

## Assets

## A. AGENT ORANGE COMPENSATION

SNAP	WVW, AFDC Groups	SSI Groups
No	No	No

All payments from the Agent Orange Settlement fund or any other fund established pursuant to the settlement are excluded by federal law.

## B. ANNUITIES

SNAP	WVW, AFDC Groups	SSI Groups
Yes *	No *	Yes *

SNAP: The annuity must be accessible to an AG member.

AFDC Medicaid, AFDC-Related Medicaid, SSI-Related Medicaid, M-WIN, CDCS, PAC, QDWI, SLIMB and QI-1: The value amount counted depends upon the status of the annuity and when it was purchased.

## 1. Annuities Purchased Prior to 11/1/08

The annuity must be revocable or assignable to be an asset.

Revocable annuity - the value is the amount the purchaser will receive if he cancels the annuity.

Assignable annuity - the value is the amount for which the annuity can be sold on the open market.

Irrevocable or unassignable - the value is not an asset.

## 2. Annuities Purchased On or After 11/1/08

The value of the annuity is as follows.

Revocable annuity - the value is the amount the purchaser will receive if he cancels the annuity.

Assignable annuity - the value is the amount for which the annuity can be sold on the open market.

Irrevocable or unassignable annuity - the value is the amount for which the current or future stream of payments can be sold on the open market.

See Section 17.10 for annuities as a transfer of resources.

**FOR MEDICAID ONLY:** When an individual is approved for Medicaid and has an excluded annuity described above, for which Medicaid must be the beneficiary, the Worker must fax a copy of the trust document and the Medicaid recipient's name, case number and name of the recipient's power-of-attorney or representative, if applicable, to the current contract agency for Estate Recovery. Information about this agency is in Chapter 17, Appendix I.

C. BANK ACCOUNTS AND CD'S

SNAP	WVW, AFDC Groups	SSI Groups
Yes *	Yes *	Yes *

1. Savings Accounts
2. Christmas Clubs
3. Checking Accounts
4. Certificates Of Deposits (CD's)

The amount deposited, plus any accrued interest, minus any penalties imposed for early withdrawal, is counted as an asset.

Some funds held in CD's cannot be withdrawn prior to maturity under any circumstances. In this situation, the certificate is not an asset until the first month after it matures.

**NOTE:** For a joint checking or savings account, or jointly owned time deposit, refer to the jointly owned assets section under each program of assistance.

The current month's income deposited in accounts is not counted as an asset for that month. See Section 11.2. Checks dated or posted before the usual check receipt date are treated as if they were received in the usual month of receipt.

**SNAP Benefits:** When excluded funds are kept in a bank account with other non-excluded money, the normally non-excluded funds are excluded for 6 months from the date they were placed in the account. After 6 months, the exclusion ends and all money in the account is an asset.

**EXCEPTION:** Educational funds are excluded for SNAP benefits, even when co-mingled with other funds.

**SSI-Related Medicaid, M-WIN, CDCS, PAC, QDWI, QMB, SLIMB and QI-1:** See item J,1 below for educational funds set aside for tuition and other educational expenses.

SSI-Related Medicaid, M-WIN, CDCS, PAC, QDWI, QMB, SLIMB and QI-1: Liquid assets used in a trade or business are excluded as property essential to self support.

5. Deposits By Others

When a non-AG member deposits his own money, for his own use, into the account of an AG member, the amount remaining in the account on the first day of the next calendar month is counted as an asset for the SNAP AG.

6. Dedicated Account For SSI Recipient

WV WORKS and SSI-Related Medicaid Groups: When the SSI recipient is under age 18 and SSA requires the establishment of a dedicated account for past due monthly SSI payments, the amount in the dedicated account is excluded as an asset. This applies when the back payment amount is deposited by SSA directly in the account and when it is deposited there at the discretion of the representative payee. These accounts may include checking, savings and money market accounts. The exclusion continues until all funds in the account are depleted, or until SSA determines the account no longer meets the SSA criteria for a dedicated account. The exclusion continues after the SSI recipient reaches age 18, as long as the account remains a dedicated account.

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**I. CONTINUING CARE RETIREMENT COMMUNITY (CCRC)**

SNAP	WVW, AFDC Groups	SSI Groups
No*	WV WORKS - No AFDC Groups - Yes	Yes

**1. SNAP Benefits**

Admission or entrance fees are countable if refunded at the time the individual leaves the CCRC.

**2. AFDC Medicaid, AFDC-Related Medicaid, SSI Medicaid, SSI-Related Medicaid, M-WIN, CDCS, PAC, QDWI, QMB, SLIMB, and QI-1**

Any admission or entrance fee paid to a Continuing Care Retirement Community (CCRC) or life care community is considered an asset if:

- The individual can use the entrance fee to pay for care when other income or assets are insufficient; and
- The individual is eligible for a refund at death or upon leaving the CCRC, and
- The fee does not confer an ownership interest in the CCRC. See Section 11.1 for the definition of a CCRC.

**NOTE:** The admission or entrance fee is the full amount paid to become a resident of the CCRC.

**J. CORPORATION FOR NATIONAL AND COMMUNITY SERVICE (CNCS)**

SNAP	WVW, AFDC Groups	SSI Groups
No	No	No

The payments are excluded by federal law.

**K. DISASTER ASSISTANCE**

SNAP	WVW, AFDC Groups	SSI Groups
No*	No*	No*

Assistance provided as a result of a federally declared disaster.

See Section 11.2,F.

