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2600.00.00 RESOURCES

This chapter presents requirements for determining eligibility based on resources. The chapter contains the following main sections:

Principles of Resources (Section 2605);

Resource Limits (Section 2610);

Types and Value Of Personal Property Resources (Section 2615);

Types And Value Of Real Property Resources (Section 2620);

Plan For Achieving Self-Support (Section 2625);

Resources Exempted Under Federal Law (Section 2630);

Resource Eligibility Determination (Section 2635);

Transfer Of Property (Section 2640); and

Footnotes (Section 2699).

2605.00.00 PRINCIPLES OF RESOURCES

The resources owned by specific individuals must be identified and evaluated according to the requirements of each program. A distinction between resources and income must always be made so that proper consideration is given to each. Section 2605 outlines principles which apply to the consideration of resources in the determination of eligibility for assistance.

All property not specifically exempted in the following sections are countable as a resource or, in the case of real property, may be required to be offered for sale or rent, according to the requirements of the particular program.

2605.05.00 DEFINITION OF RESOURCES

Resources are real or personal property that are owned solely or jointly by an individual.

Real property is land, including buildings or immovable objects attached permanently to the land. Real property

also includes life estates, remainder interests, and mineral rights. (Refer to Sections 2605.25.10 and 2620)

Personal property includes all property that is not real property. The ICES resource screens identify the following types of personal property as liquid resources:

- cash on hand;
- checking accounts;
- savings accounts, including Christmas Club;
- savings certificates;
- trust funds;
- individual retirement accounts;
- Keogh plans;
- credit union accounts;
- burial accounts;
- prepaid funeral agreements;
- stocks;
- bonds;
- nursing home accounts.

2605.10.00 OWNERSHIP OF RESOURCES

The owner of a resource is any individual who has the ability to liquidate or dispose of the resource. A resource can be solely or jointly owned.

2605.10.05 Joint Ownership Of Resources

Joint ownership of resources, consisting of real or personal property, exists when the right to liquidate or dispose of the property is shared by more than one individual. Joint ownership is indicated by entering "Y" on the resource data collection screens (AERLA, AERVH, AERRP, AERLI). The full amount is entered for each individual in the case who owns part of the resource. Then the joint ownership screen AERJO comes up for each joint owner. If the resource is jointly owned by a married couple, one-half of the resource is to be entered for each spouse on AERJO. Otherwise, the entry on AERJO depends on the type of resource, as explained below.

When any type of account held in a financial institution is jointly owned, the caseworker is to presume that all of the funds belong to each owner. The individuals are to be advised of this presumption and given the opportunity to rebut it. If an applicant/recipient rebuts, he is responsible for providing proof of ownership of the funds, which includes a record of deposits and withdrawals from the account. Following a successful rebuttal, the funds must be separated and placed in separate accounts. Only the funds actually belonging to the applicant/recipient will then be counted as a resource to him and entered on screen AERLA.

(f1) This procedure applies whether or not the joint owners are all applying for or receiving assistance. If the funds

are not separated, the balance is counted in its entirety by each joint owner.

In addition to bank accounts, other real and personal property may be jointly owned. If an applicant/recipient owns real property or non-liquid personal property with another applicant/recipient of any assistance program, AERRP is to be completed for each owner. Then proportionate shares of the property are to be assigned to the joint owners on screen AERJO. The percentage amount of the share owned by each individual is entered on screen AERJO. Refer to Section 2605.10.10 regarding the availability determination for jointly-owned vehicles.

When a nonrecipient is one of the joint owners of real or personal property, the availability of the applicant's/recipient's proportionate share must be determined. If the individual has the unrestricted right, authority or legal ability to liquidate or dispose of the property or his share of it, his proportionate share is available to him. If the joint owners do not have unrestricted rights to sell their interest in real property according to the title or other legal document, statements must be obtained from all joint owners to determine if they are all willing to sell the property. If all joint owners are willing to sell, then the property will be considered available. The AV (available) question on screen AERRP is answered "Y" and screen AERJO will come up. The percentage amount of his share is to be entered on screen AERJO.

2605.10.10 Joint Ownership of Vehicles

This section addresses the determination of "availability" of jointly owned vehicles. If a vehicle is found to be available, refer to Section 2605.10.05 to determine how to complete AERJO.

A jointly owned vehicle is considered an available resource to the Assistance Group (AG) when:

It is jointly owned with another, (one or more) applicant/recipient who may or may not be in the same AG, or living at the same address;

It is jointly owned with a non-recipient who lives with the AG and either owner has physical possession and/or use of the vehicle and the non-recipient owner agrees to sell the vehicle;

It is jointly owned with a non-recipient who does not reside with the AG but the AG has physical possession or use of the vehicle and the non-recipient owner agrees to sell the vehicle;

It is jointly owned with a non-recipient who does not live with the AG and the AG does not have physical possession or use of the vehicle but, the joint-owner is willing to sell the vehicle, thus enabling the client to obtain his share of the vehicle's value.

If the client cannot legally sell the vehicle or take action to remove his name from the title (for example a pending lawsuit prohibits this action) the vehicle will not be considered to be available even in the situations listed above. The client must provide proof that the vehicle is not legally available by presenting court or BMV documents.

Therefore, when a vehicle is found to be jointly owned with a non-recipient, the AG must be asked if the non-recipient is willing to sell the vehicle. If the non-recipient is not willing to sell, verification of the non-recipient's statement must be obtained. The recipient must cooperate in locating and obtaining verification from the non-recipient.

2605.15.00 AVAILABILITY OF RESOURCES

Resources are available if the owner has the unrestricted right, authority, or legal ability to liquidate or dispose of the property or his share of the property. Resources must be available in order to be counted in the eligibility determination. (f2) Refer to Section 2605.10.10 regarding the availability determination of jointly-owned vehicles. Refer to Section 2615.45 regarding the availability determination of savings bonds for MED 1.

2605.15.05 Insignificant Resources (F)

Resources are exempt if the AG is unable to sell the resources for any significant return because the AG's interest is relatively slight or because the cost of selling the AG's interest would be relatively great. This exclusion applies only to non-liquid resources such as; vehicles and real or personal property. It does not apply to liquid resources such as; stocks and bonds. An example of this exemption is real property which is worth little on the market or which would be very difficult to sell because of the location or condition of the property.

The insignificant return determination for real and personal property must be calculated off-line and the result entered in the 'INSIG RTN?' field on AERRP. If the sale of the real or personal property would result in an insignificant return the property will be exempt and its value will not be included on AERED.

The insignificant return determination for vehicles is completed by ICES based on the information entered on AERVH. If the sale of a vehicle would result in an insignificant return, the vehicle will be exempt and its value will not be included on AERED. There is no limit to the number of vehicles that a household can have determined as insignificant resources. Therefore, all vehicles should be checked to determine if they meet the standards for insignificant resources. A jointly owned vehicle is determined to be an insignificant resource using the entire value of the vehicle instead of the proportionate value.

Significant return for real and personal property is considered to be a profit realized from the sale in the amount of \$1500.

Significant return for vehicles is a profit from the sale after expenses are deducted, of at least \$1,500.00.

Verification of a significant return is required to determine if a resource is exempt or countable. Verification of the Fair Market Value (FMV) and all expenses necessary to complete the sale must be obtained to calculate if a significant return is likely.

2605.20.00 RESOURCE ELIGIBILITY DATES

The specific time when a resource is evaluated for the eligibility determination depends on the program to which the determination applies and whether an application is being processed or a redetermination is being conducted, as explained in the following sections.

2605.20.05 Resource Eligibility Date (F)

For applicants, the resource eligibility determination is based on the available countable resources as of the date of the interview. ICES does not support this policy and uses the first day of the month to determine resource eligibility. Since it is rare for the resources to differ enough to cause the AG to be ineligible for the month of application due to this variance, a fiat must be done under this circumstance.

For open AGs, the projected value of resources for the first day of the recurring month is counted in determining resource eligibility. The projected value is based on the current value plus any new amounts which can reasonably be anticipated to be received and any subtractions that can reasonably be anticipated to occur, by the first of the month.

If the AG reports a resource change during the certification period which exceeds the allowable resource limit, the AG

should be given an opportunity to update its entire resource statement. If it declines to do so or the resource value still exceeds the limit, the AG will be closed.

2605.20.10 Resource Eligibility Date (C, MED 1, 2, 4)

The resource eligibility determination is based on resources owned as of the first day of a month. Ownership of excess resources on the first day of the month renders an applicant or recipient ineligible for medical assistance for the entire month. (f3) The first day of the month means the first moment of the first day. Therefore, a financial transaction occurring on the first day does not affect the first of the month resource amount.

For applicants, resources must be verified as of the first day of each retroactive month and the month of application. For a redetermination or a resource review, verification of the most current value of resources must be obtained. The value is then used to project resource eligibility for the following month.

For liquid resources, the caseworker must enter on screen AERLA the resource information for each retroactive month and the month of application, including a "begin date" and an "end date" if the amount differs on the first day of each of the months. Subsequent changes in the amounts during the application processing period must be entered accordingly.

2605.20.15 Resource Eligibility Date (MED 3)

Resources are not an eligibility factor. (Refer to Sections 1620.75.00; 1620.80.00; 1620.85.00; 1620.90.00; and 2635.15.00.)

2605.25.00 DETERMINING RESOURCE VALUE

The value of a resource must be determined in order to establish the amount that must be counted toward the resource limit. With a few exceptions, the amount of any resource to be counted is the equity value. Equity value is the current fair market value minus the total amount of liens against the property. (f4) The exceptions to this procedure are vehicles (Section 2605.25.05) and, in certain instances, real property (Section 2605.25.10).

2605.25.05 Vehicle Valuations

The fair market value of a vehicle is the lowest "wholesale" value as listed in publications written for the purpose of providing guidance to automobile dealers and loan companies. The National Automobile Dealers Association's (NADA) used car guide book or the Red Book published by National Market Reports, Inc. may be used. If these publications are not

available, any publication which provides guidance to automobile dealers and loan companies may be used provided they have been updated within the last six months. If the applicant/recipient disputes the "book value" a written statement must be obtained from a licensed automobile dealer.

The AG should be asked to acquire verification of the value of antique, custom made, or classic vehicles, if the worker is unable to make an accurate appraisal.

If a vehicle is especially equipped with apparatus for the handicapped, the book value is to be assigned as if the vehicle were not so equipped.

If a vehicle is no longer listed in a book due to the age of the vehicle, the AG's estimate of the value of vehicle is to be accepted, unless there is reason to believe that the estimate is incorrect. A written statement must be obtained from a licensed automobile dealer.

Vehicle verification must include verification of the following:

- ownership;
- License status;
- fair market value; and
- amount owed.

Caseworkers must keep in mind that equity value will increase with each monthly loan payment. Also, the fair market value may decrease whenever the publication used to establish the value is published. For those recipients who are very close to the resource limit, the value of nonexempt vehicles may have to be verified monthly to ensure that the recipient does not have excess resources as of the first day of a month.

2605.25.10 Real Property Value

Fair market value is the reasonable price that real property can be expected to sell for on the open market in the particular geographic area involved. (Refer to 2605.05.00 for definition of real property and to 2620.)

The fair market (FMV) value of real property can be obtained through tax records or from an estimate by a knowledgeable source. When tax records are used, the most recent property tax assessment must be obtained. The fair market value is the assessed value divided by the assessment ratio. The tax assessment cannot be used if:

- it is more than one year old;
- it is under appeal;

it is based on a fixed rate per acre method; or the taxing authority does not provide an assessment ratio, or only provides a range, for example, between 50% and 75%.

If the caseworker questions an estimate from a knowledgeable source, one or more additional estimates are to be obtained and averaged in order to establish the fair market value.

If the lesser value is accepted, it must be entered on screen AERRP in the EQUITY field. Since ICES calculates the equity based on the worker entered FMV of property, the equity override (EO) field must be answered "Y" to enable the lesser equity to be entered and used by the system in the eligibility determination.

2605.25.10.05 Life Estate/Remainder Value

Life Estate: A life estate conveys to an individual certain rights in property for his lifetime. The owner of a life estate generally has the right of possession and use of the property, as well as the right to obtain profits from the property and to sell his life estate interest.

Remainder Interest: When an individual conveys property to one person for life (life estate holder) and to a second person (the remainderman) upon the death of the life estate holder, both a life estate interest and a remainder interest are created in the property. A remainderman cannot sell his interest in the property while the life estate holder is alive unless otherwise specified in the deed. At the death of the life estate holder, the remainderman will hold full title.

The fair market value of a life estate or remainder interest is determined as follows:

determine the fair market value of the property (Section 2605.25.10) in the usual manner;

refer to the Life Estate and Remainder Interest Tables in Section 2605.25.10.10; and

using the individual's age as of his last birthday, multiply the figure in the Life Estate or Remainder Interest column for that age by the fair market value of the property to obtain the value of the life estate or remainder interest.

Advise the individual or person acting on his behalf of the presumed value of the life estate obtained from the table and provide him the opportunity to submit documentation of a lesser value. Such documentation will be acceptable only if

it is provided by a knowledgeable source based on an evaluation of the specific life estate in question.

If the lesser value is accepted, it must be entered on screen AERRP in the EQUITY field. Since ICES calculates the equity based on the worker entered FMV of property, the equity override (EO) field must be answered "Y" to enable the lesser equity to be entered and used by the system in the eligibility determination.

2605.25.10.10 Life Estate/Remainder Tables

<u>AGE</u>	<u>LIFE ESTATE</u>	<u>REMAINDER</u>
0	.97188	.02812
1	.98988	.01012
2	.99017	.00983
3	.99008	.00992
4	.98981	.01019
5	.98938	.01062
6	.98884	.01116
7	.98822	.01178
8	.98748	.01252
9	.98663	.01337
10	.98565	.01435
11	.98453	.01547
12	.98329	.01671
13	.98198	.01802
14	.98066	.01934
15	.97937	.02063
16	.97815	.02185
17	.97700	.02300
18	.97590	.02410
19	.97480	.02520
20	.97365	.02635
21	.97245	.02755
22	.97120	.02880
23	.96986	.03014
24	.96841	.03159
25	.96678	.03322
26	.96495	.03505
27	.96290	.03710
28	.96062	.03938
29	.95813	.04187
30	.95543	.04457
31	.95254	.04746
32	.94942	.05058
33	.94608	.05392

34	.94250	.05750
35	.93868	.06132
36	.93460	.06540
37	.93026	.06974
38	.92567	.07433
39	.92083	.07917
40	.91571	.08429
41	.91030	.08970
42	.90457	.09543
43	.89855	.10145
44	.89221	.10779
45	.88558	.11442
46	.87863	.12137
47	.87137	.12863
48	.86374	.13626
49	.85578	.14422
50	.84743	.15257
51	.83674	.16126
52	.82969	.17031
53	.82028	.17972
54	.81054	.18946
55	.80046	.19954
56	.79006	.20994
57	.77931	.22069
58	.76822	.23178
59	.75675	.24325
60	.74491	.25509
61	.73267	.26733
62	.72002	.27998
63	.70696	.29304
64	.69352	.30648
65	.67970	.32030
66	.66551	.33449
67	.65098	.34902
68	.63610	.36390
69	.62086	.37914
70	.60522	.39478
71	.58914	.41086
72	.57261	.42739
73	.55571	.44429
74	.53862	.46138
75	.52149	.47851
76	.50441	.49559
77	.48742	.51258
78	.47049	.52951
79	.45357	.54643

80	.43659	.56341
81	.41967	.58033
82	.40295	.59705
83	.38642	.61358
84	.36998	.63002
85	.35359	.64641
86	.33764	.66236
87	.32262	.67738
88	.30859	.69141
89	.29526	.70474
90	.28221	.71779
91	.26955	.73045
92	.25771	.74229
93	.24692	.75308
94	.23728	.76272
95	.22887	.77113
96	.22181	.77819
97	.21550	.78450
98	.21000	.79000
99	.20486	.79514
100	.19975	.80025
101	.19532	.80468
102	.19054	.80946
103	.18437	.81563
104	.17856	.82144
105	.16962	.83038
106	.15488	.84512
107	.13409	.86591
108	.10068	.89932
109	.04545	.95455

2605.25.10.15 Mineral Rights Value

A mineral right is an ownership interest in certain natural resources such as coal, sulphur, petroleum, sand, natural gas, and others which are usually obtained from the ground. If the individual owns the land to which the mineral rights pertain, the fair market value of the land can be assumed to include the value of the mineral rights. If the individual does not own the land to which the mineral rights pertain, a fair market value must be obtained from a knowledgeable source such as:

the Bureau of Land Management;
the U. S. Geological Survey; or
any mining company that holds leases.

2605.30.00 CONVERSION OF RESOURCES

Whenever a resource is sold or converted from one form to another, the proceeds remain a resource rather than income. Verification concerning the new resource must be obtained.

One exception, applicable only to TANF and FS, is the on-going payments received from the sale of personal property. These payments are counted as income. Another exception is the on-going payments from land sales contracts for Food Stamps, TANF and MED 1, 2 and 4 (see Sections 2615.55.05, 2615.55.10, and 2615.55.15). These payments are counted as income.

2605.35.00 VERIFICATION OF RESOURCES

All verification of resources must be obtained from the source (for example, by the bank where the account is held) or through a source document. Verification of resources is required in all programs; however, the individual's signed statement as to the amount of cash on hand is sufficient. (Refer to Section 2615.05.00) When resources are jointly owned, the portion belonging to the individual must be identified and verified.

2605.40.00 MONITORING OF RESOURCES

Each applicant/recipient must be advised of the resource limits of the assistance programs and his responsibility to report any changes in his resource amounts which may affect his eligibility for assistance.

Resources are verified at each redetermination and must be monitored more frequently if changes are anticipated or resources are close to the limit. When payments are being made on real property or vehicles, the equity value may require monitoring as each payment will increase the property's equity.

Special emphasis must be placed on the need for the recipient to keep his resources within the program's limits in order for assistance to continue. Additionally, caseworkers are responsible for monitoring resources between redeterminations.

In cases where resources are close to the resource limits, the cases must be flagged to alert the caseworker to check resources frequently or on a monthly basis when necessary. Screen AEFEC - expected changes - should be used for this purpose. Monthly monitoring the value of resources would not be required for food stamp assistance groups that are subject to simplified reporting. Refer to Section 2215.05.00.

2610.00.00 RESOURCE LIMITS

The resource limit is the maximum value of nonexempt resources which the AG may retain without affecting eligibility. It is dependent on the composition and living arrangement of the AG and the specific rules that govern each program. An AG with countable resources in excess of the applicable resource limit is ineligible for benefits. Refer to Section 3005.00 for the specific resource limits. (Next Tran: OMPL PARMS: Resource Limits)

2615.00.00 TYPES AND VALUE OF PERSONAL PROPERTY RESOURCES

This section describes the policy for determining the value of personal property resources. The different types of such resources and their consideration is discussed.

2615.05.00 CASH

Cash which is not part of a current month's income is counted as a resource. Cash includes money the individual owns, no matter where it is located. Cash on hand includes:

 amounts carried by the individual;
 amounts the individual has at home; and
 amounts being held for the individual elsewhere.

A signed statement from the individual owning the cash is sufficient verification.

2615.10.00 BANK AND OTHER ACCOUNTS

Bank accounts refer to funds in a bank, credit union, savings and loan association, or any other financial institution, that are usually payable on demand. Bank accounts may be solely or jointly owned. Joint ownership exists when the right to liquidate the account is shared by more than one individual.

This section provides information on:

 checking and savings accounts;
 time deposits, including IRAs and Keogh Plans; and
 guardianship accounts.

2615.10.05 Savings And Checking Accounts

It is assumed that all of the funds in a savings or checking account are owned by and available to the individual designated as owner in the account title.

If the account is jointly owned, it is to be presumed that all of the funds belong to each owner. The individuals are

to be advised of this presumption and given the opportunity to rebut it. If an applicant/recipient rebuts, he is responsible for providing proof of ownership of the funds, which includes a record of deposits and withdrawals from the account. Following a successful rebuttal, the funds must be separated and placed in separate accounts. Only the funds actually belonging to the applicant/recipient will then be counted as a resource to him.

The resource value of savings and checking accounts is the balance in the account on the date on which eligibility is established, according to the requirements of the specific program. (Refer to Section 2605.20) However, when determining the balance of a checking account for resource eligibility purposes, any checks which have not cleared the bank as of the date on which eligibility is determined, are to be subtracted from the balance. The caseworker should also subtract any current month's income which has been deposited in the account before entering the amount on screen AERLA. This includes the "direct deposit" benefit check which is sometimes recorded by the bank at the end of one month instead of early in the next month, when it would normally be received. For example, a "direct deposit" RSDI (Social Security) check shown as a deposit on May 31, but which is truly the June check, will be considered as income for the month of June and will not become a resource until July.

The total value of all bank accounts must be verified at the time of application and at each redetermination. Bank accounts must be verified by documentation obtained directly from the financial institution. In addition to using a bank collateral form, monthly account statements can be utilized to verify bank account balances.

2615.10.05.05 Business Accounts (F, MED 1, 4)

When funds are in a bank account which has been properly identified as a business account, it is assumed that the funds are being used for the operation of the business and are not counted as a resource. If a business account is not clearly distinguishable from personal resources, such funds must be considered personal resources when determining resource eligibility.

2615.10.10 Time Deposits

Time deposits held by financial institutions may be solely or jointly owned. If a time deposit is solely owned, the availability of funds is the deciding factor in determining if the time deposit is a resource. A time deposit such as a savings certificate or certificate of deposit usually is available to the individual and is counted as a resource.

Verification is to be obtained from the financial institution involved.

