value.

(X.I.)

4. Verification date for stock value

   a. The value on any day verified from the newspaper, stock brokerage firm, or corporate office UNLESS:

   b. The value of the stock is known to have changed and a lesser value could establish eligibility in an earlier month or retroactively.

   c. Verify lesser value from monthly or quarterly statements if available; or

   d. If statements are not available, a/b has no documentation, and actual retroactive value would benefit the a/b, sources are:

      (1) NC Department of Revenue (can verify value as of December 31).

      (2) Brokerages or corporate offices.

      (3) Old issues of the Wall Street Journal (at a library).

5. Administrative Fees

   a. Verify the cost of selling the shares (on any day you call) by contact with a stock broker or financial institution.

   b. Deduct this cost from the total value of the shares and count the remainder in resources.

**J. Bonds, Securities**

1. Bonds

   A bond is a certificate of debt. The issuing company or governmental body promises to pay a specified amount of interest for a specified period of time, and to repay the "loan" on the expiration date.

   a. US Savings Bonds – A bond of the US government sold at a reduced price, requiring the person to wait for a specified time to redeem at face value. The value is greatly reduced if the bond is redeemed at an earlier date. Any bank can verify the value of a US Savings Bond if given the series and the date of issuance.

   b. All other bonds – Contact the local bank or brokerage firm and if they cannot determine value, contact your MPR for guidance.

   b. Count the current market value of bonds.

(X.J.)

2. Security

Refers to, an obligation, mortgage, deposit, or lien given by a person to his creditor as a guarantee against failure of the person to pay his principal obligation. A non-marketable security is one that can only be redeemed by the holder, such as certain government bonds.

a. Contact a local brokerage firm.

b. Count the current market value of bonds or securities in the resource total.

**K. Promissory Note**

Although technically a liquid asset, a promissory note is treated as real property interest for verification and rebuttal purposes. A salable promissory note is a countable resource. See Item VII.A.10., VII.B.7., and VII.E. above for procedures for promissory notes. Refer to MA-2240, Transfer of Assets, IX.C., for transfer of an asset regarding a promissory note, loan, mortgage, or other property agreement.

**L. Countable Lump Sum Payments**

A lump sum is generally a non-recurring payment which covers income/benefits due for more than one month's time. This frequently occurs with Social Security and SSI benefits.

Count lump sum payments as an available resource in the month following receipt except those specifically excluded in X.C.8. above. However, if a lump sum payment is given away in the month of receipt, evaluate for transfer of assets according to MA-2240, Transfer of Assets.

Note: Income routinely deposited other than monthly is not considered a lump sum payment. See X.C.9. above.

**M. Liquid Assets of a Business**

1. Exclude liquid assets needed to operate a business currently in operation (including period when the sole proprietor is unable to work but business has not been discontinued), or assets associated with self-employment, a trade, or a farming operation.

(X.M.)

2. Verify status of bank accounts used in the operation of a business, but held in the name of a financially responsible person:

   a. Doing Business As account—Verify with the bank and the records of the DBA account that those funds are not used for personal bills.

   b. Commingled with personal funds—If the bank account is used for personal and business transactions, the business assets must be separately identified to be excluded.

3. If a business account in the name of business or corporation is totally separate from personal funds, exclude the account. Count the income of the business.

4. Count the liquid assets of a business or farming operation which has been formally discontinued or sold.

5. If the business is incorporated, count the client's share of the corporation (his stock).

**N. Proceeds of a Loan**

1. When the a/b or financially responsible spouse/parent is the borrower, the balance remaining on the first moment of the month following receipt is a countable resource.

2. When the individual is granted a line of credit, only the amount of money he actually receives is considered proceeds of a loan.

3. If the proceeds of a loan are given away in the month of receipt, apply transfer of resources policy in MA-2240, Transfer of Assets.

**O. Revocable Burial Contract**

Count a revocable burial contract/trust which can be converted to cash. See instructions in Item XIII., below, if the a/b has excess resources.

**P. Reverse Mortgage Payments**

A reverse mortgage is an agreement in which a lending company makes regular payments to a homeowner during a specific period of time. The payment is based upon the equity in the home. The homeowner is allowed to remain in the home until death or a prearranged date. At that time the home is sold and the lender repaid. Count as an available resource any proceeds from a reverse mortgage payment which the a/b retains at the first of the month following receipt. If the proceeds of a reverse mortgage are given away in the month of receipt, apply transfer of resource policy in MA-2240, Transfer of Assets.

(X.)

**Q. Continuing Care Retirement Community (CCRC) Entrance Fees**

A CCRC provides a continuum of care, including independent living, assisted living, and nursing facility care, under a contract for the life of an individual or for a period longer than one year.

If the "entrance fees" are non refundable, do not determine fair market value. If entrance fees are refundable count the portion of the fee that can be refunded.

Count the entire amount of the entrance fee at the time of application for institutional services when all of the following conditions are met:

1. The entrance fee can be used to pay for care under the terms of the entrance contract, either in portion or full lump-sum refunds, should other resources of the individual be insufficient; and

   It is unnecessary for CCRCs to provide a full lump sum refund of the entrance fee to the a/b. If portions of the fee can be refunded or applied to pay for care as required, the condition in 1 is met.

2. The entrance fee (or remaining portion) is refundable when the individual dies or terminates the contract and leaves the CCRC or life care community; and

   It is unnecessary for the a/b to actually receive a refund of the entrance fee or deposit. This condition is met as long as the resident could receive a refund were the contract to be terminated or if he dies.

3. The entrance fee does not confer an ownership interest in the community.

   To verify the amount of the "entrance fees", and to verify if the entrance fees are an available resource, contact the center in which the a/b specifies he has paid an entrance fee. The Department of Insurance website, www.ncdoi.com/fed/se/documents/ccrc/ccrclist.pdf, contains a current list of the Continuing Care Retirement Communities.

**R. Total the Value of All Liquid Assets**

Total the value of all countable liquid assets including cash value of life insurance (when total face value owned by any financially responsible person is more than $10,000 for that person), trust funds and revocable burial trusts.

## XI. TRUST FUNDS

### A. Definitions

1. Grantor - An individual who uses his assets or funds to create a trust. The grantor may also be the beneficiary.

2. Beneficiary - An individual(s) designated in the trust who benefits from the trust. The beneficiary can also be called the grantee. The grantor and beneficiary may be the same person.

3. Trustee - An individual(s) or entity (such as bank or insurance company) that manages and administers the trust for the beneficiary.

4. Principal - The assets that make up the trust. The principal includes income earned on the principal that has not been distributed. The principal is also called the corpus.

5. Proceeds - The income earned on the principal of the trust. It is usually interest, dividends, or rent. When the proceeds are not distributed, they become part of the principal.

6. Disbursement/distribution - Any payment from the principal or proceeds to the beneficiary or to someone on his behalf.

### B. General Information

1. When the a/b or financially responsible person is the grantor of a revocable trust created for himself or for the benefit of another individual(s), the entire trust principal remains a countable resource to the a/b.

2. When the a/b or financially responsible person is the grantor of an irrevocable trust created for himself or for the benefit of another individual(s), evaluate for transfer of assets unless the trust meets criteria for a Special Needs or Pooled Trust in XI.C., below. Refer to MA-2240, Transfer of Assets.

   Note: This does not include trusts created by the will of a spouse. Refer to XI.B.4 and XI.J. below.

3. When the a/b or financially responsible person is only the trustee of a trust, the trust is not a countable asset. Count as income fees paid to the a/b for management. Refer to MA-2250, Income.