**L. EDUCATIONAL FUNDS****1. Grants, Loans and Scholarships**

SNAP	WVW, AFDC Groups	SSI Groups
No*	No*	No*

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When funds are excluded as income, they are also excluded as assets. See Chapter 10. However, funds that are not used for the intended purpose and are allowed to accumulate beyond the time they were intended to cover, are assets.

SSI-Related Medicaid, M-WIN, CDCS, PAC, QDWI, QMB, SLIMB and QI-1: Grants, scholarships, fellowships and gifts or portions of gifts set aside to pay tuition and other necessary educational expenses are excluded for 9 months following the month of receipt. Any portion of these funds used to pay expenses, other than those related to education, is counted as income in the month it is used to pay another expense. See Section 10.22,D,3.

2. SMART529 Plan and Pre-Paid College Tuition Plans

SNAP	WVW, AFDC Groups	SSI Groups
Yes	WVW - No AFDC Groups - Yes	Yes

The cash value of the account, minus any penalty for non-qualified withdrawals, is counted as an asset for the account owner, not the student beneficiary.

3. Coverdell Education Savings Accounts

SNAP	WVW, AFDC Groups	SSI Groups
No	WVW - No AFDC Groups - Yes	Yes

An IRA type of account designed to pay education expenses.

**M.** EITC (Earned Income Tax Credit)

SNAP	WVW, AFDC Groups	SSI Groups
No*	No*	No*

1. SNAP Benefits

EITC payments are excluded for 12 months from the date of receipt, if the recipient of the EITC is an AG member at the time of receipt and participates continuously during the 12-month period. AG's that temporarily do not participate for administrative reasons, i.e., redetermination, but who are otherwise eligible, do not lose the exclusion.

2. WV WORKS

EITC payments are excluded in the month of receipt and the following month only. This applies when received as part of the person's pay or as one payment at end of the year.

3. SSI-Related Medicaid, M-WIN, CDCS, PAC, QDWI, QMB, SLIMB and QI-1

Remaining portions of EITC payments are excluded for 9 months following the month of receipt. This applies when received as part of the person's pay or as one payment at the end of the year.

## Assets

**N. EQUIPMENT ESSENTIAL FOR EMPLOYMENT**

SNAP	WVW, AFDC Groups	SSI Groups
No*	Yes	No*

## 1. SNAP Benefits

Property, such as the tools of a tradesman or the machinery of a farmer, which is essential to the employment or self-employment of an AG member is excluded. This exclusion continues during periods of unemployment due to physical inability to work as long as the individual intends to return to work when physically able. Property essential to the self-employment of an AG member engaged in farming is excluded for one year from the date he terminates his farming self-employment. Vehicles and recreational vehicles/equipment are excluded regardless of use.

## 2. SSI-Related Medicaid, M-WIN, CDCS, PAC, QDWI, QMB, SLIMB and QI-1

Property which is required by the individual's employer is excluded, regardless of value, as long as the individual is employed. Examples of this type of equipment include tools, uniforms, safety equipment, and other similar equipment.

Also see Business and Non-Business Personal Property, and Real Property.

**O. FACTOR VIII OR IX BLOOD PRODUCTS LITIGATION, MDL 986, No.93-C-7452, ND OF ILLINOIS**

See HEMOPHILIA/AIDS SETTLEMENTS AND FUNDS

**P. HEMOPHILIA/AIDS SETTLEMENTS AND FUNDS**

SNAP	WVW, AFDC Groups	SSI Groups
No	WVW - No AFDC Groups - No*	No*

All payments are excluded by federal law.

## 1. Factor VIII or IX Concentrate Blood Products Litigation, MDL 986, No. 93-C-7452, ND of Illinois

Medicaid Only: Other assets purchased with funds, such as a home or vehicle, are considered according to the policy for that asset. See item JJ for Trusts established with these funds. See Chapter 17 for Transfers of Resources.

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## 2. Ricky Ray Hemophilia Funds

SNAP	WVW, AFDC Groups	SSI Groups
No	WVW - No AFDC Groups - No*	No*

Medicaid Only: Other assets purchased with the funds, such as a home or vehicle, are considered according to the policy for that asset. See item for Trusts established with these funds. See Chapter 17 for Transfers of Resources.

3. Walker v. Bayer, et al Settlements

SNAP	WVW, AFDC Groups	SSI Groups
No	WVW - No AFDC Groups - No*	No*

Medicaid Only: Payments made from any fund established pursuant to a class settlement in the case of Susan Walker v. Bayer Corp., et al. are excluded. Payments made as a result of an individual release of claims, instead of the class settlement, are excluded when the agreement is signed by all affected parties on or before the later of 12/31/97, or the date that is 270 days after the date on which the release is first sent to the persons to whom the payment is to be made.

Other assets purchased with the funds, such as a home or vehicle, are considered according to the policy for that asset. See item for Trusts established with these funds. See Chapter 17 for Transfers of Resources.

**Q** HIGHWAY RELOCATION ASSISTANCE  
PAYMENTS AND URBAN RENEWAL  
RELOCATION PAYMENTS

SNAP	WVW, AFDC Groups	SSI Groups
No	No	No

**R** HOUSEHOLD FURNISHINGS,  
PERSONAL EFFECTS AND PETS

SNAP	WVW, AFDC Groups	SSI Groups
No	No	No

Furniture, appliances, personal effects such as clothing, jewelry, and pets are excluded. Certain livestock may also be considered family pets. The Worker and Supervisor must determine on a case-by-case basis whether or not the livestock reasonably qualifies as a pet, taking into account the number of livestock/pets and their usage.

