

TO BE RESCINDED

5101:1-39-26

Medicaid: resource exemptions.

(A) There are certain types of property which are exempt from consideration as resources. The following are exempt from consideration as resources counted toward the resource limitations of one thousand five hundred dollars for an individual or two thousand two hundred fifty dollars for a couple.

(1) Household goods and personal effects of a reasonable value do not count as resources.

(a) "Household goods" are all personal property customarily found in the home and used in connection with the maintenance, use and occupancy of the premises. This encompasses items necessary for an adequate standard of sustenance, accommodation, comfort, information, and entertainment of occupants and guests.

(b) "Personal effects" are other personal property normally held and recognized as incidental items intended for personal use by one or more household members.

(2) One automobile per individual or couple or parent is exempt from being counted as a resource when it is specially equipped for a disabled person, or it is used for employment, or it is used for transportation to and from medical appointments for treatment of a specific or regular medical problem, or its current market value is four thousand five hundred dollars or less without consideration of liens or encumbrances.

When determining the resource assessment in accordance with rule 5101:1-39-35 of the Administrative Code, one automobile shall be considered exempt. The above exemption provisions are not applied to any additional automobiles.

(3) If the total face value of all life insurance policies on any individual is one thousand five hundred dollars or less, the policies are totally exempt from being counted as resources. If the total face value of all policies on an individual exceeds one thousand five hundred dollars, the entire cash surrender value of such policies must be counted as resources. Life insurance policies which do not have a cash surrender value, e.g., term insurance, are not used in determining whether the total value of all policies is over one thousand five hundred dollars. Life insurance policies or any life insurance policy that has ownership irrevocably assigned/transferred to a financial institution or a provider of funeral services for the specific use as an irrevocable prepaid burial agreement/contract is totally exempt from being

counted as a resource.

- (4) The home and the land associated with the home that is lived in and is used as a home by the individual, the couple, or the parents with whom the eligible child is living are exempt as a resource.
- (5) Real property which is used in a trade or business or which is income-producing property that provides a reasonable return does not count as a resource.
- (6) Property considered essential to the means of self-support of an individual or couple is exempt from being counted toward the resource limitation. This exemption applies to the tools and equipment that are necessary for a self-employed individual or an employee to perform his job, and, within limits, to all property or other assets necessary for and normally used in the operation of a trade or business.
- (7) The value of one burial space for each eligible individual, his or her spouse, and members of the individual's immediate family is exempt.
- (8) Funds received as a result of the housing and urban development (HUD) settlement agreement of January 16, 1979, in the case of Underwood v. Harris, number 76-469 (district court for the District of Columbia, filed March 22, 1976), are exempt from being counted as a resource when any of the HUD settlement funds retained by the individual are kept separate from any other countable resources.
 - (a) To ensure that these exempt settlement funds are identifiable, the applicant/recipient must open a separate savings or checking account.
 - (b) The applicant/recipient must provide verification that the extra funds are from the HUD settlement.
 - (c) Interest or dividend income must be kept separate from exempt HUD settlement funds, or the settlement funds will not continue to be exempt.
- (9) Cash for in-kind replacement received from any source (e.g., insurance companies, federal or state agencies, public or private organizations, other individuals) for the purpose of replacing or repairing an excluded resource which is lost, damaged, or stolen and any interest earned on such cash payments, is not considered as income for medicaid purposes. The total amount of cash (including interest earned) or the value of the in-kind

replacement is excluded from income and is also excluded from resources for a period of nine months from the date it is received.

- (a) If the exclusion time expires and the individual still has not used all of the cash, any remaining cash (as well as interest earned on such cash) is a countable resource effective the first day of the following month in which the time period expires.
 - (b) The exclusion from resources and the exclusion of interest on such funds from income may be extended for good cause for reasonable periods not to exceed an additional nine months (a total of eighteen months from the date the cash is received) where circumstances beyond the individual's control prevented his using the cash within the initial nine-month period.
 - (c) Good cause may be found if:
 - (i) Based on the evidence furnished, the individual made a reasonable effort to contract for or obtain replacement or repair of an excluded resource within the original nine-month period, and
 - (ii) He still intends to use any cash received for that purpose.
 - (d) Any change of intent on the part of the individual during the initial nine-month exclusion period is immaterial and will not affect the exclusion during this initial period. However, where an extension of the time period is granted for good cause, any change of intent which occurs during the extension period will cause the exclusion to end. Any cash and interest retained becomes a resource the first day of the month following the month in which the individual reports his change of intent, or in which the eighteen-month period ends, whichever comes first. Temporary housing received by an individual whose home was destroyed or damaged is also excluded for a period of nine months beginning with the month the temporary housing is first provided. For purposes of this rule, temporary housing includes the value of support and maintenance. Therefore, when a home is damaged or destroyed and temporary housing is furnished to an individual who owned the home, any form of in-kind support and maintenance is not counted as income.
- (10) Funds held in plans for achieving a self-support account in accordance with section 1613(a)(4) of the Social Security Act are exempt as a resource.

The PASS program is offered by the Social Security Administration (SSA) to

applicants and recipients of Supplemental Security Income (SSI) who have additional income [Retirement, Survivors, Disability Insurance (RSDI), veterans benefits, etc.] and are participating in a program administered by the rehabilitative services commission or other social agency.

The program allows SSI recipients to set aside a portion of their countable income each month. The amount set aside is deposited into a separate identifiable account, and it is to be used only for an occupational objective which is approved by SSA and the social agency. Training for employment and purchasing of a specially equipped automobile are examples of occupational objectives.

- (11) The accumulation of payments received under the provisions of the Agent Orange Compensation Exclusion Act (Public Law 101-201) received on or after January 1, 1989 is not counted as a resource. The Agent Orange Compensation payments must be documented and identifiable separate from countable resources.

