NORTH CAROLINA DIVISION OF SERVICES FOR THE BLIND
PROGRAMS AND FACILITIES SECTION
SPECIAL ASSISTANCE FOR THE BLIND PROGRAM

Section:	**Chapter 5**
Title:	**Resources**
Revision History:	**Revised 08/02**

This section outlines the resource requirements used in determining eligibility. The resource limit is $2000 for an applicant/recipient and his/her family unit. A family unit is one or more persons domiciled under one roof and existing as a unit. Resources are all financial resources that an a/r owns or has the right, authority, or power to convert to cash, and are legally available for the a/r's support and maintenance, including month of entry into an eligible licensed facility.

Follow the steps below for SSI and Non-SSI recipients.

I. Variable Resource Situations

At each application and redetermination, document the a/r's statement and verification of all resources on the DSB-7204, Determination of Eligibility for Special Assistance for the Blind. For reported changes in resources verify and document continued resource eligibility. **It is the a/r's responsibility to provide documentation which resolves any legal questions about resources.** Review all available records and verify whether resources are countable.

A. Solely owned resources

The availability of all solely owned resources must be verified, documented, and evaluated using the procedures outlined in this section.

B. Jointly held resources

The availability of resources owned jointly by the a/r and another person must be verified, documented, and may be counted:

1. If the other person is a recipient of another public assistance program (Work First, Medicaid, Special Assistance, SAB, or SSI):

   (a) Count one-half of the value of the jointly owned resource, or

   Note: If more than two owners, then divide the value equally among the owners.

(b) If there is a legally binding agreement specifying how resource is to be divided, count the share specified in the agreement as owned by the a/r.

2. If the other person is not a recipient of public assistance program, count the total value of the a/r's share of resources owned if:

(a) The a/r can dispose of the resource without the consent and participation of the other person(s), or
(b) The other person(s) agrees to and, if necessary, participates in the disposal of the resource.
Verify other owner(s) statement regarding their consent to sell the resource.

(1) If the owner(s) consents to the disposal of the resource, count the a/r's share of the resource.
(2) If the other owner(s) does not respond/cannot be located, do <u>not</u> count a/r's share of the resource.
(3) If the other owner(s) do not consent to the disposal of the resource, do not count the a/r's share of the resource.

C. Unsettled Estates

The availability of resources, whether solely or jointly owned, may be impacted by heir property and inheritances left to the a/r which are not yet settled. Unsettled estates must be verified, documented, and evaluated using the procedures outlined below.

1. Verify if the a/r has the legal right to any heir property or inheritance that is unsettled.

(a) Assets are normally unavailable until the estate is settled (probated).
(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.
(c) Liquid assets may be available earlier if the account was joint with a "right to survivorship" held by the a/r. (Contact financial institution for verification).

2. Contact the Clerk of Court to determine availability.

(a) Count any resources acquired by the a/r from a settled estate.
(b) Exclude any resources from an estate to the a/r until verification is received from the Clerk of Court that the heir property or inheritance has gone through probate and is released.

Note: Document the date at which the estate should be probated and flag the record to contact Clerk of Court.

II. RESOURCES (IN ALPHABETIC ORDER)

Resource	Count	Do Not Count	Verification
Agent Orange Benefits		X	Refer to Lump Sums Exclusion Chart, III. G. 4., page 51.
Annuities (if principal is available)	X		Refer to III.E., page 48.
Bank Accounts (includes checking, savings, CDs, and money market accounts)	X		Refer to III.C., page 46.
Boats, boat motors, and boat trailers (if not primary homesite)	X		Refer to III.M.1.d.e.f., pages 64, 65.
Burial Contracts • Prepaid Irrevocable (cannot be sold or "cashed-in")		X	Refer to III.L, page 64.
• Revocable (can be sold or "cashed-in")	X		Refer to III.L. page 64.
Burial Insurance (Face value does not exceed $10,000)	Must evaluate to determine if resource is countable or not countable		See Life Insurance, III.K., pages 62, 63.
Burial Plots/Space		X	Refer to V.C., page 72.
Business, Discontinued Proceeds (including farm)	X		Refer to III.J., page 62.
Business Equipment • Not used to produce income	X		Refer to III.M.1.j., page 65.
• Used to produce income		X	Refer to III.M.1.j., page 65.
Campers (if not primary homesite)	X		Refer to III.M.1.g., page 65.
Cash	X		Refer to III.A., page 46.
Cash and in-kind receipts for repair or replacement of lost, damaged, or stolen excluded resources		X*	Refer to III.G.4., page 51.
Disaster Relief		X	Refer to III.G.4.,

Resource	Count	Do Not Count	Verification
			page 51.
Farm Equipment • Not used to produce income or to produce goods for home consumption	X		Refer to III.M.1.i., page 65.
• Used to produce income		X	Refer to III.M.1.i., page 65.
• Used to produce goods for home consumption (up to $6,000 in total combined equity)		X	Refer to III.M.1.i. page 65.
Heir Property		X	Refer to I.C., page 40.
Investments (Bonds, Mutual Funds, Stocks/Securities)	X		Refer to III.F., page 49.
Jointly Owned Property • Tenancy in Common		X	Refer to V.B.3., page 72.
• Tenancy by the Entirety	Must evaluate to determine if resource is countable or not countable		Refer to I.B., page 39.
Life Estate (Lifetime Right)		X	Refer to V.B.1., page 72.
Life Insurance (which accrues cash value) Total face value $10,000 or less for the a/r.		X	Refer to III.K., pages 62, 63.
• Total face value over $10,000 for the a/r	X		Refer to III.K., pages 62, 63.
Life insurance (which does not accrue cash value)		X	Refer to III.K., page 62.
Liquid resources of a business		X*	Refer to V.F., page 78.
Lump Sum Payment	Must evaluate to determine if resource is countable or not countable		Refer to III.G., pages 50-53.
Mobile Home (if not primary homesite)	X		Refer to III.M.1.c., page 64.
Motor Vehicles (including motorcycles) • Licensed (no more than one)		X	Refer to III.M.4.b.(1), page 66.

Resource	Count	Do Not Count	Verification
• Unlicensed	X		Refer to III.M.4.b.(3), page 66.
Motorized Mobile Home (if not primary homesite)	X		Refer to III.M.1.c., page 64.
Patient Accounts	X		Refer to III.B., page 46.
Personal Effects (i.e. Household goods)		X	
Proceeds from sale of excluded homesite		X*	Refer to Lump Sums Exclusion Chart, III. G. 4., page 51.
Promissory Notes • Non-Salable		X	Refer to III.H., page 53.
• Salable	X		Refer to III.H., page 53-54.
Real Property • Homesite		X	Refer to V., page 69-72.
• Not Homesite	X		Refer to IV., page 67-69.
Relocation Assistance from State or local government		X*	Refer to III.G.4., page 51.
Relocation Assistance Payments Received under Title XX of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970		X	Refer to III.G., page 51.
Remainder Interest		X	Refer to V.B.2., page 72.
Restricted allotted land owned by an enrolled member of an Indian tribe		X	Refer to V.H., page 80.
Resulting Trust / Legally Binding Agreements	X		Refer to V.E., page 73.
Retirement Accounts (401(K), IRA, KEOGH) • Accessible	X		Refer to III.D., page 47, 48.
• Non-accessible		X	Refer to III.D., page 48.
Rights of Use (Mineral, Timber, Hunting, Fishing, etc.)	X		Refer to VI.B.1.a(3), pages 106-107.
Tobacco Allotment		X	Refer to V.G., pages 79-80.

