

MANUAL MATERIAL TRANSMITTED					
MANUAL: INCOME MAINTENANCE			CHANGE NUMBER: 171		
DELETE			INSERT OR CHANGE		
PAGES	CHAPTER	DATED	PAGES	CHAPTER	DATED
i - iv	11	1/2000	i - iv	11	7/00
1 - 6	11	8/95	1	11	8/95
			2 - 6	11	7/00
			6a	11	7/00
7 - 8	11	10/98	7 - 8	11	7/00
9	11	5/96	9	11	7/00
10	11	8/95	10	11	7/00
11	11	10/96	11	11	7/00
12	11	8/95	12	11	7/00
13 - 16	11	10/98	13	11	7/00
			14	11	10/98
			14a	11	7/00
			15	11	7/00
			16	11	7/00
17	11	12/97	17	11	7/00
18 - 18a	11	5/99	18 - 18a	11	7/00
19	11	10/98	19	11	7/00
20	11	8/95	20	11	7/00
21 - 25	11	10/98	21	11	10/98
			22 - 25	11	7/00
26 - 26a	11	5/99	26 - 26a	11	7/00
			26b	11	7/00
27 - 28	11	10/98	27 - 28	11	7/00
28a	11	10/98	28a - 28b	11	7/00
29	11	8/95	29	11	7/00
30	11	10/98	30	11	7/00
31 - 32	11	10/98	31 - 32	11	7/00
33	11	8/95	33	11	7/00
34	11	3/96	34	11	7/00

APPENDIX A-1 - A-2	11	8/95	APPENDIX A-1 - A-2	11	7/00
APPENDIX B-1 - B-2	11	8/95	APPENDIX B-1	11	7/00
			APPENDIX B-2	11	8/95
			FORM OFS-FSV-1	11	7/00
DATE: JULY, 2000			TO: All Maintenance Manual Holders		

This change is made to clarify portions of Chapter 11 that have caused problems for Workers and Supervisors. The changes are based on questions received by the OFS Policy Unit and a request from the Region II supervisors to rewrite the FS vehicle policy. There are no actual policy changes, but some of the clarifications may cause you to reconsider your previous understanding.

1. Throughout the Chapter, benefit group was changed to AG and other wording changes were made that did not impact the policy statements. References to TANF were changed to WV WORKS. All references to BFU (Basic Family Unit) were removed.
2. New definitions were added to Section 11.1.
3. At the policy review for this Chapter we discovered that some Workers/Supervisors have been using the loan pay-off amount when determining a client's equity in a vehicle. For OFS purposes, the amount the client owes is determined only by multiplying the periodic payment amount by the number of payments remaining. This was added to the definition of equity and to all sections dealing with determining vehicle equity. It applies to all other assets as well and was added to the definition of equity in Section 11.1.
4. We have created another category related to vehicles. We now have vehicles, recreational vehicles and recreational equipment. These are in Section 11.1 and have been added to 11.4. In addition, the definition of a vehicle has been rewritten.
5. Other changes in 11.2 are:
 - ▶ A note was added to restore the policy statement about not counting funds as both income and an asset in the same month.
 - ▶ New clarification was added to item C about setting alerts when the client's equity will exceed the asset limit prior to the next redetermination.
 - ▶ Item F was reorganized and some time-limited policy which had expired was removed.
6. Section 11.3 (fourth column) was corrected.
7. Changes in 11.4 are:
 - ▶ The boxes indicating "yes" or "no" for an asset have been redesigned to carry over the program groups to which the policy applies.

to determining countable vehicle assets and may be useful as a desk guide.

8. Treatment of the assets of those who are excluded by law from the benefit was added to items A, B and C in Section 11.5.
9. The first line of text was left out of the note in Section 11.5,A,3,b when change no. 169 was released. It has been restored with this change.
10. Other additions/clarifications were made to the Categorical Eligibility policy in Section 11.5,A,4, including replacement of "receives a TANF-funded benefit" with "authorized to receive a TANF-funded benefit." In addition, a reference was added to point you to the definition of a TANF-funded benefit and additions were made to the chart in item c.
11. Information about transfers of assets that occur within an AG was added to Sections 11.5,A,4,b and 11.7,A.
12. Section 11.7 was reorganized to put back in the section titles that were inadvertently removed in the past. A reference in item 1 of the Section was also corrected.