**S.** INCOME TAX REFUNDS AND REBATES

## 1. Income Tax Refunds

SNAP	WVW, AFDC Groups	SSI Groups
Yes	Yes	Yes



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## 2. Economic Stimulus Tax Rebate for 2007

SNAP	WVW, AFDC Groups	SSI Groups
Yes*	Yes*	Yes*

**NOTE:** The Economic Stimulus Tax Rebate for 2007 is a countable asset for all programs if retained into the 3<sup>rd</sup> month following the month of receipt.

Refunds for the Child Care Tax Credit are excluded for the SSI-Related groups. Also see EITC.

**T.** INDIAN LANDS AND TRUSTS FUNDS

SNAP	WVW, AFDC Groups	SSI Groups
Yes	Yes	Yes

Indian Tribe Trust Funds received as a result of Public Laws: 97-458, 98-64, and/or 98-124. Also, payments or relocation assistance to members of the Navajo and Hopi tribes under Public Law 98-531. The payments and lands are excluded by federal law.

- Submarginal lands held in trust for Indians
- Alaskan Native Claims Settlement Act
- Any payments made under various public laws to any member of the following tribes:

Apache Tribe of the Mescalero Reservation  
 Arizona  
 Assiniboine  
 Blackfeet  
 Chippewas: Lake Superior, Mississippi, Roe, Saginaw,  
 Turtle Mountain Band, White Earth Band  
 Confederate Tribes/Bands of the Yakima Indian Nation  
 Grand River Band of Ottawa Indians  
 Grosventre  
 Houlton Band of Maliseet  
 Montana  
 Papago  
 Passamaquoddy Tribe  
 Penobscot Nation  
 Puyallup Tribe  
 Seneca Nation

**U.** INSURANCE SETTLEMENTS

See Chapter 10 and Section 11.2,F
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Treated as lump sum payments, or compensation for loss or damage.

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**V. JAPANESE-AMERICAN AND ALEUTIAN RESTITUTION PAYMENTS**

SNAP	WVW, AFDC Groups	SSI Groups
No	No	No

The payments are excluded by federal law.

**W. LIFE INSURANCE (Cash Surrender Value)**

SNAP	WVW, AFDC Groups	SSI Groups
No	Yes	Yes*

SSI-Related Medicaid, M-WIN, CDCS, PAC, QDWI, QMB, SLIMB and QI-1: If the face value of all life insurance policies for one individual totals \$1,500 or less, the cash surrender values are not counted as an asset. If the face value of all life insurance policies for an individual is in excess of \$1,500, the cash surrender values are counted as an asset. The life insurance policy must be owned by the client or by a person whose assets are deemed to him to be counted. If the consent of another individual is needed to surrender a policy for its full cash surrender value, and the consent cannot be obtained, the policy is not an asset. Assignment of a life insurance policy to another individual means consent of that individual is required before it can be cashed.

**X. LIEAP (Low-Income Energy Assistance Program) AND ENERGY CRISIS INTERVENTION PAYMENTS**

SNAP	WVW, AFDC Groups	SSI Groups
No	No	No

The payments are excluded by federal law.

**Y. LOANS, NON-EDUCATIONALS**

SNAP	WVW, AFDC Groups	SSI Groups
Yes*	Yes*	Yes*

**1. SNAP Benefits**

Loans for which there is a verbal or written agreement to repay are excluded.

**2. AFDC Medicaid And AFDC-Related Medicaid**

Loans which meet the definition of Bona Fide loans, as found in Chapter 10, are excluded as assets.

## 3. WV WORKS

Loans are normally counted as income. See Chapter 10. However, when a loan is excluded from consideration as income and has not been used for the intended purpose within 3 months of the date the money is received, the funds remaining at the end of 3 months are counted as an asset. The remaining amount of a loan which was counted as income in the month of receipt, becomes an asset in the month following the month of receipt.

## 4. SSI-Related Medicaid, M-WIN, CDCS, PAC, QDWI, QMB, SLIMB and QI-1

Loans received under conditions which preclude their use for living expenses are excluded.

**Z.** LUMP SUM PAYMENTS

SNAP	WVW, AFDC Groups	SSI Groups
Yes*	No	No*

Lump sum payments are not counted as assets when counted as income. See Chapter 10.

When a lump-sum payment is received prior to the month of application, the amount remaining during the month of application is an asset. When a lump sum payment is received by someone being added to an active AG, the amount retained during his month of application is an asset.

## 1. SNAP Benefits

Non-recurring lump sum payments are counted as assets. For recurring lump sum payments, see Section 10.4,D.

## 2. WV WORKS

When the SSI recipient is under age 18 and SSA requires the establishment of a dedicated account for past due monthly SSI payments, any lump sum SSI back payment amount deposited in the dedicated account is excluded as an asset.

If the funds are commingled with any other funds, except accumulated earnings or interest from the account, the exclusion does not apply to any portion of the account.

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## 3. SSI-Related Medicaid, M-WIN, CDCS, PAC, QDWI, QMB, SLIMB and QI-1

## a. SSI Dedicated Accounts

When an SSI recipient is under age 18 and SSA requires the establishment of a dedicated account for past due monthly SSI payments, any lump sum SSI back payment amount deposited in the dedicated account is excluded as an asset. If the funds are commingled with any other funds, except accumulated earnings or interest from the account, the exclusion does not apply to any portion of the account.

## b. RSDI and SSI Underpayments

The payments are excluded for 9 months following the month of receipt.

## c. RSDI and SSI Restitution Payments for Misuse by a Representative Payee

The payments are excluded for 9 months following the month of receipt.