Resource	Count	Do Not Count	Verification
Trust Funds • Revocable	X		Refer to III.I., page 54.
• Irrevocable		X***	Refer to III.I., page 55.
Victim's Compensation Payments		X*	Refer to Lump Sums Exclusion Chart, III. G. 4., page 51.

*   Time limited exclusion
**   May be time limited or permanently excluded
***   May be time limited exclusion, permanent exclusion, or countable depending on other conditions of trust

NOTE: All income produced by a countable or excluded resource must be considered when determining eligibility for the a/r.

III. LIQUID RESOURCES

Includes but not limited to Cash, Bank Accounts, Certificates of Deposit or any resource that can be converted to cash.

A. Cash

Accept a/r statement for cash on hand as of the first moment of the first day of the month as verification.

NOTE: Count as resources all cash except cash that is counted as income.

B. Patient Accounts

If the a/r has a patient account, verify with the business office manager of facility or the bank (if it is deposited in an account for the a/r), the closing balance as of the last working day of the month preceding the verification month. Document the countable amount and the verification of the account balance.

C. Bank Accounts (includes checking, savings, CDs, money market accounts)

1. Always verify bank accounts as of the first moment of the first day of the verification month. Request the account balance as of close of business on the last working day of the preceding month.

a. Verify the first moment balance or value by:

(1) Reviewing the last account statement;
(2) Reviewing automated teller statements which identify account owner and/or account number;
(3) Contacting the financial institution using page 9 of the DSB-7204 as a release form.

Explain to the a/r that:

(a) Once consent is given, it may not be revoked;
(b) The consent is valid for a period not to exceed twelve months; and
(c) Giving consent is not a condition of doing business with any financial institution.
(d) He/she has the right not to give consent; however refusal to give consent will result in denial or termination of benefits for failure to cooperate in establishing eligibility.
(e) Financial institutions cannot provide information on joint accounts without the consent of all account holders. It is the responsibility of the a/r to obtain consent from all the joint owners.

2. Count the total value of the a/r's checking, savings, CDs, money market accounts, in the a/r's countable resources.

NOTE: Subtract any penalties/fees for early withdrawal of CDs and count the remainder as the countable balance from the CD.

D. Individual Retirement Accounts (IRA'S), Keogh Plans, and 401 (K) Plans

Determine and document if the a/r owns an IRA, Keogh, or 401(K) account. If a/r acknowledges an IRA, Keogh, etc. verify the following:

1. The type of fund or plan, and
2. The name of the company that offers the IRA, Keogh Plan, or the 401(K) Plan, and
3. The account number, and
4. The accessibility of the account

To verify, contact the employer or company administering the account/plan to determine the circumstances under which the funds can be withdrawn. Accessibility of the account/plan must be verified at application and each redetermination.

NOTE: If non-accessible by a/r, do not count value of funds in the account.

5. The value of the account/plan as of the last working day of the month preceding the verification month. To verify,

    a. Contact the financial institution using page 9 of the DSB-7204.
    b. Count the value of the funds in the account/plan minus the fees and penalties for converting the account/plan to cash.

E. Annuities

1. Document if a/r has any annuities.
2. To verify:

    a. Request a copy of the terms of the annuity.
    b. Contact the source of the annuity.

3. Determine the value of the resource.

    a. Annuity principal which is available is a countable resource.
    b. Evaluate a policy that has not been annuitized (method of payment selected) as whole life insurance to determine if the cash value is countable.
    c. Burial annuities should be considered as an irrevocable burial trust.

    NOTE: Payments by an annuity are counted as income.

F. Investments (Bonds, Mutual Funds, Stocks/Securities)

1. Determine if the a/r owns any securities (stocks, bonds, mutual funds).
2. Document the a/r's statement on the following:

    a. The name of the stock or mutual company or financial institution where the security (stocks, bonds, mutual funds) was purchased, and

    NOTE: Verify series and date of issuance for all bonds

    b. The account numbers, and
    c. Number of shares, and
    d. The value of the security (stocks, bonds, mutual funds).

3. Verify security (stocks, bonds, mutual funds) by:

   a. Viewing the last monthly or quarterly statement from the brokerage firm.
   b. Using the stock values listed in the newspaper or Wall Street Journal.
   c. Obtaining information from a brokerage, investment firm, or bank.

4. Determine the countable value by:
   Subtracting the cost of selling the shares on any day from the value of the stocks or mutual fund. Verify this cost by contact with a stockbroker or financial institution.

G. Lump Sum Payment For Non-SSI Recipients Lump sum payments are payments received in one payment rather than recurring payments.

1. Lump sum payments include, but are not limited to:

   a. Retroactive RSDI payments
   b. Retroactive SSI payments
   c. Retroactive VA benefits
   d. Retroactive Railroad Retirement benefits
   e. Lump sum insurance settlements
   f. Proceeds from sale of excluded homesite

2. Verify lump sums by determining:

   a. The <u>source</u> of the lump sum, and
   b. The amount of the lump sum, and
   c. When the lump sum was received, and
   d. How much of the lump sum is still available to the a/r.

3. Verification of the lump sum can be obtained from:

   a. The a/r's records such as:

      (1) An award letter
      (2) A statement of benefits
      (3) A check stub or copy of check

   b. A contact with the source of the payment, such as VA, retirement system, workman's compensation, insurance companies.
   c. Social Security and SSI lump sum payments can be verified by SDX, BENDEX, and/or a/r's awards letter.

4. Lump Sum Exclusions

Exclusion Period				
Type of Lump Sum	*2 Mths*	*6 Mths*	*9 Mths*	*Permanent*
Proceeds from sale of excluded homesite (if used to purchase another excluded home)	**X**			
Social Security / SSI		**X**		
Cash and in-kind receipts from any source for the replacement or repair of lost, damaged, or stolen excluded resources *			**X**	
Victim's compensation payments **			**X**	
Relocation Assistance (state/local issued) ***			**X**	
Relocation Assistance (federally issued)***				**X**
Presidentially Declared Disaster Relief (all funding sources)				**X**
Agent Orange Benefits				**X**

* Exclude for up to an additional 9 months for cash receipts if for the first nine months, circumstances beyond the a/r's control prevent repair or replacement of the lost, damaged, or stolen property, and keep the a/r from contracting for such repair or replacement. The interest earned on these funds is excluded from income and resources for the same time period.

** To be excluded, the a/r must demonstrate that the payment was compensation for expenses incurred or losses suffered as a result of crime. Count interest earned from lump sum payment as resources or income (Refer to Chapter 6, Income).

*** Count interest earned from lump sum payment as resources or income (Refer to Chapter 6, Income).

5. Countable Lump Sums

a. If lump sum is received prior to the month of application, count the amount remaining as of the first moment of the first day of the month of application as resources.

NOTE: Do not count as income.

b. If the lump sum is received during the application process or while receiving SAB, count the amount remaining as of the first moment of the first day of the month of application in the next month as resources.

c. If the lump sum is unearned income (such as VA, retirement, etc.):

(1) Prior to disposition of an application, determine the months it covers and count as income. See Chapter 6, Income. Count the amount remaining as of the first moment of the first day of the next month as resources.

Example: Workman's Compensation Payment Mr. Jones was awarded a workman's compensation lump sum payment of $2,000 on July 6. He applied for SAB in June. The award letter indicated that the lump sum covered December through July. He received $160 for December, $260 per month for January through June and $280 in the month of July.

Month of application:	June
Lump sum Received in July:	$2,000
Minus part of lump sum counted as income for June	- 260
Minus part of lump sum counted as income for July	- 280
Equals amount to count in resources in the first moment of the first day in August	$1,460

(2) For active recipients, count any amount of the lump sum that remains as of the first moment of the first day of the next month as countable resources.