(XI.B.)

4. When the a/b or financially responsible person is the beneficiary of a trust, use this section to evaluate the trust:

   a. As a resource available to the a/b, and

   b. As income countable to the a/b, and

   c. As a transfer of resources.

**C. Types of Trusts**

1. Revocable Trust - A trust which can be revoked by the grantor or modified or terminated by petitioning the court. A trust which is called irrevocable but which terminates if some action is taken by the grantor is a revocable trust for purposes of this section.

2. Irrevocable Trust - A trust whose terms and provisions cannot be revoked or changed in any way by the grantor or any other party.

3. Special Needs Trust - A specific trust that meets all the following conditions:

   a. It was created on or after April 1, 1994, and

   b. It is created for the sole benefit of a disabled individual (as determined by SSA) under age 65, and

      Note: Sole benefit means that any real or personal property which is capable of being titled and is purchased by the trust must be titled solely in the name of the trust.

   c. It contains only the disabled individual's assets/income (no assets or income of others may be commingled), and only after any Medicaid lien on funds recovered from third parties has been paid in full. (See MA-2400, Third Party Recovery regarding tort liability and assignment of rights to third party payments), and

   d. It is established for the disabled individual under age 65 by his parent, grandparent, legal guardian, or by a court, and

   e. It must contain a provision that states upon death of the individual or upon the termination of the trust for other reasons the State receives all amounts remaining in the Trust up to an amount equal to the total amount of medical assistance paid on behalf of the individual under the State Medicaid Plan, and

(XI.C.3.)

e. If proceeds of a settlement on behalf of the Medicaid applicant/beneficiary are used to purchase structured settlement payments, annuities, or other forms of an income stream payable to the Trust over time, the Trust must remain the designated payee. There must be no alternate designated payee named in the contract for the payments until the Trust has been properly wound up and the State has been reimbursed. This ensures that all remaining Trust assets will be available to reimburse the Division of Medical Assistance upon the death of the individual or termination of the Trust for other reasons. The Special Needs trust resource exclusion continues after the individual reaches age 65. Any additions to the trust after the individual reaches age 65 must be evaluated for a transfer of assets.

4. Pooled Trust - A type of trust that includes funds of more than one disabled individual combined for investment and management purposes. A Pooled Trust can be created for an individual of any age and is excluded from resources. A Pooled Trust must meet all of the following requirements to be excluded as a Transfer of Assets.

a. It was created on or after April 1, 1994, and

b. It was created for the sole benefit of a disabled individual (as determined by SSA) and

c. It is established by the disabled individual, his parent, grandparent, legal guardian, or by a court, and

d. It is managed by a non-profit association with a separate account maintained for each beneficiary, and

e. It contains a provision that upon the death of the beneficiary the State will receive all amounts remaining in the beneficiary's account not retained by the trust up to the total amount of Medicaid paid on behalf of the individual.

The Pooled Trust resource exclusion continues after the individual reaches age 65. Any additions to the trust made after the individual reaches age 65 must be evaluated for a Transfer of Assets.

If the Pooled Trust is created for an individual under age 65, and meets the above requirements, do not evaluate for a Transfer of Assets. Pooled Trusts created on or after November 1, 2008 for an individual over age 65 must be evaluated for a Transfer of Assets.

(XI.)

**D. Terms of the Trust**

The terms specify what portion of the principal is available and what disbursements can be made from the trust. Common terms:

1. Discretion of the trustee - This term allows the trustee to decide what portion (up to the entire amount) of the principal of the trust he will make available to the beneficiary.

2. Full discretion - This term allows the trustee to disburse up to the entire amount of the trust to the beneficiary.

3. Designated for medical expenses - This term allows the trustee to use the trust to pay the medical expenses of the beneficiary. The amount of the trust that is designated for medical expenses is considered an available asset to the beneficiary. Payments are a third party resource. Refer to MA-2400, Third Party Recovery, to report availability to DMA.

4. Income beneficiary - This term allows payments to the beneficiary from the proceeds of the trust. The principal is not available for disbursement.

5. Ultimate beneficiary - This term means the entire principal of the trust will be available at a specific point in time.

6. Exculpatory clause - Language in the trust that legally limits the authority of the trustee to distribute funds from a trust if the distribution would jeopardize eligibility for government programs, including Medicaid.

**E. Procedures**

1. Obtain a copy of the trust document and any supporting documentation detailing investments and distributions from the a/b, the a/b's legal representative, trustee, or attorney.

2. Review the trust document to determine:

   a. The type of trust,

   b. The date the trust was established, and

   c. Whose assets were used to create the trust, and

   d. Who is the beneficiary, and

   e. The value of the trust when it was created, and

f. What disbursements can be made from the trust principal or proceeds, and

g. Any special provisions.

3. Contact the trustee to verify:

a. The current value of the trust, and

b. Actual disbursements paid from the trust in the base period, and

c. To whom the disbursements were made, and

d. The dates of disbursement.

4. Consult with your agency/county attorney for any questions regarding the terms of the trust.

5. Contact your MPR for assistance in determining how the trust affects Medicaid eligibility.

**F. Determine Countable Income to the A/B (Also refer to MA-2250, Income)**

1. Income from a trust which is countable to the beneficiary is determined the same way no matter what type of trust, who created the trust, when it was created, or any special requirements.

2. Count as income to the a/b in the month received the actual money disbursed by the trustee from the trust principal or proceeds:

a. Directly to the a/b (spouse, legal representative), or

b. Directly to providers for food or shelter.

NOTE: Refer to MA-2250, Income, for policy on contributions of food and shelter. Do not count as income money paid directly to a provider for any items other than food or shelter. The value assigned to in-kind income cannot exceed 1/3 of the SSI amount plus $20.

**G. Whose Assets Are Used to Create a Trust**

In determining whose assets (the grantor) are used to create the trust, consider the following:

1. The a/b's assets include assets owned by any budget unit member.

2. A settlement of an insurance claim or civil suit is considered the a/b's asset.

(XI.G.)

3. Assets contributed directly into a trust by individuals other than a budget unit member or by a public organization are not considered the a/b's assets.

   EXAMPLE: Community fund raiser for a child in need of an organ transplant contributes the money directly into a trust.

4. Assets used to form a trust created by a will from the estate of a deceased person (including a deceased spouse) are not considered the a/b's assets. This is also known as a Testamentary Trust.

   NOTE: Assets which are willed to an a/b and then used to establish a trust are considered to be the assets of a/b.

**H. Determine Countable Resources and Transfer of Resources**

Use the following guide:

1. Revocable Trust - Refer to XI.I. below.

2. Irrevocable Trust where a/b is the beneficiary of trust established with the funds of an individual other than the a/b or his spouse. This includes testamentary trusts created by will. Refer to XI.J.1. below.

3. Irrevocable Trust where the a/b is grantor and beneficiary of trust established prior to April 1, 1994. Refer to XI.J.2. below.

4. Irrevocable Trust where the a/b is grantor and beneficiary of trust established on or after April 1, 1994. Refer to XI.J.3. below.

5. Special Needs or Pooled Trust where the a/b is the beneficiary established on or after April 1, 1994. Refer to XI.J.4. below.

**I. Revocable Trust**

1. When the a/b or financially responsible person is the beneficiary of a revocable trust created with the funds of an individual other than the a/b or spouse, apply the following rules:

   a. Countable Resources

      Do not count the principal as an available resource to the a/b. The trust principal is a resource to the grantor who created the trust and who has the power to revoke the trust.

   b. Transfer of Resources

Do not apply transfer of resource policy to the a/b since his assets were not used to create the trust.

