

## Assets

- Property currently used in a trade or business
- Property used by an individual as an employee for work
- Property required by an employer for work. Examples include, but are not limited to: tools, safety equipment and uniforms.

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.

**EXAMPLE:** Sharon has a small business in her home making hand-woven rugs. The looms and other equipment used in the business have a CMV of \$7,000. Her equity is \$5,500 since she owes \$1,500 on the looms. The \$5,500 equity is excluded because the equipment is used in a business.

**EXAMPLE:** John owns a commercial fishing permit granted by the State Commerce Commission, a boat, and fishing tackle. The boat and tackle have an equity value of \$6,500. The **\$6,500** equity is excluded because the boat and tackle are used in a business.

## 2. Non-Business Personal Property

### a. Income Producing

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

- (1) SNAP Benefits: Property which is annually producing income consistent with its CMV is excluded. Vehicles and recreational vehicles/equipment are excluded regardless of use.
- (2) SSI-Related Medicaid, M-WIN, CDCS, PAC, QDWI, QMB, SLIMB, and QI-1:

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

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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 asset limit, when the net annual income requirement of 6% is met on the excluded equity. 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 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 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 counted as an asset.

The procedure to determine if the property is excluded is 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 greater than the amount in Step 2, subtract \$6,000 from 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.

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.

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. GIFT CARDS / CERTIFICATES**

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

**1. AFDC Medicaid, AFDC- and SSI-Related Medicaid Groups:**

Any unspent balance remaining on a gift card or gift certificate is an asset beginning the month following the month the gift card or certificate is received by the individual UNLESS

- The individual does not have the right, authority or power to convert or sell the gift card/certificate for cash; AND
- The card or certificate cannot be used to purchase food or shelter.

**2. WV WORKS**

Gift cards are not considered unless the card can be converted to cash or sol. The cash or sale value would be considered an asset the month following receipt.

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

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

All payments are excluded by federal law.

- 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.

- 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.

- 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.

**R. HIGHWAY RELOCATION ASSISTANCE PAYMENTS AND URBAN RENEWAL RELOCATION PAYMENTS**

SNAP	WVW, AFDC Groups	SSI Groups
No	No	No

## Assets

**S.** 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.

**T.** INCOME TAX REFUNDS AND REBATES

## 1. Income Tax Refunds

SNAP	WVW, AFDC Groups	SSI Groups
Yes	Yes	Yes

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.

**U.** INDIAN LANDS AND TRUSTS FUNDS

SNAP	WVW, AFDC Groups	SSI Groups
Yes	Yes	Yes *

**See Appendix C.**

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

SNAP	WVW, AFDC Groups	SSI Groups
No	No	No

The payments are excluded by federal law.

**X. LAND SALE CONTRACT**

SNAP	WVW, AFDC Groups	SSI Groups
No	Yes	Yes

**WV WORKS, AFDC Medicaid, AFDC- and SSI-Related Medicaid Groups:**

**The property is considered to belong to the buyer or purchaser as long as a legal contract is in effect but has no equity value until the terms of the contract are fulfilled. See JJ below for the Homestead exclusion when the buyer lives on the property.**

**NOTE: If the buyer defaults on the contract, the property is considered to belong to the seller again. The buyer only has equity value in the property after the terms of the contract are fulfilled.**

**Y. 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.

**Z. 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.

**AA. LOANS, NON-EDUCATIONALS**

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

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## 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.

**BB.** 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.

**NOTE:** The one-time payment issued to RSDI, SSI and VA recipients under the American Recovery and Reinvestment Act of 2009 is excluded for 9 months following the month of receipt.



## 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.

**NOTE:** The one-time payment issued to RSDI, SSI and VA recipients under the American Recovery and Reinvestment Act of 2009 is excluded for 9 months following the month of receipt.

## 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.

### d. RSDI, SSI and VA Payments Issued Under the American Recovery and Reinvestment Act of 2009

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

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**CC.** MUTUAL FUNDS

SNAP	WVW, AFDC Groups	SSI Groups
Yes	Yes	Yes

**DD.** 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

**EE.** 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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**FF.** 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.

**GG.** 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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**HH.** PRODUCE AND LIVESTOCK FOR HOME CONSUMPTION

SNAP	WVW, AFDC Groups	SSI Groups
No	No	No

**II.** RADIATION EXPOSURE COMPENSATION FUND

SNAP	WVW, AFDC Groups	SSI Groups
No	No	No

The payments are excluded by federal law.

**JJ.** 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

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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.

**NOTE: Property being purchased with a land sale contract is considered Homestead property if the buyer lives on the property. See Item X above for the equity value of land sale contracts.**

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
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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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## 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

**KK.** 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.

**LL.** 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.

**MM.** RICKY RAY HEMOPHILIA FUNDS

See HEMOPHILIA/AIDS SETTLEMENTS AND FUNDS



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**NN. SATELLITE DISHES**

SNAP	WVW, AFDC Groups	SSI Groups
No	No	No

**OO. 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.

**PP. 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.

**QQ. 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

**RR. 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.

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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.

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## 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.

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

SNAP	WVW, AFDC Groups	SSI Groups
Yes	Yes	No

**TT.** 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

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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.

#### UU. 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

#### VV. 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.

#### WW. WALKER V. BAYER, ET AL SETTLEMENTS

See HEMOPHILIA/AIDS SETTLEMENTS AND FUNDS

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