H. Promissory Notes

Exclude the value of any property agreement which is not legally negotiable (cannot be sold). This includes promissory notes, loan agreements, etc.

A property agreement (usually a promissory note) which can be sold is a countable resource.

1. Verification of the promissory notes is required, and may consist of:

a. A/R records;
b. Copies of agreement; or
c. Statements from the a/r, as well as from the borrower.

2. Verify with the following procedures:

a. Examine the terms of the agreement or note to determine if the owner has the legal right to sell his/her interest without the participation of the buyer/borrower. If salable, count the balance due on the note as an available resource.
b. If there is a clause which prevents sale or transfer of the note, it is not a countable resource.
c. Contact the local DSS/County attorney for assistance if negotiability cannot be determined from the terms of the agreement.
d. Count any payments as unearned income (salable or non-salable)
e. The a/r may rebut the value of the agreement. See procedures in Rebuttal section, VI.C., page 112.

I. Trust Funds

1. Types of Trusts

a. 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.
b. Irrevocable Trust - A trust whose terms and provisions cannot be revoked or changed in any way by the grantor or any other party.
c. Special Needs Trust - A specific trust that meets all the following conditions:

(1) Created on or after April 1, 1994, and
(2) Created for the sole benefit of a disabled individual (as determined by SSA) under age 65, and
(3) Established for the disabled individual under age 65 by his/her parent, grandparent, legal guardian, or by a court, and
(4) Establishes that upon the death of the beneficiary the State will receive the principal balance remaining in the trust not to exceed the total amount paid by Medicaid on behalf of the individual.

NOTE: The a/r cannot create a special needs trust for himself with his/her own funds. It must be set up as a pooled trust. See III.I.1.d. below.

d. Pooled Trust - A type of trust that includes funds of more than one disabled individual combined for investment and management purposes. A pooled trust has all the following requirements:

(1) Created on or after April 1, 1994, and

(2) Created for the sole benefit of a disabled individual (as determined by SSA) of any age, and
(3) Established by the disabled individual, his parent, grandparent, legal guardian, or by a court, and
(4) Managed by a non-profit association with a separate account maintained for each beneficiary.
(5) Establishes that upon the death of the beneficiary the State will receive the principal balance remaining in the beneficiary's account not retained by the trust not to exceed the total amount of Medicaid paid on behalf of the individual.

2. 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:

a. Discretion of the trustee - 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.
b. Full discretion - allows the trustee to disburse up to the entire amount of the trust to the beneficiary.
c. Designated for medical expenses - 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.
d. Income beneficiary - allows payments to the beneficiary from the proceeds of the trust. The principal is not available for disbursement.
e. Ultimate beneficiary - Indicates the entire principal of the trust will be available at a specific point in time.
f. 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.

3. Whose Assets Are Used to Create a Trust

In determining whose assets (the grantor) are used to create the trust, consider the following:

a. Any assets owned by the a/r.
b. A settlement of an insurance claim or civil suit is considered the a/r's asset.

c. Assets contributed directly into a trust by individuals other than the a/r or by a public organization are not considered the a/r's assets.

EXAMPLE: Community fundraiser for an adult in need of an organ transplant contributes the money directly into a trust.

d. 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/r's assets. This is also known as a Testamentary Trust.

NOTE: Assets, which are willed to an a/r and then used to establish a trust, are considered to be the assets of a/r.

4. Procedures

a. Obtain a copy of the trust document and any supporting documentation detailing investments and distributions from the a/r, the a/r's legal representative, trustee, or attorney.

b. Review the trust document to determine:

(1) The type of trust,
(2) The date the trust was established, and
(3) Whose assets were used to create the trust, and
(4) Who is the beneficiary, and
(5) The value of the trust when it was created, and
(6) The terms of the trust including what disbursements can be made from the trust principal or proceeds, and
(7) Any special provisions.

c. Contact the trustee to verify

(1) The current value of the trust, and
(2) Actual disbursements paid from the trust in the base period, and
(3) To whom the disbursements were made, and
(4) The dates of disbursement.

d. Contact the local DSS/County attorney about any questions concerning the type of trust or the terms of the trust.

e. Determine Countable Income to the a/r

(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/r in the month received the actual money disbursed by the trustee from the trust principal or proceeds:

(a) Directly to the a/r (spouse, legal representative)

f. Determine Countable resources

5. Revocable Trust

a. When the a/r is the beneficiary of a revocable trust created with the funds of an individual other than the a/r do not count the principal as an available resource to the a/r. The trust principal is a resource to the grantor who created the trust and who has the power to revoke the trust.

b. When the a/r is the grantor of a revocable trust for himself/herself or for the benefit of another individual count the current principal plus proceeds that have not been distributed.

NOTE: This does not include a trust created by the will of a spouse. Refer to III.I.3.d, page 57.

6. Irrevocable Trust

a. When the a/r is the beneficiary of an irrevocable trust established with the assets of someone other than himself/herself 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.

(1) 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/r based on the terms of the trust.

(2) Trustee Discretion

Contact the trustee to verify what he/she will make available.

(a) Count the amount the trustee(s) agree to make available.

(b) If the trustee refuses to make any portion available, do not count any portion as a resource.

(c) When the a/r is the grantor and beneficiary of an irrevocable trust established prior to April 1, 1994 (formerly called a Medicaid Qualifying Trust or MQT) count the maximum portion of the trust principal and undistributed proceeds that could be disbursed to the a/r 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. When the a/r is the grantor and beneficiary of an irrevocable trust established on or after April 1, 1994 count the maximum portion of the trust principal and undistributed proceeds that could be disbursed to the a/r. 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/r, that portion is considered an available resource to the a/r.

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.

c. When the a/r is the beneficiary of a Special Needs or Pooled Trust established on or after April 1, 1994:

Do not count the trust principal or undistributed proceeds.

J. Net Proceeds from a Business or Farm which have been Discontinued

1. Determine if the a/r has stopped operating a business or farm.
2. Verify if there was any money left from the business or farm when the operation was stopped by examining the business or farm records provided by the a/r.
3. Count any remaining capital of farm or business operation in resources.

K. Life Insurance

The cash surrender value of life insurance policies are accessible and are a countable resource when the original face value of all cash accruing policies owned by the a/r exceeds $10,000.00. Determine if the a/r owns or has recently purchased insurance at application and each redetermination.

NOTE: If the policy does not accrue cash value **DO NOT** count the face value as a resource. For example, term life/burial associations usually do not accrue cash value.

1. Verify life insurance policies by:

   a. Examining the actual policy for:

      (1) The name of the Insurance Company
      (2) Policy number
      (3) Name of the insured (on whose life the policy is written)
      (4) Owner of the policy
      (5) Original Face Value; or

   b. Contacting the life insurance company with a letter and a copy of page 9 of DSB-7204 to verify the following:

      (1) All policies owned by the a/r, including type and policy number(s);
      (2) Original face value;
      (3) Cash value;
      (4) Loans against policy (loan amount and date); and
      (5) Name of the insured

      NOTE: Irrevocable arrangements, such as absolute assignment, irrevocable beneficiary, and collateral assignment, are excluded from being counted as resources for the a/r. The insurance company must verify irrevocable arrangements funded by life insurance. The policy is considered irrevocable the month the insurance company official signs the form acknowledging the change is in effect.

