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5101:1-39-30 **Life insurance.**

(A) A life insurance policy is a contract. Its purchaser (the owner) pays premiums to the company that provides the insurance (the insurer). In return, the insurer agrees to pay a specified sum to a designated beneficiary upon the death of the insured (the person on whom, or on whose life, the policy exists).

(B) Definitions of terms contained within life insurance policies

(1) Insured - the individual whose life is insured.

(2) Beneficiary - that individual (or entity) named in the contract to receive the policy proceeds upon the death of the insured.

(3) Owner - the individual with the right to change such policy.

(4) Insurer/assurer - the company or association which contracts with the owner.

(5) Face value or amount - the basic death benefit or maturity amount of the policy, which is specified on its face. This amount may be decreased by loans. the face value does not include dividends, additional amounts payable because of accidental death or other provisions.

(6) Cash surrender value (CSV) - a form of equity value that the policy acquires over time. The owner of a policy can obtain its CSV only by turning the policy in for cancellation before it matures or the insured dies. A loan against a policy reduces its CSV. The value usually increases with the age of the policy.

(7) Dividends - periodically (annually, as a rule), the insurer may pay a share of any surplus company Earnings to the policy owner as a dividend. Depending on the life insurance company and type of policy involved, dividends can be applied to premiums due or paid by check or by an addition or accumulation to an existing policy.

(8) Dividend additions and accumulations - dividend additions are amounts of insurance purchased with dividends and added to the policy, increasing its death benefit and CSV.

(a) The table of CSV that comes with a policy does not reflect the added CSV of any dividend additions.

(b) Dividend accumulations are dividends that the policy owner has constructively received but left in the custody of the insurer to accumulate at interest, like money in a bank account. They are not a value of the policy itself; however, the owner can obtain them at any time without affecting the policy's face value or CSV.

(9) Accelerated life insurance payments - proceeds paid to a policyholder prior to death. Although accelerated payment plans vary from company to company, all of the plans involve early payout of some or all of the proceeds of the policy.

(10) Supplementary contract - a supplementary contract is not a life insurance policy. It is an agreement whereby, when the policy matures or the insured dies, the proceeds are paid not in a lump sum, but in an alternative manner selected by the individual, usually as an annuity. A supplementary contract must be evaluated as a potential source of income that the individual must avail themselves of.

(C) A life insurance policy is a countable resource for medicaid purposes if it generates a CSV. Its value as a resource is the amount of the CSV.

(1) The total CSV of all life insurance policies for an individual is exempt if the total face value of the policies is equal to or less than one thousand five hundred dollars for any one individual. If the total face value of all life insurance policies for any one individual is more than one thousand five hundred dollars, then the total CSV of all the policies for that individual is counted toward the applicable resource limit. Policies in which a CSV has not yet accrued, are still considered available when determining the total face value of the individual's life insurance policies.

(2) Life insurance policies in which no CSV (e.g., term insurance) will ever accrue are not considered in determining the face value of the insurance policies and are exempt from all computations. In addition, burial insurance policies are not considered in computing face value. Burial insurance is insurance which by its terms can only be used to pay the burial expense of the insured and will not accrue any CSV.

(3) When the face value of all countable life insurance policies on an ineligible individual exceeds one thousand five hundred dollars and deeming is required, the cash value of the policies is combined with the ineligible individual's other countable resources and appropriately deemed to the eligible individual.

(D) The applicant/recipient must submit all policies that the individual and spouse own. The following information must be recorded in the case record:

(1) Name of insured.

(2) Name of owner.

(3) Type of insurance (ordinary [whole], life or term).

(4) Face value.

(5) For ordinary life, cash surrender value.

(6) For ordinary life, amount of loans outstanding against the policy.

(7) For term insurance, amount of premium and frequency.

(8) Name of company.

(9) Policy number.

(E) The following factors are considered to determine whether a life insurance policy is a resource:

(1) If the policy does not have a CSV due to the type of policy, further examination is not necessary. If the policy does have a CSV the eligibility determiner must distinguish between the owner of the policy and the insured person.