2. When the a/b or financially responsible person is the grantor of a revocable trust, apply the following rules:

   a. Countable Resources

      Count the current principal plus proceeds that have not been distributed.

   b. Transfer of Resources

      Apply transfer of resource policy to any disbursement from the trust principal or proceeds to or for the benefit of an individual other than the a/b. Refer to MA-2240, Transfer of Assets.

3. If a revocable trust is changed to an irrevocable trust, evaluate as a transfer effective the date the irrevocable trust is established. Refer to XI.J., below.

**J. Irrevocable Trusts**

1. When the a/b or budget unit member is the beneficiary of an irrevocable trust established with the assets of someone other than himself or spouse determine if any portion of the trust is a countable resource as follows. This includes testamentary trusts created by the will of any individual, including a spouse.

   a. No Trustee Discretion

      If the terms of the trust do not allow for trustee discretion, count the portion of the trust principal and undistributed proceeds that could be disbursed to the a/b based on the terms of the trust.

   b. Trustee Discretion

      Contact the trustee to verify what he will make available.

      (1) Count the amount the trustee(s) agree to make available.

      (2) If the trustee refuses to make any portion available, do not count any portion as a resource.

   c. Transfer of Resources

      Do not apply transfer of resource policy to the a/b since his assets were not used to create the trust.

(XI.J.)

2. When the a/b is the grantor and beneficiary of an irrevocable trust established prior to April 1, 1994 (formerly called a Medicaid Qualifying Trust or MQT), apply the following rules:

   a. Countable Resources

      Count the maximum portion of the trust principal and undistributed proceeds that could be disbursed to the a/b based on the terms of the trust.

      (1) If the terms specify trustee discretion, assume the trustee exercises full discretion and count the full amount that could be disbursed. This applies regardless of whether or not the maximum payments are actually made.

      (2) If the terms of the trust limit discretion to disburse when Medicaid eligibility will be affected (exculpatory clause) only count those resources which can be disbursed according to the terms of the trust.

   b. Transfer of Resources

      Apply transfer of resource policy to any portion of the trust that is unavailable or made unavailable for the benefit of the a/b according to the terms. Refer to MA-2240, Transfer of Assets.

3. When the a/b is the grantor and beneficiary of an irrevocable trust established on or after April 1, 1994, apply the following rules:

   a. Countable Resources

      Count the maximum portion of the trust principal and undistributed proceeds that could be disbursed to the a/b. In determining what is available to be disbursed, DISREGARD:

      (1) The purpose for which the trust was established,

      (2) Whether the trustee has discretion,

      (3) Any exculpatory clause restricting disbursements which affect Medicaid eligibility.

      (4) Any other restrictions on when disbursements can be made or the use of the distributions.

This means that if the terms allow ANY circumstances by which all or a portion of the principal or proceeds can be disbursed to a/b, that portion is considered an available resource to the a/b.

EXAMPLE: A trust contains $75,000. The terms stipulate that the trustee can disburse up to $50,000 to the grantor. The $50,000 can be paid to the grantor only in the event he needs, for example, a heart transplant. Count $50,000 in resources because it can be paid under some circumstances, although remote. Or if the terms stipulate $50,000 can be disbursed to the grantor on some date in the future, count $50,000 in resources because there is a circumstance where a disbursement can be made.

b. Transfer of Resources

Apply transfer of resource policy to any portion of the trust that is not counted in resources for the a/b. In the above example, the $25,000 that cannot be disbursed for any reason is a transfer of assets. Refer to MA-2240, Transfer of Assets.

4. When the a/b is the beneficiary of a Special Needs or Pooled Trust (See definitions in XI.C.3. & 4. above) established on or after April 1, 1994:

a. Countable Resources

Do not count the trust principal or undistributed proceeds.

b. Transfer of Assets

(1) A Special Needs Trust or Pooled Trust created for an individual under age 65 does not need to be evaluated for a Transfer of Assets unless additions are made to the trust after the beneficiary turns age 65. Any addition to the trust after the individual turns age 65 is evaluated for a transfer of assets.

(2) A Special Needs Trust or Pooled Trust created for an individual after he reaches age 65 must be evaluated for a Transfer of Assets.

(3) Any disbursement from a Special Needs Trust or Pooled Trust that is not for the sole benefit of the individual must be evaluated for a Transfer of Assets. Evaluate disbursements at application and each redetermination.

## XII. LIFE INSURANCE AND ANNUITIES

### A. Definitions

1. Face value of Life Insurance policy

   Face Value is the amount of basic death benefit contracted for at the time the life insurance policy is purchased.

2. Cash surrender value (CSV) of Life Insurance policy

   The cash surrender value of a life insurance policy is a form of equity value that a policy acquires over time. The policy owner can only obtain its CSV by turning in the policy for cancellation before it matures or when the insured dies. A loan against a policy reduces its cash surrender value.

3. Annuity

   An annuity is a type of trust. An individual pays an entity a lump sum of money in return for the right to receive fixed, periodic payments, either for life or a term of years.

4. Long Term Care Partnership-Resource Disregard

   Individuals who have a qualified Long Term Care partnership Program policy may have resources disregarded at application for LTC/CAP Medicaid.

   The resource disregard can be up to the amount of benefits paid by the policy as of the date of application.

5. Long Term Care Partnership-Resource Protection at estate recovery

   An amount equal to the resource disregard given to a Medicaid beneficiary during the LTC/CAP Medicaid eligibility determination process.

### B. Cash Surrender Value (CSV) of Life Insurance as a Resource

The cash surrender value (CSV) of life insurance policies is accessible and is a countable resource when the face value of all policies which generate a CSV owned by the individual exceeds $10,000.00. Evaluate each individual separately. Ask at each application and redetermination for MAABD, MQB-Q, MQB-B, MQB-E, and MWD, if the a/b or financially responsible spouse/parent own or have recently purchased insurance. Only verify policies owned by the a/b or financially responsible spouse/parent. Exclude as a resource the cash surrender value of life insurance policies when the face value of all policies which generate a CSV equals $10,000 or less.

(XII)

**C. Whole Life Insurance**

Whole life is a common type of insurance which generates a CSV.

1. Face Value/Cash Surrender Value

   a. Use the original face value when the policy was issued to establish total face value.

   b. Count the CSV of whole life insurance owned by the a/b or financially responsible person, when the total face value of all policies which generate a CSV owned by each person exceeds $10,000

2. Participating Policy

   a. A participating whole life policy pays dividends annually.

      Dividends paid by a participating policy may be added to the face value, increase the cash surrender value or be paid to the policy owner. Count dividends even if the total face value is equal to or less than $10,000. Verify how dividends are paid. Refer to XII.I.2. below.

   b. Universal Life

      Universal life policies are a type of participating whole life policy.

**D. Long Term Care Partnership policy**

A qualified Long Term Care Partnership policy provides the Medicaid a/b with a resource disregard up to the amount of benefits paid out by the policy as of the date of application for LTC Medicaid or CAP. The resource protection at estate recovery is equal to the amount paid out from the qualified Long Term Care Partnership program policy as of the date of application.

If the client has a community spouse, first apply the Community Spouse Resource allowance. See MA-2231, Community Spouse Resource Protection for instructions.

If after completing the CRSA the client's resources are above the limit, follow the steps below for the client with a qualified Long Term Care Partnership policy.

To identify that a long term care policy is a qualified Long Term Care Partnership policy, the policy must be accompanied by a Partnership Disclosure Notice which explains the details of the Partnership program, resource disregard and protection at estate recovery.