L. Prepaid Burial Contracts

1. Document if the a/r has a prepaid burial plan. If this plan is funded with insurance, refer to final note in III.K., page 63, regarding irrevocable arrangements.
2. At application, verify the following by reviewing the contract or contacting the funeral home or burial trust company.

   a. The value of the plan
   b. If it is irrevocable or revocable:

      (1) If irrevocable, do not count it as a resource.
      (2) If revocable, count the value as a resource, including accrued interest.

      NOTE: Revocable prepaid burial plans can be converted to irrevocable and excluded as a resource effective the date the contract becomes irrevocable. Refer to reduction of resources, VI., below.

M. Personal Property

1. Personal Property includes, but is not limited to:

   a. Motor vehicles (including motorcycles)
   b. Junked motor vehicles
   c. Mobile Homes
   d. Boats
   e. Boat Trailers
   f. Boat Motors
   g. Campers
   h. Trailers
   i. Farm Equipment

   NOTE: If resource is considered farm equipment and is used to produce income or to produce goods for home consumption, do not count the value of the resource. Refer to V.D., page 72.

   j. Business Equipment

   NOTE: If resource is considered business equipment and is used to produce income, do not count the value of the resource.

2. Document the a/r's response to the following questions:

   a. The name of the owner(s) of the resource
   b. The year, make, and model of the resource
   c. Whether the vehicle is licensed
   d. How the resource is used
   e. If there is an amount owed on the resource and where it is financed

3. Verify ownership and value at application and each redetermination from:

   a. Tax records; or
   b. A dealer;
   c. An insurance company; or
   d. A bank, finance company, or other financial institution.

4. Determine the equity value (Evaluate each resource individually).

   a. Use the value determined above.
   b. Motor Vehicles

      (1) Licensed Vehicle
      Exclude one licensed motor vehicle (including cars, trucks, motorcycles, or motor homes). If there is more than one vehicle, exclude the one with the most equity.

      (2) Junked Cars
      A "junked car" is one beyond repair which can only be used for parts and is not licensed. If the a/r states a car has been junked:

         (a) Exclude the value as a resource;
         (b) Suggest that the a/r have the title changed to "junked" if it has not already been so designated.

      (3) Unlicensed Motor Vehicle
      An unlicensed motor vehicle is a countable resource for the a/r unless excluded as junked, homesite, or rebutted.

   c. Encumbrances Owed

      (1) Determine if there are any debts or loans (encumbrances) owed on the resource. Verify the payoff amount owed as of first day of the verification month by contacting the creditor (bank, finance

company, etc.). If there are no encumbrances, the value is the equity value.

(2) Subtract the amount owed on the resource from the value. The remainder is the equity value. If the encumbrances exceed the value, there is no equity value for the resource.

Example 1:		**Example 2:**	
1994 Motor Vehicle (non-homesite)		1985 Mobile Home	
Fair Market Value	$3,500	Fair Market Value	$6,000
Amount Owed	- 1,000	Amount Owed	- 7,000
Equity Value	$2,500	Equity Value	$0

IV. REAL PROPERTY

Real property consists of land and any attachments such as dwellings and other buildings.

Document the a/r's statement regarding ownership and location of real property.

A. Verify the Ownership of Real Property by:

1. Documentation or printout of tax record showing property
2. Copies of deeds (Grantee/Grantor books at the office of the Register of Deeds)
3. Copies of wills
4. Tax bill or statement
5. Evidence of judgments, liens, or boundary disputes

B. Determine the Equity Value of All Real Property by:

1. Verifying the tax value by using tax records;
2. Verifying encumbrances with the lienholder

a. Determine if there are any debts or loans (encumbrances) owed on the resource. Verify the payoff amount owed as of first day of the verification month by contacting the creditor (bank, finance company, etc.). If there are no encumbrances, the value is the equity value.

b. Subtract the amount owed on the resource from the value. The remainder is the equity value. If the encumbrances exceed the value, there is no equity value for the resource.

EXAMPLE: Property with a tax value of $120,000.
Encumbrances include first mortgage, payoff is $32,000; home equity loan, payoff is $8200; Countable equity value is $79,800.

NOTE: If the a/r reports that he/she owns property in another county, state, or country, and you are unable to obtain the verification, ask a/r to assist in obtaining the verification of the real property.

C. Evaluate the Sale or Transfer or Real Property by:

1. Determining whether net proceeds from a sale are obligated for reinvestment within two months in a home for an applicant/recipient and his/her family. If this is done, only the amount from the sale of original property which is in excess of the cost of the new home will be considered as reserve.
2. Determining that proceeds of the sale of the property are not being reinvested. Then, the net proceeds of the sale must be computed. The indebtedness shall be deducted from the proceeds. From this amount, the amount of allowable reserve shall be deducted and the balance shall be treated as excess reserve.
3. Determining whether the property has been transferred with no remuneration or a token remuneration. If this is the case, the appraised county tax value will be assigned. The reinvested proceeds shall be deducted from the appraised county tax value and the balance will be treated as reserve.
4. Determining how real property not being used as a home or to produce income must be sold.

    a. The a/r must sell his/her property within one year to be eligible for SAB.
    b. The a/r must notify in writing the SAB Eligibility Specialist and/or the SWB of his/her plan to sell the property.
    c. The a/r must notify in writing the SAB Eligibility Specialist and/or the SWB of his/her progress in selling the property every 60 days.

V. Special Instructions for Resource Exclusions

A. Homesite Property

The homesite is the one dwelling the individual considers his/her established or principal home. In an unincorporated area, a homesite may include a house and approximately one acre of land. In a town or city, a homesite may include a house and the lot on which the house is situated. It can be fixed or mobile and located on land or water (e.g., house, mobile home, camper, house boat, motor home).

Do not count the value of the homesite if:

1. The a/r intends to return home (The time of return may be indefinite)

   a. Verify at application and each redetermination of eligibility the following:

      (1) The property must have been the individual's home prior to the time the individual left the property.
      (2) If the a/r intends to return home, ask him/her the following and obtain a signed statement of his/her responses as to:

         (a) When and why he/she left the home;
         (b) Whether he/she intends to return, and
         (c) If he/she does not intend to return, when that decision was made.

         If the a/r's statement of intent to return home is not questionable or self-contradictory, the a/r's statement supersedes statements made by any other individuals.

      (3) If the a/r's statement of intent to return home is questionable or self-contradictory:

         (a)Contact someone such as a physician, family member, or close friend or relative, to clarify the situation.
         (b) Use the signed statement of the contacted person as to the a/r's intent to return home.
         (c) Review the a/r's intent to return home at every redetermination.

         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"

      (4) At any time you learn that the a/r does not intend to return home, count his/her equity in the former home in resources beginning the first day of the month following the month the property ceases to be considered his/her homesite.

2. There is a spouse or dependent relative remaining in the home. Dependency may be of financial, medical, livelihood. Verify by

obtaining a signed statement from the a/r at application and redetermination of continuing dependency:

a. Whether anyone is living in the home while he/she is in the facility;
b. If so, how that person is related to him/her. Eligible relatives are:

(1) a/r’s legal spouse or
(2) a/r’s dependent minor or disabled (as determined by DDS/SSA) child(ren)of any age including minor step-child or disabled step-child

3. If the spouse or dependent relative is no longer living on the property, reevaluate the use of the property. Count the property's equity in resources beginning the **first day of the month following the month the spouse or dependent relative** left the home unless the property can be excluded for another reason.

B. Non-Countable Ownership Interests

The following types of ownership interest in real property are not counted:

1. 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.

2. 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.
3. Tenancy in common ownership in real property, including tenancy-in-common remainder interest.