(2) The owner of the policy is the only individual who can receive the proceeds under the cash surrender provisions of the policy. Therefore, it is not material that the applicant/recipient (or spouse) is the insured individual if the individual is not also the owner of the policy. If this is the case, there is no resource available.

(3) A life insurance policy is an available resource only when the policy is owned by the applicant/recipient or person whose resources are deemed to the individual. If the consent of another person is needed to surrender a policy for its full CSV, the policy is available as a resource after the applicant/recipient has obtained the consent. The individual must make a reasonable effort to obtain consent. If the consent cannot be obtained, the policy is not available. Any doubt about possible availability is resolved by contacting the insurance company. A determination would need to be made as to whether an improper transfer had occurred.

(4) The exemption of a total of one thousand five hundred dollars face value of countable insurance policies applies to each individual separately and does not mean an average of one thousand five hundred dollars per person. An individual and spouse are each allowed one thousand five hundred dollars but not any combination of values for a three thousand dollar total for both.

(5) CSV of a policy is determined by contacting the insurance company whenever

there is any question regarding the current value. Use the following chart to estimate a policy's CSV:

Years Policy Has Been in Effect	Estimated CSV Is This Percentage of Face Value
20 or more	60%
15 to 19	50%
11 to 14	45%
6 to 10	30%
4 to 5	20%
3	10%
2	5%
1	0%

(6) The insurance exemption does not apply to a matured endowment policy since the owner may elect to receive the total face value at any time. If the applicant/recipient leaves the matured policy on deposit with the insurance company, it is no longer classified as insurance but is considered a liquid asset, an investment at interest (the same as money in a savings account).

(F) Evaluating the insurance policy

(1) Face value - the face value on the insurance policy may be labeled the "face amount," "sum insured," "amount of insurance" or "amount of this policy."

(a) The face value does not include additional benefits payable because of special conditions such as double indemnity riders, which apply in the event of accidental death.

(b) If the face value cannot be determined, the insurance company or local agent is contacted for clarification. For example, the insurance company must clarify the value when there has been a lapse in the policy because of nonpayment of premiums which results in some other insurance option becoming effective. If the information is obtained by telephone, the name, title and telephone number of the person contacted, and the name and address of the insurance company and the details of the conversation are documented in the case record.

(2) Cash value - to compute the cash surrender value of a life insurance policy, it is

necessary to know whether the premiums are up-to-date or in default (have not been paid) and to read the conditions in the policy affecting cash surrender. If the policy is not in default and a loan has not been obtained on the cash value of the policy, the approximate cash surrender value is figured by using the table of value in the policy as of the last anniversary date or the chart in (E)(5) of this rule. The anniversary date of a policy is the same day and month as the date of issuance. Verification of the cash surrender value must be obtained from the insurance company if the csv, on its own, or in conjunction with other resources is close to the applicable resource limit.

(3) An owner's failure to pay the premiums on the life insurance policy or failure to elect an option within a certain period of time after defaulting on the premiums generally causes an option to apply automatically. The csv is usually applied by the company along with any dividends to buy extended life insurance. Under these circumstances, the face amount of the life insurance is uncertain and there is a possibility that a certain option or options have come into play. It is necessary for the insurance company to compute the actual CSV before a determination of eligibility can be made. The current face value and CSV must be obtained from the insurance company.

(4) When an individual has borrowed on a life insurance policy, the amount of the CSV depends upon the outstanding loan. Under these circumstances, the eligibility determiner must contact the insurance company to determine the amount of the CSV.

(G) Treatment of accelerated life insurance payments

(1) Most accelerated payment plans fall into three basic types, depending on the circumstances which cause or trigger the payments to be accelerated. These types are the following:

(a) Long term care model, which allows the policyholders to access their death benefits should they require extended confinement in a care facility or, in some instances, health care services at home;

(b) Dread disease or catastrophic illness model, which allows policyholders to access their death benefits if they contract or acquire one of a number of specified covered conditions; and,

(c) Terminal illness model, which allows policyholders to access their death benefits following a diagnosis of terminal illness where death is likely to occur within a specified number of months.

