5101:1-39-27.3 **Medicaid: promissory notes, mortgages, stocks and bonds.**

(A) A "promissory note" is a written unconditional promise signed by a person who promises to pay a specified sum of money at a specified time, or on demand, to the person, corporation, or institution named on the note. A promissory note that makes periodic payments is not an annuity.

(1) The value of a promissory note is its outstanding balance. A promissory note will have no value if the applicant/recipient adequately documents that the obligations under the promissory note were forgiven by order of a bankruptcy court.

(2) A promissory note is an available resource unless it cannot be sold.

(3) If the terms of the promissory note prohibit or prevent the sale of the note, then the assets given in exchange for the note will be deemed improperly transferred in accordance with the provisions in rule 5101:1-39-07 of the Administrative Code if the exchange occurred within the applicable look-back period.

(a) The total value of resources improperly transferred is the value of the assets originally exchanged for the note, reduced by the sum total of any repayments made on or before the date of application for medicaid.

(b) The period of restricted coverage shall not be reduced based upon anticipated, estimated, or projected future payments to be made under the note.

(c) The applicant/recipient may seek a new eligibility determination and/or a recalculation of the restricted period of coverage only based upon actual repayments made under the terms of the note.

(d) If the sum total of all repayments made under the note are less than the original value of the assets given in exchange for the note, then the difference will be deemed improperly transferred if the exchange occurred within the applicable look back period.

(4) Any payments made under a promissory note are treated under the rules governing income.

(5) If the applicant/recipient sells a promissory note for an amount less than the value of assets given in exchange for the note, the difference will be deemed improperly transferred as of the date of the sale of the note. The

applicant/recipient may rebut the finding of an improper transfer by:

(a) Providing credible evidence from a knowledgeable source establishing that the market value at the time of sale of the note was less than its outstanding principal balance. The knowledgeable source must be clearly identified. The knowledgeable source must provide a written explanation regarding its opinion of the market value. The knowledgeable source must affirmatively indicate that the decreased market value was not caused in whole or part by the terms of the note and that the decrease in value was entirely outside the control of the applicant/recipient or his or her representative(s). Knowledgeable sources include anyone regularly engaged in the business of the public trade, sale, or exchange of commercial paper; or,

(b) The applicant/recipient may provide documentation clearly showing that the applicant/recipient received payments under the terms of the note prior to the sale, and that such payments equal or exceed the difference between the sale price and the value of assets originally given in exchange for the note; or,

(c) The applicant/recipient may provide documentation clearly showing that the lower sale price of the note was accepted by the applicant/recipient as payment of a debt owed by the applicant/recipient to the purchaser.

(6) If ownership of the note is shared, documentation must be provided by the applicant/recipient verifying his or her proportionate share of the note.

(B) A "mortgage" is a pledge of a particular property for the payment of a debt or the performance of some other obligation within a prescribed time period.

(1) The value of a mortgage is its outstanding balance. A mortgage will have no value if the applicant/recipient adequately documents that the obligations under the mortgage were forgiven by order of a bankruptcy court.

(2) A mortgage is an available resource unless it cannot be sold.

(3) If the terms of the mortgage prohibit or prevent the sale of the mortgage, then the assets given in exchange for the mortgage will be deemed improperly transferred in accordance with the provisions in rule 5101:1-39-07 of the Administrative Code if the exchange occurred within the applicable look-back period.

(4) Any payments made under a mortgage are treated under the rules governing income.

(5) A copy of the property agreement must be recorded with the county auditor, county recorder, or other appropriate government agency charged with the

responsibility of recording property agreements.

(a) For the purposes of this rule, a property agreement is not considered effective until the date it is recorded with the county auditor, county recorder, or other appropriate government agency that is charged with the responsibility for recording property agreements. The CDJFS shall disregard any property agreement that is not properly recorded and shall consider the entire property as an available resource to the applicant/recipient.

(b) For the purposes of this rule, the date of the recording of the property agreement with the appropriate government agency is considered the date of transfer.