C. Burial Spaces (Plots, Crypts, Vaults, Mausoleums) are Always Non-Countable Resources.

D. Exclude Personal and Real Property Used by the A/R:

1. In the operation (actively conducting business) of a trade, business, farm operation, or self-employment enterprise regardless of its equity value or amount of income.
2. For home consumption (such as land used to tend a garden or a boat used to fish). This exemption is limited. Only exempt up to $6,000 in total combined equity of all personal and real property used for this purpose.

E. Resulting Trusts/Legally Binding Agreements

1. Policy

   a. It is presumed that a resource owned by an individual is also available to him/her, unless there are circumstances which make the resource unavailable.
   b. 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/her.
   c. A resulting trust exists when a person has a resource in his/her own name but is holding it for the benefit of another person and he/she:

      (1) Retains no legal interest in the resource, and
      (2) Will not benefit from the disposal of the resource.

   d. If the a/r or a person financially responsible for the a/r 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.
   e. If the a/r or a person financially responsible for the a/r claims a resource is not available because of a resulting trust/legally binding agreement, he/she must cooperate by presenting necessary documentary evidence to show that the resource is unavailable.
   f. A legally binding agreement may be either a written or a verbal contract. The evidence must be sufficient to:

      (1) Convince others of the validity of the agreement,
      (2) Show that the agreement existed at the time of the purchase/deposit of the resource, and
      (3) Show that the legal titleholder holds the resource/property in trust for the party applying the purchase price or making the deposit.

2. Procedures
   a. When a resource is apparently owned by an individual who has applied for SAB, determine whether it may not be actually available to him/her because of a legally binding agreement or resulting trust. Obtain verification at application or any change in situation involving a resulting trust/legally binding agreement. It is not necessary to reverify at redetermination.

      (1) Written Contract

(a) Review the contract and determine if it affects the availability of the resource.
(b) 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.
(c) Contact the local DSS/County attorney if there are questions regarding the terms or validity of the written contract.

(2) Verbal Contract/Agreement Ask the a/r to submit 2 different types of the following evidence:

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

1. Giving the type of resource,
2. The intent and terms of the agreement, and
3. Describing the involvement of the parties to the agreement.

(b) Canceled checks or receipts for payments on a mortgage, loan, etc., showing who is making payments on the resource,
(c) 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
(d) Written statements from at least 2 knowledgeable persons:

1. Identifying the type of resource, and
2. Giving the circumstances surrounding ownership, and
3. Availability of the resource and the basis for their knowledge.

(3)Real Property

(a)Contact the local DSS/County attorney to request assistance in determining availability if the resource in question involves real property.
(b) Only a court can set aside a deed to real property.

(4) Liquid Assets/Bank Accounts

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

(a) Primary Verification
The most recent bank statement which will show a/r's name as well as name of another person whose name is on the account.

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

1. The parties involved in the agreement,
2. Finance companies, banks, credit unions, loan officers, automobile salespersons, insurance companies or agents, or
3. An individual who knows the circumstances surrounding ownership and availability of the resource.

(5) Motor Vehicles
Obtain the documentation in (a) below and one of the documents listed in items (b), (c), or (d), below for a motor vehicle in the name of the a/r or financially responsible person who alleges that he/she is not the owner:

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

1. Giving the intent and terms of the agreement and the involvement of the parties to the agreement, and
2. Stating that the true owner, who is not the a/r or financially responsible person, makes monthly payments on the vehicle and pays the insurance premiums or taxes on the vehicle.

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

(c) 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.

(d) 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.

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

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

F. Liquid Assets of a Business

1. Determine if the a/r has liquid assets needed to operate a business.
2. Verify the status of bank accounts used in the operation of a business.

   a. DBA (doing business as) account- Verify with the bank and the records of the DBA account that these funds are not used for personal bills
   b. Combined 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. Exclude a business account in the name of the business or corporation which is totally separate from personal funds. Count the income of the business. Refer to Chapter 6, Income.

G. Tobacco Allotments

Tobacco allotments are administered by the Farm Service Agency and provide the right to produce a certain number of pounds of tobacco for harvest.

1. A tobacco allotment is "tied" to the land which means if the land is rented or sold, the allotment goes with it. However, an individual can rent his/her allotment to someone else annually or can sell the allotment (permanent arrangement). It must be sold to another land owner.
2. For every one acre of a farm's tobacco allotment, one acre of cleared land are tied to the tobacco allotment.
3. The a/r may provide verification from the local Farm Service Agency office of a different number of acres than the common 1:1 ratio (on form ASCS-375).
4. Do not count any value for the tobacco allotment, even if it is not being used.
5. Exempt the a/r's land which is tied to the tobacco allotment if:

   (1) The tobacco allotment is being farmed by the a/r, or

(2) If non-contiguous and the allotment is rented to another individual, the income produced by the tobacco allotment meets the $6000/ 6% test for the acreage tied to the allotment. Refer to VI.B.1., Income Producing $6000/6% Test (page 106).

6. If an individual sells his/her tobacco allotment, consider the payment as income in the month of sale and a resource as of the first of the following month.
7. If an individual rents his/her tobacco allotment to someone else, consider the rental payment as annual rental income. Prorate for 12 months to determine monthly income.

H. Restricted Allotted Land Owned by an Enrolled Member of an Indian Tribe

In determining the resources of an individual (and spouse, if any) who is of Indian descent from a federally recognized Indian tribe, any interests of the individual (or spouse) in trust or restricted lands are excluded from resources.

1. If a/r alleges an interest in trust or restricted land as a member of an Indian Tribe:

   a. Obtain for the file a copy of any document or documents that might identify it as such; and/or
   b. Verify the allegation with the appropriate Indian agency.
   c. If a/r is a member of a recognized Indian Tribe, exclude all interest in trust or restricted land.

I. Incompetency

When an a/r has excess resources and he/she 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.

1. General

   a. Resources owned by a/r or where the a/r has a legal interest are not available to the a/r if:

      (1) He/she is alleged to be incompetent and has no legal representative/guardian/durable power of attorney (POA) to make the resources available, or
      (2) He/she has a legal representative/guardian/durable POA who does not act to make the resources available.

2. Policy Rules

a. Otherwise countable and available/accessible resources, held solely or jointly by an alleged to be incompetent a/r, are exempt prior to a formal declaration of incompetency if:

(1) A written statement as described in V.I.3.a.(3), page 84, from a knowledgeable source supports the allegation of incompetence, and
(2) The a/r is alleged to be incompetent for a period of at least 30 consecutive days or until his/her death, and

NOTE: If applicant is not alleged to be incompetent for 30 days hold application for the 30-day period.

(3) The resources cannot be accessed on behalf of the a/r because:

(a) He/she has no legal representative/guardian/durable POA, or
(b) His/her legal representative/guardian/durable POA is unable, fails, or refuses to act to make the resources available.

b. Incompetency for SAB eligibility purposes may be:

(1) Alleged by someone who is in a position to know, as indicated in V.I.3.a.(2), page 84, or
(2) Adjudicated incompetent by a North Carolina court.

c. Incompetency may be alleged:

(1) At the application interview, or
(2) When an a/r receives new resources, or
(3) When unreported resources are discovered, or
(4) When a change in situation causes a previously exempt resource to become countable, or
(5) When the value of a resource increases.

d. Exclude otherwise countable resources of an alleged incompetent individual if a representative has not been previously established who is legally authorized to act on the alleged incompetent individual's behalf, including accessing his/her resources.
e. For purposes of SAB, a formal judgment of incompetence is not required if the a/r has previously executed a valid durable power of attorney and his/her attorney-in-fact is able and willing to act in the a/r's behalf.