When a time deposit is jointly owned and available, the caseworker is to presume that all of the funds belong to each owner. The individuals are to be advised of this presumption and given the opportunity to rebut it. If an applicant/recipient rebuts, he is responsible for providing proof of ownership of the funds, which includes a record of deposits and withdrawals from the time deposit account. Immediately following a successful rebuttal, the funds must be separated and placed in separate accounts. Only the funds actually belonging to the applicant/recipient will then be counted as a resource to him. If funds are not separated, the balance is counted in its entirety by each joint owner.

Any interest penalties imposed for withdrawing the time deposit funds prior to maturity are deducted from the total amount when determining the value of the time deposit resource. Interest penalties may involve a reduction in the interest rate and/or loss of interest for a short period of time.

In rare instances time deposits cannot be withdrawn prior to maturity under any circumstances. Funds in this type of account are not included as an asset until they reach maturity and become available.

Verification of a time deposit certificate from the financial institution must include information on when the funds can be withdrawn and any penalties for early withdrawal.

2615.10.15 Safety Deposit Box

The applicant/recipient must present to the caseworker a signed statement listing all of the contents of a safety deposit box. The contents must then be evaluated in terms of their count ability as a resource.

2615.10.20 Commingled Funds (F)

Exempt resources that are kept in a separate account and not commingled in an account with other nonexempt funds shall remain exempt indefinitely.

Resources of students and persons who are self-employed that is exempt as mentioned in Section 2615.90.00 and is commingled in an account with other nonexempt funds shall remain exempt over the period they have been prorated as income.

All other exempt resources that are commingled in an account with other nonexempt funds shall remain exempt for six months from the date they are commingled. After the six months all funds in the commingled account must be counted as a resource.

2615.10.25 College Savings Accounts (F, C)

Within the C category, the policy stated in this section only applies to ADCR, and ADCU.

College Savings Accounts are exempt as resources.

2615.10.30 Coverdell Educational Accounts (F, C)

Within the C category, the policy stated in this section only applies to ADCR, and ADCU.

Coverdell Educational Accounts are exempt as resources.

2615.15.00 RETIREMENT ACCOUNTS

Retirement accounts are financial plans for providing income when employment ends. They may be in the form of Individual Retirement Accounts (IRAs), Keogh Plans, 401K Plans, pensions, annuities and work related plans. Also, some profit sharing plans may qualify as retirement accounts. Savings accounts, checking accounts and certificates of deposits held at banks or credit unions are not retirement accounts.

2615.15.05 Retirement Accounts (F)

Retirement accounts with tax-preferred status are exempt as resources for Food stamps.

The following information includes examples of tax preferred retirement accounts:

Individual Retirement Accounts (IRA), including Roth IRA and Simple IRA;

Employer based or sponsored plans such as Simplified Employer Plans, Profit Sharing Plans and Cash Balance Plans;

457 Plans (For state and local government and other tax exempt organizations);

401 (K) Plans (Generally a cash-or-deferred arrangement and generally limited to profit-making firms);

Federal Employee Thrift Savings Plan;

Section 403 (B) Plans (Tax-sheltered annuities provided for employees of tax-exempt organizations and state and local educational organizations);

Section 501 (C) (18) Plans (Retirement plans for union members consisting of employee contributions to certain trusts that must have been established before June 1959); and

Keogh Plans

2615.15.10 Retirement Accounts (C, MED)

Except in the two situations listed below, a retirement account is an available resource to an individual if he has the option of withdrawing an amount for any reason, even though he is not yet eligible for periodic payments. However, a retirement account is NOT considered an available resource if an individual must terminate employment in order to obtain any payment.

Exceptions:

In the MED 4 categories of assistance, funds held in an Individual Retirement Account or work-related pension plan, including Keogh Plans, by a non-recipient spouse are not counted as resources. (f5)

For M.E.D. Works (MADW and MADI), all retirement accounts are exempt. This exemption applies to such funds held by the applicant/recipient and also by the spouse.

The value of a retirement account is the amount that the individual can currently withdraw less any penalty for early withdrawal. Taxes due are not deducted from the retirement account's value. Verification is to be obtained from the administrator of the retirement plan.

Another type of retirement account is intended for self-employed individuals and is often referred to as a Keogh Plan. Funds on deposit in Keogh Plans are counted as resources if the plan does not involve a contractual obligation with anyone who is not an AG member. If the plan includes a contractual obligation with a non-AG member, the money may not be accessible to the AG member and, therefore, is an unavailable resource. The value is the total amount of the Keogh less any withdrawal penalty.

2615.20.00 BURIAL RELATED RESOURCES

Burial related resources include various methods for reserving funds for burial such as prepaid funeral agreements, funeral trusts, life insurance, and burial

accounts on deposit in financial institutions. Each assistance program has specific requirements in regard to burial related resources.

2615.20.05 Burial Accounts (MED 1, 4)

A burial account refers to a revocable account in which funds are identified to be used for burial purposes. In order for funds or assets to be considered set aside for burial, the account titling must indicate such, or there must be a signed statement by the owner or guardian of the purpose for the funds and the date on which they were set aside. This type of account is available to the owner. If a burial arrangement is irrevocable, it is not to be identified as a burial account. Refer to the following sections on funeral trusts and prepaid funeral agreements which are irrevocable.

The policies contained in this paragraph apply to the MA A, MA B, and MA D categories of assistance, in the circumstance of an institutionalized spouse/community spouse. For each spouse, up to \$1500 of any separately identifiable funds set aside and earmarked for burial in a revocable account are exempt. The \$1500 maximum must be reduced by the amount in an irrevocable burial trust or by the face value of any life insurance policies whose cash surrender value (CSV) has been exempted because the face value is \$10,000 or less and the beneficiary is the estate or funeral home.

EXAMPLE :

Mr. Jones is in a nursing facility. Mr. and Mrs. Jones each have a burial account valued at \$1500. Mrs. Jones also has a life insurance policy with a face value of \$1000. Only \$500 of Mrs. Jones' burial account can be exempted.

For other situations, not involving institutionalized/community spouses, revocable burial accounts are countable resources.

For QMB (MA L), QDW (MA G), SLMB (MA J), and QI (MA I/MA K) up to \$1500 of any separately identifiable funds in a burial account are exempt. The exemption applies to the applicant/recipient and to his spouse. The \$1500 maximum must be reduced by the amount in an irrevocable burial trust or any irrevocable prepaid funeral agreement. It must also be reduced by the face value of any life insurance policies whose cash surrender value has been exempted because the face value does not exceed \$1500 regardless of the beneficiary designation.

2615.20.10 Funeral Planning Programs (F, MED 1, 4)

There are various methods by which an individual may reserve funds for burial, such as burial accounts, prepaid funeral agreements, funeral trusts, and life insurance. In evaluating any of these entities as resources, caseworkers must carefully apply resource eligibility principles applicable to each program. In most situations, the determination of availability of funds reserved by any type of prepaid funeral arrangement will be based on whether the contract is revocable or irrevocable. However, a prepaid funeral agreement does not become irrevocable until 30 days after the contract is signed by the purchaser and seller, unless the 30-day period is waived as described below. (f6) During the 30 day waiting period the contract can be revoked, and a revocable contract is a countable resource except in the circumstances explained in the previous section. If the funeral agreement was established on or after July 1, 1997 and includes a waiver of the 30-day waiting period or similar language making the trust immediately irrevocable, the funds in the trust are unavailable and exempt beginning on the date the agreement is signed. When necessary, the attorney for the Local Office should be consulted.

EXAMPLE :

Client signs a prepaid funeral agreement on 7/12. The contract is revocable for 30 days, so the value of the agreement is a countable resource for 8/1. The contract becomes irrevocable 30 days after signing, so the value is unavailable and, therefore, not a countable resource for 9/1.

When an irrevocable assignment of life insurance (an action which eliminates the owner's right to obtain the cash surrender value) is involved as a means of funding an irrevocable funeral trust, the caseworker must verify two dates:

the date of the assignment; and

the date the insurance company accepted the assignment.

The date of a legally executed irrevocable assignment of a life insurance policy which will fund a funeral trust is the date that the cash surrender value is considered to be unavailable, provided that the home office of the insurance company subsequently accepts the assignment.

2615.20.10.05 Prepaid Funeral Agreements (F, C, MED 2)

The cash value of a prepaid funeral agreement with a funeral home is exempt as a resource, up to a maximum of \$1500. One such exemption is allowable for each member of the AG. The

amount of cash value exceeding \$1500 must be counted as a resource. (f7)

However, any prepaid funeral agreement must be reviewed to verify not only its value, but its terms. A determination must be made as to whether the agreement is revocable or irrevocable. Per Indiana statute, a prepaid funeral agreement does not become irrevocable until 30 days after the contract is signed by the purchaser and seller. (f8) During the 30 day waiting period the contract can be revoked. The Local Office attorney may be consulted in the determination of revocable or irrevocable. The value of any type of prepaid funeral agreement is considered available to the individual if the contract is revocable; however, the \$1500 exemption explained above is applicable. Refer to Section 2615.20.15 for information regarding funeral trusts.

Funds set aside in a financial institution and designated for burial are counted as a resource to the individual.

2615.20.15 Funeral Trusts

A valid irrevocable Indiana funeral trust is an exempt resource regardless of the value of the trust.

Indiana's funeral trust statute is found at I.C. 30-2-10 et seq. and applies to funeral trusts established on or after July 1, 1982. I.C. 30-2-9 et seq. is applicable to funeral trusts established after June 30, 1978, but before July 1, 1982. The Local Office must determine that an Indiana funeral trust is valid and irrevocable in accordance with the criteria specified in the applicable statute. The value of the trust must also be verified.

Interest earned on an irrevocable trust is also exempt if the interest accrues to the principal of the trust. Irrevocable funeral trusts may be reviewed by the Local Office attorney if necessary.

A funeral trust established in a state other than Indiana must be evaluated in terms of that state's laws. Such a trust may or may not be irrevocable.

2615.20.20 Burial Plots (F)

A burial space that is purchased for the burial of an AG member is exempt. Only one burial space is allowed per AG member. (f10)

2615.20.20.05 Burial Plots (C, MED 2)

A burial plot for each participating member of the AG is exempt. This includes a conventional gravesite, crypt, mausoleum, urn or any other type of repository. (f11)

2615.20.20.10 Burial Plots (MED 1, 4)

A burial space or agreement which represents the purchase of a burial space held for the burial of the individual, his or her spouse, or any other member of his or her immediate family is an exempt resource, regardless of value. (f12)
This includes a conventional gravesite, crypt, mausoleum, urn or any other type of repository.

2615.25.00 INSURANCE

Insurance policies owned by an individual may affect his eligibility and must be identified and evaluated. Some types of insurance that may be taken into consideration are:

life insurance;

casualty insurance; and

Indiana Long Term Care Insurance

Sections 2615.25.05.05 through 2615.25.15 discuss how these types of insurance are treated in the eligibility determinations for the different assistance programs.

2615.25.05 Life Insurance

The following definitions are pertinent in the consideration of life insurance as a resource:

The insured is the individual whose life is covered by the policy.

The beneficiary is the individual or entity named in the contract to receive the proceeds of the policy upon the death of the insured.

The owner is the individual who has all rights and privileges of the contract and has the absolute right to liquidate the policy, exercise policy loans, change beneficiary, elect settlement options, determine the manner in which dividends will be treated, or any other rights and privileges granted in the policy.

The face value is the amount stated as such on the face of the policy.

The cash surrender value (CSV) is the amount which the insurer will pay upon cancellation of the policy before death or maturity. This value usually increases as more premiums are paid toward the policy.

There are various types of life insurance. However, not all types of life insurance have cash value (for example, term

insurance). Policies which have no cash value prior to payment of the death benefit are not counted in the resource determination.

The CSV of insurance is available to the owner unless assigned or in some other manner actually transferred on the records of the insurance company to the insured or another person. Therefore, insurance is to be considered a resource to the owner and not to the insured, if the specific assistance program takes the CSV into consideration.

2615.25.05.05 Life Insurance (F)

The cash surrender value of life insurance policies is exempt. No verification is required. Once cashed, the amount obtained is a countable resource. (f13)

2615.25.05.10 Life Insurance (C, MED 1, 2, 4)

The CSV of a life insurance policy is counted as a resource if the owner is the applicant/recipient or a person whose resources are deemed to the AG. An exception occurs when life insurance is exempt in accordance with the provision to exempt life insurance with a face value of \$10,000 or less for the MA A, MA B, MA D, MADW, and MADI categories, when the beneficiary is the estate or a funeral home, as explained in Section 2615.25.05.15.

The owner of a life insurance policy may be indicated on the policy; however, verification of the CSV must be obtained from the insurance company. As this will usually take several weeks, caseworkers must be sure to follow up and, whenever possible, should enlist the assistance of the applicant/recipient and the local insurance office or agent. Awaiting verification of the cash surrender value is a valid extenuating circumstance for pending a case beyond the time standard. If there is no possibility that the CSV will cause excess resources (for example, the policy has been in force a short time and the person's other resources are minimal), the application can be approved prior to receipt of verification of the CSV. Efforts to obtain the CSV, however, must be continued.

The CSV must be verified at each redetermination. In cases where resources are close to the resource limits, the cases must be flagged to alert the worker to check resources frequently; at a minimum, on a monthly basis. Screen AEFEC - expected changes - should be used for this purpose. It is recommended that, at the time of application, caseworkers request that the insurance company verify future cash surrender values as well as the current CSV.

2615.25.05.15 Life Insurance Exemption (MED 1)

Effective 7-1-99, when an applicant/recipient is insured by a life insurance policy with a face value of \$10,000 or less and the beneficiary of the policy is the applicant's/recipient's estate or the funeral director who will be providing services, the cash surrender value is exempt. (f14) This also applies if there is more than one policy and the total face value of all policies is \$10,000 or less. If the face value of one or more policies (excepting term policies) exceeds \$10,000, the cash surrender value must be considered, regardless of who is designated as the beneficiary.

EXAMPLE 1:

The applicant is insured by a policy with a face value of \$5,000, and the beneficiary is his estate. The cash surrender value is exempt.

EXAMPLE 2:

The applicant has a life insurance policy with a face value of \$15,000, and the beneficiary is his estate. The cash surrender value is \$1000 and must be counted because the face value exceeds \$10,000.

Each applicant/recipient is entitled to the \$10,000 insurance exemption.

EXAMPLE :

Mr. and Mrs. Smith apply for assistance. He has a life insurance policy with a face value of \$8,000, and she has one with a face value of \$4,000. The beneficiary of both policies is Miller's Funeral Home. The cash surrender value of both policies is exempt because each policy has a face value of \$10,000 or less.

The \$10,000 limitation is reduced by any amount in an irrevocable burial trust or an irrevocable prepaid funeral agreement.

EXAMPLE 1:

The applicant has a \$1000 irrevocable burial trust. Therefore, he is allowed a life insurance face value exemption of \$9,000. ($\$10,000 - \$1,000 = \$9,000$) He has a life insurance policy with a face value of \$8,000, and the beneficiary is his estate. The cash surrender value is exempt.

EXAMPLE 2:

The applicant has a \$10,500 irrevocable burial trust. Because this is in excess of \$10,000, he is not entitled to a life insurance exemption. He has a life insurance policy with a face value of \$1000, and the beneficiary is his estate. The cash surrender value is \$800 and must be counted.

Before the CSV can be exempt, the caseworker must verify the face value, the owner, the beneficiary, and the insured.

Policies which insure the non-recipient spouse or parent of the applicant/recipient cannot be exempt under this provision.

2615.25.05.20 Life Insurance Exemption (MED 4)

The CSV of life insurance is exempt when the total face value (FV) of all policies (except term policies) does not exceed \$1500, regardless of the beneficiary designation. If the total face value exceeds \$1500, the CSV is a countable resource. Both spouses are entitled to have the CSV of life insurance exempted under this provision, whether or not they are both applicants/recipients.

2615.25.10 Casualty Insurance (C, MED)

The proceeds (including interest earned) of casualty insurance received as a result of damage, destruction, loss, or theft of exempt real or personal property are not to be counted as a resource if the applicant/recipient demonstrates that the proceeds are being used to repair or replace the property. (f15) For MED 1 and 4 only, the resource is exempt for a period not to exceed nine months from the date of receipt. If the proceeds from casualty insurance are retained by the applicant/recipient or his spouse or parent after the nine month period, they must be counted as a resource.

2615.25.15 Long Term Care Program-Resource Disregard (MED 1, 4)

Within MED 1, this section applies only to MA A and MA D. Within MED 4, it applies only to QMB (MA L).

The Indiana Long Term Care Program (ILTCP) is jointly administered by the Family and Social Services Administration and the Department of Insurance. An individual, who purchases a long term care policy that is a qualifying policy under the ILTCP, as determined by the Department of Insurance, is allowed a special resource disregard in his Medicaid eligibility determination once

policy benefits have been utilized. The amount of the disregard is the amount of benefits paid out by the approved long term care insurance policy up to the actual cost of care. This disregard is in effect for the lifetime of the individual. (f15a) This disregard only applies to the resources owned by the insured individual, not to any other person whose resources are included in the eligibility determination, such as a spouse. Policy benefits are payable for long term care services provided in a long term care facility or in the home.

Not all long term care insurance policies qualify for this "asset protection". Caseworkers must verify that a policy is qualified under the ILTCP. Insurance companies who sell qualified ILTCP policies are responsible for documenting the amount of benefits paid on behalf of their clients. They must provide a quarterly report to the insured individual summarizing the amount of benefits paid during the quarter and cumulatively since benefits were first paid under the policy, as well as the amount of asset protection earned. (f15b) When an insured individual applies for Medicaid, the insurance company is required to provide the client with a service summary report. (f15c) This service summary is the required documentation that caseworkers will need in order to verify that a policy is qualified under the ILTCP and the amount of the resource disregard to be applied in the Medicaid eligibility determination of an applicant/recipient.

EXAMPLE 1

An individual purchases an ILTCP policy which provides asset protection of \$50,000. She enters a nursing facility and the policy pays out a total of \$50,000. She then applies for Medicaid and her resources are as follows:

Irrevocable funeral trust	\$ 4,000 (exempt)
Certificate of Deposit	\$ 30,000
Life insurance cash value	\$ 5,000
Stocks	\$ 11,500
Mutual funds	\$ 4,800
Total resources	\$ 51,300
ILTCP disregard	\$ 50,000
Countable resources	\$ 1,300
Resource limit	\$ 1,500

Applicant is resource eligible.

EXAMPLE 2

An individual purchases an ILTCP policy which provides asset protection of \$30,000. When he later applies for Medicaid, the insurance policy has paid a total of \$27,000. His resources are:

Savings	\$ 25,000
Checking	\$ 10,000
Total resources	\$ 35,000
ILTCP disregard	\$ 27,000
Countable resources	\$ 8,000
Resource limit	\$ 1,500

Applicant has excess resources, so application is denied.

2615.30.00 HOUSEHOLD GOODS AND PERSONAL EFFECTS

Household goods and personal effects are exempt as resources. ^(f16) Household goods are items of personal property customarily found in the home and used in connection with the maintenance and occupancy of the home. They include (but are not limited to) furniture, appliances, kitchen utensils, linens, and television sets.

Personal effects are those items of personal property which are worn or carried by an individual. Some examples are clothing, jewelry, and hobby items.

2615.35.00 INCOME PRODUCING PERSONAL PROPERTY

Income producing personal property consists of items such as farm machinery, livestock, tools, equipment, a vehicle used in a business, business inventory, and furnishings and appliances included with a rental unit.

Such personal property may be solely or jointly owned. If an applicant/recipient jointly owns personal property with another applicant/recipient of any assistance group (AG), for any program, proportionate shares of the property are to be assigned to the joint owners and considered as a resource in accordance with the program requirements. (Refer to Section 2605.10.05)

When a nonrecipient is one of the joint owners of real or personal property, the availability of the applicant's/recipient's proportionate share must be determined. If the applicant's/recipient's proportionate share is available to him, it is to be considered a resource as required by the specific assistance category, as discussed in the following sections.

2615.35.05 Income Producing Personal Property (F)

Work related equipment, such as the tools of a tradesman or the machinery of a farmer, which is essential to the employment or self-employment of an AG member, is exempt. (f17)

The equipment of a farmer remains exempt for one year after termination of the farm self-employment.

The entire value of any licensed vehicle such as, but not limited to, a taxi, tractor, or fishing boat, is excluded if one of the following apply:

the vehicle is used primarily (over 50% of the time the vehicle is used) for income producing purposes. Vehicles owned by farmers meeting this criteria remain exempt as a resource for one year from the date self-employment from farming is terminated.

the vehicle annually produces income consistent with its fair market value, even if used only on a seasonal basis; or

the vehicle is necessary for long distance travel, other than daily commuting, that is essential to the employment of an AG member; for example, the vehicle of a traveling salesperson or a migrant farm worker following the work stream.

The exemptions will also apply during temporary periods of unemployment when the vehicle is not in use; for example, if a taxi driver is ill or if a fishing boat is frozen in the harbor.

2615.35.10 Income Producing Personal Property (C, MED 2)

The equity value of farm or business equipment is a countable resource.

2615.35.15 Income Producing Personal Property (MED 1, 4)

Items of personal property utilized in the production of income are exempt resources. (f18) Examples of such are farm machinery, livestock, tools, equipment, a vehicle used in a business inventory, furnishings, and appliances included with a rental unit. This exemption does not, however, include income producing financial assets such as certificates of deposit, other interest bearing bank accounts, stocks, bonds, and so forth.

2615.40.00 PERSONAL PROPERTY USED TO PRODUCE FOOD (C, MED)

Personal property necessary for the production of food for home consumption is also exempt as a resource. (f19) This would include such things as garden equipment, farm implements, chickens, and livestock.