**AA.** MUTUAL FUNDS

SNAP	WVW, AFDC Groups	SSI Groups
Yes	Yes	Yes

**BB.** NAZI PERSECUTION VICTIMS PAYMENTS

SNAP	WVW, AFDC Groups	SSI Groups
No	No	No

These payments excluded by federal law are made to individuals because of their status as victims of Nazi persecution and may include, but are not limited to:

- Austrian Social Insurance Payments
- German Reparations Payments
- Netherlands WUV Payments

**CC.** NORTH VIETNAM – DEPARTMENT OF DEFENSE (DOD) PAYMENTS TO PERSONS CAPTURED AND INTERNED

SNAP	WVW, AFDC Groups	SSI Groups
No	No	No

The payments are excluded by federal law.

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**DD. PASS ACCOUNT**

SNAP	WVW, AFDC Groups	SSI Groups
Yes*	Yes	No

SNAP Benefits: Any PASS account developed for an SSI recipient by SSA is excluded.

See Chapter 10.

**EE. PENSION AND OTHER RETIREMENT FUNDS**

## 1. Cash Value Of Pension Funds

SNAP	WVW, AFDC Groups	SSI Groups
No	No	Yes

SNAP Benefits, WV WORKS and AFDC Groups: The cash value of these accounts is excluded, unless removed from the account.

SSI-Related Medicaid: The amount counted is the total cash value of the account or plan, minus the amount of the penalty, if any, that would be applied for the early withdrawal of the entire amount.

Pension or other retirement funds of ineligible spouses, parents or spouses of parents are not deemed. Once removed from the pension or retirement account, the fund(s) is counted according to the policy for the asset to which it is converted, i.e., bank account, CD, etc.

## 2. 401k Plans

SNAP	WVW, AFDC Groups	SSI Groups
No	Yes	Yes

SNAP Benefits: The cash value of these accounts is excluded, unless removed from the account.

WV WORKS and AFDC Groups: The amount counted is the total cash value of the account or plan, minus the amount of the penalty, if any, that would be applied for the early withdrawal of the entire amount.

SSI-Related Medicaid: The amount counted is the total cash value of the account or plan, minus the amount of the penalty, if any, that would be applied for the early withdrawal of the entire amount.

Pension or other retirement funds of ineligible spouses, parents or spouses of parents are not deemed. Once removed from the pension or retirement account, the fund(s) is counted according to the policy for the asset to which it is converted, i.e., bank account, CD, etc.

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## 3. IRA, KEOGH, Simplified Employer Pension Plan Or Similar Plans

SNAP	WVW, AFDC Groups	SSI Groups
No	Yes	Yes

SNAP: The following are excluded:

- Tax-preferred retirement accounts such as, but not limited to:
  - ◆ Simple 401 (k),
  - ◆ 501 ( c )
  - ◆ 18, 403 (b) plan
  - ◆ 457 plan
- Federal Employee Thrift Savings plan
- Keogh Plan
- IRA
- Roth IRA
- SIMPLE IRA
- Simplified Employer Plan
- Profit Sharing Plan
- pension or traditional defined-benefit plan, or
- Cash Balance plans

WV WORKS and AFDC Groups: Individual Retirement Accounts (IRA's), Simplified Employer Pension Plans (SEPs), which are considered to be IRA's, and funds held in KEOGH plans which do not involve the AG member in a contractual relationship with individuals who are not AG members, are counted as assets. The amount counted is the total cash value of the account or plan, minus the amount of the penalty, if any, that would be applied for the early withdrawal of the entire amount.

If the KEOGH Plan is such that individual participants may make withdrawals without affecting in any way other parties who are not AG members, the AG member's funds in the KEOGH Plan, minus any penalty affecting him only, are counted as an asset. The exclusion of the KEOGH Plan involving more than one person does not apply if the other persons involved in the Plan are members of the AG.

SSI-Related Medicaid: The amount counted is the total cash value of the account or plan, minus the amount of the penalty, if any, that would be applied for the early withdrawal of the entire amount.

Pension or other retirement funds of ineligible spouses, parents or spouses of parents are not deemed. Once removed from the pension or retirement account, the fund(s) is counted according to the policy for the asset to which it is converted, i.e., bank account, CD, etc

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**FF.** PRODUCE AND LIVESTOCK FOR HOME CONSUMPTION

SNAP	WVW, AFDC Groups	SSI Groups
No	No	No

**GG.** RADIATION EXPOSURE COMPENSATION FUND

SNAP	WVW, AFDC Groups	SSI Groups
No	No	No

The payments are excluded by federal law.

**HH.** REAL PROPERTY

Also see BUSINESS and NON-BUSINESS PERSONAL PROPERTY

## 1. Homestead Property

SNAP	WVW, AFDC Groups	SSI Groups
No	Yes	Yes*

The client's homestead is the property on which he lives and which is owned, or is being purchased by him. It is the dwelling and the land on which the dwelling rests, which is not separated by intervening property owned by others. Public rights-of-way which run through the surrounding property and separate it from the home, do not affect this exclusion. Any additional property acquired and not separated from the original acquisition by intervening property owned by others, is also excluded.

The value of structures on the property, other than the client's dwelling, is included in the exemption whether or not they are income-producing, except for mobile homes. For WV WORKS, AFDC and SSI groups, the value of any mobile home on the homestead property, if it is not the client's dwelling, is considered an asset, unless it is income-producing property. See Item 3 below.

## a. SNAP Benefits

All real property and mobile homes are excluded, regardless of use.

