

TO BE RESCINDED

5160:1-3-06.2 **Medicaid: resource assessment.**

(A) This rule defines how resources, existing at the beginning of the first continuous period of institutionalization, are identified and assessed for purposes of determining medicaid eligibility.

(B) Definitions.

(1) "Continuous period of institutionalization" means an admission to a medical institution, receipt of home and community based waiver services, or receipt of services under a program of all inclusive care for the elderly, for a period of at least thirty consecutive days.

(2) "Institutionalized" describes an individual who receives long-term care (LTC) services in a medical institution, a long-term care facility, under a home and community based services (HCBS) waiver program or under program of all inclusive care for the elderly (PACE) for at least thirty consecutive days.

(3) "Resource assessment" means the process where the resources of both the institutionalized spouse and the community spouse are assessed to determine the couple's total countable resources existing at the beginning of the first continuous period of institutionalization.

(C) Documentation of ownership and current value of the couple's countable resources shall be completed in accordance with Chapter 5160:1-3 of the Administrative Code. The only resource exclusions for the resource assessment and the determination of countable resources at the time of application are:

(1) The homestead property.

(2) One automobile, regardless of value.

(3) Household goods and personal effects.

(4) The value of any burial space and/or irrevocable preneed funeral contract (including the interest that accumulates) for the individual, spouse, or any other member of the immediate family.

(5) Resources in a plan for achieving self-support (PASS) account.

(6) Property that is essential to self-support in accordance with rule 5160:1-3-05.19 of the Administrative Code.

- (7) Assistance provided pursuant to a federal statute, on account of a catastrophe, which is to be declared a major disaster by the president, for a period of nine months beginning the date the funds are received.
- (8) Any underpayment of supplemental security income (SSI) or social security benefits is excluded for the first six months following the month of receipt.
- (9) Assistance paid with respect to the dwelling unit occupied by the individual and/or spouse for subsidized housing.
- (10) Victim's assistance payments paid by a fund established by the state to aid victims of crime as compensation, for expenses incurred or losses suffered as a result of a crime for a period of nine months beginning the month after the month in which the payment is received.
- (11) Relocation assistance provided by the state or local government for a period of nine months beginning the month after the month in which the payment is received.
- (12) 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 excluded 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. Term and burial insurance policies, for which no cash value accumulates, are not used in determining whether the total value of all policies is over one thousand five hundred dollars.

(D) Administrative agency responsibilities.

- (1) A resource assessment shall be completed when one member of a couple is applying for services under an HCBS waiver or PACE. When both members of a couple are applying for services under an HCBS waiver or PACE, a resource assessment is not completed. Individuals who had a resource assessment completed previously due to LTCF placement, or other institutionalization, will not have another resource assessment completed.
 - (a) When the first continuous period of institutionalization began under a HCBS waiver program or under community based PACE, the date of the first continuous period of institutionalization for resources assessment purposes is the date the individual is authorized by the HCBS waiver agency or PACE agency to receive services.
 - (b) After the completion of the resource assessment, there shall be no deeming of spousal resources to the individual receiving services under HCBS

waiver program or PACE. The individual's countable resources cannot exceed the resource standard of one thousand five hundred dollars for HCBS waiver or PACE.

- (2) All individuals entering an LTCF on or after January 1, 1990, who have a spouse in the community, shall be provided with a notice concerning the individual's right to a resource assessment. The LTCF is responsible for ensuring that all individuals receive this notice upon entering the facility.
- (3) The purpose of the resource assessment is to aid in the determination of the amount of resources that may be transferred from the institutionalized spouse to the community spouse should an application be filed in conjunction with the request for an assessment of resources or filed at a later date. Additionally, the resource assessment aids in the determination of whether or not resources were recently transferred.
- (4) One resource assessment is completed per individual member in a couple when one spouse is institutionalized, returns home and then subsequently the other spouse becomes institutionalized.
- (5) If an institutionalized individual marries someone in the community, the resource assessment is based on the date of the marriage.
- (6) The administrative agency shall only accept the first period of continuous institutionalization from another state and not the resource assessment. A new resource assessment must be completed when the individual becomes a resident of Ohio and meets the definition of institutionalized as defined in paragraph (B) of this rule.
- (7) A resource transferred prior to the individual becoming institutionalized is not included on a resource assessment. A transfer made by either spouse must be evaluated in accordance with Chapter 5160:1-3 of the Administrative Code. If an improper transfer has occurred, a period of restricted coverage must be imposed in accordance with the applicable regulations.
- (8) All individuals requesting a resource assessment shall have the assessment completed by the administrative agency within forty-five days of the request (additional time may be allowed if the administrative agency determines it is necessary).
 - (a) The request may be made by either member of a couple or by an authorized representative of either spouse.

- (b) Receipt of a request for a resource assessment from an LTCF, with the individual's or the individual's spouse's signature, indicates the beginning of the forty-five days.
 - (c) The assessment shall be determined using the couple's countable resources as of the beginning of the first continuous period of institutionalization that occurs on or after January 1, 1990.
 - (d) Each member of the couple and the authorized representative of either spouse must be provided with a copy of the ODM 04076 "Resource Assessment Worksheet" (rev. 7/2014). A copy must also be retained by the administrative agency.
- (9) When a resource assessment is requested that is not in conjunction with a medicaid application, a fee of fifty dollars shall be charged upon request for the resource assessment to the individual requesting the assessment.
- (a) A copy of the resource assessment shall be given to the community spouse and the institutionalized spouse and authorized representative, if applicable.
 - (b) A copy shall also be retained by the administrative agency for a period of up to three years.
 - (c) The assessment shall be used if the institutionalized spouse applies for medicaid at a later date.
 - (d) If an institutionalized spouse does not have a resource assessment completed at the time of the first continuous period of institutionalization, and requests one at a later date, the resources of the institutionalized spouse and the community spouse shall be recorded to reflect the circumstances as they were at the beginning of the first continuous period of institutionalization.
 - (e) There is no right to a state hearing on an assessment not filed in conjunction with a medicaid application. However, should a medicaid application be filed subsequent to the resource assessment, either spouse or the authorized representative of either spouse, may request a state hearing to contest the assessment.
 - (f) If documentation is not provided timely, the requesting party shall be advised via the appropriate county generated or electronic eligibility system notice that the assessment cannot be completed. Subsequently, if another resource assessment is requested that is not in conjunction

with a medicaid application, a fee of fifty dollars shall be charged. Any documentation collected by the administrative agency shall be retained by the administrative agency.

- (10) When a resource assessment is requested in conjunction with a medicaid application, there is no fee for the assessment. Additionally, either spouse or the authorized representative may request a state hearing regarding the resource assessment.
- (11) All resources determined available at the beginning of the first continuous period of institutionalization shall be used in the resource assessment. Resources transferred prior to the first continuous period of institutionalization shall not be used to complete the resource assessment. Resources transferred after the first continuous period of institutionalization shall be used in the resource assessment because they would have been available at the point of the first period of institutionalization. The administrative agency shall determine improper resource transfers and the periods of ineligibility or restricted coverage in accordance with Chapter 5160:1-3 of the Administrative Code.
- (12) Antenuptial agreements, prenuptial agreements, and any other similar agreements or contracts entered into in contemplation or marriage shall be disregarded when conducting a resource assessment.

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Certification

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