2615.45.00 STOCKS, BONDS, AND MUTUAL FUND SHARES

Stocks, mutual fund shares, and bonds may be solely or jointly owned. If jointly owned, refer to Section 2605.10.05 for instructions regarding personal property. Stocks, mutual fund shares, and bonds are considered in the eligibility determination as follows:

Stocks and Mutual Fund Shares

The current market value of shares of stock and mutual fund shares can be verified by reviewing the closing or "bid" price listed in the financial section of the newspaper, or by contacting a brokerage firm. The value to be considered as a resource is the current market value less the legitimate expenses related to the sale of the shares.

Municipal, Corporate, and Government Bonds

A bond is a written obligation to pay a sum of money at a future specified date. It is a negotiable instrument and is transferable.

The caseworker must verify the current market value of bonds by contacting a securities dealer. As with stocks and mutual fund shares, expenses related to the sale of a bond must be deducted from the current market value in order to determine the cash value to be counted as a resource.

United States Savings Bonds

A United States Savings Bond is an obligation of the federal government but, unlike other government bonds, it is not transferable in that it can only be sold back to the government.

Although many bonds have a table of values on the reverse side of the bond, it is often inaccurate because the interest rate may have changed since the bond was issued. Therefore, the caseworker should contact a bank to verify the current value. Also the Department of Treasury's web site can be used to calculate the value of bonds.

www.publicdebt.treas.gov/

For MED 1, savings bonds are considered immediately available if purchased on or after November 9, 2002. (f19a) This includes but is not limited to Series I and Series EE bonds. During the 6-month period following the date of issuance, bonds issued for face value are counted as a resource in the amount of the face value. Bonds issued at face value include Series I and Series HH bonds. Bonds such as Series EE which are issued at less than face value count as a resource in the amount of the purchase price. Bonds which were purchased prior to November 9, 2002 and are in the 6-month post-issuance period, become a countable resource in the sixth month after purchase. For example, a bond with an issue date in August becomes a countable resource in February; if the value of the bond causes excess resources for the recipient, the caseworker would discontinue Medicaid effective February 1.

For MED 2, Food Stamps and TANF, a U.S. Savings Bond is not a countable resource, during the six-month period after issuance.

2615.50.00 MORTGAGES, LOANS, AND PROMISSORY NOTES

A negotiable mortgage, loan, or promissory note held by an individual is a countable resource. Such items are negotiable when they can be sold (there is no legal barrier to the transfer of ownership). The value counted as a resource is the amount of the outstanding principal balance. Also, any payment received on the principal is a resource. The interest portion of any such payment is unearned income.

If the mortgage, loan, or note is non-negotiable, it is not a resource. In that case total payments received, whether principal or interest, are unearned income.

A mortgage, loan, or promissory note should be reviewed by the Local Office attorney to resolve questions of negotiability.

2615.55.00 LAND SALES CONTRACT

A land contract must be evaluated according to the requirements of each assistance category. Property which is being sold on contract is to be entered on screen AERRP.

2615.55.05 Land Sales Contract (F)

Sales contracts for the sale of land or buildings are not counted as resources to the owner of the contract if it is producing income consistent with its fair market value.
(f20)

2615.55.10 Land Sales Contract (C, MED 2)

When an applicant/recipient is the owner of a contract for the sale of real property, the equity value of the contract is counted toward the resource limit of the AG.

The equity value is equal to the principal balance remaining to be paid on the contract, which is referred to as a land contract or installment contract.

EXAMPLE:

A TANF applicant contracted to sell a piece of real estate for \$15,000. To date, \$8700 has been paid on the principal. The remainder, \$6300, is considered a resource to the applicant.

The equity value of a contract is to be considered a resource except when the contract contains a clause that prohibits the owner from selling or transferring the contract. In such an instance, the equity value is exempt. However, the portion of the periodic payment that represents payment toward the principal is counted as a resource.

2615.55.15 Land Sales Contract (MED 1, 4)

When property is being sold on land contract, the down payment is counted as a resource, and the ongoing payments are counted as income. The value of the contract is exempt as a resource.

2615.60.00 VEHICLES

Each assistance program has different requirements for considering vehicles. Requirements may differ between the Medicaid categories. The following sections describe how to determine the resource value of vehicles.

2615.60.05 Definition Of Vehicle (F, C, MED 1, 2, 4)

A vehicle is any conveyance that provides transportation or conveyance of persons or goods from place to place. Automobiles, trucks, vans, motorcycles, mopeds, boats, snowmobiles, and so forth are classified as vehicles.

2615.60.10 Exempt Vehicles (F)

Federal regulations allow States to align vehicle exemptions with other programs. In Indiana, FS rules match the Child Care Program guidelines in determining values for vehicles. All vehicles are basically considered as exempt if used for or intended to be used for household transportation. Therefore, most vehicles should be coded as HT unless the AG

claims the vehicle is specifically used for another purpose. For example: an AG states the car is a classic and only used to take to car shows.

Some vehicles are totally exempt as a resource for other reasons. The entire value of any licensed vehicle is excluded if one of the following applies: (f21)

The vehicle is used primarily (over 50% of the time the vehicle is used) for income producing purposes. Vehicles that meet these criteria and are owned by farmers remain exempt as a resource for one year from the date that self-employment from farming is terminated.

The vehicle annually produces income consistent with its fair market value, even if used only on a seasonal basis.

The exemptions will also apply during temporary periods of unemployment when the vehicle is not in use; for example, if a taxi driver is ill or if a fishing boat is frozen in the harbor.

The vehicle is necessary for long distance travel, other than daily commuting, that is essential to the employment of an AG member, such as the vehicle of a traveling salesperson or a migrant farm worker following the work stream.

The vehicle is used as the AG's home.

If the AG has a disabled member requiring transportation, that AG is entitled to vehicle exclusion. The exemption is limited to one vehicle per physically disabled member.

A member is considered to be disabled if the individual meets the criteria in Section 3210.10.25.05. A member is also considered to be disabled if the caseworker determines that the individual has a permanent or temporary physical disability. If the person appears to be disabled, no further verification is required. If the person does not appear to be disabled and a physical disability is claimed, then the AG shall be required to provide a statement from a physician.

The value of vehicles necessary to carry the primary source of fuel for heating or water for home use is exempt. This exception is only allowed when it is anticipated that the transported fuel or water will be the AG's primary source of fuel or water during the certification period. The AG should not be required to provide verification of the use of the vehicle unless the basis for the exclusion is questionable.

The value of vehicles used for household transportation regardless of the value, license or mechanical condition of the vehicle. The caseworker and the client must assign a scrap or junk value for inoperable vehicles that are not used for transportation. The book value assigned by the system must not be used for these vehicles.

2615.60.10.05 Non-Exempt Vehicles (F)

All licensed vehicles not exempted for a reason in Section 2615.60.10 shall individually be evaluated for fair market value. See Manual Section 2605.25.05 for instructions in determining the fair market value of vehicles.

All non-exempt licensed vehicles which are not used for transportation shall be assigned both a fair market value in excess of \$4650 and an equity value. Equity value is fair market value (FMV) minus any liens. The greater of the two amounts is counted as a resource.

2615.60.10.10 Unlicensed Vehicles (F)

An unlicensed vehicle which is not exempt is to be evaluated for equity value. The equity value is counted toward the AG's resource level.

2615.60.15 Treatment of Vehicles (C, MED 2)

Each AG is allowed an exclusion of \$5000 of the equity in one vehicle. Equity is the vehicle's fair market value less any liens.

If more than one vehicle is owned, the equity in each vehicle is to be determined. Since the \$5000 disregard can be applied to only one vehicle, it is to be applied to the vehicle with the highest equity value. No amount is excluded from the equity value of the remaining vehicle even if the value of the first vehicle is less than the \$5000 disregard.

2615.60.20 Treatment of Vehicles (MED 1, 4)

One vehicle of any value is exempt as a resource if, for the applicant/recipient or a member of his household:

it is necessary for employment;

it is necessary for regular medical treatment; or

it is modified for operation by or transportation of a handicapped person.

An applicant/recipient of QMB, QDW, SLMB, or QI is also entitled to have a vehicle exempted if:

it is necessary because of climate, terrain, distance, or similar factors to provide necessary transportation to perform essential daily activities.

If more than one vehicle can be exempt, the one with the highest equity should always be the one that is exempt.

When the eligibility determination is made for an institutionalized individual with a community spouse, one vehicle is exempt without having to meet any conditions.

If no vehicle is exempt, \$4500 of the fair market value of one vehicle is exempt. The excess market value over \$4500 is counted as a resource. Equity is not a consideration in applying this exemption.

The equity value of other vehicles is counted as a resource. The equity value is the fair market value minus total liens. If the other vehicle is used in the production of income, however, it is exempt for that reason.

2615.60.25 Recreational Vehicles And Equipment

Recreational vehicles such as campers, trailers, and boats must be counted according to their current equity value. If the recreational or other vehicle serves as the AG's home, it should be evaluated according to the guidelines in Sections 2620.15.05 and 2620.15.10.

2615.65.00 NON-RECURRING LUMP SUM PAYMENTS

A lump sum payment may include retroactive benefits such as SSI, Social Security, and VA benefits. A lump sum may also be a refund of Medicare Part B premiums, an insurance settlement, an inheritance, or other such nonrecurring payment.

For TANF (f21a) and FS eligibility purposes, lump sum payments are considered resources except for certain recurring lump sum payments. (See Section 2880.05 for income policy.)

Screen AERLS is scheduled when "yes" is answered to the lump sum payments question on screen AERRQ. To obtain a screen AERLS for additional individuals, push PF8.

2615.65.05 Lump Sum Payments (C, F)

Non-recurring lump sum payments are considered resources. Non-recurring lump sum payments are counted as resources starting in the month received, unless specifically excluded from consideration as a resource by other federal laws. Nonrecurring means this payment is not expected to be received as a lump sum again. It is a one time only payment. At the time it is anticipated or known that a certain lump sum payment will be received more than once it is considered recurring and counted as income to the AG (see Section 2880.05).

If the lump sum amount does not exceed the limit, an entry should be made in Running Record Comments to document the information received. No further action is required.

If a reported lump sum added to existing resources exceeds the allowable resource limit, the AG should be given an opportunity to update its entire resource statement during the certification period. If it declines to do so, or the amount of resources still exceeds the limit, assistance will be discontinued. At application point, eligibility is determined based on resources owned on the date of the interview.

2615.70.00 LIFE CARE CONTRACT (MED 1, 4)

An individual may have entered into an agreement with an institution under which he transferred his available assets to the institution in exchange for full maintenance and medical care in the institution for life. Such individual would normally be ineligible for assistance, as the institution has a legal responsibility to provide care even if the individual's resources are exhausted.

However, in the event the facility claims that the conditions of the contract are no longer applicable because the facility is financially unable to fulfill its legal responsibilities under the contract, the facility must prove this allegation.

The Local Office must require an accounting from the facility as to:

the amount of income and resources the individual assigned to the facility upon admission;

the cost of the individual's care as paid by the facility;

amount of assets refunded to the individual; and

amount of assets retained by the individual.

If such documentation proves the facility's allegation that the individual's funds have been expended on his care, then the individual can be eligible for Medicaid. (f23)

2615.75.00 TRUST FUNDS

All trusts which involve a member of the AG must be carefully evaluated to determine whether or not the trust principal will be counted as a resource.

2615.75.05 Trust Funds (F)

Any funds that is in a trust (or was transferred to a trust), the income produced by that trust will be considered inaccessible to the AG if all four of the following criteria apply:

The trust arrangement is not likely to cease during the certification period, and no AG member has the power to revoke the trust arrangement or change the name of the beneficiary during the certification period.

The trustee administering the funds is either:

a court, or an institution, corporation, or organization which is not under the direction or ownership of any AG member; or

an individual appointed by the court who has court imposed limitations placed on his use of the funds.

Trust investments made on behalf of the trust do not directly involve or assist any business or corporation under the control, direction, or influence of an AG member.

The funds held in irrevocable trust are either:

established from the AG's own funds, if the trustee uses the funds solely to make investments on behalf of the trust or to pay the educational or medical expense of any person named by the AG creating the trust; or

established from non-AG funds by a non-AG member.

2615.75.10 Trust Funds (C)

Trust funds are normally considered available if the recipient is the creator (settlor) of a revocable trust. Questions regarding the availability of trust funds are to be referred to the Local Office attorney for a decision.

2615.75.15 Trust Funds Established Prior to August 11, 1993 (MED)

The date on which a trust fund was established is a determining factor as to how the trust will be treated for Medicaid eligibility purposes. A change in federal law (OBRA-93) governs the treatment of trusts established on and after August 11, 1993 and is explained in next Section 2615.75.20.

A trust which was established prior to 8-11-93 by the applicant/recipient or his/her spouse as grantor with the applicant/recipient or spouse as the beneficiary is referred to as a "Medicaid qualifying trust". Unless such a trust was created in a will (i.e. a testamentary trust) or was created prior to 4-7-86 solely for the benefit of a mentally retarded individual residing in an ICF/MR, the principal of the trust is a countable resource. The amount to be counted as a resource is the maximum amount available to the beneficiary if the trustee were to exercise full discretion for distribution of the funds according to the terms of the trust. The trust is counted as a resource regardless of whether it is revocable or irrevocable, and whether or not the trustee actually exercises his/her full discretionary authority as allowed by the trust. A trust established by the individual's guardian or legal representative, who is acting on behalf of the individual, falls under the definition of a Medicaid qualifying trust.

In reviewing trust funds established prior to August 11, 1993 which do not meet the definition of a Medicaid qualifying trust, including testamentary trusts and those created prior to 4-7-86 for a mentally retarded individual residing in an ICF/MR, the Local Office must determine the "availability" of the trust. Refer to Section 2605.15 for the definition of availability.

2615.75.20 Trust Funds Established On and After August 11, 1993 (MED)

The policies in this section are applicable to trust funds established, other than by a will, on and after August 11, 1993, and are effective October 1, 1993. (f23a)

A trust fund is subject to the provision in this section if the trust is funded with assets of the applicant/recipient or spouse and is established by:

the applicant/recipient;

the spouse of the applicant/recipient;

anyone, including a court or administrative body, with legal authority to act on behalf of the applicant/recipient or spouse; or

anyone, including a court or administrative body, who is acting at the direction or request of the applicant/recipient or spouse.

Refer to Section 2615.75.20.05 which explains the types of trust funds which are exempt from these provisions.

These provisions apply if assets of the applicant/recipient were used to fund all or part of the trust. If other person(s)' assets are included, the portion of the trust representing the individual's assets will be evaluated for resource eligibility purposes.

A revocable trust is considered as follows:

- The entire trust principal is an available countable resource.
- Any payments made from the trust to or for the benefit of the individual are counted as income.
- Any payments from the trust which are not made to or for the benefit of the individual must be evaluated as a transfer of property. The look-back period for a transfer in this circumstance is 60 months.

An irrevocable trust is considered in the following manner:

- If the terms of the trust allow for payments to or for the benefit of the individual, under any circumstances, the following rules apply to that portion of the trust:
 - Payments from trust income or principal are treated as income.
 - Trust income which could be paid (but isn't being paid) is treated as an available resource.
 - The portion of the trust principal which could be paid (but isn't being paid) is treated as an available resource.
 - Payments made from the trust income or principal to another individual (and not for the benefit of the applicant/recipient or spouse) must be evaluated as a transfer of property. The look-

back period for a transfer in this circumstance is 36 months.

- If the terms of the trust do not allow part or all of the trust income or principal to be paid to or for the benefit of the individual under any circumstance, the value of that portion of the trust must be evaluated as a transfer of property. The look-back period in this situation is 60 months.

Payments made from revocable or irrevocable trusts are considered as being paid to the individual if such payments are paid directly to the individual or to someone acting on his behalf such as a guardian.

A payment for the benefit of the individual is one from which the individual derives a distinguishable benefit. Some examples include the purchase of clothing, and items for personal use such as a radio or television, and payment of the individual's utilities or rent. These payments are counted as income to the extent that they would ordinarily be counted as income for eligibility purposes. For example, if a trust pays the individual's medical expenses, the payment made directly to the medical provider is not countable income. Similarly, a payment to a utility company is income-in-kind, but only countable income-in-kind in accordance with Section 2815.15.

2615.75.20.05 Certain Trusts Receiving Special Consideration (Med)

The trust provisions explained in the preceding Section 2615.75.20 do not apply to certain special needs trusts and pooled trusts as defined below.

Special Needs Trust.

This is a trust containing the assets of a disabled applicant/recipient under age 65, which is set up by the applicant's/recipient's parent, grandparent, legal guardian or by a court, and is established for the sole benefit of the applicant/recipient. The individual must be disabled according to SSI criteria. Such a trust must contain a provision specifying that, upon the death of the individual, the State will receive all amounts remaining in the trust up to the total amount of Medicaid benefits paid on the individual's behalf.

Pooled Trusts.

A pooled trust is a trust containing the assets of a disabled applicant/recipient (disabled according to SSI criteria) which meets the following conditions:

- The trust is established and maintained by a non-profit association;
- A separate account is maintained for each of the beneficiaries, but for investment and management purposes the funds are commingled.
- The trust account is established by the applicant/recipient or his parent, grandparent, legal guardian or by a court for the sole benefit of the applicant/recipient.
- There is a provision which specifies that upon the death of the beneficiary, any funds not retained by the trust will be paid to the State up to the total amount of Medicaid benefits paid on the individual's behalf.

2615.75.20.10 Other Trusts Not Governed by OBRA-93 (MED)

Trusts established on or after August 11, 1993 that are not governed by OBRA-93 must be reviewed for the purpose of determining the "availability" of the trust. Some examples are trusts created by a will (testamentary trust) or by a third party other than a spouse or someone acting on behalf of the applicant/recipient, and funded with the assets of another person(s).

2615.80.00 LEGAL GUARDIANSHIP/REPRESENTATIVE PAYEE (C, MED)

An individual who serves as legal guardian/representative payee for another person is responsible for administering that person's funds and will be listed in bank records as having access to his bank accounts.

Resources that are managed by an individual's legal guardian, representative payee, or other person acting as an agent on behalf of the applicant/recipient are counted as resources to the individual. The resources are not counted as being available to the guardian/payee for his own use. However, the resources must be held in a form that clearly shows they belong to another individual. For example, a bank account that is held by the guardian/payee must be clearly designated as being administered by the guardian/payee on another person's behalf.

2615.80.05 Guardianship Accounts (F)

Any funds held by a guardian on behalf of another AG member or ineligible member shall be considered inaccessible as indicated in the court order. If the document establishing the guardianship designates that funds can be withdrawn for specific reasons (clothing, medical expenses) or a certain

amount can be withdrawn each year the funds are not countable unless/until they are withdrawn.

2615.85.00 RETROACTIVE PAYMENTS (F)

Payments for a past period of time are always considered resources. If a retroactive payment is received in addition to a payment for a current month, only the retroactive payment is a resource; the current month payment is income. (Refer to Section 2615.65)

2615.90.00 PRORATED INCOME (F, C, MED)

Income that is prorated (educational income, self-employment income) cannot be counted as a resource for any month during the prorated period. (f24)

2620.00.00 TYPES AND VALUE OF REAL PROPERTY RESOURCES

Real property consisting of land, which includes buildings or immovable objects attached permanently to the land, is to be evaluated as a resource according to the requirements of each assistance category.

2620.05.00 REAL PROPERTY OWNERSHIP

Real property is to be considered as a resource according to the requirements of each assistance category and the type of ownership of the property. (Refer to Sections 2605.05.00 and 2605.25.10.) Ownership of real property can consist of an interest in the title as follows:

Sole Ownership:

When property is solely owned by one individual, only he or his legal guardian may sell the ownership interest without conditions imposed by others. He is legally entitled to all income which may be generated from the property.

Joint Ownership:

Joint ownership is the holding of property by two or more persons who have an equal interest in the whole property. At the death of one of two joint owners, the survivor usually becomes the sole owner. At the death of one of three or more joint owners, the survivors become joint owners.

If an applicant/recipient jointly owns real property with another applicant/recipient of any assistance program, proportionate shares of the property are to be assigned to the joint owners

and considered as a resource in accordance with the program requirements.

When a nonrecipient is one of the joint owners of real property, the availability of the applicant's/recipient's proportionate share must be determined. (Refer to Section 2605.15.00.) If the applicant's/recipient's proportionate share is available to him, it is to be considered a resource as required by the specific assistance program. If the applicant's/recipient's proportionate share is not available to him, the resource is exempt.

Ownership in Common:

An ownership in common is the holding by two or more persons of separate titles in the same real estate. Each owner has a divided interest in the whole property. There is no right of survivorship to an ownership in common. It is not a joint ownership.

Ownership by the Entirety:

Ownership by the entirety refers to property owned by a husband and wife whereby each member has ownership interest in the whole property which is indivisible. Upon the death of one, the survivor becomes sole owner. When a marriage has been legally dissolved, the former spouses become owners in common of the property.

Ownership of real property can also consist of a legal right to the use of property without having title to it, as follows:

Life Estate:

A life estate conveys to an individual certain rights in property for his lifetime. The owner of a life estate generally has the right of possession and use of the property, as well as the right to obtain profits from the property, and to sell his life estate interest. However, the deed establishing the life estate may restrict one or more rights of the individual. Ownership of a life estate interest may affect eligibility for certain assistance programs. (Refer to Section 2605.25.10.05.)

Remainder Interest:

When an individual conveys property to one person for life (life estate holder) and to a second person (the remainderman) upon the death of the life estate holder, both a life estate interest and a remainder interest are created in the property. A remainderman cannot sell his interest in the property while the life estate holder is alive, unless otherwise specified in the deed. At the death of the life estate holder, the remainderman will hold full title. (Refer to Section 2605.25.10.05.)