(1) Resources held by the alleged incompetent a/r with a valid durable POA are considered available and countable.

(2) If the durable POA is unable or unwilling or otherwise fails or refuses to act on the a/r's behalf to make the resources available, the resources are unavailable, a legal guardian of the estate may be established to act for the a/r. The Social Worker for the Blind, Special Assistance for the Blind Eligibility Specialist or any concerned person may refer the a/r to Adult Services for guardianship services. Continue to exclude resources until situation is resolved. See V.I.3., below for procedures.

f. When the a/r has been adjudicated 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.

3. Procedures

a. Alleged Incompetence

Inform the family member or legal representative of an a/r who may be incompetent, including a public agency acting on the a/r's behalf, that:

(1) Otherwise countable resources may be exempt for a certain period of time if the a/r is alleged to be incompetent for a period of at least 30 consecutive days or until his/her death, and

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

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

NOTE: The individual must have been alleged incompetent for at least 30 consecutive days or have died before resources may be exempt.

(2) The alleged incompetence is supported by the written statement of one of the following:

(a) A physician, or

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

(3) The statement/testimony includes:

(a) An explanation of the reasons the a/r is alleged to be incompetent,
(b) The approximate onset of the alleged incompetence,
(c) The ending date of alleged incompetence, if the person has improved, and
(d) The basis for the knowledge or opinion of the individual alleging the incompetence.

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

(1) For all months that the evidence as defined in V.I.(1) page 83, clearly shows that the a/r was incompetent, and
(2) Until one of the following occurs:

(a) A North Carolina court rules that the a/r is incompetent and appoints a guardian of the estate or general guardian, or
(b) The court rules that the a/r is not incompetent, or
(c) The court does not rule and dismisses the case because of the death or recovery of the a/r.

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

(1) All documents and petitions necessary to have the a/r 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
(2) The necessary legal documents must be filed with the court within 30 calendar days of the latter of:

(a) The date of application for SAB, or
(b) The discovery of a previously unreported resource or receipt of a new resource in an ongoing case.

d. Referral for Guardianship Services
Refer the case to the Adult Services Unit at the local DSS at any point that the a/r's representative:

(1) Requests guardianship services, or

(2) If the family or representative pursues guardianship, but only guardian of person is appointed, or
(3) States that he/she is unwilling or unable to pursue guardianship, or
(4) Refuses to participate or cooperate in the court proceedings required to make the resources available to the a/r, or
(5) Fails to take the necessary steps outlined in V.I.3.c., page 85, within 30 calendar days of contact by the Special Assistance for the Blind Eligibility Specialist regarding his/her responsibilities.

e. No Ruling of Incompetence

Count resources at the beginning of the next month if:

(1) The court finds that the a/r is not incompetent, or
(2) The court dismisses the case, or
(3) The services unit determines that guardianship is not the appropriate alternative to meet the a/r's needs.

f. Incompetence Is Established by the Court

When an adjudication of incompetence has been established by a North Carolina court and a general guardian or guardian of the estate has been appointed, regard the resources as follows:

(1) 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.
(2) Count real property resources only after the Court has given final approval for sale of the property.

    (a) Inform the guardian that it may be in the a/r’s best interest to petition the Clerk of Court for approval to dispose of or convert the real property resource.
    (b) 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 making it income-producing.
    (c) 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.

g. Failure of Legal Guardian to Act

(1) If a legal guardian fails to access liquid resources or fails to begin the process to access real property for the a/r's use within 30 calendar days of appointment, make a referral to local DSS Adult Services.

(2) The DSS Social Worker may:

   (a) Determine if the guardian is acting in the a/r's best interests, and
   (b) Inform the Social Worker for the Blind or Special Assistance for the Blind Eligibility Specialist either that the present guardian is acting in the a/r's best interests or that a new guardian should be appointed.

(3) The local DSS Social Worker may notify the Clerk of Court for intervention if he/she determines that the a/r's interests are not being served or are questionable.

(4) Continue to exclude the resources until the Clerk of Court acts to appoint a successor.

(5) Count the resources as described in V.I.3.f., page 86, if the local DSS Social Worker determines that the a/r's best interests are being served or if the Clerk of Court appoints a new guardian. Continue to exclude resources until the new guardian has "Order Confirming Sale."

h. Documentation

(1) File copies of the durable power of attorney and/or Letters of Guardianship in the a/r's case record.

(2) File the copy of "Order Confirming Sale" in the a/r's case record.

(3) 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/r's resources available.

i. Computation of Countable Resources

(1) Exclude all resources for any month or portion of a month for which assistance is requested and there is documentation that the a/r is alleged incompetent to access his/her resources.

(2) Count all resources that are available to the a/r If competency is restored by a court beginning with the first day of the month following restoration of legal competency.

VI. REDUCTION OF RESOURCES

The purpose of this section is to outline procedures for reducing resources to establish eligibility for SAB. If countable resources exceed the SAB limit on the first moment of the first day of the month, the a/r does not meet resource requirements until the next calendar month. The exception to this rule is if the burial exclusion is sufficient to reduce resources to the allowable limit.

A. Reduction of Liquid Assets

The a/r can reduce his/her cash resources by paying for goods and services at fair market value that benefit the a/r (e.g., paying off their debts or paying for room and board at an adult care home).

1. Verification

a. Cash

(1) Ask a/r to provide receipts for purchases.
(2) A/R’s written statement.

b. Bank Accounts

(1) Determine the amount of any outstanding checks. Do not consider a check as outstanding if it is more than six months old.
(2) Evaluate whether checks were written and either mailed or delivered to the payee prior to the first moment of the verification month BUT had not cleared the bank prior to the first moment of the verification month.
(3) Once the check has cleared the bank, verify the date it cleared from the bank statement or by written or verbal contact with the bank.
(4) If available, compare the checkbook register (or check stubs) to the bank statement.

(a) Use the a/r’s checkbook register (or check stubs) to verify the:
1)Date the outstanding check was written,
2) Check number,
3) Payee of the check, and
4) Sequential order of dates and check numbers.

(b) Use the bank statement to verify that the check did not clear the bank prior to the first day of the month.

(5) If the checkbook register (or check stubs) is not available, incomplete, or the order of dates and check numbers is not clearly sequential, verify outstanding status of the check by:

(a) Written or verbal verification from the bank that a stop payment against the check has not been requested, and
(b) A signed, dated statement from the a/r (or the person who actually signed the check) which includes:
1) Check number,
2) Date the check was mailed or hand delivered,
3) Amount of the check, and
4) That the check is for payment of a valid expense.

2. Determine the countable resource amount.

a. Use the verified checking account balance.
b. Subtract verified outstanding checks from the balance.
c. Do not deduct a check written in advance for prepayment of cost of care.
d. If the a/r's Social Security and/or SSI is direct deposited and either one or both checks are deposited early (prior to the first day of the month in which the check counts as income), deduct the early payment(s).
e. Count the remainder as the countable resource amount from the checking account.
f. It there is excess resources, and the a/r uses the account to deposit income from rental property or self-employment, deduct outstanding or future expenses incurred to produce the income using the following guidelines:

(1) Convert the gross income and expenses to a monthly amount per Chapter 6, Income.
(2) Deduct from the opening balance any portion which is counted as income or can be deducted as an operational expense for the current month and any future month.
(3) Do not deduct any portion which was income or expenses for past months.

g. Document the countable amount and the verification of the account balance and outstanding checks.

