

11.2 INTRODUCTION

This Chapter contains the policies for determining asset eligibility for Food Stamp benefits, WV WORKS, AFDC Medicaid and most other Medicaid coverage groups. Instructions for determining the value of assets are included.

The following Medicaid coverage groups have no asset test:

- AIDS Patients Programs
- Deemed AFDC-Medicaid Recipients.
- Deemed SSI Recipients, except PAC
- Extended Medicaid
- Continuously Eligible Newborns
- Poverty-Level Pregnant Women and Children
- Qualified Child
- Transitional Medicaid

In addition, WV CHIP has no asset test.

A. ESTABLISHING DATE OF ASSET ELIGIBILITY

NOTE: No funds may be counted as an asset for the same month in which they are counted as income.

1. SSI-Related Medicaid, CDCS, PAC, QDWI, QMB, SLIMB And QI-1

The asset eligibility determination for these applications must be made as of the first moment of the month of application. The client is not eligible for any month in which assets are in excess of the maximum, as of the first moment of the month. Increases in countable assets during one month do not affect eligibility unless retained into the first moment of the following month.

EXAMPLE: A client applies for SSI-Related Medicaid on April 21st. On April 1st, he had a savings account of \$1,500 and two automobiles: a 1995 Ford LTD that he used for obtaining medical treatment and a 1992 Chevrolet Impala valued at \$575. He advises the Worker that, on April 10th, he withdrew \$125 from his savings account to pay for automobile repairs. His total assets on April 1st were \$2,075. Even though his assets decreased to \$1,950, which is under the \$2,000 asset maximum, on April 10th, his assets as of the first moment of the month were in excess of the asset limit, and he is not eligible.

Conversely, if the client's assets, as of the first moment of the month, are within the asset limit, and during the month his assets increase to above the asset limit, he is still eligible for that month.

Assets

The Worker may use any of the following to determine first-of-the-month account balances:

- Printed or online bank statements and passbooks
- The individual's check register or any bank-issued document. This includes, but is not limited to, ATM transaction receipts and/or deposit / withdrawal receipts
- The account transaction history on a bank's automated telephone customer service line that provides complete transaction information, i.e., deposits, withdrawals, cleared checks and transfers to and from the account with transaction dates.

When the individual states that a check has not cleared the bank, the Worker may use any of the means listed above to verify that the funds are legally obligated.

EXAMPLE: Mr. T's bank statement shows a checking account balance of \$1,350 as of May 1, which combined with other countable assets exceeds \$2,000 as of the first of the month. Mr. T states that the statement balance includes his April rent check of \$500 to his landlord, but that his landlord has not cashed the check. The Worker finds an entry for check number 1345 for \$500 written on 4/25. He finds that check 1346 is cleared on the bank statement. The Worker also sees that Mr. T has written a \$500 check for rent on the 25th of each month for the last 6 months. Since Mr. T wrote the check and legally obligated the funds in his account and his records provide a complete and consistent picture of the account, the Worker deducts the amount of the uncashed check from the 5/1 first-of-the-month balance as an encumbrance. The new balance as of 5/1 is \$850 and Mr. T is asset eligible.

2. Food Stamp Benefits

The asset determination must be made as of the date of application. When the applicant's assets exceed the limit on the date of application, the application must be denied. However, the application may subsequently be approved beginning with the date the AG is determined asset eligible, providing all other eligibility requirements are also met as of this date. The Worker must record the reason for denial and any subsequent approval.

Assets

3. All Others

The asset determination must be made as of the date of application.

However, when medical coverage is backdated, the asset determination must be made from the date for which Medicaid coverage is requested. All other eligibility requirements must also be met as of that date. When there is an increase in assets which exceeds the limit, the AG is closed.

B. WHEN INCOME BECOMES AN ASSET

Money that is counted as income when received, becomes an asset if retained into the month after the month of receipt.

EXCEPTION: The proceeds from the sale of an excluded home are treated according to item E,2 below.

C. DETERMINATION OF THE VALUE OF COUNTABLE ASSETS

Only the individual's equity or portion of actual ownership is considered, unless otherwise specified in Section 11.4 or 11.5.

Equity is determined only as follows:

- Determine the CMV of the asset.
- Multiply the number of installment payments remaining by the amount of the installment payment. Do not use the pay-off amount unless the client indicates he has immediate plans to pay off the balance.
- Subtract the result of the calculation from the CMV. The remainder is the equity value.

NOTE: When the Worker determines that the equity value of an asset, or of several assets, will increase to above the asset limit before the next redetermination, a RAPIDS alert must be set to recheck asset eligibility.

For SSI-Related Medicaid, CDCS, PAC, QDWI, QMB, SLIMB and QI-1, pre-payment penalties are also deducted from the CMV.