Reversion Interest:

When an individual owner conveys property to another person for life (life estate holder) and to himself (the reversioner) upon the death of the life estate holder, both a life estate interest and a reversion interest are created in the property. A reversioner cannot sell the property while the life estate holder is alive. At the death of the life estate holder, the reversioner will hold full title. (Refer to Section 2605.25.10.05.)

2620.10.00 VERIFICATION OF REAL PROPERTY OWNERSHIP

Ownership of real property can be verified from one or more of the following sources:

- deed;
- mortgage;
- property tax receipts (current only);
- county treasurer's records; or
- title search.

2620.15.00 EXEMPT REAL PROPERTY RESOURCES

Certain real property is exempt from being considered as a resource. This determination is program specific so that the exemption or non-exemption of real property must be in accordance with program requirements as explained in the following passages.

2620.15.05 The Home (F, C, MED 2)

The home occupied by the AG and surrounding property which is not separated from the home by intervening property owned by others is exempt. Public rights of way, such as roads which run through the surrounding property and separate it from the home, will not affect the exemption of the property.

Buildings on the lot, such as sheds, outbuildings, and garages are also exempt.

2620.15.05.05 Temporarily Unoccupied Home (F, C, MED 2)

The home and surrounding property remains exempt when temporarily unoccupied for reasons of employment, training for future employment, illness, vacation, or uninhabitable due to casualty or natural disaster. In addition, the AG must intend to return if the home is to remain exempt. If the AG does not already own a home, the value of a lot purchased for construction of a home or placement of a trailer is exempt. If the new home is partially completed, the value of it is also exempt.

2620.15.10 The Home (MED 1, 4)

A home is exempt when it is the principal residence of:

the applicant/recipient;

the spouse of the applicant/recipient;

the parent of an applicant/recipient under age 18;

the biological or adoptive child under age 18 of the applicant/recipient; or

the biological or adoptive disabled or blind child age 18 or older of the applicant/recipient. (f25)

The home is defined as the shelter in which the individual resides, the land on which the shelter is located, and related outbuildings. In order to be considered part of the home, the surrounding land must adjoin the plot on which the home is located and not be separated from it by intervening real property owned by others. (A road does not separate land.)

Such property remains exempt until it is verified that none of the persons listed above intends to reside there or is physically able to reside there. (f26) Whenever there is a conflict between an individual's stated intent to return home and his apparent physical capability to do so, the caseworker is to obtain documentation from the individual's physician.

2620.15.10.05 Home Replacement (C, MED 4)

The proceeds from the sale of an exempt home can also be exempt from consideration under certain conditions. If, within a specified time period, the proceeds are used (or obligated to be used) to purchase a replacement home and cover the costs incurred in occupying it, the proceeds can

be disregarded. The individual must be committed to the transactions within the "home replacement period", the time period beginning with the date of the receipt of the proceeds and ending on the last day of the third full month following receipt of the funds.

2620.15.15 Income Producing Real Property (F)

Certain types of non-homestead properties are exempt as explained below:

Property is exempt which annually produces income consistent with its fair market value even if used only on a seasonal basis, such as time share property. Vacation homes which do not produce income consistent with the fair market value are not exempt.

When it is necessary to determine if property is producing income consistent with its fair market value, the worker may contact local realtors, local tax assessors, the Small Business Administration, Farmer's Home Administration, or other similar sources to determine the prevailing rate of return, e.g., square foot rental for similar usage or real property in the area.

Property such as farm land and rental homes which is essential to the employment or the self-employment of an AG member is exempt.

Property exempt for the self-employment of a farmer remains exempt for one year after the termination of the self-employment.

Rental homes which are used by AGs for vacation purposes at some time during the year which annually produce income consistent with their fair market value are exempt.

Installment contracts for the sale of land or buildings (if the contract or agreement is producing income consistent with its market value) are exempt. The value of the property sold under the installment contract or held as security in exchange for a purchase price consistent with the fair market value of that property is also exempt.

2620.15.20 Income Producing Real Property (MED 1, 4)

Income producing property is exempt if the income from it is greater than the expenses of ownership. This exemption also applies to property being sold on land contract. The ownership of income producing property must be verified to

determine who is legally entitled to the income from the property.

2620.15.25 Food Producing Real Property (MED 1, 4)

Real property used for producing food for home consumption is exempt. (f27) An example of such property would be a garden plot.

2620.15.30 Real Property Owned By A Community Spouse (MED 1)

For purposes of Medicaid eligibility, when the resources of an institutionalized spouse and a community spouse are assessed to establish the amount of combined resources for spousal share determination, the equity value of real property owned solely by the community spouse (or jointly with someone other than the institutionalized spouse) is not included. Additionally, such property is not considered in the resource eligibility determination of the institutionalized spouse.

2620.20.00 TREATMENT OF NON-EXEMPT REAL PROPERTY

Real property that is not classified as exempt is taken into consideration in the resource eligibility determination. Nonexempt real property must be considered under the requirements of each assistance program as explained in the following passages.

2620.20.05 Counting Nonexempt Real Property (F)

The equity value (fair market value minus liens) of nonexempt real property is to be counted as a resource. However, real property that the AG is making a good faith effort to sell at a reasonable price is exempt as a resource. The caseworker must verify that the property is for sale and that a reasonable offer for the property has not been refused. Verification may be obtained through a collateral contact, a newspaper ad, or a real estate broker. Also, non-homestead property used to produce food would not be counted as a resource.

2620.20.10 Offering Property For Sale Or Rent (MED 1)

Non-exempt real property which is available must be offered for sale or rent at fair market value (FMV) as a condition of eligibility regardless of the value of the property unless the applicant/recipient is in a long term care facility and has a community spouse. In this situation, the provision requiring nonexempt real property to be offered for sale or rent can be invoked only if the equity value causes excess resources. This requirement is also applied to ownership of a life or remainder interest in the

property. It also applies to a life or remainder interest in mineral rights.

When it is determined that the applicant/recipient or his financially responsible relatives own property which is not exempt and is available, the owner of the property must sign the form, FI 0118, Agreement to Offer Property For Sale or Rent and Repayment Agreement. If the owner of the property refuses to sign the form, the applicant/recipient is ineligible for Medicaid.

If the property owner complies and signs the form, FI 0118, he has 30 days from the date he signed the form or from the date the notice of eligibility is mailed, whichever is later, to offer the property for sale or rent at CMV. To be considered offered for sale or rent, a sign must be placed at a conspicuous location on the property, stating clearly that the property is for sale (or for rent) and giving the individual's name and address (or telephone number), or listing the property with a realtor.

When the AG owns property which is not exempt and is available, enter a "?" on screen AERRP in the "agree to sell" and "agree to rent" fields, unless the nonexempt property is currently for sale or rent. If ICES determines that it must be offered for sale or rent, the case will be pended and indicated on screen AERED.

When the property owner is contacted and signs the Form 118, Agreement to Offer Property for Sale or Rent and Repayment Agreement, access screen AERRP, change the "?" to "Y" and enter the date it was signed. (If he refuses to sign it, enter "N" in the appropriate fields.) If "Y" was entered, screen AERED will then indicate the client has passed resource eligibility.

ICES will monitor the 30 day period that is allowed to offer the property for sale or rent and ICES will generate an alert. When the property owner signs the Form 118A, Report on Property for Sale or Rent, access screen AERRP and enter "Y" in the appropriate field. If the owner does not offer the property for sale or rent, enter "N" in the appropriate field and assistance will be discontinued. (f28)

2620.20.10.05 Offering Property For Sale Or Rent (MED 4)

The provision requiring nonexempt real property to be offered for sale or rent as is explained in the preceding passage, 2620.20.10, can be invoked only if the equity value of the real property causes excess resources. If the applicant/recipient is within the applicable resource limitation when the equity value of nonexempt real property is counted, the property owner is not required to agree to offer it for sale or rent. If the equity value does cause

excess resources, the agreement to offer the real property for sale or rent must be signed.

When the AG owns nonexempt real property, enter a "?" on screen AERRP in the "agree to sell" and "agree to rent" fields, unless the nonexempt property is currently for sale or rent. If ICES determines that it must be offered for sale or rent, screen AERED will display the amount of excess resources in the "sale/rent" field and the case will be pended. Follow instructions in Section 2620.20.10 regarding compliance with the requirement to offer the property for sale or rent.

2620.20.15 Exemption Of Real Property (C)

The equity value of any real property other than the home is a resource and must be counted toward the resource limitation. If the AG has excess resources due to the equity value of nonexempt real property, the property can be exempted for one six month period if the owner is willing to offer it for sale and agrees to repay Cash Assistance received during the period that the property is exempted.
(f29)

If the applicant/recipient is unwilling to offer the property for sale, the case is to be denied/discontinued due to excess resources.

If the applicant/recipient chooses to comply, or if the property is already up for sale, Form 118, Agreement to Offer Property for Sale and Repay Public Assistance, must be signed. The signature on the form must be witnessed by a caseworker. The date that the agreement was signed must be entered on screen AERRP. Form 749 is a twofold agreement. First, the owner of the property must agree to offer it for sale. Second, there is an agreement to repay assistance that was received during the disposal period.

Assistance can be awarded upon the signing of the Form 118, if all other eligibility factors are met. The property must be offered for sale within 30 days of the date the Local Office mails the notice of eligibility or of the date the Form 118 is signed, whichever is later. ICES will monitor the 30 day period that is allowed to actually offer the property for sale or rent and will issue an alert. The owner must list the property with a realtor or place a sign in a conspicuous location on the property. The sign must clearly indicate the property is for sale and provide instructions for contacting the seller. The selling price should be a reasonable figure reflecting the true value of the property on the market.

Within the 30 day limit, the caseworker must verify and document in the case record that the property has been offered for sale. Use of Form 118A, Report on Property for Sale or Rent, is suggested, but not mandatory. The caseworker must also stress to the recipient his responsibility to notify the caseworker when the property is sold.

When the Form 118 is signed and the property is offered for sale, the equity value of the property is exempted as a resource for up to six months. The six month disposal period begins on the date Form 118 is signed. It ends on the last day of the sixth month.

The AG is entitled to only one six month disposal period. (f30) This total can be accumulated during one unbroken six month period or in increments, if there is intermittent assistance.

2620.20.15.05 Property Not Marketed Within 30 Days (C)

If an applicant/recipient signs Form 118 but does not then offer the property for sale within 30 days, the case must be discontinued. (Refer to Section 2620.20.15.) Timely notice must be issued early enough to allow an effective date for the action which is the first of the month after the expiration of the 30 day marketing period. The reason for discontinuance would be excess resources. Cash benefits paid during this period are overpayments.

2620.20.15.10 Overpayment Calculation After Property Sale (C)

In the event the exempted property sells, there must be a determination of the net proceeds to the recipient. Net proceeds are defined as the gross selling price minus all expenses relating to the sale of the property, for example, realtor and/or attorney fees, taxes, liens, closing costs paid by the seller, and so forth. If the net proceeds, combined with all other resources from the original resource determination, are within the resource limit, no overpayment would exist. (f31) Continuing eligibility must be determined.

2620.20.15.15 Property Unsold After Six Months (C)

If the exempted property is marketed for six months and fails to sell, its equity value must, at that point, be counted toward the resource limitation. Eligibility for continuing payments ceases, unless the recipient no longer has excess resources due to the disposal of resources other than the property. If assistance is to be discontinued, timely notice must be issued so as to make the effective date of discontinuance the first of the month after the six

month disposal period ends. If the AG becomes ineligible for other reasons during the disposal period, the case is to be discontinued in the usual manner.

Regardless of whether ineligibility occurs during the six month period or afterwards, the amount of the resulting overpayment may not be calculated nor may recovery be initiated until the property is sold. The situation must be monitored regarding a continuing good faith effort to dispose of the property. When the property is sold, recovery of the overpayment should be initiated. (f32)

If the net proceeds, together with all other resources from the original resource determination, exceed the resource limit, there is an overpayment. The amount to be recovered, however, cannot exceed the net proceeds from the sale of the property. (f33) Continuing eligibility based on current resources and all other factors must be determined.

The recovery of any overpayments unrelated to the sale of the property and the conditional payment agreement, such as an overpayment resulting from unreported earnings, would not be delayed pending the sale of the property.

2625.00.00 PLAN FOR ACHIEVING SELF-SUPPORT

There are two kinds of Plans for Achieving Self-Support (PASS). One is an SSI PASS which is approved by the Social Security Administration for SSI eligibility purposes. The other is a Medicaid PASS which is approved by the Division of Family and Children, Central Office, for Medicaid eligibility purposes. F, MED 1, and MED 4 have provisions to exempt resources specified in a PASS under certain circumstances as explained in the following two sections. Med 2, C, and T have no provisions to exempt a PASS.

2625.05.00 PLAN FOR ACHIEVING SELF-SUPPORT (F)

Resources necessary for the fulfillment of a Plan for Achieving Self-Support (PASS) under SSI are exempt.

2625.10.00 PLAN FOR ACHIEVING SELF-SUPPORT (MED 1, 4)

The policies explained in this section apply only to the MA B, MA G, MA L, SLMB (MA J), and QI (MA I, MA K) categories of assistance.

A PASS can be developed for an individual who needs to set aside a part of his resources for a specified period of time necessary to achieve an occupational objective. The resources could be used for current expenditures or saved for a later planned expenditure to achieve a work-related goal such as education, vocational training, starting a business, or purchasing work-related equipment.

For individuals in the MA B category (SSI recipients and non-SSI recipients) as well as non-SSI recipients in the MA L, MA G, MA J, MA I, and MA K categories, a PASS must be approved by the Central Office of the Division of Family and Children. (f34) In order for a PASS to be approved, the Local Office must submit a letter to the Central Office containing:

the description and objectives of the plan as discussed with the applicant/recipient;

the source and amount of all income and/or resources and the amounts of each that are to be used in the plan;

the length of time the plan is to operate; and

any other pertinent information including documentation from the Social Security Administration of an SSI recipient's approved PASS.

This letter is to be prepared in triplicate, with two copies sent to the Central Office, Family Independence Section, Medicaid Eligibility Unit, and one retained in the case record. The Central Office will forward a copy to the Blind and Visually Impaired Section of the Division of Aging and Rehabilitative Services for their recommendation. The Central Office will then review the self-support plan and recommendation from the Blind and Visually Impaired Section of the Division of Aging and Rehabilitative Services, and notify the Local Office by letter of approval or disapproval. The Local Office will then notify the applicant/recipient. If the plan is approved, the amount of income and resources disregarded and time period for the disregard, must be documented in the case record. A Medicaid approved PASS is coded in ICES as PM.

In the QMB, QDW, SLMB, and QI eligibility determinations of SSI recipients who have a PASS approved by the Social Security Administration, a separate approval from the Central Office is not required. A copy of SSA's documentation should be obtained and filed in the case record. An SSI PASS is coded in ICES as PS.

A PASS under the MA B category can be approved for a period not to exceed 12 months. For MA L, MA G, MA J, MA I and MA K the PASS exemption will be for at least 18 months and may be extended up to 36 months.

2626.00.00 INDEPENDENCE AND SELF-SUFFICIENCY ACCOUNTS
(MED 1)

This section applies to MADW and MADI.

Funds that have been set aside by the applicant/recipient for "independence and self-sufficiency" are disregarded as resources in an amount up \$20,000 as approved by the Central Office of the Family and Social Services Administration. (f33a) The purpose of an Independence and Self-Sufficiency Account (ISSA) is to allow the M.E.D. Works member to save money in order to purchase goods or services that will increase or maintain his employability or independence. An ISSA will not be approved for any item or service that the person is entitled to receive under Medicaid or any other public program. Accounts for general savings or personal recreation will not be approved.

State Form 50929, "MED Works Request for Independence and Self-sufficiency Account", is to be provided to any Medicaid applicant or recipient in MADW/I who answers "Y" to the question on AEDWI. A 30 day due date is to be specified; however a denial of an application or discontinuance of benefits for failure to turn in the ISSA form i.e., "failure to cooperate" is not appropriate. If the form is not submitted by the individual within 30 days, the response to the question must be changed from "Yes" to "No". The applicant can submit the form at any time while the application remains pending. Workers should provide the State Form 50929 to any applicant/recipient who asks for it or who indicates the possibility of saving for an ISSA. However, a "yes" response should be entered on AEDWI only when the applicant/recipient answers the question definitively, or at some time after the interview submits a completed form.

When the completed and signed ISSA form is received by the worker, it is to be forwarded for approval to MS07 Office of Medicaid Policy and Planning, Medicaid Eligibility.

EXAMPLE 1

Applicant #1 states in his application interview that he is saving money on a down payment for a car and he does want consideration for this as an ISSA. The worker completes the top portion of the form, enters the 30 day due date, signs and dates it, and gives it to him. A determination of excess resources cannot be made on #1's application during the 30-day time frame or while the Central Office is reviewing the ISSA request.

EXAMPLE 2

During Recipient #2's redetermination interview, she says she is thinking about how she might use an ISSA to help her get a better job. She doesn't have definitive plans and does not have excess resources at the time. The worker completes the top portion of the form but does not give a due date, and enters "No" on AEDWI. Recipient #2 is determined to remain eligible and MADW is authorized. Several weeks later, the worker receives the completed Form 50929. She signs it, enters "yes" on AEDWI, and forwards the form to Central Office.

The Central Office will review the request in accordance with state law and regulations, make a decision, and enter it on AEWDI. The decision will be sent to the applicant/recipient and a copy to the worker. ICES will send an alert.

An ISS account does not have to be a separate account in order to be disregarded. The disregard will be applied to the person's total liquid assets. It is applied only to resources owned by the applicant/recipient or owned jointly with the applicant's/recipient's spouse. The disregard cannot be applied to resources owned solely by the spouse.

An approved ISSA must be reviewed by the worker at each redetermination. If the estimated date that the items/services were to be purchased has passed and the item/service has not been purchased, the recipient must submit an updated request Form 50929. If the recipient does not do so within 30 days, the worker is to send an e-mail to the PAL Mailbox on Outlook. It is not necessary for these e-mails to PAL to go through the Policy Contact Person at the local office. The worker can send them directly by entering in the subject field "ISSA UPDATE". Do not include the recipient's name or case number in the subject field. The Central Office will then end date the ISS account, and it will no longer be an allowable resource disregard.

M.E.D. Works members have an obligation to report any changes in their ISSA. If their plans or goals change, they must report this to their worker. If a request for an ISSA is disapproved or the amount is reduced, the individual has the right to appeal this determination. The letter of decision that Central Office issues will explain these obligations and appeal rights.

2630.00.00**RESOURCES EXEMPTED UNDER FEDERAL LAW**

Each program has specific resources which are exempt by federal law. These exemptions are discussed in the following sections.

2630.05.00 BENEFITS UNDER FEDERAL NUTRITION PROGRAM

Certain benefits which are intended to meet the nutritional needs of low income individuals are exempt. (f35)

2630.05.05 WIC Benefits

Benefits received through the Women's, Infant's, and Children's (WIC) Program are exempt. (f36) These payments are usually made through vouchers and can be used to purchase specific items for pregnant or nursing women and young children.

2630.05.10 Older Americans Act (C, MED 1, 2, 4)

Benefits received under Title VII, Nutrition Program for the Elderly of the Older Americans Act of 1965, as amended, are exempt. (f37)

2630.05.15 Child Nutrition Act (C, MED 1, 2, 4)

The value of supplemental food assistance received under the Child Nutrition Act of 1966, as amended, is exempt. (f38)

Passage Number

2630.05.20 National School Lunch Act (C, MED 1, 2, 4)

The special food service program for children under the National School Lunch Act, as amended, is exempt. (f39)

2630.05.25 Food Stamps/Commodities

The value of food stamps and the value of United States Department of Agriculture donated foods (surplus commodities), are exempt. (f40)

2630.10.00 HUD ASSISTANCE

Housing assistance paid directly or indirectly by HUD under the following is exempt:

the Housing Authorization Act of 1976 with respect to a dwelling unit under the United States Housing Act of 1937, as amended (Sections 8, 10, and 23 and the Experimental Housing Allowance Program);

the National Housing Act (loans for housing renovation, mortgage insurance, and investment insurance);

Title V of the Housing Act of 1949 (loans to elderly individuals, farmers, and developers for the construction, improvement, or replacement of farm homes and other buildings); and

Section 101 of the Housing and Urban Development Act of 1965 (payments to certain mortgagors on behalf of tenants with low income who are displaced by government action, age 62 or over, physically handicapped, living in substandard housing, present or past tenants of dwellings damaged or destroyed by disaster, or whose head of the household is on active duty) with the armed forces). (f41)

2630.15.00 RELOCATION ASSISTANCE ACT PAYMENTS

Relocation assistance provided under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 is exempt. (f42)

2630.20.00 HOME ENERGY ASSISTANCE PAYMENTS

Payments received through the Home Energy Assistance Program (EAP) are exempt. (f43)

2630.25.00 ASSISTANCE FOR CERTAIN INDIAN TRIBES/ALASKAN NATIVES

The following Section discusses federal law pertaining to Indian tribes and Alaska natives.

P.L. 92-203, section 29, dated 1/2/76, the Alaska Native Claims Settlement Act, and Section 15 of P.L. 100-241, 2/3/88, the Alaska Native Claims Settlement Act Amendments of 1987 - All compensation (including cash, stock, partnership interest, land, interest in land, and other benefits) received under this Act are excluded from income and resources.