3. Burial Exclusion

Burial exclusion is only used when the a/r has excess countable resources. It is a method to exclude up to $1500 value of otherwise countable liquid resources for burial expenses of the a/r.

a. Burial Exclusion Rules

(1) Always ask the a/r if there are resources which are intended to be used for burial purposes.
(2) Use the $1500 burial exclusion to reduce countable resources when the a/r has excess liquid resources in:

   (a) A revocable burial contract for his/her burial expenses,
   (b) Cash value of life insurance on his/her own life, or
   (c) Cash/bank accounts.

(3) Do not use the burial exclusion if the a/r has irrevocable burial arrangements valued at $1500 or more. Irrevocable contracts are not a countable resource but they are applied to the burial exclusion.
(4) If excluding $1500 of the a/r’s countable resources listed above is sufficient to reduce countable resources to the limit:

   (a) Inform the a/r that liquid resources (except life insurance) designated as a burial asset cannot be excluded if commingled (held in the same account) with non-burial resources. Request proof that resources have been separated.
   (b) When burial resources are not commingled, exclude $1500 of the value of liquid resources for the a/r's burial expenses.
   (c) Begin the burial exclusion with the month assistance is requested.

(5) If the burial exclusion ($1500 of liquid resources) does not reduce resources below the limit, resources must be reduced within the 60-day standard for applications.

b. Burial Exclusion Procedures

Follow these steps below for the a/r to determine if there is an irrevocable arrangement. Deduct any irrevocable burial arrangement from the $1500 burial exclusion. Once the burial exclusion balance has reached $0 the burial exclusion has been exhausted.

(1) Irrevocable trust/contract/Absolute assignment

   (a) Review the contract or contact the funeral home or burial company to determine the value of the plan and that it is irrevocable.
   (b) Do not require that the contract include a listing of goods and services to be provided.

(2) Irrevocable designation of beneficiary

(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 a/r cannot access the cash value of the policy.

(d) The services purchased do not have to be selected in advance.

(3) Face Value of Life Insurance
After deducting irrevocable burial arrangements, if the total face value of all life insurance policies owned by the a/r does not exceed $10,000:

(a) Deduct the face value of all whole life policies which insure the life of that individual from the amount left in the individual's $1500 burial exclusion.
(b) Face value is not a countable resource, but it must be applied to the burial exclusion.

NOTE: Term life and burial association policies are not deducted from burial exclusion and are not countable resources.

(4) Revocable Burial Arrangements
After deducting irrevocable burial arrangements and face value of non-countable life insurance, 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.

NOTE: A revocable change in beneficiary to a funeral home does not make the cash value unavailable to the a/r.

(a) Revocable means the funds are available and can be withdrawn.

(b) 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.
(c) Deduct the value of the revocable burial arrangement from the amount left in the $1500 burial exclusion.
(d) A revocable burial trust may appreciate in value or accumulate interest.

1. Verify the value at application. At redetermination, ignore any subsequent increase in value due to interest/accumulation of a revocable burial trust which has been excluded through burial exclusion.
2. If the case is later terminated and a/r reapplies, count the full value of the revocable trust in the verification month.

(e) If the value of the revocable burial arrangement exceeds the amount left in the $1500 burial exclusion:

1. Burial exclusion is used up; AND
2. Excess amount of the revocable arrangement counts in reserve.
3. In the record, document the amount of the revocable arrangement which was counted in resources and continue counting this amount in resources at subsequent reviews unless the revocable arrangement is changed to irrevocable.
4. If there is any amount of exclusion left, continue to the next excludable item.

(5) Cash Value of Life Insurance
When total face value of all whole life policies owned by the a/r exceeds $10,000:

(a) After deducting irrevocable burial arrangements, face value of non-countable insurance and revocable burial arrangements, deduct the cash value of whole life policies designated for burial on the life of the individual from the amount remaining in that individual's $1500 burial exclusion.
(b) Accept the verbal statement of the policy owner or his/her representative that the policy is designated for burial.
(c) If there is any amount of exclusion left, continue to the next item.
(d) If burial exclusion is used up:

1. At application, cash value which exceeds the $1500 burial exclusion limit of a designated policy is a countable resource;
2. At redetermination, the original amount of cash value which 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 value are ignored as long as the policy(s) is designated for burial.

   EXAMPLE: The a/r has one life insurance policy with face value of $13,000. The cash value at application was $3000. The a/r stated it is intended and needed for burial expenses. He/She has no other resources.

$3000	Cash Value of insurance intended for burial
-1500	Burial Exclusion
$1500	Excess counts in resources

   At review the cash value has increased to $3,500. The a/r continues to state that it is needed for burial and has acquired no other resources to be applied to the burial exclusion. Continue to count only $1500 of cash value as a countable resource. Increases in cash value after SAB eligibility begins are ignored; continue to count the original $1500 cash value at review.

3. Once an application has been dispositioned and there is a policy designated for burial expenses, any action which reduces or depletes the cash value of life insurance (except to pay the premium), revokes the burial designation. Burial exclusion can no longer be applied to the policy. Stop excluding the cash value when:

   a. A loan has been taken against the cash value subsequent to designation; or
   b. The policy has been used as collateral subsequent to the exclusion.
   c. 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.

4. Always count the cash value of policies owned by the a/r, regardless of the insured, if the a/r's total face value of all cash accruing policies exceeds $10,000.

EXAMPLES:

a) Mr. Brown owns a whole life insurance policy with a face value of $10,000 on himself, a whole life insurance policy with a face value of $1500 on his grandson, and a $1000 term life (non-cash accruing) on himself. The total face value of all whole life policies owned by Mr. Brown is $11,500, which exceeds $10,000; so cash value is countable. Only the cash value of the a/r's (Mr. Brown) whole life policy can be deducted from his burial exclusion. The $1500 whole life on his grandson cannot be applied to Mr. Brown's burial exclusion because he is not the insured. The $1000 term life insurance policy is not applicable to burial exclusion.

b) Mr. Jones has a whole life policy with face value of $15,000 and no other burial resources. The current cash 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. $1500 of the cash value of the designated policy can be excluded through burial exclusion, but the remaining $1000 cash value counts in resources.

(6) Cash/Funds Held in a Bank Account

(a) These countable liquid resources may be used to:

1. Purchase burial assets to reduce resources in any amount within the 60 day processing time; BUT
2. May only be excluded under burial exclusion when $1500 burial exclusion will reduce resources and establish eligibility.

(b) If exclusion of amount remaining in burial exclusion is enough to reduce resources:

1. Inform a/r of amount of funds which can be designated for burial.

2. Obtain a/r's written statement as to whether he intends to use the funds for burial expenses.

3. Inform the a/r that cash funds intended for burial expenses must not be commingled with other funds. Proof must be provided that the funds have been separated within the 60 day processing time.

4. For a recipient, proof must be provided prior to the effective date of termination.

5. Once cash/funds have been designated for burial, any interest accrued is not a countable resource. It is not necessary to reverify at redetermination.

   a. Send a letter notice informing the recipient of the amount of excess resources.
   b. Inform the recipient that a signed statement that the funds will be designated and separated for burial expenses must be received within the10-day notice period.
   c. Proof that action has been taken to separate the funds must be provided within 30 days of the notice.
   d. If proof is not received within 30 days, send another notice and terminate the case.
   e. 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.

      NOTE: If the a/r dies before the application is disposed, the amount of countable resources excluded for burial expenses is $1500 regardless of the actual cost of burial. If excess funds have not been separated, burial exclusion does not apply.

      EXAMPLE:
      An individual applied on June 4 for ongoing SAB and for retroactive Medicaid benefits under SAB for May.