(2) Some companies refer to these types of payments as "living needs" or "accelerated death" payments.

(3) Depending on the type of accelerated payment plan, receipt of accelerated

payments may reduce the policy's face value by the amount of the payments and may reduce the CSV in a manner proportionate to the reduction in face value. In some cases, a lien may be attached to the policy in the amount of the accelerated payments and a proportionate reduction in CSV results.

(4) Accelerated payments are not "benefits" for purposes exploring potential income. It is not required that a policyholder apply for accelerated payments as a condition of obtaining or retaining medicaid eligibility.

(5) Since accelerated payments can be used to meet food, clothing, or shelter needs, the payments are income in the month received and a resource if retained into the following month and not otherwise excludable.

(6) The receipt of an accelerated payment is not treated as a conversion of a resource for medicaid purposes. This is because, under an accelerated arrangement, an individual receives proceeds from the policy, not the policy's resource value, which is its CSV.

(H) Life insurance funded preneed funeral contracts

(1) A life insurance funded preneed funeral contract involves an individual purchasing a life insurance policy on his or her own life and then assigning, revocably or irrevocably, either the proceeds or ownership of the policy to a third party, generally a funeral provider. The purpose of the assignment is to fund a preneed funeral contract.

(2) For medicaid purposes, the ownership of a life insurance policy may be irrevocably changed to a financial institution or a provider of funeral services for the specific use as an irrevocable preneed funeral contract for the individual and/or spouse.

(a) To determine if the transfer of ownership of a life insurance policy to an irrevocably transferred policy has been completed, the CDJFS needs to review all of the following items. Copies of all of the items shall be maintained in the assistance group's record.

(i) The life insurance policy.

(ii) Preneed funeral contract. The preneed funeral contract must have a fair market value equal to the face value of the policy that has been irrevocably transferred or assigned.

(iii) For medicaid purposes, for a preneed funeral contract that is funded by a life insurance policy the funeral provider can stipulate in the preneed funeral contract that goods and services will be provided commensurate with the amount of insurance proceeds that are available at the time the services are required.

(iv) Completed legal document(s) changing irrevocable ownership of the policy to the financial institution or funeral provider. Verification that the change of ownership has been completed must be obtained from the insurer.

(v) A provision in the contract that the funeral provider has the irrevocable right to the proceeds of the life insurance policy upon the death of the insured.

(vi) At the time of death, the CSV of the policy may exceed the cost of the preneed funeral contract or expenses. The preneed funeral contract must include a provision that any funds in excess of the costs will be paid to the deceased individual's estate. Probate court shall decide how these funds are dispersed. If the CDJFS is contacted by the funeral director regarding these funds, the CDJFS shall direct them to the appropriate probate court.

(b) The transfer of ownership must be verified by the insurer that the insurer has, in fact, changed ownership of the policy.

(i) For the purpose of determining eligibility for medicaid, the CSV of the policy will not be considered a countable resource effective the date of the change of ownership. The date of the change of ownership will be considered the later of the dates that the irrevocable change of ownership paperwork and the preneed funeral contract were signed by the owner of the policy and the funeral provider if both were not signed on the same date.

(ii) Verification must be received by the CDJFS that the change of ownership has been acknowledged and completed by the insurer before (H)(2)(b)(i) of this rule can be implemented.

(c) The preneed funeral contract must meet all of the requirements of rule 5101:1-39-27.4 of the Administrative Code.

(d) A change of beneficiary, whether irrevocable or not, of a life insurance policy does not satisfy the requirement of an irrevocable change of ownership.

(I) Reference rule 5101:1-39-35 of the Administrative Code for the treatment of life insurance when completing a resource assessment.

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