P.L. 93-134, the Judgment Award Authorization Act, as amended by P.L. 97-458, Section 1407, 11/12/83 and P.L. 98-64, 8/2/83, the Per Capita Distribution Act. P.L. 97-458 required the exclusion of per capita payments under the Indian Judgment Fund Act (judgment awards) of \$2000 or less from income and resources. The exclusion applies to each payment made to each individual. Initial purchases made with exempt payments distributed between 1/1/82 and 1/12/83 are excluded from resources to the extent that excluded funds were used. P.L. 98-64 extended the exclusion to cover per capita payments from funds which are held in trust by the Secretary of Interior (trust fund distributions).

P.L. 93-531, Section 22 - Relocation assistance payments to members of the Navajo and Hopi Tribes are excluded from income and resources.

P.L. 94-114, Section 6 - Income derived from certain submarginal land held in trust for certain Indian tribes is excluded from income and resources. The tribes that may benefit are:

- Bad River Band of the Lake Superior Tribe of Chippewa Indians of Wisconsin
- Blackfeet Tribe
- Cherokee Nation of Oklahoma
- Cheyenne River Sioux Tribe
- Crow Creek Sioux Tribe
- Lower Brule Sioux Tribe
- Devils Lake Sioux Tribe
- Fort Belknap Indian Community
- Assiniboine and Sioux Tribes
- Lac Courte Oreilles Band of Lake Superior Chippewa Indians
- Keweenaw Bay Indian Community
- Minnesota Chippewa Tribe
- Navajo Tribe

P.L. 94-189, Section 6, 12/31/75 - Funds distributed per capita to the Sac and Fox Indians or held in trust are excluded from income and resources. The funds are divided between members of the Sac and Fox Tribe of the Mississippi in Iowa. The judgments were awarded in Indian Claims Commission dockets numbered 219, 153, 135, 158, 231, 83, and 95.

P.L. 94-540 - Payments from the disposition of funds to the Grand River Band of Ottawa Indians are excluded from income and resources.

P.L. 95-433, Section 2 - Indian Claims Commission payments made pursuant to this Public Law to the Confederated Tribes and Bands of the Yakima Indian Nation and the Apache Tribe of the Mescalero Reservation are excluded from income and resources.

P.L. 96-420, Section 9(c), 10/10/80, Maine Indian Claims Settlement Act of 1980 - Payments made to the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet are excluded from income and resources.

P.L. 97-403 - Payments to the Turtle Mountain Band of Chippewas, Arizona are excluded from income and resources.

P.L. 97-408 - Payments to the Blackfeet, Grosventre, and Assiniboine tribes, Montana, and the Papago, Arizona, are excluded from income and resources.

P.L. 98-123, Section 3, 10/13/83 - Funds distributed under this Act to members of the Red Lake Band of Chippewa Indians are excluded from income and resources. Funds were awarded in docket number 15-72 of the United States Court of Claims.

P.L. 98-124, Section 5 - Per capita and interest payments made to members of the Assiniboine Tribe of the Fort Belknap Indian Community, Montana, and the Assiniboine Tribe of the Fort Peck Indian Reservation, Montana, under this Act are excluded from income and resources. Funds were awarded in docket 10-81L.

P.L. 98-500, Section 8, 10/17/84, Old Age Assistance Claims Settlement Act, provides that funds made to heirs of deceased Indians under this Act shall not be considered as income or resources nor otherwise used to reduce or deny food stamp benefits except for per capita shares in excess of \$2000.

P.L. 99-146, Section 6(b), 11/11/85 - Funds distributed per capita or held in trust for members of the Chippewas of Lake Superior are excluded from income and resources. Judgments were awarded in Dockets numbered 18-S, 18-U, 18-C and 18-T. Dockets 18-S and 18-U are divided among the following reservations:

Wisconsin

- Bad River Reservation
- Lac du Flambeau Reservation
- Lac Courte Oreilles Reservation
- Sokaogon Chippewa Community
- Red Cliff Reservation
- St. Croix Reservation

Michigan

- Keweenaw Bay Indian Community (L'Anse, Lac Vieux Desert, and Ontonagon Bands)

Minnesota

- Fond du Lac Reservation
- Grand Portage Reservation
- Nett Lake Reservation (including Vermillion Lake and Deer Creek)
- White Earth Reservation

Under Dockets 18-C and 18-T funds are given to the Lac Courte Oreilles Band of the Lake Superior Bands of Chippewa Indians of the Lac Courte Oreilles Reservation of Wisconsin, the Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, the Sokaogon Chippewa Community of the Mole Lake Band of Chippewa Indians, and the St. Croix Chippewa Indians of Wisconsin.

P.L. 99-264, White Earth Reservation Land Settlement Act of 1985, 3/24/86, Section 16 excludes moneys paid under this Act from income and resources. This Act involves members of the White Earth Band of Chippewa Indians in Minnesota.

P.L. 99-346, Section 6(b)(2) - Payments to the Saginaw Chippewa Indian Tribe of Michigan are excluded from income and resources.

P.L. 99-377, Section 4(b), 8/8/86 - Funds distributed per capita to the Chippewas of the Mississippi or held in trust under this Act are excluded from income and resources. The judgments were awarded in Docket Number 18-S. The funds are divided by reservation affiliation for the Mille Lac Reservation, Minnesota; White Earth Reservation, Minnesota; and Leech Lake Reservation, Minnesota.

P.L. 101-41, 6/21/89, the Puyallup Tribe of Indians Settlement Act of 1989, Section 10(b) provides that nothing in this Act shall affect the eligibility of the Tribe or any of its members for any Federal program. Section 10(c) provides that none of the funds, assets or income from the trust fund established in Section 6(b) shall at any time be used as a basis for denying or reducing funds to the Tribe or its members under any Federal, State or local program. (The Puyallup Tribe is located in the State of Washington.)

P.L. 101-277, 4/30/90, funds appropriated in satisfaction of judgments awarded to the Seminole Indians in Dockets 73, 151 and 73-A of the Indian Claims Commission are excluded from income and resources except for per capita payments in excess of \$2000. Payments were allocated to the Seminole Nation of Oklahoma, the Seminole Tribe of Florida, the Miccosukee Tribe of Indians of Florida and the independent Seminole Indians of Florida.

P.L. 101-503, Section 8(b), Seneca Nation Settlement Act of 1990, dated 11/3/90, provides that none of the payments, funds or distributions authorized, established, or directed by this Act, and none of the income derived therefrom, shall affect the eligibility of the Seneca Nation or its members for, or be used as a basis for denying or reducing funds under, any Federal program.

P.L. 93-134, Section 8, 10/19/73, the Indian Tribal Judgment Fund Use or Distribution Act, as amended by P.L. 103-66, Section 13736, 10/7/93, provides that interest of individual Indians in trust or restricted lands shall not be considered a resource and up to \$2000 per year of income received by individual Indians that is derived from such interests shall not be considered income in determining eligibility for assistance under the Social Security Act or any other Federal or federally assisted program.

If other types, not on this list, are encountered, contact the Central Office for guidance.

2630.30.00 COMPENSATION TO JAPANESE/ALEUTS (F, C, MED 2)

Payments made under P.L. 100-383 to U.S. citizens of Japanese ancestry and resident Japanese aliens of up to \$20,000 each, and payments to Aleuts of up to \$12,000 each, are exempt.

2630.30.05 Compensation To Japanese/Aleuts (MED 1, 4)

Restitution payments by the U.S. Government to individual Japanese-Americans (or, if deceased, to their survivors) and Aleuts who were interned or relocated during World War II are exempt from income and resources. Also, restitution payments from the Canadian government to individual Japanese-Canadians who were interned or relocated during World War II are exempt resources. (f44)

2630.35.00 GERMAN REPARATION PAYMENTS (F, MED 1, 4)

German reparation payments are payments made by the Republic of Germany to certain survivors of the Holocaust and may be received periodically or in a lump sum. They are exempt resources by federal law. (f45)

**2630.40.00 DOMESTIC VOLUNTEER SERVICE ACT COMPENSATION
(F, C, MED 1, 2, 4)**

The following is exempt as a resource by federal law:

Compensation of any kind (including stipends, supportive services, remuneration for out-of-pocket expenses, and so forth) provided to individuals who are volunteers in programs administered directly or through sponsoring agencies by the United States action Agency under Titles I, II, and III of the Domestic Volunteer Service Act of 1973, is exempt. These programs include the Foster Grandparents Program, Retired Senior Volunteer Program (RSVP), Service Corps of Retired Executives (SCORE), Active Corps of Executives (ACE), Action Cooperative Volunteer Program (ACV), Senior Companion Program, Volunteers in Service to America (VISTA), and University Year for Action (UYA). (f46)

2630.45.00 PAYMENTS TO STUDENTS

Education grants and loans received under Title IV of the Higher Education Act or the Bureau of Indian Affairs (BIA) programs are exempt for undergraduate students for TANF and Medicaid. (f47) For Food Stamps, this income is exempt for all students. (f48) These exclusions are allowed for students in high school and GED programs as well as post-secondary education. Examples include:

Basic Educational Opportunity Grants (BEOG);
Supplemental Educational Opportunity Grants (SEOG);
College Work Study;
National Direct Student Loans (NDSL);
Guaranteed Student Loans;
Pell Grants; and
Federal Perkins Loans.

Refer to Section 2860.05 for a comprehensive listing.

2630.50.00 YOUTH PROJECT PAYMENTS (F)

The payments received from the Youth Incentive Entitlement Pilot Projects, the Youth Community Conservation and Improvement Projects, and the Youth Employment and Training Programs under Title IV of the Comprehensive Employment and Training Act of 1978 (f49) are exempt resources by federal law.

2630.55.00 DISASTER ASSISTANCE PAYMENTS

Assistance received under the Disaster and Emergency Assistance Act of 1974 (f50) or another federal statute because of a presidentially declared major disaster is permanently exempted as a resource.

2630.60.00 RADIATION EXPOSURE ACT BENEFITS

Payments made from the Radiation Exposure Compensation Trust Fund established under the Radiation Exposure Compensation Act are exempt resources. (f51)

2630.65.00 AGENT ORANGE SETTLEMENT ACT PAYMENTS

Payments made from the Agent Orange settlement fund or any fund established as a result of the Agent Orange product liability litigation, are exempt from resource consideration. (f52)

2630.70.00 RESOURCES EXEMPTED BY TANF/SSI (F)

All resources of an AG member who receives SSI or TANF are exempt for Food Stamp purposes. (f53)

2630.75.00 PROPERTY SUBJECT TO LIEN (F)

When non-liquid real or personal property has a lien against it, solely as a result of a loan for business purposes, and the security or lien agreement prohibits the sale of the property, the property is exempt as a resource. However, the lien must have been the result of a loan for business purposes for this exemption to apply. (f54)

2630.80.00 PROPERTY NECESSARY TO VEHICLE MAINTENANCE (F)

An exemption is applied to real or personal property necessary to the maintenance or use of a vehicle which has been exempted because it is used for specific income producing purposes or for long distance travel essential to the employment of an AG member. This exemption applies only to that portion of the property which is necessary to the maintenance or use of the exempted vehicles. (f55) An example would be a building utilized to house a vehicle which is used for employment when not in use.

2630.85.00 FEDERAL TAX REFUND PAYMENTS (F)

Federal Tax refunds received after December 31, 2009 is disregarded as income in the month received and as a resource for a period of 12 months for all federal means-tested programs including TANF, Food Stamps and Medicaid. The resource exclusion last for 12 months.

The federal tax refund is to be excluded as a resource by subtracting any tax refund received by the AG in the last 12 months from the AG's resources. If the difference between the resources and the amount of the federal tax refund is less than the resource limit, the AG meets the resource limit.

Example: AG applies today and has total resources of \$4000. AG verified receipt of a federal refund in the amount of

\$3287 received in January of this year. This federal refund amount would need to be deducted from the total resources and the difference of \$713 would be countable as a resource. This calculation will need to be completed off-line and requires documentation in CLRC.

2630.85.05 Earned Income Tax Credit (EITC) Payments (C, MED 2)

Payments from federal income taxes for earned income tax credit (EITC) are exempt as resources. (f56)

2630.90.00 INCOME/RESOURCES/CONTRIBUTIONS OF SSI RECIPIENT (C, MED 2)

The income, resources, and contributions of a Supplemental Security Income (SSI) recipient are exempt as resources, with the exception of Medicaid eligibility is under the MA U category. The MA U recipient/applicant's SSI derived resources are counted in determining their eligibility for MA U. (f57)

2630.95.00 INDIVIDUAL DEVELOPMENT ACCOUNT

Individual Development Accounts (IDA) operated under the Assets for Independence Act (AFIA), Public Law 106-554, are established by or on behalf of eligible TANF recipients for the purpose of purchasing a home, attending postsecondary education or purchasing a business. Eligible individuals may receive matching funds for their IDA through a community development corporation (CDC). Any funds deposited in an IDA are exempt from being counted as a resource. (See also IPPM 2850.05.00)

2635.00.00 RESOURCE ELIGIBILITY DETERMINATION

Resource eligibility requirements for each assistance program must be met for eligibility to be established. The caseworker is responsible for obtaining and verifying all pertinent information regarding the resources of the appropriate AG members. The consideration of resources for each assistance program will vary according to the age, marital status, and living arrangement of the AG members. The following sections explain the methods used in determining resource eligibility.

2635.05.00 RESOURCES OF AG MEMBERS (F)

Countable resources owned by the following individuals must be considered in the determination of the AG's resource eligibility:

All participating AG members;

IPV ineligible members;

Members ineligible due to SSN noncompliance;

Members disqualified due to noncompliance with IMPACT or Work Registration requirements;

Members who are ineligible aliens.

Resources of non-AG members, including ineligible students, are not included in the resource determination.

2635.05.05 Resource Eligibility Determination For Aliens (F, C)

The resource eligibility determination for aliens must be established whether or not the alien has been sponsored.

2635.05.10 Resource Deemed From Alien's Sponsor/Spouse (F, C)

Within the C category, the policy stated in this section only applies to ADCR and ADCU.

In the resource evaluation for aliens, the caseworker must determine whether the alien has been sponsored. A sponsor is defined as any individual, or any public or private agency or organization that executed an affidavit of support or similar agreement on behalf of an alien (who is not the sponsor's spouse or child) as a condition of the alien's entry into the United States. (f58) A sponsor cannot be considered a sponsor of his own spouse or child.

Only the resources of an individual sponsor or sponsor's spouse (living with the sponsor) are counted in the eligibility determination. Additional requirements are discussed in the following sections.

For Food Stamps, the deeming of sponsor's income and resources do not apply to:

Aliens who are members of their sponsor's food stamp assistance group;

Aliens who are sponsored by an organization or group as opposed to an individual;

Aliens who are not required to have a sponsor under the INA (such as a refugee, a parolee, asylee or a Cuban or a Haitian entrant);

Indigent aliens that the State has determined are unable to obtain food and shelter taking into account

the alien's income plus any case, food, housing or other assistance provided by other individuals; or

Battered alien's spouse, alien parents of battered children or children of a battered alien for 12 months after the State determines that the battering is substantially connected to the need for benefits.

During the period the alien is subject to deeming, the eligible sponsored alien is responsible for obtaining the cooperation of the sponsor and for providing the State with the information and documentation necessary to calculate deemed income and resources. Until the alien provides information or verification necessary to carry out deeming, the sponsored alien is ineligible.

For Food Stamps, the resources and income of the sponsor and the sponsor's spouse are not included in determining the resources and income of an ineligible sponsored alien.

2635.05.15 Individual Sponsor Liability (C)

The policy stated in this section only applies to the ADCR and ADCU categories of assistance.

The resources of an individual sponsor and the sponsor's spouse (if living with the spouse) are counted as available to the alien for a three year period, beginning with the alien's date of entry into the U.S. (f59), if the following conditions are met:

The alien applies for TANF for the first time on or after September 30, 1981;

The alien is not:

- Admitted into the U.S. as a conditional entrant refugee prior to April 1, 1980, under the provisions of Section 203(a)(7) of the Immigration and Nationality Act (INA);
- Admitted into the U.S. as a refugee after March 31, 1980, under the provisions of Section 207(c) of the INA;
- Paroled into the U.S. as a refugee under Section 212(d)(5) of the INA;
- Granted political asylum by the Attorney General under Section 208 of the INA;
- A Cuban or Haitian entrant, as defined in Section 501(e) of the Refugee Education Assistance Act of 1980 (f60); or

- The dependent child of the sponsor or the sponsor's spouse. (f61)

The sponsor's and sponsor's spouse's resources are deemed available to the alien regardless of whether:

The alien lives with the sponsor;
The sponsor claims no financial responsibility; or
The sponsor and his spouse were married after the sponsor signed an affidavit of support or similar agreement.

However, the resources of a sponsor or sponsor's spouse who receives SSI or Cash Assistance are not deemed available to the alien. (f62)

2635.05.20 Amount Deemed From Sponsor To Alien (F, C)

Within the C category, the policy stated in this section only applies to ADCR and ADCU.

The amount of resources deemed to an alien from a sponsor or the sponsor's spouse (who is living with the sponsor) is calculated as follows:

The total amount of resources of the sponsor are determined as if the sponsor was applying for TANF and Food Stamps in Indiana. All resource provisions are applicable.

\$1500 is deducted from countable resources.

Any remaining amount is a countable (deemed) resource to the alien. (f63)

EXAMPLE 1: (C)

\$5000	-	Total Resources
- <u>1000</u>	-	TANF Resource Provision
\$4000		
- <u>1500</u>	-	Allowable Deduction
\$2500	-	Countable Resource

EXAMPLE 2: (F)

\$5000	-	Total Resources
- <u>1500</u>	-	Allowable Deduction
\$3500	-	Countable Resources

When the individual is the sponsor of two or more aliens, the deemed amount of resources is divided equally among the aliens.

Resources deemed to a sponsored alien are not counted in determining the eligibility of non-sponsored members of the alien's family, except to the extent the resources are actually available. (f64)

2635.10.00 RESOURCE ELIGIBILITY DETERMINATION (MED 1)

In addition to eligibility requirements discussed in the preceding passages of this chapter, the following principles apply to the consideration of resources in the resource eligibility determination of all persons except institutionalized individuals who entered long term care facilities on or after September 30, 1989, and who have a community spouse.

All available resources owned by the applicant/recipient and his responsible relatives must be considered in regard to the resource limitations listed in Section 3005.15.00. Persons who qualify as "responsible relatives" are as follows:

- the spouse of the applicant/recipient if the couple is living together, or separated only for medical reasons such as nursing home placement. If the spouse of an applicant/recipient is absent from the home due to desertion or separation for reasons other than medical, the spouse's resources are not to be considered.
- the biological or adoptive parent(s) living with an applicant/recipient under age 18, unless the child is receiving Home and Community-Based Services under any of Indiana's waivers. If the applicant/recipient child is institutionalized (including hospitalization) the parent(s)' resources are not considered in the month following the month of admission.

If the nonrecipient parent of the child applicant/recipient owns resources in excess of the resource limit, the excess is to be counted as a resource of the child. (f65) However, excess resources of the child applicant/recipient cannot be counted as a resource to the parent. Also, excess resources of the recipient parent cannot be counted as a resource to the child.

Parent's resources are considered through the month in which the child applicant/recipient reaches age 18 unless the child turns 18 on the first of the month.

When the applicant/recipient is a student between the ages of 18 and 21, the parent's resources are not counted.

Resources owned solely by the following individuals are exempt:

- nonrecipient children or siblings of the applicant/recipient;
- the stepparent of an applicant/recipient;
- parents of an institutionalized applicant/recipient beginning in the month following the month of admission, or beginning in the month of birth if the child remains institutionalized/hospitalized in the following month. (f66)
- parents of a child who has been determined eligible for Home and Community-Based Services (HCBS) under the Autism, ICF/MR, Medically Fragile Children, or Aged and Disabled Waiver. (f67)

2635.10.05 QMB, QDW, SLMB, and QI Resource Determinations (MED 4)

In addition to the eligibility requirements discussed in the preceding sections of this chapter, the following principles apply to the consideration of resources in the Qualified Medicare Beneficiary (QMB), Qualified Disabled Worker (QDW), Specified Low-Income Medicare Beneficiary (SLMB), and Qualified Individual (QI) eligibility determination:

Resources owned by the following individuals must be considered:

- the applicant/recipient; and
- the spouse of the applicant/recipient if the couple is living together.

Resources owned solely by the spouse of the applicant/recipient who does not live with him are not considered.

Resource limitations listed in Section 3005.25 must be met before resource eligibility can be established.

2635.10.10 Resources/Institutionalized/Community Spouse (MED 1)

The policies stated in this section apply only to the MA A, MA B, MA D, MADW, and MADI categories of assistance.

Special resource provisions apply to an institutionalized individual who has a community spouse, and are explained further in Sections 2635.10.10.05, 2635.10.10.10, and 2635.10.10.15.

To qualify for consideration under these special provisions, an institutionalized spouse must be in a hospital, nursing facility, ICF/MR, or psychiatric facility for 30 consecutive days, or be likely to remain in such a facility for that period or longer. The "community" spouse must be living in a setting other than one of the aforementioned facilities.

The special resource provisions apply only to individuals who are legally married to community spouses and who begin continuous periods of institutionalization on or after September 30, 1989.

An individual is in a "continuous period of institutionalization" until such continuity is broken by the absence from a hospital, nursing facility, ICF/MR, or psychiatric facility for at least 30 consecutive days.

These special resource provisions no longer apply beginning the month following the month in which circumstances change so that the couple no longer meets the criteria.

An individual living in a residential facility, such as one participating in the Room and Board Assistance (RBA) program, is not entitled to have eligibility determined under the special provisions. A resident of an RBA facility qualifies as a community spouse when the other spouse is institutionalized in a hospital, nursing facility, ICF/MR, or psychiatric facility.