## b. SSI-Related Medicaid, M-WIN, CDCS, PAC, QDWI, QMB, SLIMB and QI-1

Only one dwelling is established as the client's principal place of residence, and only the principal place of residence is excluded. See Section 11.1 for the definition of principal place of residence. When an individual leaves his principle place of residence for any reason, but intends to return to it, the home is excluded. The

exclusion is based solely on the individual's intent to return, even if the home is vacant or rented. The individual need not have the ability to return to the home, but must simply have the intent.

When an individual is institutionalized, his home remains his principal place of residence, regardless of his intent to return, as long as a spouse or dependent relative lives in the home. For purposes of the homestead exclusion only, a dependent relative is one who is dependent financially, medically, or as otherwise determined, upon the institutionalized person. The following are considered relatives of the institutionalized person: child, stepchild or grandchild; parent, stepparent or grandparent; aunt, uncle, niece or nephew; brother or sister, including relations of step or half; cousin or in-law.

**When the equity value of an individual's home exceeds \$500,000, he is ineligible for Medicaid payment for nursing home care or HCB Waiver Services, unless his spouse, child under 21 or disabled adult child resides in the home.**

When the client has only a life estate interest in his principal place of residence, the value of the life estate interest is excluded. For more information, see item 4 below. Temporary absences from the home for trips, visits, hospitalizations or institutionalization do not affect the homestead exclusion. **See item 4 below for the purchase of a life estate in another individual's home.**

2. Sale Proceeds Or Compensation For Loss Or Damage

See Section 11.2 CONVERSION OR SALE OF AN ASSET; COMPENSATION FOR LOSS OR DAMAGE

3. Non-Homestead Property

Treatment of non-homestead property as an asset depends on its use.

- a. Income-Producing Property

SNAP	WVW, AFDC Groups	SSI Groups
No	Yes	No*

- (1) SNAP Benefits

All real property, mobile homes and mineral/timber rights are excluded, regardless of use.



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- (2) SSI-Related Medicaid, M-WIN, CDCS, PAC, QDWI, QMB, SLIMB and QI-1

(a) Real Property Used in a Business or Trade

All real property currently used in a trade or business is excluded, regardless of value or rate of return.

The property must be in current use or has been in use, with a reasonable expectation that the use will resume within 12 months of last use. The 12-month period can be extended for an additional 12 months if nonuse is due to a disabling condition. Verification of the condition is not required. The exclusion ends as of the date the person changes his intent to resume the self-support enterprise or employment for which he uses the property.

(b) Real Property Not Used in a Business or Trade

Up to \$6,000 of an individual's equity in real or personal income-producing property is excluded, if it produces a net annual income of at least 6% of the excluded equity. The maximum amount of net annual income the property must produce is \$360.

If the individual's equity is greater than \$6,000, only the amount that exceeds \$6,000 is counted toward the allowable asset limit, when the net annual income requirement of 6% is met. Net annual income is the gross income from the enterprise, less the cost of doing business for a one-year period.

If the activity produces less than a 6% return, due to circumstances beyond the individual's control, such as crop failure or illness, and there is a reasonable expectation that the individual's activity will again produce a 6% return, the property is excluded. If the individual owns more than one piece of property and each produces income, each has the 6% rule applied. Then the amounts of the individual's equity in all of the properties producing 6% are totaled to determine if the total equity is \$6,000 or less. The equity in those properties that do not meet the 6% rule is

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counted as an asset. If the individual's total equity in the properties producing 6% income is over the \$6,000 equity limit, the amount of equity exceeding \$6,000 is an asset.

The procedure to determine if the property is excluded are as follows:

- Step 1: Add together the equity value of all personal and real business properties used in one enterprise.
- Step 2: If the Step 1 amount is less than \$6,000, multiply that amount by .06. If the Step 1 amount is \$6,000 or greater, multiply \$6,000 by .06.
- Step 3: Compare the Step 2 amount to the net annual income. If the net annual income is equal to or exceeds the amount arrived at in Step 2, subtract \$6,000 from the total equity value of the property(s). The remainder is an asset. If the net annual income is less than the amount arrived at in Step 2, the total equity of the property(s) is an asset.

**EXAMPLE:** Mr. Patterson owns a mobile home, which is not his residence, that has a CMV and equity value of \$3,000. He owns other property that has a CMV and equity value of \$2,000. The mobile home produces a net annual rental income of \$750, and the other property produces less than \$50 a year. Since the mobile home produces more than a 6% return, its equity value is excluded. Since the other property produces less than a 6% return, its equity value is not excluded.

b. Necessary for Self-Support

SNAP	WVW, AFDC Groups	SSI Groups
Yes	Yes	No*

SSI-Related Medicaid, M-WIN, CDCS, PAC, QDWI, QMB, SLIMB, and QI-1: Non-business real and personal property is considered necessary for an individual and/or his spouse's self-support, if it is used to produce goods or services necessary for his daily activities.

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This type of property includes real property, such as land, which is used to produce vegetables or livestock for personal consumption only, such as, corn, tomatoes, chickens, cattle.

Vehicles used solely in a non-business self-support activity, such as a garden tractor or a boat used for subsistence fishing are excluded under this policy, but not vehicles as defined in item QQ,3 below. This property also includes personal property necessary to perform daily functions, but not passenger cars, trucks, boats, or other special vehicles. Property used to produce goods or services or property necessary to perform daily functions is excluded, if the individual's equity in the property does not exceed \$6,000. The amount of equity in excess of \$6,000 is counted toward the asset limit. Personal property which is required by the individual's employer for work is not counted, regardless of value, while the individual is employed. Examples of this type of personal property include tools, safety equipment, uniforms and similar items.

**EXAMPLE:** Bill owns a small, unimproved lot several blocks from his home. He uses the lot, which is valued at \$4,800, to grow vegetables and fruit, only for his own consumption. Since his equity in the property is less than \$6,000, the property is excluded as necessary to self support.