1. The qualified Long Term Care Partnership Policy includes:

   a. An effective date of January 1, 2011 or later, unless the policy was purchased in another state.

(XII.D.1.)

b. The policy states that if the insured is already a beneficiary of long term care Medicaid, the policy will **not** allow a resource disregard and protection at estate recovery and,

c. A statement that the purchase of a partnership policy does not guarantee qualification for Medicaid.

2. Only the available and countable assets owned by the individual Medicaid a/b and his share of jointly owned assets may be considered when applying the resource disregard. Only the assets of the individual may also be protected at estate recovery.

3. The North Carolina Medicaid program may allow a resource disregard and protection at estate recovery for an individual who purchased a qualified Long Term Care Partnership policy in another state which has a reciprocal agreement with the state of North Carolina.

   To determine if the state and North Carolina have a reciprocity agreement, visit the website at http://w2.dehpg.net/LTCPartnership/map.aspx .

4. If countable resources exceed the resource limit after the CSRA, and the client has a qualified Long Term Care Partnership policy, take the following steps:

   a. Obtain a copy of the qualified Long Term Care Partnership policy. Verify the amount paid out on behalf of the insured as of the date of application by contacting DMA Beneficiary Services at 919-855-4000.

      (1) The amount paid out on behalf of the individual is the amount of resource disregard and protected amount at estate recovery. Report this amount to the estate recovery administrator at DMA.
      (2) To determine the amount to deduct from excess resources see c. below.

   b. If the client is unable to locate a copy of the qualified Long Term Care Partnership policy, request that the client provide the insurance company name and address, policy number, name of the insured, original value and amount paid out on behalf of the insured. Verify that the policy is a qualified Long Term Care Partnership policy and verify the amount paid out on behalf of the insured as of the date of application by contacting DMA beneficiary services at 919-855-4000, once you have the above information.

(XII.D.4.c)

c. Determine the amount to deduct from excess resources:

(1) STEP 1: Determine the amount paid out from the qualified Long Term Care Partnership policy.

(2) STEP 2: Determine amount of countable assets which are solely owned by the insured and his share of any jointly owned assets.

(3) If amount in STEP 1 < amount in STEP 2, subtract amount in STEP 1 from excess resources.

(4) If amount in STEP 1 > amount in STEP 2, subtract the amount in STEP 2 from excess resources.

(5) If the client still has excess resources, he is not eligible unless he reduces or rebuts the excess resources.

**Example 1**: Mr. Magenta, a single 69 year old man, purchases a qualified Long Term Care Partnership policy in North Carolina on 01/10/2011 with a lifetime maximum of $150,000. He applies for LTC on June 1, 2014 and has used $148,000 in benefits under the policy. The amount of resource disregard and estate recovery protection is the $148,000. Report $148,000 to the estate recovery administrator. His countable resources are $163,050. ($163,050 – 2,000 = 161,050 excess resources).

Step 1: $148,000

Step 2: $163,050 (amount of resources in his name)

The amount in STEP 1 < amount in STEP 2. Deduct $148,000 from the excess resources ($161,050 – 148,000= $13,050). Mr. Magenta must reduce resources in order to be eligible.

Example 2: Mr. Salt, a 70 year old married man, purchases a qualified Long Term Care Partnership policy in Virginia in 2009 with a lifetime maximum of $250,000. He enters a nursing home in North Carolina a year later. His wife applies for LTC on May 3, 2014. The policy has paid out $248,500 as of this date. Total countable resources (before CSRA) are $297,060. All property is jointly owned by Mr. Salt and Mrs. Pepper. Countable resources after CSRA are $187,500 – 2,000 = 185,500 excess resources.

(XIII.D.)

STEP 1: $**248,000**.

STEP 2: $297,060 /2 = $**148,530** (his share of resources jointly owned).

The amount in STEP 1 > amount in STEP 2. Deduct $148,530 from excess resources. ($185,500 – 148,530 = $36,970). Mr. Salt must reduce or rebut excess resources in order to be eligible.

5. Reporting the amount of resources protected at estate recovery:

   Send to the DMA- Estate Recovery Administrator the name of the insured and the name and address of the insurance company. Include the amount protected from estate recovery due to the client having a Long Term Care Partnership policy and attach a copy of the policy, if one is available. Retain a copy of this information in the case file.

6. Non-Participating policy

   A non-participating whole life policy does not pay dividends. Verify the original face value and current CSV.

**E. Annuities**

An annuity guarantees the annuitant (person who receives benefit from the annuity) periodic payments of a fixed amount for a specified term of years, for life, or until some specified event takes place in exchange for the payment of a fixed sum.

1. An annuity is usually purchased with a single premium or payment.

2. An annuity is a resource if one of the following criteria are met:

   An annuity which is revocable or which can be sold or assigned is a countable resource. Contact the issuer via the DMA-5111, Annuity Verification Form, to determine the annuity's status.

   a. If it is revocable determine from the issuer what amount the a/b would receive if he or she revoked the amount of the annuity. This amount is a countable resource.

   b. If the annuity can be sold, determine from the issuer the amount the a/b would receive for selling the annuity. This amount is a countable resource.

   c. Determine from the issuer if the payments from the annuity can be assigned to another person. If payments can be reassigned, then the annuity is considered assignable and is a countable resource.

(XII.E.)

3. Verification Sources

   a. Request a copy of the terms of the annuity from the a/b.

   b. Contact the issuer of the annuity. Send a DMA-5111, Annuity Verification Form, at each application and redetermination for institutional services.

4. Burial annuities pay the estate for burial costs and burial is the compensation, like an irrevocable burial trust. If they are irrevocable and attached to an irrevocable burial contract they are not a countable resource. If revocable, only exclude up to the burial exclusion.

5. For each annuity evaluated during application or redetermination, send a copy of the annuity, the a/b's name, Medicaid ID number, case number, and short explanation identifying the annuity as a resource or asset for the a/b to:

   Division of Medical Assistance
   Third Party Recovery Section
   2508 Mail Service Center
   Raleigh, NC 27699-2508

**F. Annuities Purchased Prior to November 1, 2007**

If an annuity purchased prior to November 1, 2007, is a resource, its purchase is not a transfer of assets. Count the value of the annuity as a resource.

If the annuity is not a resource, evaluate for transfer of assets. Refer to MA-2240, Transfer of Assets. If the annuity is actuarially sound according to the policy in effect prior to November 1, 2007, the purchase of the annuity was an allowable transfer.

**G. Annuities Purchased or Changed On or After November 1, 2007**

If an annuity purchased or changed on or after November 1, 2007, is a resource, it does not have to meet the transfer of asset requirements to be one of the acceptable types of annuities or to be actuarially sound. Refer to MA-2240, Transfer of Assets.

Send a DMA-5110, Request for Medical Assistance Coverage For Institutional Services and Disclosure Of Annuities, to the beneficiary and a DMA-5097/DMA-5097S Request For Information. Send a DMA-5112, Informational Notice Regarding Annuities and Medicaid Eligibility, to the issuer of the annuity. The annuity that is a resource still must meet the requirement related to the State of North Carolina Medicaid Program being named as a remainder beneficiary. If it does not meet this requirement, it is a non-allowable transfer. Refer to MA-2240, Transfer of Assets. However, it is likely that since the annuity is a countable resource, the a/b or the a/b's spouse will be ineligible due to excess resources and transfer of assets sanction will not apply.

(XII)

If an annuity purchased on or after November 1, 2007, is not a resource, it must be evaluated for transfer of assets under the rules in MA-2240, Transfer of Assets.