2635.10.10.05 Resource Assessment And Spousal Share (MED 1)

The policies stated in this section apply only to the MA A, MA B, MA D, MADW, and MADI categories of assistance.

Institutionalized individuals who are married to community spouses and who meet the specific criteria in Section 2635.10.10 must have a resource assessment completed. The resource assessment is a very important process whereby the combined countable resources of the couple are determined as of the beginning (date of admission) of the institutionalized spouse's first continuous period of institutionalization which began on or after September 30, 1989. (f68) From this information, a "spousal share" for the community spouse, equaling one-half of the couple's combined countable resources, is then established for use in determining the institutionalized spouse's resource eligibility.

Countable resources for assessment purposes are determined in the same manner as in regular situations with the following exceptions:

Up to \$1500 of any separately identifiable funds or assets which have been set aside for burial can be excluded. This exemption can be given to both spouses if applicable; however, the \$1500 maximum must be reduced by the face value of any life insurance policies whose cash surrender value has been exempted, or by the amount in any irrevocable burial trust. In order for funds or assets to be considered set aside for burial, the account titling must indicate such, or there must be a signed statement by the owner or guardian of the purpose for the funds and the date on which they were set aside.

One motor vehicle of any value is exempt.

The equity value of nonexempt real property owned solely or jointly by the institutionalized spouse is a countable resource. (The "agree to sell" rule is applied only to eligibility determinations, not for purposes of calculating the spousal share.) The equity value of real property owned solely by the community spouse (or jointly with someone other than the institutionalized spouse) is not included when determining the amount of combined assets for spousal share purposes.

The resource assessment can be requested independently of an application for assistance by either spouse or their authorized representative. In that situation, the assessment request should occur promptly upon admission to the facility. Local Offices are to provide Form 2060, Resource Assessment Notice and Request, to interested persons upon request and should provide a supply to facilities in the county. A completed Form 2060 can be mailed to the Local Office or delivered in person.

When a request for an independent resource assessment is received, the screener is to access ARRA, complete the screens, and schedule an appointment for the assessment interview. The interview can be conducted in person or by telephone. During the interview the caseworker is to complete Form 2061, Resource Assessment for Medical Assistance to the Aged, Blind and Disabled. The responsibility for providing the required documentation and verification rests entirely with the couple and any representative. The Form 2060 explains this fact and also lists the type of documentation which must be provided to the Local Office. Caseworkers are to give advice and guidance to the individual as to the most effective means of obtaining verification but are not required to obtain

verifications directly, although it is not prohibited when a properly signed consent has been obtained.

If the necessary documentation is not received by the Local Office within 20 days of the date of the assessment request, the caseworker will receive an alert and is to send a reminder letter to both spouses and their representative listing the necessary documentation and asking for an update on the status of their verification process. At the end of 30 days, a second letter should be sent stating that the assessment cannot be completed until the verification is submitted.

When the necessary documentation is received, the Local Office is to proceed in an expedient manner to complete the assessment and determine the spousal share. Once completed, copies of the Form 2061 and the verifications must be provided to both spouses. If a representative has acted on behalf of either spouse, the Local Office must provide him with a copy also. The caseworker is to access ARRA and enter the amount of the spousal share.

A copy of all complete or incomplete assessments, as well as the documentation and any correspondence, must be retained by the Local Office as the spousal share, or the inability to establish one, is crucial information in the determination of the institutionalized spouse's eligibility when an application is filed. Copies of the independent resource assessments are to be retained indefinitely.

The spousal share cannot be appealed until an application for Medicaid is filed and the eligibility determination is completed. If a mathematical or keying error is made by the caseworker, ARRA can be accessed by the supervisor who can enter the correct spousal share.

If an individual not entitled to an independent resource assessment under the special resource provisions requests an assessment via the Form 2060, the Local Office must advise the individual in writing of the reason the assessment will not be completed.

If the institutionalized spouse is applying for Medicaid, the resource assessment will be an integral part of the eligibility study. Do not complete ARRA. When a person is applying for Medicaid and needs a resource assessment as part of his eligibility determination, that individual will be entered into the system just like any other application. When the application is processed in AE, screens AERRA and AERRC are to be completed with the resource data necessary to determine the spousal share. When resources are jointly owned by the spouses, they are to be entered once on screen AERRA and AERRC in the institutionalized spouse's name. Then the spousal share can be correctly calculated.

Resource values for assessment purposes must be verified as of the first date of continuous institutionalization, whether it is in a hospital or a nursing facility.

When an assessment is being completed in conjunction with an application for assistance, the securing of necessary resource verification is a joint applicant/caseworker effort conducted in the usual manner.

2635.10.10.10 Resource Eligibility/Institutionalized Spouse (MED 1)

The policies stated in this section apply only to the MA A, MA B, MA D, MADW, and MADI categories of assistance and are applicable to institutionalized individuals who meet the specific criteria in Section 2635.10.10.

The community spouse resource limit is the greatest of the following: (Refer to Section 3005.15.00 for current amounts)

the minimum current state standard;

the spousal share not exceeding the current maximum;

any amount of resources ordered by a court against the institutionalized spouse for the support of the community spouse; or

the amount established by an Administrative Law Judge as the result of an appeal.

The first of the month resource eligibility rule (refer to Section 2605.20.10) is applicable to resource eligibility determinations made under the special resource provisions for an institutionalized spouse with a community spouse. The special provisions are applicable beginning with the first month of institutionalization included in the possible Medicaid covered period (that is the three month retro period). The institutionalized spouse's resource eligibility for any month in which the special resource provision does not apply, (for example, the month before institutionalization), is to be determined using all of the regular resource methodologies and the resource limitation for a couple.

Beginning with the first month in which the special resource provisions apply, the procedure outlined below is required. This procedure establishes the initial month of eligibility, which is the point at which the community spouse's resources are no longer considered.

The couple's combined countable resources are determined by applying all of the regular resource methodologies, except as follows:

- Up to \$1500 of separately identifiable burial funds is disregarded. (f69) This exemption can be given to both spouses if applicable. However, the \$1500 maximum must be reduced by the amount in an irrevocable burial trust or by the face value of any life insurance policies whose cash surrender value has been exempted because the face value is \$1400 or less and the beneficiary is the estate or funeral home.
- One motor vehicle is exempt regardless of value or purpose.
- The equity value of real property owned solely by the community spouse (or jointly with someone other than the institutionalized spouse) is exempt.
- Nonexempt real property owned solely or jointly by the institutionalized spouse is not subject to the requirement to offer it for sale or rent, unless the total value of the couple's countable resources, including the real property, exceeds their combined resource standards.

The total value of the couple's non-exempt resources, including real property owned by the institutionalized spouse, is compared to their combined resource limit (the community spouse limit plus the standard for a single individual). If countable resources are equal to or less than the current standard, the institutionalized spouse is eligible for assistance for that month, which is the initial month of special resource eligibility for the institutionalized spouse. For subsequent months during the continuous period of institutionalization, resources owned solely by the community spouse are exempt.

If the countable resources exceed the current standard, and ownership of real property is not involved, the institutionalized spouse is ineligible for that month.

The process is repeated for subsequent months. If a month of eligibility does not occur, the application is to be denied.

If the countable resources, including non-exempt real property, are greater than the current standard, the next step is to subtract the equity value of the real property. If there still are excess resources in personal property, the applicant is ineligible. If not, the applicant must agree to offer the real property for sale or rent as a condition of eligibility.

If, for the initial month of eligibility under this provision, resources in the name of the institutionalized spouse exceed the single individual standard, a post-eligibility transfer of resources will be required within a specified time limit as explained in Section 2635.10.10.15.

2635.10.10.15 Post Eligibility Protected Period (MED 1)

The policies stated in this section apply only to the MA A, MA B, MA D, MADW, and MADI categories of assistance and are applicable only to individuals who meet the specific criteria in Section 2635.10.10.

Once initial resource eligibility has been established, any amount of the community spouse resource standard (spousal share) which is not already solely in the community spouse's name, can be transferred to him by the institutionalized spouse and not be counted in determining the institutionalized spouse's continuing resource eligibility. (f70) The institutionalized spouse must indicate a willingness to transfer resources into the community spouse's name sufficient to reduce his resources to the allowable single individual standard.

He will have a period of 90 days in which to complete this transfer. This protected period begins with the date of the notice of eligibility which approves assistance. The worker must enter on screen AEFEC the expected date of the end of the 90 day period. During this protected period, the amount subject to transfer (the difference between the community spouse resource standard and the actual amount of resources solely owned by the community spouse) will not be counted as a resource of the institutionalized spouse.

Once the Local Office determines that an institutionalized spouse/applicant is resource eligible for an initial month, but that the community spouse does not actually own resources equal to the community spouse resource standard, the institutionalized spouse, community spouse, and any representative must be advised in writing of the amount to be transferred to the community spouse and the deadline for doing so. This letter will be a part of the ICES-generated approval notice.

The Local Office must monitor the couple's resources monthly through the end of the protected period to ensure that the transfer actually takes place. When it does, this is to be documented in the case record on the back of the Local Office's copy of the transfer letter. Should the transferor need more time than the 90 day protected period to complete the transfer, he should contact the Local Office and report this. More time must be granted by the Local Office if the transfer is being pursued but has been delayed in whole or part by circumstances beyond the institutionalized spouse's control, such as a court order requirement, uncooperative insurance company, and so forth. If the protected period is extended by the Local Office, access screen AEFEC and change the expected date of the end of the 90 day protected period. Monthly resource monitoring must continue until the transfer is completed.

If there is no extension and the 90 day period ends without the transfer having occurred, the Local Office must contact the institutionalized spouse or his representative relative to the status of transfer activity. If the transfer is not being pursued or there is no good cause for an extension, the protected assets immediately become countable again as resources of the institutionalized spouse and assistance will be discontinued.

2635.10.15 Resource Eligibility/Cherry & Newkirk vs. Magnant (MED 1)

The policies explained in this section apply only to the MA A, MA B, and MA D categories.

The preliminary injunction which was imposed by the court on June 7, 1990, was removed by the Seventh Circuit Court of Appeals on July 20, 1994. During this injunction the resources owned by the community spouse of an applicant/recipient who entered a long term care facility prior to September 30, 1989, were exempt. All discontinuances resulting from the inclusion of community spouse resources are to be effective November 1, 1994.

2635.10.20 Applicant/Recipient With Excess Resources (MED 1)

This section applies to MA A, MA B, and MA D.

Whenever an applicant/recipient has resources in excess of the applicable limitation in Section 3005.15.00, the caseworker must complete an off-line evaluation of the person's entitlement to "resource spend-down". This provision is required in accordance with the Indiana Supreme Court ruling in the case of Indiana Department of Public Welfare v. Hazen Payne. The policy and procedures to be

applied in determining eligibility are explained in the following sections.

- 2635.10.20.05 Entitlement to Resource Spend-Down/SSI Determination
- 2635.10.20.10 Resource Spend-Down Determination
- 2635.10.20.15 ICES Procedures When Resource Spend-Down Is Involved
- 2635.10.20.20 Processing Appeal Cases Remanded Under IDPW v. Payne

2635.10.20.05 Entitlement To Resource Spend-Down/SSI Determination

This section applies to MA A, MA B, and MA D.

The first step in determining an applicant's/recipient's resource eligibility when his resources exceed the applicable limitation (and no other reason for ineligibility exists), is to determine whether or not the person meets SSI requirements for each month under consideration. An applicant/recipient who does not meet SSI requirements is not entitled to the resource spend-down provision. If the applicant/recipient received SSI benefits, he is entitled to resource spend-down consideration. For those not receiving SSI benefits, the caseworker must determine if the applicant/recipient meets SSI requirements.

The SSI resource policies which differ from Medicaid are explained below.

1. The SSI resource limits effective 1/1/89 are:
 - \$2000 for an individual
 - \$3000 for a married couple
2. The cash surrender value (CSV) of life insurance is exempt if the total face value of policies owned by the individual (excluding term insurance and burial insurance) does not exceed \$1500, regardless of beneficiary designation. This exemption applies to the applicant/recipient and his spouse. The maximum face value exemption is reduced by the amount in an irrevocable pre-paid funeral contract/trust.

3. Up to \$1500 of funds in a revocable account earmarked for burial is exempt. This exemption is available to the applicant/recipient and his spouse, or parent/stepparent. The \$1500 maximum burial fund exclusion is reduced by the amount of exempt life insurance in #2 above, and/or the amount of an irrevocable funeral contract/trust.
4. Resources of the stepparent of a child applicant/recipient under age 18 are deemed to the child, unless the child's natural/adoptive parent is deceased or the couple is divorced.
5. Pension or retirement funds, including Keogh plans and IRAs owned by an ineligible spouse or ineligible parent are exempt.
6. Resources owned by the community spouse of an institutionalized applicant/recipient are exempt beginning the month after the month of admission.
7. The unspent portion of a retroactive RSDI or SSI payment is exempt for six months if it is identifiable from other resources.
8. Any unspent portion of a Federal tax refund or advanced Earned Income Tax Credit payment is exempt for one month following the month of receipt.
9. Funds remaining from assistance paid by the Violent Crime Compensation program are exempt for nine months after the month of receipt of the payment.
10. Proceeds from the sale of an excluded home are exempt for three months after the month of receipt if the individual plans to purchase another exempt home.
11. If an allocation is budgeted for an essential person, the resources of the essential person are included. If doing so causes ineligibility, the essential person allocation is removed from the budget.
12. Resources set aside under a Plan for Achieving Self-Support (PASS) by an applicant/recipient in the Blind or Disabled category are exempt. The PASS must be approved by the Central Office in the same manner as a Medicaid PASS as explained in Section 2625.10.00.

13. Non-business real property, such as rental property, is subject to the "6000/6% rule". Up to \$6000 in equity is excluded if the net annual income generated from the property is at least 6% of the excluded equity. If the income is less than 6% the entire equity is a countable resource. If the individual owns more than one piece of non-business income-producing property, each property must meet the 6% test in order to be exempt, and the \$6000 equity limit applies to the total equity value of all properties.
14. The principal balance of a land contract is a countable resource. The interest portion of the installment payment is income. (Note: This policy is the same as TANF policy concerning land contracts. Refer to Section 2875.10.10.)
15. Resources owned by the sponsor of an alien applicant/recipient are deemed for three years after entry into the United States. If this situation is present in a particular case, the Local Office should contact the Policy Answer Line for guidance on the deeming methodology.
16. Resources which have been disregarded under the asset protection provision of the Indiana Long Term Care Program (ILTCP) are counted in the resource spend-down/SSI determination. Refer to Section 2615.25.15 for a discussion of the ILTCP.

The SSI income policies which differ from MA are explained below.

1. The income standards are the same as those for Medicaid listed in Manual Section 3010.20.05. However, they are effective in January of the year in which the Medicaid standards are effective.
2. The general income disregard is \$20.
3. Income of the stepparent of a child applicant/recipient under age 18 is deemed to the child unless the child's natural/adoptive parent is deceased or the couple is divorced.
4. VA pension payments are counted in full without deducting the \$20 general income disregard.
5. Up to \$400 of earned income a month, not to exceed \$1620 in a calendar year, is disregarded for the applicant/recipient under age 18 who is a student.
6. Parental income is not deemed to the applicant/recipient who is age 18 or older.

7. One-third of the amount of child support payments made on behalf of an applicant/recipient under age 18 is disregarded.
8. Court ordered child support payments or support enforced under Title IV-D are allowed as a deduction from the income of an ineligible spouse or ineligible parent.
9. Income set aside under a Plan for Achieving Self-Support (PASS) by an applicant/recipient in the Blind or Disabled category is exempt. The PASS must be approved by the Central Office in the same manner as a Medicaid PASS as explained in Section 2625.10.00.
10. A deduction is allowed from the earned income of an applicant/recipient under the Blind category for work-related expenses. Allowable expenses are those which are reasonably attributable to the earning of the income and which are not subject to reimbursement. Examples are:
 - medical services, equipment, and supplies which are not covered by Medicaid or a third party;
 - income and FICA taxes withheld from paychecks;
 - expenses associated with care and maintenance of a guide dog;
 - professional association dues;
 - union dues;
 - mandatory payroll deductions such as pension and disability contributions;
 - meals consumed during work hours;
 - work-related equipment specially designed to accommodate the person's visual impairment.

Non-allowable expenses are:

- those deducted under another provision such as PASS;
- life maintenance expenses such as meals consumed outside of work hours, self-care items which are cosmetic rather than work-related, general educational development;

- savings plans including voluntary contributions to a pension plan;
 - life and health insurance premiums;
 - expenses claimed on a self-employment tax return
11. Income of the sponsor of an alien applicant/recipient is deemed for three years after entry into the United States. If this situation is present in a particular case, the Local Office should contact the Policy Answer Line for guidance on the deeming methodology.

The caseworker should complete State Form 45885, Budgeting Worksheet, to determine SSI income eligibility. The methodology and order of deductions are the same. If there are blind work expenses, these are to be deducted from the "Countable Earned Income" figure on Line 18 and the result is added to the "Countable Unearned Income" amount on Line 10 to arrive at "Total Countable Income". If total countable income (after deducting a P.A.S.S., if appropriate) is less than the income standard, the applicant/recipient meets SSI requirements.

The results of the off-line SSI determination must be documented in the hard copy case file and also in Running Records Comments. If the applicant/recipient meets SSI income and resource eligibility requirements, the caseworker is to complete the resource spend-down determination as explained in the next section, 2635.10.20.10.

2635.10.20.10 Resource Spend-Down Determination

This section applies to MA A, MA B, and MA D.

For each month in which the applicant/recipient is either receiving SSI or is determined to meet SSI eligibility requirements, the Medicaid determination is to be made by taking resource spend-down into consideration. The surplus income amount (on AEBMB) and the excess resource amount (from AERED) are added together. His spend-down amount is the sum of the surplus income and the excess resources, rounded down to the next whole dollar.

If the applicant/recipient is in a long term care facility, the eligibility determination, as explained above, is to be completed. If the individual is eligible, the amount of the resource spend-down (excess resources rounded down to next whole dollar) is added to the liability calculated in the post-eligibility step to arrive at the actual liability for the month. If the final liability amount exceeds the facility's private rate, the liability is treated as a spend-down. (Note: this is the same procedure which is

always applied whenever the liability exceeds the private rate.)

The following examples illustrate how eligibility is determined when taking resource spend-down into consideration. Calculations are based on the income standard, general disregard and resource limit in effect 01-01-08. Current standards can be found in Chapter 3000.

EXAMPLE 1:

\$656 income	\$1902.45 resources
<u>-15.50</u> general disregard	<u>-1500.00</u> resource limit
= 640.50	= 402.45 excess resources
<u>-637.00</u> income standard	+ <u>3.50</u> surplus income
= \$ 3.50 surplus income	\$ 405.95 total

Applicant is ~~eligible~~ enrolled for this month with a spend-down of \$405. If the applicant is in LTC, the liability would be \$1009. (\$656 - \$52 personal needs = \$604 + \$405 resource spend-down)

EXAMPLE 2:

\$653.00 income	\$ 1625 resources
<u>- 15.50</u> general disregard	<u>- 1500</u> limit
= 637.50	= \$ 125 excess resources
<u>- 637.00</u> income standard	
= \$.50	

The spend-down is \$125 for this month and the applicant/recipient is enrolled with the resource spend-down, even though there is no income spend-down.

If the excess resources have not been reduced by the time the application is ready to be authorized, establish the income/resource spend-down for the recurring month.

2635.10.20.15 ICES Procedures When Resource Spend-Down Is Involved (MED 1)

The procedures in this section apply to MA A, MA B, and MA D.

When an applicant/recipient fails eligibility due to excess resources, the internal reason code of 480 or 483 will be set by the system on AEWAA. If there is no other reason for ineligibility, the AG cannot be authorized until the off-line determination is made concerning the applicant's/recipient's entitlement to the resource spend-down provision explained in the previous sections. If the AG is ineligible for any other reason in addition to excess

resources, the AG should be denied/closed as usual. If the caseworker attempts to deny or close an AG who fails with reason code 480 or 483, the error message "determine resource spend-down and enter RC" will appear. If the applicant/recipient is not entitled to resource spend-down because he does not meet SSI requirements as explained in Section 2635.10.20.05, enter reason code 476.

When the caseworker determines that an applicant/recipient is eligible with a resource spend-down, fiat is required to establish the correct spend-down or liability amount.

2635.10.20.20 Processing Appeal Cases Remanded Under IDPW V. Payne

The information contained in this section is no longer applicable since all cases in appeal status pending the court order have been resolved. This section is retained in the Policy Manual as historical information.

With the finalization of manual material concerning the procedures to follow in determining Medicaid eligibility under the resource spend-down provision, ALJs will no longer remand cases back to the Local Office solely for the purpose of determining resource spend-down eligibility, unless the record does not contain sufficient facts for the ALJ to render a decision. However, during the time period between the Supreme Court's ruling in the Payne case and issuance of the written policy, several appeal cases were remanded. This section explains the special procedures to be followed in processing those cases.

Determine whether or not the individual meets SSI requirements for each month which was denied/closed solely for the reason of excess resources. If the individual does not meet SSI requirements, send a manual notice denying the months in question and provide the following explanation and legal authority:

This notice is issued in accordance with the Administrative Law Judge's order dated (enter date of ALJ's remand order). Because you do not meet the eligibility requirements of the Supplemental Security Income (SSI) program, your excess resources cannot be applied against your medical expenses. IDPW v. Payne; 20 CFR 416.

Make an entry in Running Record Comments concerning your action (unless the case was denied pre-ICES) and keep a copy of the notice in the hard copy case file.