## c. Other Real Property

SNAP	WVW, AFDC Groups	SSI Groups
No	Yes*	Yes*

The equity in property, not otherwise excluded, is an asset.

## (1) SNAP Benefits

All real property, mobile homes and mineral/timber rights are excluded, regardless of use.

## (2) WV WORKS

Any non-excluded real property which the AG is making a good faith effort to sell is excluded for six months. A good faith effort means that the property is currently available for sale through a real estate agent or through publication.

The only time this exclusion applies is when the client has agreed in writing, using Form DFA-22, to dispose of the property within the six-month exclusion period. Any

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payments made to the AG during this disposition period must be repaid to the Department once the client disposes of the asset.

If, for any reason, the client fails to dispose of the property, or the case is closed during the exclusion period, all of the payments made to the AG must be repaid. If, at the end of the 6-month period, the client has failed to dispose of the property, it must be counted as an asset.

(3) AFDC Medicaid and AFDC-Related Medicaid

The equity in real property, other than homestead property, is an asset.

(4) SSI-Related Medicaid, CDCS, PAC, QDWI, QMB, SLIMB, and QI-1

When the client's non-excluded real property is not used in a trade or business or does not meet the \$6,000 or the \$6,000/6% limitation, the equity in the property is an asset. See items a and b above.

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## 4. Life Estates

SNAP	WVW, AFDC Groups	SSI Groups
No	No	Yes*

Under a life estate, an individual who owns property transfers ownership of the property to another individual, while retaining certain rights to it for the rest of his life, or the life of another person. Generally, a life estate entitles the owner of the life estate to possess, use, and obtain profits from the property for as long as he lives. However, actual ownership of the property has been transferred.

**When an individual purchases a life estate interest in another individual's home, a transfer of resources penalty is imposed unless the individual who purchased the life estate resides in the home for at least 1 year after the date of purchase.**

**If the individual has resided in the home for at least 1 year after the life estate was purchased, determine the value of the life estate as follows.**

**(1) No Intent to Return**

**If the individual does not intend to return to the home in which the life estate was purchased, the value of the life estate is determined by following the steps outlined below.**

**(2) Intent to Return**

**The purchase of a life estate may be excluded if the individual intends to return to the home and the individual resided in the home for at least one year after the purchase.**

When the client establishes a life estate with his own property, the property itself is no longer an asset to him because ownership has been transferred. However, the value of the life estate is treated as an asset when it is not the client's principal place of residence unless he cannot legally dispose of the life estate. The value is determined as follows:

Step 1: Determine the CMV of the property.

Step 2: Determine the age of the life estate holder, as of his last birthday and the life estate factor for that age found in Appendix A. The table contained in the WV State Code is not used; only Appendix A is used.

Step 3: Multiply the CMV by the life estate factor determined in Step 2.

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The resulting amount is counted as an asset for the life estate holder.

If the client believes the life estate is worth less than the determined value, he must provide proof of a lower value.

**NOTE:** For long-term care cases, a penalty may be applied for transferring property when retaining a life estate **or for purchasing a life estate interest in another individual's home.** See Chapter 17.

When property is transferred to a client by someone who retains a life estate interest in the property, the transferred property is counted as an asset, unless the client cannot legally dispose of it.

5. Real Property Related to Vehicle Maintenance

SNAP	WVW, AFDC Groups	SSI Groups
No	Yes	Yes

**II.** RECREATIONAL EQUIPMENT

SNAP	WVW, AFDC Groups	SSI Groups
No	Yes	Yes

See Section 11.1. Recreational equipment is considered personal property, but is coded in RAPIDS on AAVA. See the RAPIDS User Guide. The retail value (CMV) must be used when determining equity. See Section 11.2,C.

**EXCEPTION:** When the individual lives in his recreational equipment, it is considered his home and is excluded as long as he lives in it.

**JJ.** RECREATIONAL VEHICLES

SNAP	WVW, AFDC Groups	SSI Groups
No	Yes	Yes

See Section 11.1. Recreational vehicles are considered personal property, not vehicles, but are coded in RAPIDS on AAVA. See the RAPIDS User Guide. The retail value (CMV) must be used when determining equity. See Section 11.2,C.

**EXCEPTION:** When the individual lives in his recreational vehicle, it is considered his home and is excluded as long as he lives in it.

**KK.** RICKY RAY HEMOPHILIA FUNDS

See HEMOPHILIA/AIDS SETTLEMENTS AND FUNDS

## Assets

**LL. SATELLITE DISHES**

SNAP	WVW, AFDC Groups	SSI Groups
No	No	No

**MM. STOCKS**

SNAP	WVW, AFDC Groups	SSI Groups
Yes *	Yes *	Yes *

To establish the CMV of a stock for applicants, the Worker must use the closing stock market price as of the last business day of the prior month. For recipients who purchase stocks, the purchase price is used. All policies applicable to stocks also apply to preferred stocks, as well as warrants, rights and options to purchase stocks.

**EXCEPTION:** Shares of stock in an Alaskan Native Regional or Village Corporation are excluded for all programs.

**NOTE:** The par value or stated value shown on some stock certificates is not the market value of the stock.

**NN. SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP) BENEFITS**

SNAP	WVW, AFDC Groups	SSI Groups
No	No	No

This includes coupons and SNAP benefits in an EBT account.