      Single applicant has one life insurance policy with face value of $1,000 and a savings account with $2,500 which the a/r 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 resources designated for burial
- 500	Amount which can be excluded through burial exclusion
$2,000	No excess resources

Even though there is no excess, the applicant must separate the excess funds. Because eligibility is established using the $1,500 burial exclusion, the applicant has until the processing deadline to provide proof that at least $500 in liquid resources is separately identifiable.

(7) Burial Exclusion Guide

Deduct from the $1,500 burial exclusion:	If the total value is more than $1,500 or more than the amount remaining in burial exclusion:
Value of irrevocable arrangements	Do not count excess.
Face value of life insurance (less than $10,000 face value)	Reduces $1,500 exclusion but never counts.
Value of revocable contract	Count excess, ignore interest earned once designated and excluded at application.
Cash value of life insurance (greater than $10,000 face value)	Count excess at application, ignore increases once designated for burial.
Cash or funds in a bank account (separately identifiable)	Count excess. If result is excess resources, a/r must reduce resources.

B. Reduction of Real/Personal Property

1. Income Producing ($6000/6% test)
   This test is used to determine if real or personal property (usually rental property) which cannot otherwise be excluded is exempt from countable resources because it is "income producing." To exclude property, it must produce a net annual income of at least 6% of its equity after all expenses related to producing income are deducted. Any countable value in excess of $6000 is countable in resources.

   a. Determine the Equity Value of the Property:
      Tax Value - Encumbrances/liens = Equity Value.

      (1) Real Property Value

         (a) Tax Value
            Always use the tax value when counting real property as a resource and to calculate the countable equity value.

      (2) Personal Property Value
         Use the tax assessed value to determine the equity.

      (3) Rights of Use

         (a) The a/r 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.
         (b) The value of the right of use, if owned by the a/r, is exempt if it meets the $6000/6% income producing criteria.

            NOTE: Land is also income-producing if the a/r owns the land and rents or leases a right of use which produces net income based upon $6000/6% test.

         (c) Types of rights of use:

            1. Mineral Rights-ownership interest in certain natural resources, such as coal, oil, sulfur, gas, etc., coming from the ground.
            2. Timber Rights-ownership of timber growing on land, with or without ownership of the surface of the land.
            3. Hunting or fishing rights.

   b. Determine Net Annual Income

      (1) Calculate gross annual 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 Chapter 6, 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) Determine gross annual allowable operational expenses.

(a) Verify operational expenses for the previous calendar year based on expenses on the tax form if using tax statements to determine income.
(b) Verify operational expenses for the twelve months prior to the application or redetermination interview for a business if using business records.
(c) Allowable expenses
Unexpected expenses are not included as part of the 6% test for reserve. Deduct predictable expenses paid by the a/r which are necessary for the production or collection of income.

Allowable expenses include but are not limited to the following:

1. The interest portion of a mortgage payment,
2. Property taxes,
3. Insurance,
4. Maintenance,
5. Utility costs paid by the a/r,
6. Labor costs,
7. Real estate agent's fees,
8. Sales taxes,
9. Advertising for tenants,
10. Verified transportation costs related to a rental property operation,
11. Interest payments on loans for equipment necessary to produce the rental income.

(d) Non-Allowable expenses
Do not deduct the following expenses from rental income:

1. Expenses paid by a third party unless reimbursed by the a/r.
2. The principal portion of a mortgage payment. (The principal is deducted from the tax value as an encumbrance in reserve.)
3. 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).
4. The property depreciation amount claimed as a federal income tax deduction.
5. 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).
6. 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.

(3) Calculate net annual income.
Gross Annual Income
– Gross Annual Allowable Operational Expenses
= Net Annual Income (DO NOT ROUND)

(4) Determine $6000/6% net annual income test.
The equity value of property multiplied by 6% equals the net annual income that must be produced to exclude property. DO NOT ROUND! (Equity value x .06)

(5) Compare net annual income amounts.
Compare VI.B.1.b.(3) above, net annual income to VI.B.1.b.(4) above, net annual income that must be produced to exclude property.

(a) If the net annual income is equal or greater than the net annual income that must be produced, then the property produces 6% net annual income. Proceed below to determine the equity value to exclude for each classification.
(b) If the verified net annual income is less than the net annual income that must be produced, then the property does not produce 6% net annual income. The property is not excludable and the total equity value is counted towards the resource limit.

EXAMPLE:

Tax value of property	$7000		
Property tax per year	$ 95	Insurance per year	None
Other operational expenses per month			$10
		Monthly gross rent	$75

A/R pays all expenses himself/herself. There is no mortgage on the property.

(c) Determine equity for $6000/6% test.
$7000 Tax Value
- $0 Encumbrances (if any)
$7000 Equity

(d) Determine annual income.

$ 75	Gross monthly rent(x 12 months)
$ 900	Gross annual rent
$ - 95	Property taxes
$ - 0	Insurance
$ -120	Other expenses annualized ($10 X 12=$120)
$ 685	Net annual income ($900 - $95- $120)

(e) Determine the $6000/6% net annual income that must be produced.

$7000	Tax Value
x .06	
$ 420	= 6% Net annual income that must be produced

(f) Compare (b) to (c) above to determine if property produces 6% net annual income.
($685 is greater than $420) Property meets the $6000/6% test.
$1000 (equity amount above $6000) is countable resources.

NOTE: If income is verified according to instructions in Chapter 6, Income, and included in the monthly budget, then the income is considered received for purposes of the $6000/6% income test. This is true even if it is discovered that the income was not actually paid to the a/r. The income is counted in the person's budget.
The net annual income requirement is waived when property which has formerly produced annual income produces no

income due to natural disaster such as storms, drought, fire, hurricanes, etc.

(1) A statement to this effect from the local FSA office (for crop damage), insurance company, FEMA, or county extension agent is necessary as verification.
(2) 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/r's control. The resource 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). If there is no contract or prior agreement, the resource is income-producing on the day that the first payment is paid.

C. Rebuttal Procedures

The a/r may rebut the value of countable resources including real property, promissory notes, and personal property.

The tax value of real property and the current market value of a promissory note may be rebutted by documentary evidence to establish a lesser value.

1. Documentary evidence is a statement from a knowledgeable source located in the same geographic area as the property. Geographic area is the same area as covered by local radio, television, newspaper and other media.
2. The statement from the knowledgeable source must be written, signed and have enough information to identify the source easily.

    a. It must be specific as to the value and the point in time for which the estimate is made; and
    b. It must include the basis for his/her knowledge or expertise.

3. If the statement is questionable, the county Social Worker for the Blind or Special Assistance for the Blind Eligibility Specialist may obtain an estimate from a knowledgeable source and use the average value.
4. Examples of types of knowledgeable sources are:

    a. For real property and promissory notes:

        (1) Licensed real estate brokers;

(2) Local Farm Service Agency office;
(3) Local office of the Farmer's Home Administration;
(4) Commercial banks, savings and loan association, mortgage companies and similar lending institutions;
(5) An official of the local real property tax jurisdiction, or
(6) County Agricultural Extension Service;
(7) Professional appraisers;
(8) Companies which are in the business of buying and selling promissory notes.

b. For personal property a statement from a car dealer or dealer of the item in question. The statement must include the make, model, year, color, and general description of the vehicle/personal property, as well as the market value.

5. Updating Rebuttal Evidence

a. Real Property/Promissory Notes – reverify at each redetermination
b. Personal Property – do not reverify the rebuttal value at redetermination unless the DMV/tax value has increased or there is some indication of a change in the value of the property.