If the individual does meet SSI requirements, but does not have medical expenses sufficient to meet the amount of his spend-down, send a manual notice denying the months in

question and provide the following explanation and legal authority:

This notice is issued in accordance with the Administrative Law Judge's order dated (enter date of ALJ's remand order). Your medical expenses are less than the amount of your excess resources. IDPW v. Payne; 20 CFR 416.

In some cases a combination of the above two reasons for denial may be appropriate. For example, if the months of 11/93, 12/93, 1/94, 2/94, 3/94, and 4/94 were denied, and it is determined that the client does not meet SSI requirements for 11/93 through 2/94, does meet SSI requirements for 3/94 through 4/94: but has insufficient medical expenses for those two months, -the notice would contain the following information:

This notice is issued in accordance with the ALJ's order dated (enter date of ALJ's remand order). For the months of 11/93 through 2/94, because you did not meet the requirements of the Supplemental Security Income (SSI) program your excess resources cannot be applied against your medical expenses. For the months of 3/94 and 4/94 your medical expenses were less than the amount of your excess resources. IDPW v. Payne; 20 CFR 416

If the individual is found to be entitled to resource spend-down because he meets SSI requirements or received SSI benefits during the months in question and medical expenses were more than the amount of excess income and resources, eligibility must be established in ICES via fiat. Determine the amount of the spend-down or liability in accordance with the procedures in Section 2635.10.20.10. Fiat a new AG sequence for each month originally denied/closed (same sequence for each month) on AEOAG and be very careful to enter the correct spend-down or liability amount on AEWFT. Use fiat reason code 176.

If the individual is eligible for some months and ineligible for some months, it will be necessary to send a manual notice concerning the months which have been denied, as explained in the previous paragraphs. A fiat is not necessary for the ineligible months. Some of the cases remanded, especially those which have gone through Judicial Review, date back several years. Medicaid and SSI income and resource standards for prior years are as follows:

SSI RESOURCES

	<u>Single</u>	<u>Couple</u>
1/85	\$1600	\$2400
1/86	\$1700	\$2550

1/87	\$1800	\$2700
1/88	\$1900	\$2850
1/89	\$2000	\$3000

INCOME

			<u>SSI</u>	<u>Medicaid</u>
1989	\$368	\$553	1/1/89	3/1/89
1990	\$386	\$579	1/1/90	3/1/90
1991	\$407	\$610	1/1/91	3/1/91
1992	\$422	\$633	1/1/92	3/1/92
1993	\$434	\$652	1/1/93	3/1/93
1994	\$446	\$669	1/1/94	4/1/94
1995	\$458	\$687	1/1/95	4/1/95
1996	\$470	\$705	1/1/96	4/1/96

2635.15.00 RESOURCE ELIGIBILITY DETERMINATION (MED 3)

There is no resource eligibility determination for any of the MED 3 categories of assistance or Transitional Child Care. Any amount of resources may be retained by an AG.

2640.00.00 TRANSFERS OF PROPERTY (F, MED 1)

The transfers of certain real or personal property to another individual must be considered in relation to the law and/or regulations in effect on the date that the transfer occurred. The specific policy for transfers of property varies by program and is explained in Sections 2640.05.00 through 2640.10.35.05.

Screen AERRQ contains the transfer of property question. When the answer is "yes", screen AERRT must be completed with the transfer information.

2640.05.00 PROPERTY TRANSFERS AFFECTING ELIGIBILITY (F)

The intentional transfer of assets by any member of the AG may result in disqualification of the AG for up to one year from the date of discovery of the transfer: (f71)

The AG may be disqualified if the AG transferred resources within the 3 month period immediately preceding the date of the application or any time after the AG is determined eligible for benefits. The disqualification will occur when the AG transferred resources knowingly for the purpose of qualifying or attempting to qualify for Food Stamp benefits.

(See Section 2640.05.10 for transfers which do not result in a disqualification.)

2640.05.05 Determining The Period For Disqualification (F)

The countable value of the transferred resource is determined off-line and entered on AERRT. The countable value is calculated by taking the value of the transferred resource and adjusting to that amount which would be considered a resource in the eligibility determination. For vehicles, that requires an off-line determination of the countable value in excess of the FMV minus the vehicle standard.

Examples:

1. An AG transferred a vehicle with a FMV of \$6000. They also have a \$500.00 in a bank account and another car (which is used for employment) worth \$5500. There are no elderly AG members.

The countable value is:

$$\$6000 - \$4650 = \$1350 \quad (\text{transferred vehicle})$$

Total of \$1350 is entered as the countable value on AERRT.

The system will add the \$1350 to the other resources (\$500 bank account and \$850 countable value for the other vehicle) to show the total value of \$2700. Then the system subtracts the AG's resource standard of \$2000 to the resultant \$700. The \$700 is used to determine the disqualification period of 3 months.

2. The AG containing an elderly member transferred non-homestead property valued at \$5000. The AG has no other resources.

The countable value on AERRT is \$5000. The system then adds the other resources (none for this AG) and subtracts the AG's resource standard of \$3250 leaving \$1750.

The \$1750 is used to determine the period of disqualification which is 6 months.

The following is a chart which determines the period of disqualification based on the amount of resources in excess of the resource limit.

Amount In Excess Of Resource Limit	Period Of Disqualification
0 - \$ 249.99	1 month
\$ 250 - \$ 999.99	3 months
\$1000 - \$2999.99	6 months
\$3000 - \$4999.99	9 months
\$5000 - and up	12 months

The following transfers do not affect eligibility:

resources that would not otherwise affect eligibility;

resources that are sold or traded at, or near, fair market value;

resources transferred between members of the same AG;
and

resources transferred for reasons other than qualifying (or attempting to qualify) for benefits.

2640.10.00 TRANSFER OF PROPERTY LAW (MED)

The Medicaid eligibility of an individual who transfers property on or after August 11, 1993, is governed by federal law. Section 1917(c) of the Social Security Act (42 U.S.C. 1396 p-C), as amended by OBRA-93 requires a penalty period of reduced Medicaid coverage for persons found to have made a property transfer for less than fair market value and for the purpose of becoming eligible for Medicaid.

The following sections explain the procedures for consideration of transfers of property occurring on or after August 11, 1993. State regulations, as amended, at 405 IAC 2-3-1.1 and 405 IAC 2-3-1.2 are applicable to certain transfers effective June 1, 2002 regarding annuities, income transfers, and failure to take action to receive assets. Additional provisions are effective July 1, 2003 regarding the start of a transfer penalty, penalty periods for successive transfers, and transfers of income producing real property.

2640.10.05 General Applicability Of Transfer Of Property Law (MED)

The transfer of property provision is applicable to applicants/recipients who are:

inpatients of nursing facilities or other medical institutions in which they are receiving equivalent nursing facility services;

receiving Home and Community-Based Services (HCBS).

If an applicant/recipient does not meet one of the above conditions a transfer penalty is not invoked. If such an individual has transferred property, the caseworker is to record the occurrence but will not require verifications nor attempt to determine whether the transfer was violative. However, if the individual later enters a nursing facility

or begins receiving HCBS, the caseworker would then be required to determine whether the transfer was violative.

Transfers are potentially violative made by the: (f72)

applicant/recipient;

the spouse of the applicant/recipient;

anyone with legal authority to act on behalf of the applicant/recipient or spouse, such as a parent or legal guardian (including a court or administrative body);

anyone acting at the direction or request of the applicant/recipient or spouse (including a court or administrative body).

Federal law defines assets as both income and resources (real and personal property) owned by the applicant/recipient and spouse. Refer to Section 2640.10.15.05 regarding transfers of homes and income-producing real property.

Also included as an asset are income and resources, which the applicant/recipient is entitled to receive but doesn't because of his actions or those of his spouse, a person with legal authority to act on his or his spouse's behalf, including a court or administrative body, or any other person, court or administrative body acting at the direction or request of the individual.

Examples of actions which would cause income or resources not to be received are:

irrevocably waiving pension income;
waiving the right to receive, or failing to take the necessary action to receive an inheritance;
not accepting injury settlements.

Each individual circumstance of an individual failing to take an action to obtain assets must be carefully examined, as this may not always be considered a violative transfer. A transfer of property penalty will not be imposed in the following circumstances: (f73)

- (a) The applicant/recipient, or the person with the legal authority to act on behalf of the applicant/recipient is unaware of the right to receive assets, or becomes aware after the deadline for taking action has passed;

If the DFC Office or other division of FSSA informs the individual of his right to receive assets prior to the deadline for taking action, the individual will be presumed to be aware of his rights.

- b) A physician who is knowledgeable of the medical condition of the applicant/recipient provides a written statement that the applicant/recipient is not capable of taking the necessary action to receive the asset;

A physician's statement can only be used for this purpose if the applicant or recipient has no legal guardian or other person who has the authority to act on the individual's behalf in whatever action is needed to receive the assets.

- c) The expense of collecting the assets would exceed the value of the assets.
- d) In the case of a surviving spouse who fails to take a statutory share of a deceased spouse's estate, a penalty is not imposed if the deceased spouse made other equivalent arrangements to provide for the surviving spouse's needs, including but not limited to setting up a trust.

2640.10.10 Determining The Transfer Review Period (MED)

As stated in the preceding section, the transfer of property law is made an active consideration only by the applicant/recipient being or becoming institutionalized in a nursing facility (or receiving Home and Community-Based Services). When this factor is present in a case situation, the caseworker must then determine the time period that must be reviewed, during which transfers made could be violative. This time period is the "review period", or "look-back" period.

The review period for looking at a transfer involving non-trust property is 36 months prior to the first date when the individual was institutionalized and had applied for Medicaid, and continues indefinitely thereafter. (This date is referred to as the baseline date.) The review period for transfers involving trust funds in the circumstances explained in Section 2615.75.20(A)(3) and (B)(2) (except trusts defined in Section 2615.75.20.05) is 60 months prior to the baseline date defined above and continues indefinitely thereafter.

When a Medicaid recipient becomes institutionalized or begins receiving Home and Community-Based (HCBS) waiver services, the baseline date is the date when both conditions, i.e., an application and institutionalization,

or HCBS, are met. This would be the date of institutionalization or effective date of waiver services.

EXAMPLE

Individual living at home transfers property on January 10, 1995. She applies for Medicaid on April 7, 1995 and enters a nursing facility on September 11, 1995. The baseline date is September 11. Therefore, the transfer took place within the review period.

2640.10.15 Allowable Transfers Of Property (MED)

If it is determined that a transfer occurred within the review period, the next step is to determine whether the transfer automatically qualifies as nonvolatile. No transfer of property penalty can be invoked when an individual makes a transfer to:

his spouse (or to another for the sole benefit of the spouse); or

the applicant's/recipient's child who is blind or disabled, according to SSI criteria, or to a trust fund for such a child.

Additionally, the transfer of a home to certain individuals as explained in Section 2640.10.15.05 is allowable.

Transfers on and after 8-11-93, to certain types of trust funds, as defined in section 2615.75.20.05, for disabled individuals are allowable.

2640.10.15.05 Transfers Of Homes And Income-Producing Real Property (MED)

There is no transfer of property penalty if a home, as defined in section 2620.15.10, is transferred to:

a spouse;

children under age 21 of the applicant/recipient;

blind or disabled (according to SSI criteria) children of the applicant/recipient;

a sibling of the applicant/recipient who has equity interest in the home and who was residing in the home for at least one year prior to the individual's nursing facility admission; or

a child of the applicant/recipient who was living in the home at least two years prior to the individual's admission to the nursing facility and who provided care that was necessary to permit the individual to remain at home rather than be institutionalized. In these situations, documentation of the individual's condition and the extent of care provided by the child is required in the case record.

An individual who transfers his home to a person not specified above remains subject to a transfer of property penalty.

For transfers of income-producing real property on and after 7-1-03, the following rules apply:

- (1) \$6,000 of the equity value can be transferred without penalty if the property produces at least \$360 a year in income. (f73a) The uncompensated value is the equity over \$6,000. If the property does not produce at least \$360 per year in income, the entire equity is the uncompensated value. The transfer of the income must be evaluated based on the fair market value of the income in accordance with Section 2640.10.25.20.

If the real property has equity of less than \$6,000, the property can be transferred without penalty if it produces income that is at least 6% of the equity value. If it produces income that is less than 6% of the equity, the entire equity is the uncompensated value. Refer to Section 2640.10.25.20 regarding transfer of the income.

The \$6,000 transfer exemption is a single, one-time exemption that applies to the total value of all income-producing real property transferred by the individual during the individual's lifetime.

- (2) Income producing real property that is used in a trade or business can be transferred without application of the \$6,000/6% limitation. In order to qualify as a trade or business, the property must be actively managed or operated by the applicant/recipient.
- (3) Income-producing real property for which the individual owns a government permit or license, or other governmental authority to engage in income-producing activity is not subject to the \$6,000/6% limitation. Examples of this are commercial fishing permits and tobacco crop allotments issued by the USDA. (This does not include crop subsidies and soil banks.) Both of these circumstances are very uncommon in Indiana, therefore, if Local Offices are processing a case in which the individual claims to own such

property, the Policy Answer Line must be contacted. When contacting PAL, be sure to explain what type of license or permit the individual submitted as verification.

EXAMPLE

Medicaid applicant in nursing facility owned rental property with an equity value of \$50,000. She received \$2,400 per year in rent. The month before applying for Medicaid, she gave it away to a relative with no consideration received and did not show that she made the transfer for any purpose other than qualifying for Medicaid. The uncompensated value is \$44,000 plus the amount of income that was transferred based on her life expectancy at the time of the transfer.

EXAMPLE

Medicaid applicant in nursing home owned farmland with an equity value of \$100,000 which she cash rented to her son who paid all of the expenses and gave her \$100 a year income. The uncompensated value is \$100,000 (plus the amount of income that was also transferred) because the property did not produce at least \$360 annual income for her.

EXAMPLE

Medicaid recipient in a nursing facility owns a 25% share as tenancy in common, in rental property valued at \$200,000. Her share is \$50,000 and she receives FMV rent of \$2,100 per year. She gave her share of the property away to her son and received no consideration. The uncompensated value is \$44,000 plus the amount of the income that was transferred.

2640.10.15.10 DE MINIMIS TRANSFER OF PROPERTY ALLOWANCE (MED)

Beginning with applications filed on 10-1-09, an annual transfer amount is allowed that will not invoke a transfer penalty and will be excluded from the total uncompensated value of an improper transfer under the circumstances explained below. This is referred to as the de minimis transfer allowance and the amount is \$1200 per year. (f73b)

The de minimis transfer allowance is applicable if the gift is made by the applicant, during the review period to:

A family member who is related to the applicant by blood, adoption, or existing marriage; or

A nonprofit organization qualified under Section 501(c) of the Internal Revenue Code as amended, which gives the organization tax-exempt status; and

The application for Medicaid long term care services (Medicaid facility or HCBS waiver services) is filed on or after 10-01-09.

The de minimis allowance is subtracted after any and all transfers have been evaluated in terms of being permissible or improper. Up to \$1200 per year is deducted from the uncompensated value of transfers that are otherwise improper.

Example 1

Applicant in nursing facility applies for Medicaid on 10-15-09 and reports the following transfers:

\$10,000 to an irrevocable funeral trust;
\$1200 to his son.

The purchase of the funeral trust was permissible without penalty and the gift to the son was determined to be for the purpose of becoming eligible for Medicaid without adequate consideration. The gift to the son does not invoke a transfer penalty because it did not exceed the de minimis allowance and was made to a family member. No penalty is imposed.

The de minimis allowance is an annual total for all otherwise improper transfers, regardless of how many individuals received gifts from the applicant.

Example 2

\$800 is given to applicant's grandson, and \$900 is given to a non-profit charity during one year. The 2 gifts are combined for a total of \$1700. The \$1200 is subtracted from the total gifted amount, resulting in an improper transfer amount of \$500.

The de minimis transfer allowance does not apply to transfers made by the applicant's spouse.

Example 3

Applicant gives \$400 to his son. His spouse gives \$600 to her sister. The de minimis transfer allowance is \$400.

The year of calculation for de minimis gifting is based upon the established baseline date and each calendar year of the review period. Any excess over \$1200 in a calendar year does not carry over to a subsequent year. The de minimis

allowance can be applied to more than one qualifying individual or non-profit organization in a given year. However, not more than \$1200 in any one calendar year is allowed.

Required Documentation in the Case File.

To allow a de minimis transfer allowance, the applicant is required to establish the relationship of the individual being claimed as a family member and the tax exempt status of any organization to which a gift was made.

The name, date of birth, and relationship lineage of a family member must be provided by the applicant. Signed statements from the applicant and family member(s) will suffice unless contradicting information is known to the worker, in which case clarifying information must be provided. For example, documentation of a gift to a grandson would include a statement that the grandson is the son of the applicant's daughter, giving his birth date, and his and his mother's names.

Collateral documentation of the 501(c) tax exempt status of an organization must be provided by the applicant. It is customary practice for these organizations to give receipts for gifts so that donors will have documentation for their own tax purposes. This type of receipt is sufficient documentation. Information about the organization should reveal its status as well, if the receipt is not available, such as brochures, websites, etc. In addition, proof of payment to the organization whose status is being documented must be provided. For example, if a gift is reported to Charity #1 and a cancelled check to Organization #2 is provided, the de minimis allowance cannot be applied until the discrepancy is reconciled.

Documentation of the proof necessary to apply a de minimis transfer allowance is the responsibility of the applicant/recipient. It is the agency's responsibility to explain what type of documentation is required and follow existing procedures for obtaining documentation.

2640.10.16 Transfers Of Personal Effects And Household Goods (MED)

The following items can be transferred without receipt of adequate consideration and without imposition of a transfer penalty:

- One wedding ring of the applicant/recipient and spouse
- One engagement ring of the applicant/recipient and spouse.

Medical equipment required due to the applicant's/recipient/s physical condition, which are not used extensively or primarily by others.

\$2000 of equity in other personal effects and household goods.

If personal effects and household goods not exempted above are given away without receipt of adequate consideration, a violative transfer has occurred. (f73c)

Wedding rings and engagement rings are those purchased by one spouse for the other spouse (or intended spouse in the case of engagement ring). If a ring is purchased by someone after marriage and labeled an engagement or wedding ring upon giving it away, a violative transfer has occurred. The uncompensated value is the equity value in excess of \$2000.

2640.10.20 Determining Adequacy Of Consideration (MED)

If a transfer cannot be determined automatically non-volatile in accordance with the preceding sections, the Local Office must proceed to determine whether or not adequate consideration was received.

Consideration is whatever compensation the individual received in return for the transferred property. In order to determine a transfer as non-violative, the individual must have received adequate consideration. Consideration is adequate when the fair market value minus loans, mortgages or other encumbrances, of the transferred property is equal to the consideration received. Fair market value is the current market value of the property at the time of the transfer.

The applicant/recipient is required to supply any necessary records, documentation and information which verify the fair market value and consideration received.

The value of the consideration received is based on the agreement and expectation of the parties at the time of the transfer. The value of consideration is the gross amount paid by the purchaser, and it may be paid in one or more forms such as those discussed in the following sections. (Other forms of consideration may also be possible.) The compensation received for an asset must be in a tangible form with intrinsic value. For example, love and affection does not constitute adequate consideration because there is no dollar value attributable to love and affection.

2640.10.20.05 Compensation In Cash (MED)

Compensation in the form of cash is the total amount of cash paid or agreed to be paid in exchange for the property.

2640.10.20.10 Compensation In Real or Personal Property (MED)

Compensation in the form of real or personal property is valued according to the fair market value of that property at the time of the property transfer.

2640.10.20.15 Compensation By Support/Maintenance (MED)

The value of compensation in the form of support and/or maintenance provided, or agreed to be provided, is based on the fair market value and duration of the support and/or maintenance.

EXAMPLE :

Mrs. Pierce has transferred a sum of money to a retirement community with the expectation that they will provide her with support and maintenance for a period of time.

2640.10.20.20 Compensation By Services (MED)

The value of services provided, or agreed to be provided, in exchange for the property is based on the market value of such services and the frequency and duration of the services. In order for services to be adequate consideration, there must have been agreement at the time the services were provided that compensation was to be paid in return for the services.

2640.10.25 Determining Uncompensated Value (MED)

If inadequate consideration was received, the Local Office must determine the uncompensated value. The uncompensated value is the difference between the fair market value, minus loans, mortgages, or other encumbrances, and the consideration received by the individual. When the transferred property was jointly owned, the uncompensated value is the difference between the individual's share of the fair market value and the consideration received by the individual.

2640.10.25.05 Transfers Involving Life Estates (MED)

When an individual who owns real property transfers ownership of the property to another person and retains a life estate, the uncompensated value must be determined. The uncompensated value is the fair market value of the property, less the amount of loans, mortgages, or other encumbrance, minus the value of the life estate and minus any other consideration received. The value of the life

estate is determined in accordance with Section 2605.25.10.05.

EXAMPLE

The applicant, age 66, owned a home valued at \$235,000. She transferred the title to her daughter for \$20,000 and retained a life estate.

Using the Table in Section 2605.25.10.10, the life estate value is \$156,394.85 ($\$235,000 \times .66551$). The total compensation received is \$176,394.85 ($\$156,394.85 + \$20,000$). The uncompensated value is \$58,605.15.

2640.10.25.10 Transfers Involving Annuities (MED)

An annuity is an investment product, policy, certificate, contract, or other arrangement between two or more parties. One party pays a sum of money or other valuable consideration to the other party in return for the right to receive future payments. The term "annuity" includes any financial instrument that claims to be an annuity, as well as any instrument that meets the definition of an annuity. Annuities are generally purchased by individuals from financial institutions, insurance companies, or non-profit organizations. However, "private annuities" exist that are arrangements between non-commercial, non-organizational entities such as family members, friends, or other individuals.