**H. Term Life Policies (including burial insurance policies, accident policies with death benefits)**

1. Most term life policies do not generate a cash surrender value (CSV).

   a. If a term life insurance policy generates a CSV, include the face value in the total face value of policies which generate a CSV to determine if the CSV is a countable resource. Refer to XII.B. above.

   b. If the term life insurance does not generate a CSV, do not include the face value of the policy in determining the total face value of all policies that generate a CSV.

2. Verify any dividends paid by the policy. See XII.I.2.a. below for budgeting.

**I. The Single Premium Pure Endowment**

These policies pay a benefit in a balloon payment only to those persons who survive a certain period of time. The endowment portion is similar to an annuity. The purchase of a Single Premium Pure Endowment policy is an uncompensated transfer. Refer to MA-2240, Transfer of Assets.

**J. Verification**

1. Examine life insurance policies (if available) and document:

   a. The name of the Insurance Company
   b. Policy number
   c. Name of the insured (on whose life the policy is written)
   d. Owner of the policy

      (If the owner is not the a/b or financially responsible spouse/parent the policy is not an available asset to the a/b.)

   e. Whether the policy is participating or non-participating

      If this information is not printed on the policy request verification from the insurance company. This must be documented for all policies, regardless of whether the total face value exceeds $10,000. If a/b states face value does not exceed $10,000, do not hold up processing the application, but request verification of whether the policy is participating or non-participating from the insurance company.

(XII.J.1.f (1))

f. Face Value

Use the original death benefit or the graduated face value table on the original policy when issued.

(1) Face value, death benefit:
The face value was printed on the original policy when it was issued. If the IMC knows the policy is participating, verification

requests to the insurance company should ask for face value minus any dividend additions to face value.

(2) Face value includes increases in the face value as part of original policy contract. This is evidenced by a graduated face value table printed on the original policy.

(3) Face value does not include:

(a) Additional Face Value purchased with dividend additions
(b) Accidental death (double indemnity) provisions
(c) Term life benefits (riders) on other family members

g. Cash Surrender Value (CSV)

Document and use the amount in the cash surrender value table printed with the policy, if available, UNLESS

(1) The cash surrender value table is out of date; or

(2) It is printed on a policy that it is a participating policy.

h. If the actual paper policy issued by the life insurance company is NOT available, contact the life insurance company to verify the items listed in a. through g. above.

Use the DMA-5155, Verification of Cash Value of Life Insurance, and address correspondence to: Manager, Policy Holder Service Division, Company Name. If known, provide the following identifying information:

(1) Full name of the policy holder,
(2) Date of birth,
(3) Social Security number
(4) Policy number, and
(5) Date policy was issued
(6) Also request:

(a) Any other policies owned by the client; and
(b) Projected cash surrender value for future years.

(XII.J.2.a)

2. Verifying a Participating Policy

a. If the policy is participating and pays dividends verify how dividends are paid as it may affect the cash surrender value of the policy or be a countable resource.

(1) Dividend Additions

Dividend additions may be used to purchase additional face value or increase the policy's cash surrender value. Usually, the cash surrender value table that is issued with the policy does not reflect the value of dividend additions to cash surrender value.

(2) Dividend Accumulations

Dividend accumulations may be applied to premiums, or remain in the "custody" of the insurance company for the purpose of accumulating interest. Dividend accumulations which are not used to pay a premium are treated the same as money in a savings account. Dividend accumulations not applied to insurance premiums count as a resource regardless of total face value of policies which generate a CSV.

(3) Dividend payments to Owner

Dividends are not income in the month received, but are a countable resource if retained until the following month Refer to MA-2250, Income.

b. Verify Dividend Payments

Verify dividend payment by a copy of the annual premium notice, (the owner receives this on the anniversary date of the policy, and it includes an accumulation of all benefits, the amount of dividends, how dividends are being used or paid) or contact with the insurance company.

c. Verify Cash Surrender Value With the Company if:

(1) The cash surrender value table has expired; or

(2) Total resources of the budget unit at application is $1200 or greater; or

(3) The a/b disagrees with the value established by the table.

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(XII.)

**K. Determine Countable Value of Insurance**

1. Count the CSV of all policies owned by the a/b and the financially responsible spouse/parent when the total face value of all policies which generate a cash surrender value owned by each exceeds $10,000.

2. Cash Surrender Value of Non-participating Policy may be obtained from:

   a. Cash surrender value table printed on the policy;
   b. Direct contact with the company; or
   c. For applications only, client's statement.

3. Participating Policy

   a. Always use the original face value (when the policy was issued) to determine if CSV is countable (if total face value of all policies owned by an individual is $10,000 or less the CSV is not countable). Ignore additional face value purchased with dividend additions.

   b. For "graded policies" (those with a graduated face value printed on the original policy), use the face value for the year in which the eligibility is being determined.

   c. Dividend additions used to increase the CSV of a participating policy are part of the CSV of the policy and are countable if face value of all policies which generate a CSV exceeds $10,000.

   d. Applications

      If total face value of all policies which generate a CSV exceeds $10,000 for an individual, use the increased CSV if the amount is known by the a/b (accept his statement if the total resources do not exceed $1200) or can be verified by a copy of the annual premium notice or by contact with the insurance company prior to disposition of the application.

      (1) If third party verification is requested, do not pend the application for verification of the increased CSV.

      (2) When verification is received, if the additional CSV which was available at application is still available and causes ineligibility, propose termination and inform the beneficiary of possible ways to reduce resources (i.e. purchase of burial contract, etc.).

**REISSUED 10/01/11 – CHANGE NO.17-11**

(XII.K.3.)

e. Redeterminations

(1) If total face value of all policies which generate a CSV exceeds $10,000 for an individual, use the increased CSV if the policy has not been designated for burial expenses and excluded through application of the $1500 burial exclusion.

(2) After the policy has been designated for burial, ignore any increases in CSV, including dividend additions, unless a new loan or cash withdrawal occurs.

4. Burial Exclusion
Burial exclusion allows $1500 to be excluded from otherwise countable resources. See Item XIII. to determine how to apply life insurance values to the burial exclusion.

**L. Actions Which Decrease the Cash Surrender Value (CSV)**

1. Irrevocable assignment of CSV as payment of medical debt.

a. A hospital or other medical provider is "guaranteed" some payment against the patient's indebtedness prior to Medicaid authorization and the CSV is eliminated from resources. This does not have to be offered as a new way to reduce resources. Payment of legitimate debt has always been an acceptable way to reduce resources.

b. The individual who "owns" the policy must pay premiums and can name a beneficiary other than the holder of the lien on the cash surrender value.

c. The death benefit is still paid to the beneficiary, but it is reduced by the amount of any valid liens against the cash surrender value on the date of death. The amount of the lien would be paid to the lien holder.

d. For Medicaid resource calculations, insurance CSV is decreased beginning with the date the papers are signed.

e. If the cash surrender value exceeds the amount of lien/debt, and the CSV must be counted as a resource due to the total face value of all policies which generate a CSV exceeding $10,000 for the individual, the amount of the CSV in excess of the amount of the lien/debt would be a countable resource.

f. If the medical charge was incurred prior to the current certification period, the lien may reduce the unpaid balance of an "old bill" which could otherwise be applied to the deductible. On the date the papers are signed, the portion covered by a lien is 'paid'. Do not apply this portion of the bill to a deductible.

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(XII.L.1.)

g. If the medical charge was incurred during the current certification period, it is allowable to apply to the deductible for that certification period.

