5160:1-3-05.5 **Medicaid: promissory notes, mortgages, stocks, bonds and loans.**

(A) This rule describes the treatment of promissory notes, mortgages, stocks, bonds and loans for purposes of determining eligibility for medical assistance.

(B) Definitions.

(1) "Assets" is defined in rule 5160:1-3-05.1 of the Administrative Code.

(2) "Look-back period" is defined in rule 5160:1-3-07.2 of the Administrative Code.

(3) "Mortgage" means a pledge of a particular property for the payment of a debt or the performance of some other obligation within a prescribed time period.

(4) "Promissory note" means a written, unconditional promise signed by a person 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 making periodic payments is not considered an annuity.

(5) "Value of a promissory note" means the outstanding balance due as of the date of the individual's application for medical assistance.

(C) Promissory notes held by an individual.

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

(2) If the terms of the promissory note prohibit or prevent the sale of the note, the assets given in exchange for the note must be considered improperly transferred, in accordance with the transfer of resources rule Chapter 5160:1-3-07.2 of the Administrative Code.

(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 medical assistance.

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

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

(d) If the sum total of all repayments made under the note is less than the original value of the assets given in exchange for the note, the difference will be considered improperly transferred.

(3) Payments received by an individual under a promissory note are treated as income, as defined in Chapter 5160:1-3 of the Administrative Code.

(4) If the individual sells a promissory note for an amount less than the value of assets given in exchange for the note, the difference will be considered improperly transferred as of the note's sale date. The individual may rebut the findings of an improper transfer by:

(a) Providing credible evidence from a knowledgeable source establishing the market value was less than its outstanding principal balance. The knowledgeable source must:

(i) Be clearly identified; and

(ii) Provide a written explanation regarding its opinion of the market value; and

(iii) Affirmatively indicate the decreased market value was not caused in whole or part by the terms of the note and the decrease in value was entirely outside the control of the individual or the individual's representative(s).

(b) Providing documentation clearly showing the individual received payments under the terms of the note prior to the sale, and such payments equal or exceed the difference between the sale price and the value of assets orginally given in exchange for the note; or

(c) Providing documentation clearly showing that the lower price of the note was accepted by the individual as payment of a debt owed by the individual to the purchaser.

(5) Documentation must be provided by the individual verifying his or her proportionate share of the note if ownership of the note is shared.

(6) A promissory note has no value if the individual adequately documents the obligations under the promissory note were discharged by order of a bankruptcy court.

(D) Mortgages held by an individual.

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

(2) The assets given in exchange for the mortgage will be considered improperly transferred if the terms of the mortgage prohibit or prevent the sale of the mortgage in accordance with the transfer of resources rule Chapter

5160:1-3-07.2 of the Administrative Code.

(3) Any payments made under a mortgage must be treated as income, as defined in Chapter 5160:1-3 of the Administrative Code.

(4) 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 charged with the responsibility of recording property agreements. The administrative agency shall disregard any property agreement that is not properly recorded and shall consider the entire property as an available resource to the individual.

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

(5) For an individual selling a mortgage for an amount less than the value of assets given in exchange for the mortgage, the difference shall be considered improperly transferred as of the mortgage sale date. The individual may rebut the findings of an improper transfer by:

(a) Providing credible evidence from a knowledgeable source establishing the fair market value at the mortgage's sale date was less than its outstanding principal balance. The knowledgeable source must:

(i) Be clearly identified; and

(ii) Provide a written explanation regarding its opinion of the market value; and

(iii) 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 individual or the individual's representative(s).

(b) Providing documentation clearly showing the individual received payments under the terms of the mortgage prior to the sale, and 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) Providing documentation clearly showing that the lower sale price of the mortgage was accepted by the individual as payment of a debt owed by the individual to the purchaser.

(6) Documentation must be provided by the individual verifying his or her proportionate share of the mortgage if ownership of the mortgage is shared.

(7) Proceeds from reverse mortgages or 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 5160:1-3 of the Administrative Code.

(8) The value of a mortgage is the outstanding balance due as of the individual's application date for medical assistance.

(9) A mortgage will have no value if the individual adequately documents the obligations under the mortgage were discharged by order of a bankruptcy court.

(E) Loans held by an individual.

(1) Money an individual borrows or money received as the principal repayment of a bona fide loan is not considered income.

(a) Any interest received on money loaned is unearned income.

(b) Retained proceeds of a loan in the month following the month of receipt are counted as a resource.

(2) The value of the loan is the outstanding balance due as of the individual's application date for medical assistance.

(F) Funds used to purchase a promissory note, mortgage or loan.

(1) With respect to a transfer of assets, as referenced in rule 5160:1-3-07.2 of the Administrative Code, funds used to purchase a promissory note, mortgage or loan are considered an asset unless the promissory note, mortgage or loan:

(a) Has a repayment term that is actuarially sound as determined in accordance with actuarial publications of the office of the chief actuary in 26 C.F.R. 20.2031-7 (as in effect December 1, 2013);

(b) Provides for payments made in equal amounts during the term of the promissory note, mortgage or loan, with no deferral and no balloon payments made; and

(c) Prohibits the cancellation of the balance upon the lender's death.

(G) Stocks held by an individual, including preferred stocks, warrants and rights, and stock option purchases.

(1) Stock shares represent ownership in a business corporation. Their value shifts with demand and may fluctuate widely.

(2) The current market value of publicly traded stock is its closing price. The stock closing price, 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. The bid price is used to determine the stock's value.

(a) 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), the individual must provide documentation verifying the individual's proportionate stock share.

(b) 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, and can include the most recent sale, the most recent offer from outsiders, the current market value of assets less debts on them, cessation of activity and sale of assets, and bankruptcy.

(3) The county prosecutor or the administrative agency's legal staff shall be consulted for assistance in determining the value of the stock when the verification of the current value of the stock of a closely held corporation is questionable, including 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.

(4) Shares of stock in an Alaskan native regional or village corporation, as defined in 43 U.S.C. 1601 - 1624 (as in effect on December 1, 2013), are excludeded from resources.

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

(I) The current cash value of a municipal, corporate, or government bond is counted as a resource. If the ownership of a bond is shared, the individual must provide documentation verifying the individual's proportionate share of the bond.

(J) The current redemption value of a U.S. savings bond is a countable resource. The individual must provide documentation verifying the individual's proportionate share of the bonds if the bonds are jointly owned.

Replaces: 5160:1-3-27.3

Effective:

R.C. 119.032 review dates:

____

Certification

____

Date

Promulgated Under:	111.15
Statutory Authority:	5160.02, 5163.02
Rule Amplifies:	5160.02, 5163.02
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, 11/7/02