Different companies may use slightly varied terminology for their products. However, there are basic and common definitions that apply to annuities in general:

- a) A deferred annuity allows interest to accumulate until the purchaser elects monthly payments to begin. Income payments often start many years after purchase.
- b) With an immediate annuity, payments start no later than one year after the premium is paid.
- c) The annuitant is the person who is entitled to the payments from the annuity.
- d) Annuitize is when the accumulated value of the annuity is converted into a guaranteed stream of income. At this point, the annuitant decides how the payments will be received. He could choose monthly fixed or variable payments, or a balloon payment at the end of the term, for example.

The purchase of an annuity is a transfer of property and, therefore, it is necessary to determine whether or not

adequate consideration was (will be) received. (f74)

For annuities purchased

on or after June 1, 2002; or

annuitized on or after June 1, 2002, regardless of the purchase date,

adequate consideration (will be) received if all of the following criteria are met:

The annuity is purchased from an insurance company or other commercial company that sells annuities as part of the normal course of business, or from a tax-exempt non-profit organization;

The annuity provides monthly payments of interest and principal so that, for a specific year, the total payments for the year do not differ by more than five percent from the total paid in the previous year; and

The annuity must return the full purchase price to the purchaser or the purchaser's spouse within the annuitant's life expectancy using the Life Expectancy Tables that appear later in this section. If the individual does not (will not) receive compensation in the amount of the full purchase price within his lifetime (or within the contract's specified time period if shorter than the life expectancy), the uncompensated amount is the difference between the purchase price and the amount that the annuity will pay out to the individual within the individual's life expectancy, or term of the contract if shorter than life expectancy.

If an annuity is not purchased from a company that regularly sells such financial products or not purchased from a non-profit organization, the uncompensated amount is the entire purchase price. An example is the purchase of a private annuity from a family member. The purchase of a private annuity is a violative transfer of property.

If the annuity pays (will pay) a lump sum balloon payment or if the total annual payments vary by more than five percent, then the uncompensated amount is the entire amount of the purchase price.

If an annuity does not meet any of the criteria that render it automatically a violative transfer of property, then a determination of whether adequate consideration will be received must be made by the local office. The value of the expected income is determined by multiplying the monthly

income by the individual's life expectancy (or term of the annuity, if shorter). Convert years to months using the figure for the person's age at the time of purchase. The uncompensated value is the difference between the purchase price of the annuity and the amount of income expected to be received by the purchaser or his spouse, during the lifetime of the annuitant, or term of the annuity if shorter.

EXAMPLE 1

Female applicant, age 85, purchases a \$50,000 immediate annuity from a life insurance company. She elects to receive income payments of \$375 per month. Per the Life Expectancy Table for females, her life expectancy is 6.63 years or 79.56 months. $\$375 \times 79.56 = \$29,835$. The applicant is not expected to receive in payments what she transferred in principal. The uncompensated value is \$20,165. ($\$50,000 - \$29,835$).

EXAMPLE 2

Male applicant, age 60, purchases a \$100,000 annuity on June 1, 2002 from an insurance company and will receive equal income payments of \$500 per month. Per the Life Expectancy Table for males, his life expectancy is 18.42 years or 221.04 months. $\$500 \times 221.04 = \$110,520$. The applicant is expected to receive income greater than the purchase price. Adequate consideration will be received.

EXAMPLE 3

Male applicant, age 90, purchases a \$20,000 annuity from an insurance company on July 1, 2002 and will receive 45 payments of \$250 per month. Since the annuity was purchased after June 1, 2002 and the individual will receive a balloon payment, the uncompensated amount is \$20,000 - the full purchase price of the annuity.

For annuities that have been annuitized prior to June 1, 2002, adequate consideration was (will be) received if the annuity will return to the individual the full purchase price within the individual's life expectancy (or within the contract's specified time period if shorter than the life expectancy). These annuities do not have to be purchased from a commercial company or a non-profit organization. The total annual payments do not have to be equal and lump sum or deferred payments toward the end of the individual's life expectancy may be made. The uncompensated amount is the difference between the purchase price and the amount that

the annuity will return within the annuitant's life expectancy.

The life expectancy tables for males and females are listed below. The life expectancy is provided in years.

LIFE EXPECTANCY TABLES

TABLE 1 - MALE
Average Number of Years
Age of Life Remaining

0	71.80
10	62.75
20	53.21
30	44.06
40	35.05
50	26.32
60	18.42
61	17.70
62	16.99
63	16.30
64	15.62
65	14.96
66	14.32
67	13.70
68	13.09
69	12.50
70	11.92
71	11.35
72	10.80
73	10.27
74	9.27
75	9.24
76	8.76
77	8.29
78	7.83
79	7.40
80	6.98
81	6.59
82	6.21
83	5.85
84	5.51
85	5.19
86	4.89
87	4.61
88	4.34
89	4.09
90	3.86
100	2.22
110	1.25

TABLE 2 - FEMALE
Average Number of Years
Age of Life Remaining

0	78.79
10	69.62
20	59.83
30	50.15
40	40.61
50	31.37
60	22.86
61	22.06
62	21.27
63	20.49
64	19.72
65	18.96
66	18.21
67	17.48
68	16.76
69	16.04
70	15.35
71	14.66
72	13.99
73	13.33
74	12.68
75	12.05
76	11.43
77	10.83
78	10.24
79	9.67
80	9.11
81	8.58
82	8.06
83	7.56
84	7.08
85	6.63
86	6.20
87	5.79
88	5.41
89	5.05
90	4.71
100	2.48
110	1.28

2640.10.25.15 Establishing Joint Ownership (MED)

When property is converted from individual ownership to joint ownership on or after July 1, 1996, a transfer of property has occurred. The amount considered to be transferred is the proportionate value of the new owner(s) share of the property.

When evaluating this kind of a transfer caseworkers should keep in mind that the joint interests might not all be equal. The deed or contract should specify the proportionate interests of each owner, but if it is not clear or the caseworker has questions, the local Office attorney should be consulted for assistance.

EXAMPLE 1

Property value = \$60,000. One equal joint owner is added. \$30,000 was transferred.

EXAMPLE 2

Property value = \$80,000. Two joint owners are added and all 3 have equal interests. \$53,333.34 was transferred. (The 2 new owners' value of the property.)

If property is jointly owned and additional new owners are added, the amount transferred is the difference between individual's interest before the transfer and after the transfer.

EXAMPLE

Property valued at \$90,000 is jointly owned by the applicant and his son. His interest is \$45,000. He adds his daughter as another joint owner, and all 3 have equal shares. His interest is now \$30,000, so the amount transferred is \$15,000. ($\$45,000 - \$30,000$)

If the property which has been converted to joint ownership has a lien or mortgage, the amount transferred is the proportionate equity value.

EXAMPLE

Applicant owns real property valued at \$150,000 and has a \$70,000 mortgage. She adds her son as an equal joint owner. The amount transferred is \$40,000. ($\$150,000 - \$70,000 = \$80,000$ equity value. $\$80,000 - \$40,000$, new owner's share of the equity, = \$40,000)

2640.10.25.20 Transfers Of Income

This section applies to transfers of income that occur on and after June 1, 2002. (f75)

When an individual transfers a stream of income or the right to receive income, the uncompensated value is the difference between the actual amount of income received, and the fair market value (FMV) of income that should be received. The FMV of the income that should be received is determined by multiplying the FMV by the life expectancy of the individual based on the Tables in Section 2640.10.25.10. Any income that the property was producing, or was capable of producing, is included in the definition of assets for purposes of the transfer law. The resource that was transferred may have been exempt or non-exempt.

In the situation of a transfer of income-producing, non-home real property, the value of the property in excess of \$6,000 is considered an uncompensated transfer. See Section 2640.10.15.05 for instructions on calculating the uncompensated value of income-producing real property. In addition, the value of the income that the property was producing or was capable of producing is a transfer. The uncompensated value is the fair market value of the income that the property could reasonably be expected to produce multiplied by the person's life expectancy at the time of the transfer.

If an individual rents real property for less than FMV, the uncompensated amount is the difference between the FMV of the rent and the amount of rent being received, based on the person's life expectancy.

EXAMPLE 1

A 75 year old recipient in a nursing home owns rental property with an equity value of \$50,000, and is receiving \$500 a month in rent. This rental amount is consistent with other similar properties in the neighborhood, and is therefore considered the fair market value. After subtracting allowable rental expenses, he has \$400 rental income in his Medicaid budget. His legal guardian transfers full title to the property to himself. The uncompensated value of the transfer of the income is $\$400 \times 110.88$ months (9.24 years obtained from the life expectancy tables, \$44,352. This is added to the uncompensated value of the property in excess of \$6,000 for a total uncompensated value of \$88,352. (\$44,000 real property plus \$44,352 income.)

EXAMPLE 2

A 70 year old Medicaid recipient moves into a nursing home and signs the agreement to put her home up for sale or rent at fair market value. She hires a realtor who assesses the value at \$95,000 with a rental value of \$800 per month. Two months later, she rents the property to her son for \$10 dollars a month. He will pay the allowable expenses which amount to \$150 per month. The uncompensated value is \$640 (\$800 - \$150 - \$10) x 184.20 months (15.35 years), \$117,888.

2640.10.30 Presumption Of Intent In Transferring Property (MED)

Once the uncompensated value for a transfer of property has been established, this figure will be used to determine a penalty period unless a satisfactory showing is made to the Local Office that the property was transferred exclusively for a purpose other than to qualify for Medicaid, or that the individual intended to transfer the property at fair market value. The Local Office will presume Medicaid eligibility to be the motive and must give the individual the opportunity to rebut this presumption.

If the individual wishes to rebut this presumption, he is responsible for presenting convincing evidence to the Local Office in support of his contention that the property was transferred exclusively for some other purpose or that he intended to transfer the property at fair market value.

If the individual chooses to rebut the presumption, he must provide a statement concerning the circumstances of the transfer. The statement should cover, but need not be limited to the:

purpose for transferring the property;

attempts to dispose of the property at fair market value;

reason for accepting less than fair market value for the property;

means of or plans for supporting himself after the transfer; and

relationship (for example: familial or business) to the person to whom the property was transferred.

In addition, the individual must submit any and all pertinent documentary evidence such as legal documents, realtor listing agreements, relevant correspondence, and so

forth, to the Local Office. An allegation by the individual that the property transfer was done to avoid Medicaid estate recovery will not be accepted as a satisfactory showing that the property was transferred exclusively for a purpose other than to become eligible for Medicaid. Clearly, an individual who makes this claim has the intention of becoming eligible for Medicaid, or estate recovery would not even be an issue. Furthermore, a simple statement made by or on behalf of a recipient who has transferred property, that the transfer did not affect eligibility and is therefore allowable, does not constitute a satisfactory showing. The individual may be trying to protect all future eligibility. Again the avoidance of estate recovery may be the intent and will not suffice.

If the Local Office finds the individual has made a satisfactory showing that the resource was not transferred to attain Medicaid eligibility, or that he intended to transfer it for fair market value, a penalty period will not be established.

2640.10.35 Determining The Transfer Penalty Period (MED)

An unsuccessful rebuttal of the presumption of intent combined with a determination of inadequate consideration will result in the Local Office invoking a penalty period. During a transfer of property penalty period, the recipient is ineligible for nursing facility services and home and community-based services.

For transfers on and after 8-11-93 but prior to July 1, 2003, the penalty period will begin with the month of the transfer (if that month is not a part of another penalty period) and continues for the full number of penalty months determined by dividing the uncompensated value by the nursing facility private pay rate in effect as of the application month. (Refer to Section 3006.00.00 for the private pay rate).

For transfers occurring on and after July 1, 2003, the penalty period will begin with the month following the month of transfer if that month is not part of another transfer penalty period.

The number of months is rounded down. Refer to Section 2640.10.35.05 regarding multiple transfers.

EXAMPLE

An individual who entered a nursing facility on 8-2-03 filed a Medicaid application on 10-13-03. A violative transfer is found to have occurred on 7-30-03. The uncompensated value is \$60,000. The private pay rate in effect for the application month is \$3,667. The penalty period is 16 months. ($\$60,000 / \$3,667 = 16.36$ months.) It begins on 8-01-03, the month after the month of transfer.

When the Local Office has determined the transfer penalty period and the AG has been authorized, the Policy Answer Line is to be contacted to report the penalty period. The penalty period will then be entered into the AIM system so that neither nursing facility services nor waiver services will be reimbursed. PAL can be contacted directly by the caseworker in this circumstance, rather than the case going through the local office Policy Contact Person. The subject line of the e-mail must be: REPORT OF TRANSFER PENALTY. The caseworker must not put the person's name as the subject. The message should contain the following information:

Recipient name;
RID;
Case number;
Begin date of penalty period;
End date of penalty period.

2640.10.35.05 Multiple Transfers Of Property (MED)

Multiple transfers are handled differently depending on the date of the transfer. Item A below explains how certain multiple transfers are treated that occur on and after 7-1-2003, and item B explains how multiple transfers that occur after 8-11-1993 but before 7-01-2003 are treated.

- A. For multiple transfers on and after 07-01-03 that occur in the same month or in consecutive months, the total cumulative value of the transfers will be considered one transfer for purposes of calculating the penalty. The penalty period begins with the month following the first transfer.

EXAMPLE

Applicant makes three transfers of \$7,200 each on 7-10-03, 8-10-03, 9-10-03. The three transfers are added together to total \$21,600. The penalty period is six months ($\$21,600$ divided by $\$3,600$). The penalty period begins August 1, 2003 - the month following the first transfer.

EXAMPLE

Applicant transfers \$3000 in the months of February, March, and April. The total of the transfer is \$9000, establishing a penalty period of 2 months. The penalty starts March 1 and ends April 30.

Multiple transfers that are not made in consecutive months will result in separate penalty periods. Each penalty period will begin in the month following the month of transfer or, if that month is already part of a penalty period, in the month after the prior period ends. Penalty periods do not overlap.

EXAMPLE

Applicant makes 2 transfers of \$15,000 in August and October. Each penalty period is 4 months. (\$15,000 divided by \$3,667.) The first period begins September 1 (month following the month of the transfer) and ends December 31. The second period starts January 1 and ends April 30. The second period cannot overlap any of the months in the first period.

- B. Multiple violative transfers occurring on and after August 11, 1993 but prior to 7-1-03 will result in consecutive penalty periods. A transfer penalty period begins in the month of the transfer, if that month is not a part of another penalty period.

Multiple violative transfers in the same month are considered as one transfer, and the penalty period is the total uncompensated value of the assets divided by the appropriate monthly nursing facility rate.

EXAMPLE

Applicant transfers \$20,000 on 1-10-95 and \$8000 on 4-20-95. The nursing facility rate is \$2400. The penalty for the first transfer is 8 months (\$20,000 divided by \$2400 = 8.33). It begins 1-1-95 and ends 8-31-95. The second penalty period is 3 months (\$8000 divided by \$2400 = 3.33). The transfer occurred in 4-95; however the penalty can't begin with that month because 4-95 is part of another penalty period. Therefore, the penalty for the second transfer begins 9-1-95 (the month after the previous period ends) and ends 11-30-95.

2640.10.35.10 Transferred Property Is Returned To The Original Owner (MED)

If the transferred property is returned in its entirety, no penalty can be established. If a penalty has already been established, and then the property is returned to the individual, this transaction nullifies the penalty. It has the effect of restoring ownership of the property to the individual back to the month of the transfer. It does not necessarily restore full Medicaid coverage to the individual. The caseworker must redetermine Medicaid for the months in question by considering the value of the property. When only a portion of the property or its equivalent value is returned, the penalty period is to be reduced proportionately.

2640.10.35.15 Budgeting Procedures During A Transfer Penalty Period (MED)

During the penalty period, "eligibility step" budgeting is to be used. The post-eligibility step is not completed.

Once the penalty period has been served, the post-eligibility calculation to determine the liability amount is to be effective the month after the last month of the penalty period. Caseload controls must be in place to ensure that desk reviews are completed for appropriate action immediately after the penalty period expires.

2699.00.00 FOOTNOTES FOR CHAPTER 2600

Following are the footnotes for Chapter 2600:

- (f1) 7 CFR 273.8(d)
- (f2) 7 CFR 273.8(d) - F;
45 CFR 233.20 - C;
405 IAC 2-3-14 - MED 1, 4
- (f3) 405 IAC 2-3-15 - MED 1, 4
- (f4) 7 CFR 273.8(c)(2) - F;
45 CFR 233.20- C;
405 IAC 2-3-14 - MED 1, 4
- (f5) 20 CFR 416.1202
- (f6) IC 30-2-13-12
- (f7) 470 IAC 10.13-1
- (f8) IC 30-2-13-12
- (f9) 405 IAC 2-3-16
- (f10) 7 CFR 173.8(e)(2)
- (f11) 45 CFR 233.20
- (f12) 405 IAC 2-3-15
- (f13) 7 CFR 273.8(e)(2)
- (f14) 405 IAC 2-3-15; IC 12-15-2-17
- (f15) 405 IAC 2-3-15;
470 IAC 10.1-3-1

(f15a) IC 12-10-9-8
(f15b) 760 IAC 2-20-39
(f15c) 760 IAC 2-20-40
(f16) 7 CFR 273.8(e)(2) - F;
470 IAC 10-1-3-1 - C;
405 IAC 2-3-15 - MED 1, 4
(f17) 7 CFR 273.8(e)(5)
(f18) 405 IAC 2-3-15
(f19) 470 IAC 10.1-3-1 - C;
405 IAC 2-3-15 - MED 1, 4
(f19a) 405 IAC 2-3-23
(f20) 7 CFR 273.8(e)(6)
(f21) 7 CFR 273.8(h)(1)
(F21a) 470 IAC 10.3-4-5
(f22) P.L. 103-66, Section 13924, Mickey Leland
Childhood Hunger Relief Act
(f23) 405 IAC 2-3-2
(f23a) Section 1917(d) of the Social Security Act as
added by P.L. 103-66, OBRA-93; 405 IAC 2-3-22
(f24) 7 CFR 273.8(e)(9)
(f25) 405 IAC 2-3-15
(f26) 405 IAC 2-3-15
(f27) 405 IAC 2-3-15
(f28) 405 IAC 2-3-15
(f29) 470 IAC 10.13-1;
45 CFR 233.20
(f30) 45 CFR 233.20
(f31) 45 CFR 233.20
(f32) 45 CFR 233.20
(f33) CFR 233.20(a)(3)(i)(B)(5)
(f33a) 405 IAC 2-9-4
(f34) 405 IAC 2-3-3
(f35) 7 CFR 273.8(e)(11);
45 CFR 233.20;
20 CFR 416.1236
(f36) 7 CFR 273.8(e)(11)(iii);
45 CFR 233.20;
20 CFR 416.1236
(f37) 45 CFR 233.20;
20 CFR 416.1236
(f38) 45 CFR 233.20;
20 CFR 416.1236
(f39) 45 CFR 233.20;
20 CFR 416.1236
(f40) 45 CFR 233.20;
20 CFR 416.1236
(f41) 45 CFR 233.20;
20 CFR 416.1238;
7 CFR 273.8(e)(12)
(f42) 7 CFR 273.8(e)(11)(ii);
45 CFR 233.20;
20 CFR 416.1237
(f43) 460 IAC 10.1-3-4;
405 IAC 2-3-3;

- (f44) 7 CFR 273.8(e) (14)
20 CFR 416.1236
- (f45) Section 1902(r) (1) of the Social Security Act
as amended by OBRA-90;
P.L. 101-508
- (f46) P.L. 93-113, Sections 404(g) and 418;
20 CFR 416.1124(b)
- (f47) 45 CFR 233.20;
20 CFR 416.1236
- (f48) Higher Education Amendments of 1992, P.L. 102-325)
- (f49) 7 CFR 273.8(e) (11) (vi)
- (f50) P.L. 93-288;
20 CFR 416.1150
- (f51) P.L. 101-426 as amended by P.L. 101-510; 20 CFR
416.1236
- (f52) 20 CFR 416.1124(b);
20 CFR 416.1236(a) (15)
- (f53) 7 CFR 273.8(e) (17)
- (f54) 7 CFR 273.8(e) (15)
- (f55) 7 CFR 273.8(e) (16)
- (f55a) Section 13913 of P.L. 103-66, Mickey Leland
Childhood Hunger Relief Act
- (f56) Social Security Act, Section 402(a) (7) (B) as
amended by P.L. 101-508 (OBRA-90)
- (f57) 45 CFR 233.20
- (f58) 45 CFR 233.51
- (f59) 45 CFR 233.51
- (f60) P.L. 96-422
- (f61) Social Security Act, Section 415;
45 CFR 233.51
- (f62) 45 CFR 233.51
- (f63) Social Security Act, Section 415;
45 CFR 233.51
- (f64) Social Security Act, Section 415;
45 CFR 233.51
- (f65) 405 IAC 2-3-15
- (f66) IC 12-15-3-4 as added by P.L. 2-1992, Sec. 9
- (f67) IC 12-15-3-4 as added by P.L. 2-1992, Sec. 9; 405
IAC 2-3-15
- (f68) Social Security Act, Section 1924(c) (1)
- (f69) Social Security Act, Section 1924(c) (5) (A) as
amended by OBRA-90
- (f70) Social Security Act, Section 1924(f) (1) as amended
by OBRA-90 (P.L. 101-508)
- (f71) 7 CFR 273.8(i)
- (f72) 405 IAC 2-3-1.1(a)
- (f73) 405 IAC 2-3-1.1(i)
- (f73a) Section 1917 (c) (5)
- (f73b) IC 12-15-2-23 as added by P.L.14-2009
- (f73c) Social Security Act, Section 1917(e) (5)
- (f74) 405 IAC 2-3-1.2
- (f75) 405 IAC 2-3-1.1