2. Individual obtains Cash Surrender Value or a loan against CSV

When an a/b cashes in an insurance policy that generates a CSV, this is a conversion of one type of resource to another. When the policy is surrendered

for cash, or a loan is taken out against the CSV, the money received is counted as a resource until it is spent.

3. Irrevocable Change of Beneficiary

Irrevocable change of beneficiary means filing a rider to the policy that irrevocably changes the beneficiary to a funeral home or to the person's estate for purposes of funeral expenses. This action must prevent the person from obtaining the cash surrender value. Verify this with the insurance company.

Each insurance company will have its own forms and language. The key points are:

a. Beneficiary is funeral home or estate for burial purposes
b. Verification from insurance company that they have processed the change
c. Designation of beneficiary is irrevocable
d. Verification from insurance company that the insured cannot get the cash value

4. Change of Ownership/Absolute Assignment

A change in ownership of the policy to a third party is frequently referred to as absolute assignment. Verify the change in ownership with the insurance company. This could result in a sanction for a/b in long term care if equal compensation was not received for the policy's value. Compensation may be verified by a copy of the contract.

## XIII. BURIAL EXCLUSION

Burial exclusion is **only used** when the a/b has excess countable resources. It is a method to exclude up to $1500 value of otherwise countable liquid assets for burial expenses for each financially responsible person. This section contains rules and procedures for burial exclusion.

### A. Burial Exclusion Rules

1. Always ask the a/b if he or a financially responsible person has resources which are intended to be used for burial purposes.

(XIII.A.)

2. Use the $1,500 burial exclusion to reduce countable resources when the a/b or financially responsible person has excess liquid assets in:

   a. A revocable burial contract for his burial expenses,
   b. Cash surrender value of life insurance on his own life,
   c. Cash/bank accounts/certificates of deposit, or
   d. Stocks and bonds.
   e. Revocable burial annuities.

3. Do not use the burial exclusion if the a/b or financially responsible spouse/parent have irrevocable burial arrangements valued at $1,500 or more. Irrevocable contracts are not a countable resource but they "use up" the burial exclusion for an individual.

4. If excluding $1,500 (for each financially responsible person) of countable assets listed above is sufficient to reduce countable resources to the limit for the budget unit:

   a. Inform the a/b that liquid assets (except life insurance) designated as a burial asset cannot be excluded if commingled (held in the same account) with non-burial assets. Request proof that the assets have been separated. See MA-2303, Verification Requirements for Applications, and MA-2304, Processing the Application, for time frames and requirements.

   b. When burial assets are not commingled, exclude $1,500 of the value of liquid assets for the a/b and each financially responsible spouse/parent's burial expenses.

   c. Begin the burial exclusion with any month assistance is requested, including the retroactive period.

5. Burial exclusion applies to all financially responsible individuals, including:

   a. An MAABD/MQB/MWD applicant/beneficiary of any age.

   b. A legal spouse of the MAABD/MQB/MWD applicant/beneficiary, including the community spouse of the institutionalized a/b.

   c. Parents of the MAABD applicant/beneficiary, if the a/b has never been married and is under age 18.

(XIII.A.)

6. If the burial exclusion ($1,500 of liquid assets per budget unit member) does not reduce resources below the allowable resource limit, resources must be reduced within the 45/90 day standard processing time for applications. The individual is not eligible until the date the resources are reduced below the allowable resource limit.

7. Follow the steps in B. - F. below to use the burial exclusion. Always deduct the value of burial assets until the burial exclusion is depleted (you reach zero dollars) or all assets have been deducted. Deduct assets in the following order:

   a. Irrevocable Burial Arrangements
   b. Face Value of Life Insurance if total face value is $10,000 or less.
   c. Revocable Burial Arrangements
   d. Cash Surrender Value of Life Insurance if total Face Value Exceeds $10,000
   e. Dividend Accumulations or Cash/Funds in a Bank Account

   Refer to G. below for instructions in applying the burial exclusion.

**B. Irrevocable Burial Arrangements**

Follow these steps for each individual to determine if there is an irrevocable arrangement as specified in 1, 2, or 3 below. Deduct any irrevocable burial arrangement from the person's $1,500 burial exclusion.

1. Irrevocable trust/contract

   A trust, contract, insurance policy or annuity with a funeral home, bank, insurance company, etc. that lists the a/b or financially responsible spouse/parent as the beneficiary.

   a. Irrevocable means neither the depositor/purchaser nor the funeral home/bank can withdraw the funds or change the contract.

      NOTE: Even though a court, including a magistrate, can revoke an irrevocable contract, the contract remains irrevocable and is excluded until it is revoked.

   b. View a copy of the contract to verify that it is irrevocable, the name of the beneficiary and the face value received in exchange for funds.

(XIII.B.1)

c. Do not require that the contract include a listing of goods and services to be provided unless the information is needed for evaluation for transfer of assets (MA-2240, Transfers of Assets) if it appears assets may have been transferred without equal compensation.

2. Irrevocable designation of beneficiary

This is an irrevocable designation of an insurance policy making it payable to a funeral home or to the estate of the deceased for purposes of funeral expenses. This action must prevent the person from accessing the cash surrender value. Irrevocable designation of beneficiary to the funeral home is preferable to designation of the estate as beneficiary or absolute assignment.

a. The designation may be made when the policy is taken out, or

b. The beneficiary may be irrevocably changed by a rider filed with the insurance company.

c. Verify with the insurance company that:

(1) The designation has been filed with the company,
(2) The designation is irrevocable, and
(3) The client cannot access the cash surrender value of the policy.

d. The services purchased do not have to be selected in advance.

3. Absolute assignment

Absolute assignment is a change in ownership. Absolute assignment of a deferred or single premium annuity or other insurance policy to a funeral home can be made in exchange for burial services.

4. Availability

An irrevocable burial asset is not available and is not a countable resource. Exclude the entire value from countable resources, not just $1500.

a. If the total value of irrevocable burial assets equals or exceeds $1500, the burial exclusion is used up. No additional assets can be excluded under burial exclusion.

b. If there is any amount of exclusion left after deducting all irrevocable burial arrangements from $1500, continue to the next excludable item, XIII.C.

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(XIII.)

**C. Face Value of Life Insurance Which Generates a Cash Surrender Value**

After deducting irrevocable burial arrangements, if the total face value of all life insurance policies which generate a CSV owned by the a/b or a financially responsible person does not exceed $10,000:

1. Deduct the face value of all life insurance policies that generate a CSV which **insure the life of that individual** from the amount left in the individual's $1500 burial exclusion. Do not deduct the face value of life insurance policies that insure the life of another individual.

2. Face value of life insurance policies that generate a CSV is not a countable resource, but it must be applied to the burial exclusion.
3. If the total face value of all life insurance policies that generate a CSV equals or exceeds the amount left in the $1500 burial exclusion, the burial exclusion is used up.

4. If there is any amount of exclusion left, continue to the next excludable item, XIII.D.

   NOTE: Life insurance and burial insurance policies which do not accrue a cash value are not deducted from burial exclusion and are not a countable resource. See VII.I.2.a. for treatment of any dividends paid by a term life policy.

**D. Revocable Burial Arrangements**

After deducting irrevocable burial arrangements and face value of life insurance policies that do not exceed $10,000 which generate a cash value, deduct the value of a revocable burial contract with a funeral home or other revocable trust or annuity established for burial expenses from the amount left in the $1500 burial exclusion.

1. Revocable means the funds are available and can be withdrawn.

2. A revocable trust or annuity which is not limited to payment of burial expenses within the body of the agreement cannot be excluded under burial exclusion policy.