Questions should be directed to the OFS Policy Unit. Sincerest thanks to: Anna Grafton, Hancock Co.; Sandy Dyer, Cabell Co.; Patricia Harris, McDowell Co.; Rebecca Blackburn, IFM; Sue Buster, Judy Talbott, Eddie Ingles, OFS Policy Unit; Brenda Workman, Payment Accuracy; Dianna Scarbro, RAPIDS; Al Boyd, Trainer, Region II; Rodney Wright, Trainer, Region III; Dave Pardue, Region II; Pam Smarr, Trainer, Region I. Extra special thanks to Al and Anna who provided us with copies of the material they use to train staff.

11.1 DEFINITIONS	1
11.2 INTRODUCTION	7
A. ESTABLISHING DATE OF ASSET ELIGIBILITY	7
1. SSI-Related Medicaid, CDCS, PAC, QDWI, QMB, SLIMB, QI-1 and QI-2	7
2. All Others	8
B. WHEN INCOME BECOMES AN ASSET	8
C. DETERMINATION OF THE VALUE OF COUNTABLE ASSETS	8
D. ACCESSIBILITY OF ASSETS	8
E. CONVERSION OR SALE OF AN ASSET	9
F. COMPENSATION FOR LOSS OR DAMAGE	13
11.3 MAXIMUM ALLOWABLE ASSETS	15
11.4 LIST OF ASSETS	16
A. AGENT ORANGE COMPENSATION	17
B. BANK ACCOUNTS AND CD's	17
1. Savings Accounts	17
2. Christmas Clubs	17
3. Checking Accounts	17
4. Certificates of Deposit (CD's)	17
5. Deposits By Others	17
6. Dedicated Account For SSI Recipient	17
C. BONDS - U.S. SAVINGS BONDS	18
D. BURIAL FUNDS AND PLOTS	18
1. Burial Funds	18
2. Burial Plots	18a
E. BUSINESS AND NON-BUSINESS PERSONAL PROPERTY	19
1. Business Personal Property	19
2. Non-Business Personal Property	21
F. CASH ON HAND	22
CASH SAVINGS	22
G. COLLECTIONS	22

CC.	RECREATIONAL VEHICLES	34
DD.	SATELLITE DISHES	34
EE.	STOCKS	34
FF.	SWIMMING POOLS	34
GG.	TRUST FUNDS	34
1.	Food Stamps	34
2.	AFDC Medicaid, SSI Medicaid, AFDC-Related and SSI-Related Medicaid, CDCS, PAC, QDWI, QMB, SLIMB, QI-1 and QI-2	36
3.	WV WORKS	41
HH.	UNIFORM GIFTS TO MINORS ACT FUNDS	42d
II.	VEHICLES	42d
1.	Food Stamps	42f
2.	AFDC Medicaid and AFDC-Related Medicaid	47
3.	SSI-Related Medicaid, CDCS, PAC, QDWI, QMB, SLIMB, QI-1 and QI-2	50
4.	WV WORKS	52
JJ.	<u>WALKER V. BAYER, ET AL.</u> SETTLEMENTS	52a
11.5	ASSETS OF PERSONS IN SPECIAL CIRCUMSTANCES	52b
A.	FOOD STAMPS	52b
1.	Assets of Those Disqualified, Ineligible or Excluded By Law	52b
2.	Assets of Ineligible Students	52b
3.	Jointly-Owned Assets	52b
4.	Special Considerations Depending on the AG Composition	53
5.	Retroactive Payments	54
6.	Low Profit From The Sale of An Asset	55
7.	Burial Funds	55
B.	WV WORKS, AFDC MEDICAID AND AFDC-RELATED MEDICAID	55
1.	Assets of Those Disqualified, Ineligible or Excluded By Law	55
2.	Assets of Ineligible Students	56
3.	Jointly-Owned Assets	56
4.	Special Considerations Depending on the AG Composition	60
5.	Retroactive Payments	60a

11.1 DEFINITIONS

ASSETS Total real and personal property the client has available to meet financial needs, including the value of assets assigned from certain individuals. Assets may be liquid or non-liquid.

LIQUID ASSETS

Those which are cash or payable in cash on demand, including financial instruments that can be converted to cash. For SSI-Related Medicaid: Liquid assets are those which are cash or which can be converted into cash within 20 working days. National, state and local holidays are not working days.

NON-LIQUID ASSETS

Those which can be converted or sold for cash. For SSI-Related Medicaid: Non-liquid assets are those which cannot be converted to cash within 20 working days.

ACCESSIBILITY OF ASSETS A client may not have access to certain assets. In order to be considered an asset, the asset must be owned by or available to the client. If the client cannot legally dispose of the asset, it is not treated as an asset.

ANNUITY Any entity, which gives the right to receive fixed, periodic payments, either for life or a term of years.