NOTE: When the client disagrees with the Agency-determined value of an asset, it is his responsibility to provide verification of the actual value.

D. ACCESSIBILITY OF ASSETS

A client may not have access to some assets. To be considered an asset, the item must be owned by or available to the client and available for disposition. If the client cannot legally dispose of the item, it is not his asset.

Examples of inaccessibility include, but are not limited to, the following:

- Legal proceedings such as, probate, liens (other than those required for financing the asset). Items encumbered, or otherwise unavailable, due to litigation are not considered assets until the court proceedings are completed and a court decision is reached. The agency is required to follow the dictates of the court order.
- Irrevocable agreements: For WV WORKS and Medicaid, transfers to an irrevocable agreement or trust may result in a penalty. See Section 11.7
- Joint ownership and the meaning of such ownership may be indicated in one of the following ways:
 - AND - Joint ownership indicated by "and" between the names of the owners. Unless there is evidence to the contrary, each owner is assumed to own an equal, fractional share of the jointly-owned asset.

If the fractional share of the asset is not available to either owner without the consent of the other, and such consent is withheld, the asset is excluded as being inaccessible. For Food Stamp benefits only, the consent must be withheld by an individual(s) who is not a member of the client's AG, in order for the asset to be considered inaccessible.

- OR - Joint ownership indicated by "or" between the names of the owners. The asset is available to each owner in its entirety.
- AND/OR - Joint ownership indicated by "and/or" between the names of the owners. The asset is available to each owner in its entirety.

NOTE: For Food Stamp benefits, see Section 11.5 for bank accounts jointly owned with deployed service persons.

See Section 11.5 for additional information.

E. CONVERSION OR SALE OF AN ASSET

Assets may be either liquid or non-liquid. An asset is converted from one form to another by sale or exchange. In addition, assets may be exchanged for assets of the same form.

1. General Instructions

When assets are converted, the Worker must determine if the result of the conversion is an excluded or non-excluded asset. The result of the sale of an asset is never counted as income or as a lump sum payment to the client. The only exception is when payment is received in installments, rather than in a lump sum. See Chapter 10. Instead, the new or converted asset must be evaluated as any other asset to determine continuing eligibility.

EXAMPLE: In July, Miss Jones becomes disabled and is no longer able to continue the operation of a dress shop in her home. Her home is excluded as homestead property. She applies for SSI-Related Medicaid and becomes eligible to receive her first medical card in September. Her only assets are those associated with the business, i.e., a cash register, showcases and mannequins, which were estimated to have a CMV of \$1,400, at the time of application. In October, she liquidates these tangible assets and converts them to liquid form totaling \$1,295. The value of the cash is a countable asset, but she is still eligible since it is within the asset limit when considered with other countable assets; it has only changed form, from a non-liquid to a liquid asset.

EXAMPLE: A WV WORKS recipient sells a vehicle which is an exempt asset. She receives \$1,500 from the sale. She has \$700 in other assets, so her assets now total \$2,200. She is ineligible for WV WORKS. Even though the vehicle was exempt, the money received in exchange for the vehicle is not exempt and must be counted as an asset.

EXAMPLE: A client sells a piece of property which has been counted as an asset since she started receiving benefits. The \$850 value of the property, combined with her other assets, has always been below the asset limit. When the client sells the property for \$800, the amount of money received is an asset, but the property is no longer counted. The client simply converted the non-liquid asset to a liquid asset.

2. Exception for Sale Of An Excluded Home

For SSI-Related Medicaid, CDCS, PAC, QDWI, QMB, SLIMB and QI-1 AG's, the proceeds from the sale of an excluded home are excluded if

they are used, or obligated to purchase and occupy another home by the last day of the third full month following the month of receipt.

EXAMPLE: If the proceeds from the sale are received January 13, they must be used or obligated by April 30.

The proceeds from the sale of a home are the net payments received by the seller, after satisfaction of all encumbrances and sale expenses. Encumbrances include, but are not limited to, mortgages, liens and any other enforceable claims against the home or seller that must be and are satisfied to finalize the sale. Sale expenses are all expenses that must be paid by the seller in connection with the sale. They include, but are not limited to:

- Broker fees
- Broker commissions
- Legal fees
- Mortgage-related fees, such as "points" paid by the seller
- Inspection and settlement fees
- Transfer taxes and other accrued taxes paid by the seller

NOTE: Interest earned on the proceeds from the sale is not excluded.

Treatment of the proceeds depends on whether or not the client intends to purchase another home.

(a) Client Intends to Purchase Another Home

When the client sells his excluded home and states that he intends to purchase another home, the exclusion applies. The Worker must record that the client has stated this intent and set a control for the third month following the month in which the client received the proceeds from the sale to verify that the proceeds are obligated or used to purchase another home. The client's statement of intent is sufficient to qualify for the exclusion, unless questionable. See Verification, Section 4.1.