3. Deduct the value of the revocable burial arrangement from the amount left in the $1500 burial exclusion.

(XIII.D.)

4. A revocable burial trust may appreciate in value or accumulate interest.

   a. Verify the value at application. Once the application is approved, at redeterminations ignore any subsequent increase in value due to interest/accumulation of a revocable burial trust which has been excluded through burial exclusion.

   b. If the case is later terminated and a/b reapplies, count the full value of the revocable trust in the verification month.

5. If the value of the revocable burial arrangement exceeds the amount left in the $1500 burial exclusion at application:

   a. Burial exclusion is used up; AND

   b. Excess amount of the revocable arrangement counts in resources.

6. In the record, document the amount of the revocable arrangement which was counted in resources at point of Medicaid approval and count this amount in resources at review unless the revocable arrangement is changed to irrevocable.

7. If there is any amount of exclusion left, continue to the next excludable item, XIII.E.

**E. Cash Surrender Value of Life Insurance**

When total face value of all life insurance policies which generate a cash value owned by the a/b or a financially responsible individual exceeds $10,000:

1. After deducting irrevocable burial arrangements and revocable burial arrangements, deduct the cash value of life policies designated for burial on the life of the individual from the amount remaining in that individual's $1500 burial exclusion.

   EXAMPLE: Mr. and Mrs. Blue applied for Medicaid. Mr. Blue has a whole life policy on himself. The face value is $50,000 with a cash value of $2,500. No assets have yet been applied to the burial exclusion. Only $1500 can be applied to Mr. Blue's burial exclusion and none to Mrs. Blue as she is not the insured.

2. Accept the verbal statement of the policy owner or his representative that the policy is designated for burial.

(XIII.E.)

3. If there is any amount of exclusion left, continue to the next item, XIII. F.

4. If burial exclusion is used up:

   a. At application, cash surrender value of life insurance policies that exceeds the $1500 burial exclusion limit of a designated policy is a countable resource.

   b. At redetermination, the original amount of cash surrender value of life insurance policies when total face value exceeds $10,000 that exceeded the $1500 burial exclusion (counted at application and not excluded as part of the $1500 burial exclusion) continues to count in resources. However, increases in cash surrender value are ignored as long as the policy(s) is designated for burial.

      EXAMPLE: Single a/b has one life insurance policy with face value of $13,000. The cash surrender value at application was $3000. The a/b stated it is intended and needed for burial expenses. He has no other resources.

      | | |
      |---|---|
      | $3000 | Cash surrender value of life insurance |
      | - 1500 | Burial exclusion (no other burial assets) |
      | $1500 | Excess counts in resources |

      At review the cash value has increased to $3,500. The a/b continues to state that it is needed for burial and has acquired no other assets to be applied to the burial exclusion. Continue to count only $1500 of cash value as a countable resource. Increases in cash value after Medicaid eligibility begins are disregarded if the policy remains designated for burial expenses; continue to count the original $1500 excess cash value at review.

   c. After the disposition of the application, any action which reduces or depletes the cash surrender value of a policy (except to pay the premium), that is designated for burial expenses, revokes the burial designation. Stop using the cash surrender value as a burial exclusion when:

      (1) A loan has been taken against the cash surrender value subsequent to designation; or

      (2) The policy has been used as collateral subsequent to the exclusion.

(XIII.E.4. c)

(3) A policy is "designated" and action is taken during the application processing period to reduce the value. Do not consider the policy as having been designated for any period of time for which eligibility is being determined.

d. Always count the cash surrender value of policies owned by the a/b and financially responsible spouse/parents which are on the life of someone outside of the budget if the owner's total life insurance face value exceeds $10,000 for policies which generate a CSV. Examples:

(1) Mr. Brown owns whole life with a face value of $15,000 on himself, whole life with a face value of $1500 on his grandson, and a $1000 term life policy which has no CSV on himself. The total face value of all life policies which generate a CSV owned by Mr. Brown is over $10,000; so cash surrender value is countable.

Only the cash value of the $15,000 whole life policy on Mr. Brown is deducted from his burial exclusion. Neither the $1500 whole life on his grandson nor the $1000 term life is used to reduce the burial exclusion for Mr. Brown.

2) Mrs. Green owns whole life policies with face value of $5,000 each on herself, her spouse, and her granddaughter. Total face value of policies which generate a CSV owned by Mrs. Green exceeds $10,000, so the total cash surrender value of all policies

counts in resources. Current cash surrender value of each policy is $650. No other burial resources are reported. Couple's checking account has $100 and savings is $1200. Total countable resources including cash value of policies is $3250. This exceeds the resource limit.

$650 cash value on Mrs. Green's policy and $650 cash value on policy on Mr. Green can be excluded by applying the $1,500 burial exclusion for each spouse. ($1,500 - $650 = $850 remaining for burial exclusion for each spouse.)

Total resources are reduced to $1,950 ($100 checking, $1,200 savings + $650 cash value from the policy on the granddaughter).

(XIII)

e. A revocable change of beneficiary to a funeral home designates the policy for burial expenses, but it does not make cash surrender value unavailable to the a/b. After the $1,500 burial exclusion is used up, remaining cash surrender value counts. Count the excess cash surrender value amount at the point it is designated, but ignore increases.

EXAMPLE: Mr. Jones has a whole life policy with face value of $15,000 and no other burial assets. The current cash surrender value on the policy is $2,500. Mr. Jones has changed the beneficiary of the policy to be the local funeral home. The change is revocable. $1,500 of the cash surrender value of the designated policy can be excluded through burial exclusion, but the remaining $1,000 cash surrender value counts in resources.

5. Increases in Cash Surrender Value

Ignore increases in cash surrender value of a policy(s) designated for burial unless:

a. A loan or withdrawal of cash surrender value occurs; or

b. At redetermination, the a/b has not designated the policy for burial; or

c. Client's statement of cash surrender value was used to approve application (this is follow up after approval);

6. Verify Outstanding Loans/Withdrawals from Cash Surrender Value.

a. An applicant may designate remaining cash surrender value for burial even if there is an existing loan on the policy or it is collateral on an outstanding loan.

b. If a new loan/cash withdrawal occurs after designation for burial, designated status is lost. That policy cannot be re-designated for burial. Any cash surrender value remaining on that policy counts in resources at that time and in the future. Once the loan is paid off the policy can be re-designated.

**F. Dividend Accumulations or Cash/Funds Held in a Bank Account**

1. These countable liquid assets may be used to:

a. Purchase burial assets to reduce resources in any amount within the 45/90 day processing time; BUT

b. May only be excluded under burial exclusion when $1,500 burial exclusion will reduce resources and establish eligibility (amount of excess resources is equal to or less than the amount of burial exclusion left after deducting all other burial assets).

(XIII.F)

2. If exclusion of amount remaining in burial exclusion is enough to reduce resources:

   a. Inform a/b of amount of funds or dividend accumulations which can be designated for burial.

   b. Obtain a/b's verbal statement as to whether he intends to use the funds for burial expenses. This is a verbal designation.

   c. Inform the a/b that cash funds intended for burial expenses must not be commingled with other funds. Proof that the funds have been separated within time limits is required to establish eligibility.

   d. For an applicant, pend up to 45th or 90th day for documented proof that the funds are not commingled. The applicant's statement is not sufficient. Refer to MA-2304, Processing the Application.

   e. For a beneficiary, proof must be provided prior to the effective date of termination.

      (1) Send a DMA-5097 informing the beneficiary of the amount of excess resources and that:

         (a) A signed or verbal statement that the funds will be designated and separated for burial expenses must be received within the 12 calendar days of the date on the DMA-5097, and

         (b) Proof that action has been taken to separate the funds must be provided within 30 calendar days of the date of the DMA-5097.