BENEFICIARY A person to whom benefits are payable.

BONDS U.S. Government, municipal or corporate.

BURIAL FUNDS Burial funds include revocable burial contracts, revocable and irrevocable burial trusts, cash, savings bonds, and any other separately identifiable assets which an individual states are intended for expenses connected with burial, cremation, or other funeral arrangements.

BURIAL CONTRACT

An agreement in which a provider of funeral services and burial items agrees to provide burial services or other final arrangements.

CONTRACT SELLER	A person, his agent or his employee who sells, makes available or provides contracts.
CONVERSION OR SALE OF AN ASSET	The sale or exchange of an asset from liquid to non-liquid or non-liquid to liquid.
CURRENT MARKET VALUE (CMV)	Also called FAIR MARKET VALUE. The amount an asset can be expected to sell for on the open market, in the particular geographic area. Market conditions are reflected in an asset's CMV.
DEBT	Any form of legal indebtedness against an asset, such as mortgages, liens, loans, purchase contracts and security interests. For purposes of establishing equity value, a debt must be legally recognized as binding on the individual who holds the asset.
DEDICATED ACCOUNT	An SSI recipient, who is under age 18 and who has a representative payee, may have a dedicated account, so that back SSI payments can be deposited directly into the account. SSA regulations require that certain such payments be directly deposited. Other payments of the same type are not required to be deposited directly into the account, but may be deposited in the dedicated account at the discretion of the representative payee. SSA places certain restrictions on the use of the funds deposited into these accounts. SSI representative payees receive notification from SSA that a dedicated account must be established and also receive notification when an SSI back payment amount is directly deposited.
ELDERLY	Age 60 and over, for Food Stamps and WV WORKS. Age 65 and over, for Medicaid.
ENDOWMENT FOR PERPETUAL CARE	A contract for care and maintenance of a grave site.
EQUITY VALUE	The CMV, less any legal debts, such as mortgages, liens, etc. This is determined by multiplying the amount of the installment payment by the number of payments left and subtracting this amount from the CMV.

WHOLE LIFE INSURANCE

Insurance policies which have a cash surrender value.

LUMP SUM
PAYMENTS

Non-recurring, recurring, or advance payments. This may include, but is not limited to, RSDI, stock dividends paid quarterly, or payments from an income disability insurance plan which cover a previous period, but are delayed for medical reports, etc.

MIXED FOOD
STAMP
AG's

AG's which include a recipient of WV WORKS or SSI and at least one person who does not receive either of these 2 benefits.

MUTUAL FUNDS

A pool of assets managed by an investment company that buys and sells securities and other investments.

NON-HOMESTEAD
PROPERTY

Real property, other than the homestead, that the client owns or is purchasing.

PENSION FUNDS

Funds in an individual account or retirement plan, such as IRA's, Keogh Plans, 401k's, SOC3's, 357's and employer plans.

PRINCIPAL
PLACE OF
RESIDENCE

The dwelling the client considers his fixed, established home.

PROCEEDS FROM
SALE OF HOME

Net amount received by the seller, after satisfaction of all encumbrances and sale expenses.

PURE FOOD
STAMP AG's

Every person included in the Food Stamp AG receives WV WORKS or SSI. Pure Food Stamp AG's are categorically eligible for Food Stamps.

REBUTTAL

The process whereby the client refutes the Department's presumption of unrestricted access to resources.

RECREATIONAL
EQUIPMENT

Boats, snowmobiles, campers, camper-trailers, airplanes, and similar equipment that do not meet the definition of a vehicle. Also see Vehicle and Recreational Vehicle.

11.2 INTRODUCTION

This Chapter contains the policies for determining asset eligibility for Food Stamps, 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
- QC
- Transitional Medicaid
- CHIP-1

A. ESTABLISHING DATE OF ASSET ELIGIBILITY

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

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

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 1985 Ford LTD that he used for obtaining medical treatment and a 1982 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.

For SSI-Related Medicaid, CDCS, PAC, QDWI, QMB, SLIMB, QI-1 and QI-2, pre-payment penalties are also deducted from the CMV.

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. The asset is not available to either owner without the consent of the other. When such consent is withheld, the asset is excluded as being inaccessible. For Food Stamps 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.

Unless there is evidence to the contrary, each owner is assumed to own an equal, fractional share of the jointly owned asset.

- 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.

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 and SLIMB cases, 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

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 Stamps. 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, QI-1, QI-2. Cash or in-kind items received from any source, such as, but not limited to, insurance companies, federal or State agencies, public or private

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.