**OO. SWIMMING POOLS****- Above-ground**

SNAP	WVW, AFDC Groups	SSI Groups
No	Yes	Yes

**- In-ground: considered part of the homestead are excluded.**

SNAP	WVW, AFDC Groups	SSI Groups
No	No	No

**PP. TRUST FUNDS**

SNAP	WVW, AFDC Groups	SSI Groups
Yes*	Yes*	Yes*

In general, if the client has unrestricted access to the principal of the trust, it must be counted as an asset.

## 1. SNAP Benefits

Any funds in a trust or transferred to a trust and any income produced by that trust are considered inaccessible to the AG and excluded if:

- The trust arrangement is not likely to cease before the next redetermination and no AG member has the power to revoke the trust arrangement or change the name of the beneficiary before the next redetermination; and
- The trustee administering the funds is either:
  - A court, or an institution, corporation or organization which is not under the direction or ownership of any AG member, or
  - An individual appointed by the court who has court-imposed limitations placed on his use of the funds which meet all other fund requirements found in this item (item 1); and
- Trust investments made on behalf of the trust do not directly involve or assist any business or corporation under the control, direction, influence of an AG member; and
- The funds held in irrevocable trust are either:
  - Established from the AG's own funds, if the trustee uses the funds solely to make investments on behalf of the trust or to pay education or medical expenses of any person named by the AG creating the trust, or
  - Established from non-AG funds by a non-AG member.

When withdrawals are made from a trust fund, see Chapter 10 for policy about treatment of the withdrawal as income.

Dividends which the AG has the option of either receiving as income or reinvesting in the trust are not assets. See Chapter 10 for treatment of dividends.

A client cannot be required to petition the court for the use of the trust. In addition, this fund cannot be presumed to be available to the client.



2. WV WORKS, AFDC Medicaid, SSI Medicaid, AFDC-Related and SSI-Related Medicaid, M-WIN, CDCS, PAC, QDWI, QMB, SLIMB and QI-1

**NOTE:** For the AFDC Medicaid, SSI Medicaid, AFDC-Related and SSI-Related Medicaid, M-WIN, CDCS, PAC, QDWI, QMB, SLIMB and QI-1 programs, this section applies to any trust established on or after 8/11/93. For trusts prior to 8/11/93, see Appendix B of this Chapter.

**NOTE:** For the WV WORKS program, this item applies to any trust established on or after 1/01/97, regardless of the date the county changed from TANF to WV WORKS. However, no penalty may be applied until the case was converted from TANF to WV WORKS. Trusts established prior to 1/01/97 are not counted as assets.

For burial trusts, see Section 11.5.

Generally, all trusts are counted as assets, regardless of their purpose, restrictions on distributions or on the trustee's discretion to distribute the funds, whether acted on or not. There are exceptions to this general rule and there is a difference in the treatment of trusts established by a will and those not established by a will. In addition, sometimes revocable and irrevocable trusts are treated differently. Details are found below.

If a trust is made up of the client's resources and those of one or more other persons, only the amount established with the client's resources is counted.

For purposes of this item (item 2), the terms "individual" or "client" include:

- The client
  - His spouse
  - Any person, including a court or administrative body, with legal authority to act in place of, or on behalf of, the individual or the individual's spouse
  - Any person, including a court or administrative body, acting at the direction of, or upon the request of, the individual or the individual's spouse.
- a. Trusts Established By Will

A trust is treated as an asset only to the extent that it is available to the client. Clauses included in a trust which limit the trustee's use of the funds (i.e., exculpatory clauses) are recognized and the amount

of funds affected by such exculpatory clauses, is excluded. Irrevocable trusts are excluded, regardless of the amount. There is no penalty for the placement of funds in an irrevocable trust.

b. Trusts Not Established By Will

When the following two conditions are met, the trust policy contained below in this item is applied. If the two conditions are not met, the fund is treated as any other bank account.

- An individual has established a trust if his resources were used to form all or part of the corpus of the trust.
- Any of the following persons established the trust for the individual by any vehicle other than by will:
  - Individual
  - Individual's spouse
  - A person, including a court or administrative body, with legal authority to act in place of, or on behalf of, the individual or the individual's spouse
  - A person, including any court or administrative body, acting at the direction of, or upon the request, of the individual or the individual's spouse.

**EXCEPTIONS:** In the following four trust situations, the trust is totally excluded. In addition, establishment of these trusts is not treated as an uncompensated transfer of resources, as defined in Chapter 17 and Section 11.7.

- A trust containing the assets of an individual, under age 65, who is disabled,\* and which is established for his benefit by a parent, grandparent, legal guardian, or a court. To qualify for the exception, a trust must contain a provision that the State will receive all amounts remaining in the trust upon the death of the individual, up to the total Medicaid and/or WV WORKS payments made on his behalf. The exception continues even after the individual becomes age 65, as long as he continues to be disabled.\*
- A trust which contains the assets of an individual who is disabled\* and which meets all of the following conditions. This is commonly known as a special needs trust.

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Assets

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- The trust is established and managed by a non-profit association.
- A separate account is maintained for each beneficiary of the trust, but, for purposes of investment and management of funds, the trust pools the funds in these accounts.
- Accounts in the trusts are established solely for the benefit of the disabled\* individual.
- Accounts in the trusts are established by the individual, his parent, grandparent, legal guardian or by a court.
- The trust must include a specific provision that amounts remaining in the individual's account that are not retained by the trust upon the client's death, must be used to reimburse the State for Medicaid and/or WV WORKS payments which were made on the individual's behalf.