      (2) If the signed statement is not received within 12 calendar days or if proof of separating is not received within 30 days, send a timely notice and terminate the case.

      (3) Proof must show, at a minimum that the necessary paper work was submitted to the insurance company or funeral home, or funds held in a bank are designated and separated.

(XIII.F.2.e (3))

EXAMPLE: Application on 6/5 for retro May and on-going. Single applicant has one life insurance policy with face value of $1,000 and a savings account with $2,500 which a/b states is intended and needed for burial expenses.

| | |
|---|---|
| $ 1,500 | Burial exclusion |
| - 1,000 | Face value of life insurance |
| 500 | Amount left for burial exclusion |

| | |
|---|---|
| $ 2,500 | Liquid assets verbally designated for burial |
| - 500 | Amount which can be excluded through burial exclusion |
| $ 2,000 | No excess resources |

The entire savings account is designated for burial. It is not commingled with other non-burial assets. Therefore, the client may continue to keep the excluded $500 in the savings account.

3. If the amount remaining in the burial exclusion is not enough to reduce resources to allowable limit, inform a/b of:

   a. The amount of excess resources; AND

   b. Methods to reduce it, including purchase of an irrevocable burial asset.

   c. Refer to MA-2303, Verification Requirements for Applications.

   d. Refer to H. for methods to reduce resources through purchase of burial expenditures.

   EXAMPLE: Application taken 6/5 with request for retroactive Medicaid for May and on going. Single applicant owns one policy with face value of $1,000 and a savings account with $3000 which he states is intended and needed for burial expenses.

| | |
|---|---|
| $ 1,500 | Burial exclusion |
| - 1,000 | Face value of life insurance |
| $ 500 | Amount left for burial exclusion |

| | |
|---|---|
| $ 3,000 | Liquid assets intended for burial |
| - 500 | Amount left for burial exclusion |
| $ 2,500 | Countable resources – burial exclusion does not establish eligibility |

Applicant is not eligible through application of burial exclusion. Resources must be reduced. One way to reduce resources is to use the liquid assets to purchase a burial asset that is excluded from date of purchase (this cannot be used to establish eligibility for May).

(XIII. F)

4. If the applicant dies before the application is made, or before it is disposed, the amount of countable resources excluded for burial expenses is $1,500, regardless of the actual costs of burial.

**G. Burial Exclusion Guide**

| DEDUCT FROM $1,500 BURIAL EXCLUSION (in the following sequence) | IF REMAINING VALUE IS MORE THAN $1,500 (OR AMOUNT REMAINING IN BURIAL EXCLUSION) |
|---|---|
| Value of Irrevocable Burial Arrangement | Do not count excess as a resource. |
| Face Value of Insurance which generates a CSV ($10,000 or less total face value) If total face value exceeds $10,000, go to next step. | Reduces $1,500 exclusion |
| Value of Revocable Burial Contract | Count excess, ignore interest earned once designated and excluded at application. |
| Cash Value of Life Insurance (total face value over $10,000) If total face value is $10,000 or less, go to next step. | Count excess at application, ignore increases once designated for burial. |
| Cash or Funds in a Bank Account, CD, stocks/bonds separately identifiable | Count excess. If result is excess resources, a/b must reduce resources. |

**H. Reduction of Resources Through Burial Expenditures**

An a/b with excess resources has the option to reduce resources by using excess liquid assets to obtain a burial asset which does not count in resources. Depending on the type of liquid asset the a/b must reduce, advise the a/b of the following methods to use excess liquid assets for burial costs:

NOTE: The a/b must be expected to receive burial services equivalent to the dollar value of the burial arrangement. Evaluate for transfer of assets if it appears that assets have been transferred without equal compensation.

1. Purchase of an excluded burial asset, such as an irrevocable contract or single premium annuity using cash or other liquid asset; or by adding to the value of an existing irrevocable arrangement.

2. Changing a revocable contract to an irrevocable contract.

(XIII. H)

3. Filing a rider on an existing insurance policy, which irrevocably changes the beneficiary to a funeral home, or to the estate of the client for purposes of funeral expenses.

4. Absolutely assigning (change of ownership) whole life insurance to a funeral home in exchange for burial services.

5. Also inform the a/b or the representative that resource eligibility cannot begin until the day that resources are reduced to the resource limit for the budget unit.

   EXAMPLE: Application on 6/4. Total reserve is $1500 face value of life insurance and $2500 in savings. Applicant is ineligible until resources are reduced. An irrevocable contract for $2500 is purchased on 6/11.

| | |
|---|---|
| $ 1500 | Burial exclusion |
| - 2500 | Irrevocable burial arrangement 6/11 |
| $ 0 | Remaining in savings account |
| + 0 | Countable value of $1,500 face value |
| 0 | Resources |

   Resource total is reduced on 6/11, and if MN, this case is eligible 6/11.

   If CN, case is not eligible until 7/1.

## XIV. A/B IS A BENEFICIARY OF A TRUST

Use the following information as a Guide to Trust.

| **TYPE OF TRUST** | **REVOCABLE** | | **IRREVOCABLE** | | | **SPECIAL NEEDS OR POOLED** |
|---|---|---|---|---|---|---|
| **ASSET SOURCE** | CREATED WITH ASSETS OF NON-A/B* | CREATED WITH ASSETS OF A/B | CREATED WITH ASSETS OF NON-A/B | CREATED WITH ASSETS OF A/B | CREATED WITH ASSETS OF A/B | CREATED WITH ASSETS OF A/B **OR** NON-AR |
| **DATE CREATED** | ANY DATE | ANY DATE | ANY DATE | PRIOR TO 4-1-94 | 4-1-94 OR LATER | 4-1-94 OR LATER |
| **RESERVE** | NO RESERVE VALUE | CURRENT PRINCIPAL | AMOUNT OF PRINCIPAL THAT CAN BE DISBURSED BASED ON THE TERMS OF THE TRUST. IF THE TERMS ALLOW TRUSTEE DISCRETION, COUNT THE AMOUNT HE AGREES TO MAKE AVAILABLE. | AMOUNT OF PRINCIPAL THAT CAN BE DISBURSED BASED ON THE TERMS OF THE TRUST (THIS MEANS ALLOW EXCULPATORY CLAUSES). IF THERE ARE NO RESTRICTIONS, COUNT TOTAL PRINCIPAL THAT CAN BE DISBURSED. | TOTAL AMOUNT THAT CAN BE DISBURSED UNDER **ANY** CIRCUMSTANCES. (DISREGARD EXCULPATORY CLAUSES AND ANY RESTRICTIONS ON TIME OR USE OF DISBURSEMENTS) | NO RESERVE VALUE |
| **TRANSFER** | NO TRANSFER | TOTAL AMOUNT DISBURSED TO ANYONE OTHER THAN THE A/B | NO TRANSFER | AMOUNT THAT IS UNAVAILABLE TO THE A/B BASED ON THE TERMS PLUS AMOUNT DISBURSED TO ANYONE OTHER THAN THE A/B | ANY PORTION OF THE TRUST THAT IS NOT COUNTED IN RESERVE IS CONSIDERED A TRANSFER | NO TRANSFER |
| **INCOME** | ACTUAL PAYMENTS TO THE A/B OR PAYMENTS TO A PROVIDER FOR FOOD, CLOTHING OR SHELTER IN THE BASE PERIOD | | | | | |

* Any time a/b is used it means a/b or spouse