11.3 MAXIMUM ALLOWABLE ASSETS

To be eligible for programs administered by the Office of Family Support (OFS), the total amount of countable assets cannot exceed the amounts which are listed in the following chart:

FOOD STAMPS	AFDC MEDICAID	WV WORKS	SSI-RELATED MEDICAID, AFDC-RELATED MEDICAID, PAC, CDCS	QDWI, QMB SLIMB, QI-1, QI-2
			Size of AG Asset Level	Size of AG Asset Level
\$2,000 - all AG's except as below.	\$1,000 - regardless of the number in the AG.	\$2,000 - regardless of the number in the AG.	1 \$2,000	1 \$4,000
\$3,000 - at least one AG member is age 60 or over, regardless of the size of the AG.			2 \$3,000	2 \$6,000
NOTE: For categorically eligible AG's, the asset test is presumed to be met.			Add \$50 to the asset maximum for each additional Needs Group member. NOTE: For SSI-Related Medicaid only: In cases involving a husband and wife who are living together, only one of whom is eligible, the asset level for 2 persons is used for their combined non-excluded assets. NOTE: For AFDC-Related Medicaid: Use the asset limit for the appropriate Needs Group size.	NOTE: In cases involving a husband and wife who are living together, only one of whom is eligible, the asset level for 2 persons is used for their combined non-excluded assets.

NOTE: The following Medicaid coverage groups have no asset test:

AIDS Patient Programs
Deemed AFDC-Medicaid Recipients
Deemed SSI Recipients, except PAC
PL Pregnant Women and Children
Extended Medicaid
Continuously Eligible Newborns
QC
Transitional Medicaid
CHIP-1

LIST OF ASSETS

A. AGENT ORGANGE COMPENSATION

FS	WWV, 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.

B. BANK ACCOUNTS AND CD's

FS	WWV, 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.

Food Stamps: When excluded funds are kept in a bank account with other non-excluded money, the normally non-excluded funds are excluded for six months from the date they were placed in the account. After six months, the exclusion ends and all money in the account is an asset. EXCEPTION: Educational funds are excluded even when co-mingled with other funds.

LIST OF ASSETS

SSI-Related Medicaid, CDCS, PAC, QDWI, QMB, SLIMB, QI-1, QI-2: A U.S. Savings Bond is not an asset during its six-month minimum retention period. As of the first moment of the seventh month, the bond is considered an asset. If an individual receives a bond as a gift, See Section 10.3, U.S. Savings Bonds.

D. BURIAL FUNDS AND PLOTS

1. Burial Funds

FS	WVW, AFDC Groups	SSI Groups
See	Section	11.5

Money set aside to pay for funerals and related expenses may be counted as an asset. When set up as a trust, prepaid burials can be paid for by cash, insurance policies or annuities.

For treatment of burial funds by program, see Section 11.5.

2. Burial Plots

FS	WVW, AFDC Groups	SSI Groups
No*	No*	No *

a. Food Stamps, WV WORKS, AFDC Medicaid and, AFDC/U-Related Medicaid

One burial plot per AG member is excluded.

b. SSI-Related Medicaid, CDCS, PAC, QDWI, QMB, SLIMB, QI-1, QI-2

Burial spaces which are intended for the use of the client, spouse, or any member of the immediate family, are excluded.

LIST OF ASSETS

E. BUSINESS AND NON-BUSINESS PERSONAL PROPERTY

1. Business Personal Property

a. Food Stamps

FS	WWV, AFDC Groups	SSI Groups
No *	Yes	No *

Excluded if used in a business. If not excluded as business property, the equity value is an asset.

b. SSI-Related Medicaid, CDCS, PAC, QDWI, QMB, SLIMB, QI-1 and QI-2

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. 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:

LIST OF ASSETS

is a reasonable expectation that the use will resume.

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. Last year, John earned \$2,000 from his fishing business. The value of the fishing permit is not determined because the permit is excluded under the exception. The boat and tackle are producing in excess of a 6% return on the excluded equity value, so the equity is excluded, up to \$6,000. The \$500 excess value is counted toward the asset limit.

2. Non-Business Personal Property

a. Income Producing

FS	WVW, AFDC Groups	SSI Groups
No *	Yes	See item 1 above

Food Stamps: Property which is annually producing income consistent with its FMV is excluded.

b. Necessary for Self-Support

FS	WVW, AFDC Groups	SSI Groups
Yes	Yes	No *

SSI-Related Medicaid, CDCS, PAC, QDWI, QMB, SLIMB, QI-1, QI-2: Non-business personal and real property is considered essential for an individual and/or his spouse's self-support, if it is used to produce goods or services necessary for his daily activities. This 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. 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

LIST OF ASSETS

I. EDUCATIONAL GRANTS, LOANS AND
SCHOLARSHIPS

FS	WVW, AFDC Groups	SSI Groups
No *	No *	No *

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.