The exclusion does not apply to the portion of the proceeds that exceeds the costs of the purchase and occupancy of another home. Allowable costs need not actually be paid to qualify for the exclusion. However, the individual must have legally obligated himself to pay the costs at some future time in connection with the purchase of another home. Examples of allowable costs of purchase include, but are not limited to, the following:

- Down payments

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- Settlement costs
- Loan processing fees and points
- Moving expenses
- Costs of necessary repairs or replacements to the new home's existing structure or fixtures, such as furnace, plumbing, or built-in appliances
- Mortgage payments on the new home for the time prior to occupancy

NOTE: Mortgage payments made on the new home after occupancy are not excluded.

When an individual has already received the proceeds from the sale of a home when he applies, the proceeds must be used or obligated by the last day of the third full month following the month of receipt.

When the exclusion period expires, contact the client to verify the dates and amounts of costs for the new home. Count retained proceeds, not used or contracted before expiration of the exclusion period, as an asset, beginning with the month following the month the exclusion period ends. The period cannot be extended for any reason.

(b) Client Does Not Intend to Purchase Another Home

If the client indicates that he has sold a home and does not intend to purchase another home, record the contact and count the net proceeds from the sale as an asset beginning with the month following the month of receipt.

If the client initially does not intend to purchase a new home, but changes his mind before the end of the third full month following the month of receipt, the exclusion is applied without an extension.

F. COMPENSATION FOR LOSS OR DAMAGE

Settlements for lost or damaged assets or insurance proceeds, earmarked for medical expenses, burial costs, replacement or repair of assets, are excluded, provided the client uses the money, as intended, in a reasonable period of time. Reasonable is defined as being used in the month of receipt or the month following receipt.

EXCEPTION: For Food Stamp benefits. Any governmental payments which are designated for the restoration of a home damaged in a disaster are excluded, as long as the AG is subject to a legal sanction if the funds are not used as intended.

EXCEPTION: For WV WORKS and AFDC Medicaid. Proceeds from insurance received as a result of a damaged or destroyed home are excluded. Any amount remaining after repairing/replacing the home is treated as a lump sum payment.

EXAMPLE: The client receives an insurance settlement of \$8,000 as a result of an automobile accident. Of the payment amount, \$1,250 is used for medical expenses and \$6,000 is used to replace the vehicle destroyed in the accident. Since the insurance settlement has been used as intended, for replacement of the lost asset and reimbursement of medical expenses, only \$750 remains as a lump sum payment.

EXCEPTION: For SSI-Related Medicaid, CDCS, PAC, QDWI, QMB, SLIMB, and QI-1. Cash or in-kind items received from any source, such as, but not limited to, insurance companies, federal or State agencies, public or private organizations or other individuals, to replace or repair an excluded asset which is lost, stolen, or damaged, and any interest earned on such cash payments, are not counted as an asset for 9 months, beginning with the month the cash or in-kind item is received, as long as the client states he intends to replace the asset. If he does not intend to replace the asset, the proceeds received are counted as an asset the month following the month of receipt.

Any of the cash and interest that has not been used to repair or replace the excluded asset, after the 9-month period expires, is counted as an asset beginning the following month.

The initial 9-month period may be extended up to an additional 9 months, for a total of up to 18 months, if it can be determined that the client had good cause for not replacing or repairing the asset. The client is determined to have good cause when circumstances beyond his control prevented the repair or replacement or the contracting for the repair or replacement of the asset. When a extension is allowed, the unused cash and interest are counted as assets, beginning the month after the good cause extension period ends.

In the event of a presidentially-declared disaster, the 18-month period can be extended for up to an additional 12 months, for a maximum asset exclusion period of 30 months, if:

- The excluded asset is geographically within the disaster area as defined in the presidential order; and

- The individual intends to repair or replace the excluded asset; and
- The individual presents evidence of good cause as defined above.

When the client changes his intent to repair or replace the excluded asset, funds previously held for replacement or repair must be counted as an asset effective the first moment of the month following the month the client reports the change of intent.

The cash or in-kind item(s) which is received to replace or repair non-excluded assets, or for personal injury or other purposes, is not excluded, even if the cash or in-kind item is received in conjunction with and/or from the same source as the cash or in-kind item intended to replace/repair an excluded asset.

EXAMPLE: A payment of \$30,000 from a utility company, due to the loss of a recipient's home through the company's negligence, includes \$28,000 for the home and household goods and \$2,000 for personal injury. In this case, only the \$28,000 can be subject to this exclusion. The \$2,000 for personal injury is treated as lump sum.