Interest received on these funds banked with a financial institution is not exempt and is counted as unearned income in the month received and as a countable resource the month after the month of receipt.

Any resource that is purchased with the Agent Orange funds is not automatically exempt and must meet the medicaid resource requirements.

- (12) The accumulation of payments received under the provisions of Section 105 of Public Law 100-383 by individuals of Japanese ancestry is not counted as a resource. These payments must be documented and identifiable separate from countable resources.

Interest received on these funds, banked with a financial institution is not exempt and is counted as unearned income in the month received and as a countable resource the month after the month of receipt.

Any resource that is purchased with these funds is not automatically exempt and must meet medicaid resource requirements.

- (13) The accumulation of payments received under Section 206 of Public Law 100-383 by Aleuts is not counted as a resource. These payments must be documented as identifiable separate from countable resources.

Interest received on these funds banked with a financial institution is not exempt and is counted as unearned income in the month received and as a countable resource the month after the month of receipt.

Any resource that is purchased with these funds is not automatically exempt and must meet medicaid resource requirements.

- (14) The accumulation of German reparation (restitution) payments paid under the republic of Germany's federal law for compensation of nationalist socialist persecution to certain survivors of the holocaust are not counted as a resource for medicaid. The German reparation payments must be documented and identifiable separate from countable resources. Acceptable documentation may include, or be limited to, a written statement from the recipient which declares the resource as the accumulated funds from a German reparation payment.

Interest received on these funds banked with a financial institution is not exempt and is counted as unearned income in the month received and as a countable resource the month after the month of receipt.

Any resources that are purchased with these funds are not automatically exempt and must meet medicaid resource requirements.

- (15) The accumulation of payments under the provisions of the Radiation Exposure Compensation Act (Public Law 101-426) is not counted as a resource. These payments must be documented and identifiable separate from countable resources.

Interest received on these funds banked with a financial institution is not exempt and is counted as unearned income in the month received and as a countable resource the month after the month of receipt.

Any resource that is purchased with these funds is not automatically exempt and must meet medicaid resource requirements.

- (16) Earned income tax credit payments in the form of a refund of federal income taxes or in the form of an advance payment by an employer are disregarded in the month of receipt of such payment and in the month following. The second month after the month of receipt any of these funds which are retained are counted as a resource.

Interest received on these funds banked with a financial institution is not exempt and is counted as unearned income in the month received and a countable resource the month after the month of receipt.

Any resource that is purchased with these funds is not automatically exempt and must meet medicaid resource requirements.

- (17) Payments received under the provisions of the Maine Indian Claims Settlement Act of 1980 (Public Law 96-420) received on or after October 10, 1980.

Interest received on these funds banked with a financial institution is not exempt and is counted as unearned income in the month received and a countable resource the month after the month of receipt.

Any resource that is purchased with these funds is not automatically exempt and must meet medicaid resource requirements.

- (18) The accumulation of Austrian social insurance payments paid under paragraphs 500 and 506 of the Austrian General Social Insurance Act is not counted as a resource. These payments must be documented and identifiable separate from countable resources.

Interest received on these funds banked with a financial institution is not exempt and is counted as unearned income in the month received and as a countable resource the month after the month of receipt.

Any resource that is purchased with these funds is not automatically exempt and must meet medicaid resource requirements.

- (19) Payments received under the provisions of Aroostook Band of Micmacs Act (Public Law 102-171) received on or after November 26, 1991.

Interest received on these funds banked with a financial institution is not exempt and is counted as unearned income in the month received and as a countable resource the month after the month of receipt.

Any resource that is purchased with these funds is not automatically exempt and must meet medicaid resource requirements.

- (20) Escrow accounts established and credited as the direct result of the assistance group's involvement in the family self-sufficiency program on or after May 13, 1992. These escrow accounts are only considered available when the assistance group is no longer receiving any federal, state, or other public assistance for housing.

Interest received on these funds banked with a financial institution is not exempt and is counted as unearned income in the month received and as a countable resource the month after the month of receipt.

Any resource that is purchased with these funds is not automatically exempt and must meet medicaid resource requirements.

- (21) Payments received under the provisions of the Seneca Nation Settlement Act of 1990 (Public Law 101-503) received on or after November 3, 1990.

Interest received on these funds banked with a financial institution is not exempt and is counted as unearned income in the month received and as a countable resource the month after the month of receipt.

Any resource that is purchased with these funds is not automatically exempt and must meet medicaid resource requirements.

- (22) Payments received as a result of the Netherlands' Act on Benefits for Victims of Persecution (1940-1945) are not counted as a resource.

Interest received on these funds is not exempt and is counted as unearned income in the month received and as a countable resource the month after the month of receipt.

Any resource that is purchased with these funds is not automatically exempt and must meet medicaid resource requirements.

- (23) As a result of the settlement contained in H.B. 2015, none of the payments made from any fund established pursuant to a class settlement in the case of Susan Walker v. Bayer Corporation, et al, 96-c-5024 (N.D. Ill) shall be considered income or resources in determining eligibility and/or patient liability.

Interest received as a result of payments from this settlement are not excluded for income and resource purposes.

- (24) Past-due benefits and other underpayments that exceed six times the monthly SSI payment deposited into a dedicated financial institution account and any accrued interest or other earnings on such an account are excluded from income and resources. Reference rule 5101:1-39-272 of the Administrative Code for additional information relating to SSI dedicated accounts and their impact on medicaid eligibility.

- (B) Property which is not specifically exempt is applied as a countable resource toward the resource limitation of one thousand five hundred dollars for individuals or two thousand two hundred fifty dollars for couples.

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