J. EITC (Earned Income Tax
Credits)

FS	WVW, AFDC Groups	SSI Groups
No *	No *	No *

1. Food Stamps

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, AFDC Medicaid, AFDC-Related Medicaid, SSI-
Related Medicaid, CDCS, PAC, QDWI, QMB, SLIMB,
QI-1 and QI-2

Excluded in the month of receipt and the following month only. This applies when received as part of paycheck or as one payment at end of the year.

K. EQUIPMENT ESSENTIAL FOR EMPLOYMENT

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

1. Food Stamps

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. 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.

LIST OF ASSETS

O. INCOME TAX REFUNDS

Also See EITC.

FS	WVW, AFDC Groups	SSI Groups
Yes	Yes	Yes

P. INDIAN LANDS AND TRUST FUNDS

FS	WVW, AFDC Groups	SSI Groups
No	No	No

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.

- 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, Reo, 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

Q. INSURANCE SETTLEMENTS

See Chapter 10 and Section 11.2,F

Treated as lump sum payments, or compensation for loss or damage.

LIST OF ASSETS

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, CDCS, PAC, QDWI, QMB, SLIMB, QI-1 and QI-2

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

U. LUMP SUM PAYMENTS

FS	WV, 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. Food Stamps

Non-recurring lump sum payments are counted as assets. For recurring lump sum payments, see Chapter 10.

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.

V. MUTUAL FUNDS

FS	AFDC, WV Groups	SSI Groups
Yes	Yes	Yes

LIST OF ASSETS

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.

Z. PRODUCE AND LIVESTOCK FOR HOME CONSUMPTION

FS	WVW, AFDC Groups	SSI Groups
No	No	No

AA. REAL PROPERTY

Also see BUSINESS and NON-BUSINESS PERSONAL PROPERTY.

1. Homestead Property

FS	WVW, AFDC Groups	SSI Groups
No *	No	No *

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. 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. Food Stamps

The client must be living in the home for the exclusion to apply. However, if the AG does not already own a home, the value of a lot on which it intends to build a home is excluded. If the new home is partially completed, the value of this home is also excluded. In addition, if the dwelling is temporarily unoccupied for reasons of employment, training for future employment, illness, or inhabitality caused by casualty or natural disaster, and the family intends to return, the homestead is excluded.

LIST OF ASSETS

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 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.

2. Sale Proceeds or Compensation
for Loss or Damage

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

If the home is being replaced or repaired due to loss or damage resulting from a disaster or accident, see Chapter 10, Insurance Settlements.

3. Non-Homestead Property

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

a. Income-Producing
Property

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

(1) Food Stamps

Real property, which is producing an annual income consistent with its FMV, is excluded as an asset. This includes rental homes and vacation homes. The property produces income consistent with its FMV when the earnings equal those received by others in the same geographic area, for property of like value.

EXAMPLE: Rental property is valued at \$2,500 and it earns \$50/month. Similar property in the area rents for approximately the same amount, \$50 -

\$60/month. The annual gross earnings are consistent with its FMV.

LIST OF ASSETS

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 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

LIST OF ASSETS

only, such as, corn, tomatoes, chickens, cattle. 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

FS	WVW, AFDC Groups	SSI Groups
Yes *	Yes *	Yes *

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

(1) Food Stamps

Real property which the client is making a good faith effort to sell is excluded. A good faith effort means that the property is currently available for sale through a real estate agent or through publication.

(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 ES-22, to dispose of the property within the six-month exclusion period. Any payments

LIST OF ASSETS

- 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.

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. 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 not counted as an asset, as long as the client cannot legally dispose of it.

5. Real Property Related to Vehicle Maintenance

FS	WVW, AFDC Groups	SSI Groups
No *	Yes	Yes

Food Stamps: Property, which is not excludable under any other provision in this Chapter, is excluded as an asset when a vehicle is excluded for one of the following reasons and the real property is directly related to maintenance or use of that vehicle:

- Over 50% of the use of the vehicle is for income-producing purposes, or
- The vehicle annually produces income consistent with its CMV, even if used on a seasonal basis, such as a truck used in a produce business or for hauling coal, or
- The vehicle is necessary to transport a physically disabled individual who is a member of the Food Stamp AG regardless of the purpose of such transportation. Only the portion of real property determined necessary

LIST OF ASSETS

FF. SWIMMING POOLS

- Above-ground swimming pools

FS	WVW, AFDC Groups	SSI Groups
No	Yes	Yes

- In-ground swimming pools:
considered part of the
homestead and excluded.

