

## TO BE RESCINDED

5160:1-3-05.14      **Medicaid: resource exclusion.**

(A) This rule describes excluded resources for the purpose of determining medicaid eligibility.

(B) Definition. "Home" is defined in rule 5160:1-3-05.13 of the Administrative Code.

(C) The following are considered excluded resources:

- (1) Household goods and personal effects of a reasonable value as described in rule 5160:1-3-05.10 of the Administrative Code.
- (2) Automobiles and other modes of transportation as described in rule 5160:1-3-05.11 of the Administrative Code.
- (3) Life insurance policies as described in rule 5160:1-3-05.12 of the Administrative Code.
- (4) The home considered the principal place of residence as described in rule 5160:1-3-05.13 of the Administrative Code.
- (5) Real or personal property considered essential to the means of self-support as described in rule 5160:1-3-05.19 of the Administrative Code.
- (6) The value of a burial space as described in rule 5160:1-3-05.7 of the Administrative Code.
- (7) Certain preneed funeral contracts as described in rule 5160:1-3-05.6 of the Administrative Code.
- (8) Cash or in-kind replacement received from any source for purposes of replacing or repairing an excluded resource which is lost, damaged, or stolen. Any interest earned on such cash payments, is not income. The total amount of cash (including interest earned) or the value of the in-kind replacement is excluded as a resource for a period of nine months from the date of receipt.
  - (a) If the exclusion time expires and the individual 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 time may be extended for good cause for a reasonable period not to exceed an additional nine months (a total of eighteen months from the date the cash is received).
  - (c) Good cause may be found if:
    - (i) 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) The individual still intends to use any cash received for that purpose.
  - (d) 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 the change or intent, or the eighteen-month period ends, whichever comes first.
  - (e) 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. 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.
- (9) Funds held in plans for achieving a self-support (PASS) account in accordance with section 1613(a)(4) of the Social Security Act (as in effect on March 1, 2014).
- (10) The accumulation of payments received under the Agent Orange Compensation Exclusion Act, Pub. L. No. 101-201 (as in effect on December 1, 2013) received on or after January 1, 1989.
- (11) The accumulation of payments received under section 105 of Pub. L. No. 100-383 (as in effect on December 1, 2013) by individuals of Japanese ancestry.
- (12) The accumulation of payments received under section 206 of Pub. L. No. 100-383 (as in effect on December 1, 2013) by Aleuts.

- (13) The accumulation of German reparation (restitution) payments paid under the republic of Germany's federal law for compensation of nationalist socialist persecution to certain surviving victims of Nazi persecution, per Pub. L. No. 103-286 (as in effect on December 1, 2013).
- (14) The accumulation of payments under the Radiation Exposure Compensation Act, Pub. L. No. 101-426 (as in effect on December 1, 2013).
- (15) Federal earned income tax credit payments, either refunded or advanced by an employer, are excluded for nine months beginning after the month of receipt in accordance with section 1613(a)(11) of the Social Security Act (as in effect on March 1, 2014).
- (16) The accumulation of payments received under the Maine Indian Claims Settlement Act, Pub. L. No. 96-420 (as in effect on March 1, 2014) received on or after October 10, 1980.
- (17) The accumulation of Austrian social insurance payments paid under paragraphs 500 and 506 of the Austrian General Social Insurance Act (as in effect on December 1, 2013).
- (18) The accumulation of payments received under the Aroostook Bank of Micmacs Act, Pub. L. No. 102-171 (as in effect on March 1, 2014) received on or after November 26, 1991.
- (19) The accumulation of payments received under the Seneca Nation Settlement Act, Pub. L. No. 101-503 (as in effect on December 1, 2013) received on or after November 3, 1990.
- (20) The accumulation of payments received as a result of the Netherlands' Act on Benefits for Victims of Persecution (1940-1945) (as in effect on December 1, 2013).
- (21) The accumulation of payments received 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), per the Balanced Budget Act of 1997, Pub. L. No. 105-33 (December 1, 2013).
- (22) 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 as income

and resources as defined in rule 5160:1-3-05.4 of the Administrative Code.

- (23) Any interests of the individual (or spouse) in trust or restricted lands, in accordance with 20 C.F.R. 416.1234 (as in effect on December 1, 2013) if an individual or an individual's spouse is of native American Indian descent from a federally recognized native American Indian tribe. If an individual alleges an interest in trust or restricted lands, the administrative agency must obtain a copy of any document or documents that identify such interest and verify the allegation with the appropriate Indian agency.
  - (24) Assistance received as a result of a catastrophe declared by the president of the United States as a major disaster, no matter if received from federal, state, or local government, or from a disaster assistance organization. This includes any interest earned on the assistance.
  - (25) Any unspent payments received from a fund established by a state to aid victims of crime are excluded for nine months beginning after the month of receipt as identified in section 5031 of Pub. L. No. 101-508 (as in effect on December 1, 2013).
  - (26) Relocation assistance, under Title II of the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970, 42 U.S.C. 301 (as in effect on December 1, 2013) provided to persons displaced by projects which acquire real property.
  - (27) Grants, scholarships, fellowships, and gifts used to pay tuition, fees and other necessary educational expenses, in accordance with section 1613(A)(15) of the Social Security Act (as in effect on March 1, 2014) are excluded for nine months.
  - (28) Funds received from the "Ricky Ray Hemophilia Relief Fund" under the Ricky Ray Hemophilia Relief Fund Act of 1998, Pub. L. No. 105-369 (as in effect on December 1, 2013).
- (D) Administrative agency responsibilities. The administrative agency shall:
- (1) Consider interest received on excluded funds listed in paragraph (C) of this rule, banked with a financial institution, as a resource unless otherwise specified.
  - (2) Consider any resource purchased with funds listed in paragraph (C) of this rule as not automatically excluded and subject to medicaid resource requirements.

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CERTIFIED ELECTRONICALLY

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Certification

07/12/2016

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Date

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