(6) If the applicant/recipient sells a mortgage for an amount less than the value of assets given in exchange for the mortgage, the difference will be deemed improperly transferred as of the date of the sale of the mortgage. The applicant/recipient may rebut the finding of an improper transfer by:

(a) Providing credible evidence from a knowledgeable source establishing that the market value at the time of sale of the mortgage was less than its outstanding principal balance. The knowledgeable source must be clearly identified. The knowledgeable source must provide a written explanation regarding its opinion of the market value. The knowledgeable source must affirmatively indicate that the decreased market value was not caused in whole or part by the terms of the mortgage and that the decrease in value was entirely outside the control of the applicant/recipient or their representatives. Knowledgeable sources include anyone regularly engaged in the business of the public trade, sale, or exchange of commercial paper; or,

(b) The applicant/recipient may provide documentation clearly showing that the applicant/recipient received payments under the terms of the mortgage prior to the sale, and that such payments equal or exceed the difference between the sale price and the value of assets originally given in exchange for the mortgage; or,

(c) The applicant/recipient may provide documentation clearly showing that the lower sale price of the mortgage was accepted by the applicant/recipient as payment of a debt owed by the applicant/recipient to the purchaser.

(7) If ownership of the mortgage is shared, documentation must be provided by the applicant/recipient verifying his or her proportionate share of the mortgage.

(8) Proceeds from reverse mortgages/home equity conversion programs are excluded income in the month of receipt. Proceeds retained until the month

following the month of receipt are subject to evaluation as a resource in accordance with Chapter 5101:1-39 of the Administrative Code.

(C) Shares of stock represent ownership in a business corporation. Their value shifts with demand and may fluctuate widely. The following guidelines apply to all stocks, including preferred stocks, warrants and rights, and options to purchase stocks.

(1) For stock that is publicly traded, the current market value of the stock is its closing price. The closing price of a stock on a given day can usually be found in the next day's regulator or financial newspaper. The value of over-the-counter stocks are shown on a "bid" and "asked" basis, for example, "eighteen and one-fourth" (eighteen dollars and twenty-five cents) bid and "nineteen" (nineteen dollars) asked. The bid price is used to determine the value of a stock.

(2) If the closing or bid price of a stock is not shown, a local securities firm must determine its value. If the ownership of the stock is shared, i.e., more than one name is on the face of the stock certificate, documentation must be provided by the applicant/recipient verifying his or her proportionate share of the stock.

(3) The stock of some corporations is not publicly traded and is held within close groups and traded very infrequently. The sale of such stock is often handled privately and subject to restrictions. The burden of proof for establishing the value of this kind of stock is on the individual. The preferred evidence is a letter or other written statement from the firm's accountants giving their best estimate of the stock's value and the basis for the estimate (e.g., most recent sale, most recent offer from outsiders, current market value of assets less debts on them, cessation of activity and sale of assets, bankruptcy, etc.).

(4) When the verification of the current value of the stock of a closely held corporation is questionable, that is, when there are indications that the extent of an individual's ownership is being manipulated to reduce the value of the stock as a countable resource, the county prosecutor or the agency's legal staff shall be consulted for assistance in determining the value of the stock.

(5) Shares of stock in an Alaskan native regional or village corporation are exempted from resources.

(D) The value of a mutual fund is determined in the same manner as the value of a stock.

(E) The current cash value of a municipal, corporate, or government bond is the value counted as a resource. If the ownership of a bond is shared, documentation must be provided by the applicant/recipient verifying his or her proportionate share of the bond.

(F) The current value of a U.S. savings bond is a countable resource. If the bonds are jointly owned, the applicant/recipient must provide documentation verifying his or her proportionate share of the bonds.

Replaces: 5101:1-39-27.3

Effective:

R.C. 119.032 review dates:

____

Certification

____

Date

Promulgated Under:	111.15
Statutory Authority:	5111.01, 5111.011
Rule Amplifies:	5111.01, 5111.011
Prior Effective Dates:	9/3/77, 2/1/79, 10/1/79, 1/3/80, 12/1/84 (emer.), 2/10/85, 5/3/85 (emer.), 8/1/85, 9/1/85 (emer.), 11/25/85, 10/1/91, 9/1/94