FS	WVW, AFDC Groups	SSI Groups
No	No	No

GG. TRUST FUNDS

FS	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. Food Stamps

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

LIST OF ASSETS

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 to the extent that it is available to the client or for his benefit. 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 also 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

LIST OF ASSETS

retained by the trust upon the client's death, must be used to reimburse the State for Medicaid payments which were made on the individual's behalf.

- 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.
 - 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.
- * 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 Chapter 12.
- (1) 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.

LIST OF ASSETS

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.

(b) Undue Hardship

There is a hardship provision 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 Director, Office of Family Support. 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 the Definitions section.

3. WV WORKS

NOTE: 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 has been converted from TANF to WV WORKS. Trusts established prior to 1/01/97 are not counted as assets.

For burial trusts, also 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.

LIST OF ASSETS

- 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 three 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 Section 11.7,D.

- 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 WV WORKS payments made to him or 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.
 - 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.

LIST OF ASSETS

the case must be submitted for a MRT decision. See Chapter 12.

(1) 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.

(2) 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.
- If payments are made from the available corpus, or interest, to the client or for his benefit, the amount is treated as unearned income.

(a) Payments for the Client's Benefit

Throughout this item (item 4) "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 WV WORKS eligibility.

LIST OF ASSETS

determination are submitted in writing and must show complete details about the undue hardship which will result. See "Undue Hardship" in the Definitions section.

HH. UNIFORM GIFTS TO MINORS ACT FUNDS

FS	WVW, AFDC Groups	SSI Groups
Yes	Yes	No

II. VEHICLES

FS	WVW, AFDC Groups	SSI Groups
Yes *	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 prove otherwise. Only those vehicles of members of the AG, individuals who are disqualified or excluded by law and who would otherwise be required to be included, are considered when determining vehicle assets.

A leased vehicle, in which the individual has no equity and which he cannot sell, is excluded.

The NADA trade-in value is usually used as the CMV for Food Stamps, AFDC Medicaid, WV WORKS and AFDC-Related Medicaid.

The NADA retail value is usually for SSI-Related Medicaid, CDCS, PAC, QDWI, QMB, SLIMB, QI-1 and QI-2.

Neither the trade-in value nor the retail value is increased or decreased by adding or subtracting the value of low-or high-mileage or other factors, such as optional equipment or special equipment for the disabled.

1. Food Stamps

NOTE: The exclusion from assets in Section 11.5, Low Profit from Sale of an Asset, does not apply to vehicles.

Any AG which claims that the NADA trade-in value does not represent the true value of the vehicle, must be given the opportunity to acquire verification, at its own expense, from a reliable source.

AG's are also required to obtain an estimate at their own expense, from a reliable source, of the value any

LIST OF ASSETS

- The vehicle is necessary to transport a physically disabled AG member (ME), regardless of the purpose of such transportation. It need not be specially equipped or used exclusively or primarily by the disabled person. This exclusion is not limited to 1 for each AG, but is limited to 1 for each physically disabled person in the AG.

NOTE: To exclude the vehicle based on disability, the Worker must indicate on ANIQ that someone is disabled and complete ANDI.

Individuals who are disabled according to the definition found in Section 12.15,A qualify for this exclusion. In addition, individuals receiving disability benefits from VA, SSA, or the Railroad Retirement Board qualify, as well as those suffering from a temporary disability, such as a broken leg. Ongoing disabling conditions, such as respiratory illness or conditions requiring ongoing chemotherapy also qualify the individual for this exclusion; or

- The vehicle is necessary for travel, other than daily commuting (WT), that is essential to the employment of the individual, such as the vehicle of a traveling salesman or migrant worker following the work stream.
- The vehicle is the individual's home (UH); or
- The vehicle is necessary to carry the primary source of fuel for home heating or water for home use (FW).

Any vehicle that is totally excluded must be identified as such on CMCC, with the reason for the exclusion shown.

STEP 2: DISREGARD BASED ON USE

NOTE: Any vehicle for which equity is counted, or for which a comparison is made between the equity and the CMV in Steps 2-4 below, must be identified as such on CMCC, with the reason for the values used to determine the countable amount.

NOTE: RAPIDS usage codes are shown in parentheses.