FOR MEDICAID ONLY: When an individual is approved for Medicaid and has an excluded trust described above, for which Medicaid must be the beneficiary, the Worker must fax a copy of the trust document and the Medicaid recipient's name, case number and name of the recipient's power-of-attorney or representative, if applicable, to **the current contract agency for Estate Recovery. Information about this agency is in Chapter 17, Appendix I.**

- Burial trusts which meet all of the following conditions:
  - The individual signs a contract with the funeral director promising prepayment in return for specific funeral merchandise and services.
  - The contract is irrevocable.
  - The individual pays the agreed upon amount to the funeral director in the form of a direct cash payment, purchase or transfer of a life insurance policy or annuity which is assigned to the funeral director.

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Assets

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- The funeral director, in turn, places the preneed payment or device into a trust or escrow account which the funeral director establishes himself. If the client establishes the trust or other device himself, the amount may be considered a transfer of resources. See Chapter 17 and Section 11.7.

\* For these purposes, the SSA definition of disability is used. Therefore, any person medically approved for or receiving SSI, based on disability, meets the definition, as well as persons who have been determined disabled by the Medical Review Team (MRT). If no disability determination has been made, the case must be submitted for a MRT decision. See Section 12.10.

- A trust established with a settlement or funds received from the following:

- Factor VIII or IX Concentrate Blood Products Litigation, MDL 986, No. 93-C-7452, ND of Illinois
- Ricky Ray Fund
- Walker v. Bayer Settlement

c. Revocable Trusts

Once the Worker determines that the trust was not established by a will and does not meet one of the exceptions, above, the following rules apply:

- The corpus of the trust is considered an available asset.
- Payments from the trust to the client or for his benefit are counted as income.

d. Irrevocable Trusts

Once the Worker determines the trust was not established by a will and does not meet one of the exceptions above, the following rules apply:

- If there are any circumstances under which payments from the trust could be made to the client or for his benefit, that portion of the corpus, or the interest, is an asset.

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Assets

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- If payments are made from the available corpus, or interest, to the client or for his benefit, the amount is treated as income.

(1) Payment for the Client's Benefit

Throughout this item d "payments made on behalf of the client" or "for his benefit" means payments of any kind to another entity, such that the client derives some benefit from the payment. This may include, but is not limited to, clothing, television, payments for services or care rendered, whether medical or personal, payments to maintain a home, etc. Any payment for the benefit of the client is counted, even if it is not customarily counted in determining Medicaid and/or WV WORKS eligibility.

In determining whether payments can or cannot be made from a trust, take into account any restrictions on payments, such as use restrictions, exculpatory clauses, limits on trustee discretion, etc., that may be included in the trust.

**EXAMPLE:** A trust provides that the trustee can disburse only \$1,000 out of a \$20,000 trust, only the \$1,000 is treated as a payment that could be made to the client or for his benefit. The remaining \$19,000 is treated as an amount which cannot, under any circumstances, be paid to, or for the benefit of the individual.

**EXAMPLE:** A trust contains \$50,000 that the trustee can disburse only in the event that the grantor needs a heart transplant. The full amount is payment that could be made under some circumstances, even though the likelihood of payment is remote if the client does not have heart problems.

In determining whether payments can or cannot be made from a trust, the Worker must take into account restrictions included in the trust on how payments can be made, the Worker must not take into account when payments can be made. When a trust provides, in some manner, that a payment can be made, even though that payment may be sometime in the future, the trust must be treated as providing that payment can be made from the trust.

## Assets

**e. Undue Hardship**

There is a hardship provision **for Medicaid** which allows the Department to exclude a trust when counting it results in undue hardship for the client. All decisions about undue hardship are made by the **Undue Hardship Waiver Committee**. Any requests for such a determination are submitted in writing and must show complete details about the undue hardship which will result. See "Undue Hardship" in Section 11.1 **and Section 17.6**.

**QQ. UNIFORM GIFTS TO MINORS ACT FUNDS**

SNAP	WVW, AFDC Groups	SSI Groups
Yes	Yes	No

**RR. VEHICLES**

SNAP	WVW, AFDC Groups	SSI Groups
No	Yes*	Yes*

The owner of a vehicle is generally the individual to whom it is titled. However, when the title of a vehicle is not in the client's name, but the client states he is the owner, the vehicle is counted as the client's asset. If the title is in the client's name, and he indicates the vehicle no longer belongs to him, and the name on the title has not been changed, the vehicle is presumed to be his, unless he can

## Assets

If the vehicle is listed as junk with the Department of Motor Vehicles, as indicated on the title of the vehicle, a sale value of \$25 is assigned to it, and that amount used as the value.

**STEP 3: Determining Asset Value of All Non-Excluded Vehicles**

The CMV as determined in Step 2 above, of all non-excluded vehicles is counted in its entirety, regardless of the client's equity.

**SS. VIETNAM VETERAN – CHILD BENEFIT**

SNAP	WVW, AFDC Groups	SSI Groups
No	No	No

The payments are excluded by federal law.

An allowance under 38 U.S.C., Chapter 18, to a Child of a Vietnam Veteran. This includes:

- Individual with spina bifida who is the child of a Vietnam veteran
- Individual with a covered birth defect(s) who is the child of a female Vietnam veteran

**TT. VICTIM COMPENSATION PAYMENTS**

SNAP	WVW, AFDC Groups	SSI Groups
Yes	WVW - No AFDC Groups - No*	No*

SSI Medicaid Groups Only: The payment is excluded for 9 months, beginning with the month following the month of receipt.

**UU. WALKER V. BAYER, ET AL SETTLEMENTS**

See HEMOPHILIA/AIDS SETTLEMENTS AND FUNDS

**DUE TO THE DELETION  
OF SOME MANUAL MATERIAL  
PAGES 58 - 64  
HAVE BEEN RESERVED FOR FUTURE USE.**