Each licensed vehicle not totally excluded in Step 1 must be evaluated to determine if all, or part, of the CMV is disregarded based on its usage. When more than 2 vehicles are involved and there is a question about which

LIST OF ASSETS

If the vehicle is listed as junk as indicated on the title, a value of \$25 is assigned to it and \$25 is used as the CMV.

The client's statement of the value of the unlicensed vehicle is accepted unless he does not know, or his stated value is questionable.

In either of these situations, when the Worker must determine the value and verification is not available any other way, the following instructions are used: If the vehicle is paid for (full equity), and the client states that the value exceeds the asset limit, his statement is accepted and no estimate is obtained. If the client does not have full equity, his statement of its value is accepted unless it appears incorrect. In this situation the client is asked to provide one 3rd-party estimate of the value at his own expense.

End of Food Stamp Vehicle Policy

LIST OF ASSETS

2. AFDC Medicaid and AFDC-Related Medicaid

STEP 1: WHEN THE AG HAS ONLY ONE VEHICLE

One vehicle is excluded, provided the equity does not exceed \$1,500. When the equity of the vehicle is greater than \$1,500, the excess amount is an asset. If the client disagrees with the NADA value or the vehicle is not listed in the NADA book, procedures in Step 2 are followed to determine equity.

STEP 2: DETERMINING EQUITY IN ALL VEHICLES

The listed NADA trade-in value of the vehicle is used, unless one of the following conditions exists:

- The client disagrees with the listed NADA value.

The client is responsible for obtaining one estimate on form ES-V-1, Vehicle Estimate. The Department assumes any expense incurred in obtaining this estimate, using form DF-67. If the Department has no objection to the client's estimate, it is accepted as the value used in determining equity. The NADA value is not used once an estimate has been obtained.

If the Department determines that the estimate obtained by the client is unreasonable, a second estimate is obtained by the Worker from a qualified appraiser of the Department's choice. Form DF-67 is used to pay for the estimate. This estimate and the client's estimate are averaged to arrive at a value used in determining countable equity.

- The vehicle is not listed in the NADA Book or the NADA Official Older Car Guide due to year of manufacture. In this situation use the following instructions: The client's statement of the value of the vehicle(s) is accepted unless it appears incorrect. In this situation the Worker requires that the client obtain one estimate. Form ES-V-1 is used, and payment, when required, is made by the Department, using a DF-67. 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 CMV.

In determining the countable value of the vehicle(s), only the equity is counted. Once the CMV is determined, the amount of the periodic installment payment is multiplied by the number of payments remaining. The result is subtracted from the CMV to determine the equity. Only when the client indicates he intends to pay off the vehicle in a lump sum is the pay-off amount used instead of the amount of remaining payments.

LIST OF ASSETS

Vehicle A		Vehicle B		Vehicle C	
\$2,500		\$1,000		\$1,200	
<u>- 300</u>	Owed	<u>- 400</u>	Owed	<u>- 500</u>	Owed
\$2,200	Equity	\$ 600	Equity	\$ 700	Equity

Vehicle A is the vehicle with the highest equity; Vehicle A receives the \$1,500 exclusion.

Vehicle A	Vehicle B	Vehicle C
\$2,200	\$600	\$700
<u>-1,500</u>		
\$ 700		

Counted toward
the asset limit.

Counted toward
the asset limit.

Counted toward
the asset limit.

Total Vehicle Asset Value = \$2,000. The case is ineligible.

End of AFDC Medicaid and
AFDC-Related Medicaid Vehicle Policy

LIST OF ASSETS

to, a domestic or foreign used car or truck dealer, or an automobile insurance company.

When the vehicle in question is too old to be listed in the NADA book, the Worker must use the value for the oldest listed vehicle of like make and model. If the client disagrees with this amount, he must be advised that he can obtain an estimate from another source. If there is a charge for the appraisal estimate, the client is responsible for the charge.

STEP 3: VALUE OF OTHER VEHICLES

If the AG or an individual whose assets are used to determine the AG's eligibility has any other vehicles not excluded in Steps 1 or 2 above, the equity of these vehicles is an asset. See Section 11.1 for instructions for determining equity.

EXAMPLE: John Smith owns a 1990 Toyota Celica with a CMV of \$8,350, and his equity is \$500. He also owns a 1988 Volkswagen with a CMV and equity value of \$2,700, which exceeds the asset limit. Based upon Mr. Smith's statement, neither vehicle can be excluded based on use. The \$4,500 CMV exclusion is applied to the Volkswagen instead of the Toyota because it benefits the client. Only the equity value of the 1990 Toyota counts toward the asset limit.

EXAMPLE: Mr. Smith has the same vehicles as above. However, he says he usually uses the Toyota Celica to drive to the doctor. If the Toyota is totally excluded, the equity value of the Volkswagen makes him ineligible. Thus, the value of the Volkswagen is totally excluded based on use, and the \$500 equity value of the Toyota, along with other countable assets, does not make him ineligible.

End of SSI-Related Medicaid, CDCS, PAC, ODWI, OMB, SLIMB, OI-1 & OI-2 Vehicle Policy

4. WV WORKS

NOTE: Equity is not a factor in any step of the process determine countable vehicle assets.

STEP 1: EXCLUSION OF ONE VEHICLE

One (1) vehicle is excluded regardless of value. If the client has more than one vehicle, he chooses which vehicle to exclude. The Fair Market Value, not equity, of all other vehicles is an asset.

LIST OF ASSETS

JJ. WALKER V. BAYER, ET AL SETTLEMENTS

FS	WVW, AFDC Groups	SSI Groups
Yes	WVW-Yes; 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.

NOTE: When a client cannot dispose of his share of an asset without the consent of the other owner(s), and the consent is withheld, the asset is excluded as inaccessible.

EXAMPLE: Three people own a piece of property valued at \$20,000. One of them applies for Food Stamps. The property cannot be sold without the consent of all three owners and each person may sell his interest only to the other two owners. The other two owners do not want to buy the applicant's interest in the property at this time. The property is excluded.

EXAMPLE: Same situation as above except that the agreement does not stipulate that only the other two owners may buy the interest in the property. One-third of the equity in the property is assigned to the client as an asset.

c. Residents of Shelters for Battered Women and Children

Assets are considered inaccessible to persons residing in shelters for battered women and children when:

- The assets are jointly owned with persons they lived with prior to entering the shelter; and
- The shelter resident's access is dependent upon the agreement of a joint owner who still resides in the former household.

4. Special Considerations Depending on the AG Composition

a. Categorical Eligibility

Food Stamp AG's which meet the requirements for Categorical Eligibility found in Section 1.4,R,3,a(1) are not required to meet an asset eligibility test.

b. Food Stamp AG's with at least One SSI Recipient

Recipients of SSI, who live with at least one person who does not receive SSI and who is not authorized to receive a TANF-funded benefit, are in a mixed Food Stamp AG and, therefore, must meet an asset eligibility test.

5. Retroactive Payments

These monies are counted as an asset when retained into the month following the month of receipt.

EXCEPTION: When SSA requires the establishment of a dedicated account for past-due, monthly SSI payments, the amount in the dedicated fund is an excluded asset. This applies, when based on the amount, SSA is required to deposit the funds directly in the dedicated account and when funds are deposited there at the discretion of the representative payee. See Chapter 10 for treatment of disbursements from the dedicated account.

6. Low Profit From The Sale of An Asset

NOTE: This provision does not apply to vehicles, stocks, bonds and negotiable financial instruments.

In addition to assets which may be considered inaccessible according to the provisions in item 3 above, an asset which meets one of the following criteria is considered inaccessible and is, therefore, excluded because it cannot be sold for a significant return.

- The asset has an expected sale price of less than one half of the AG's applicable asset limit; or
- The cost of selling the asset will likely result in a return of less than one-half of the AG's asset limit. The AG's ownership interest must also be considered when determining the potential return.

This applies to a single asset, not to a combination of assets.

NOTE: An asset cannot be subdivided solely to obtain an exclusion as inaccessible.

7. Burial Funds

Burial funds in an irrevocable trust are excluded. When accessible to the AG, the amount of a pre-paid funeral agreement, up to a maximum of \$1,500 for each AG member, is excluded. The amount in excess of \$1,500 per person which is in an accessible burial fund, is an asset.

B. WV WORKS, AFDC MEDICAID and AFDC-RELATED MEDICAID

NOTE: When an asset is deemed, the full countable value is deemed with no disregards or deductions applied.

Treatment of jointly owned assets becomes significant when all the joint owners are not included in the AG.

(1) All Joint Owners in the AG

If all joint owners are in the AG, the total equity in the asset is counted as an asset for the AG.

(2) All Joint Owners Not in the AG

If all joint owners are not in the AG, the following general rules apply:

- If a non-SSI recipient parent, is in the home and is not included in the AG, his assets are available to his spouse and children in their entirety.
- The assets available to the AG from the ineligible parent are:
 - The value of the assets owned solely by the ineligible parent, and
 - The asset value assigned to him as a result of joint ownership.
- The assets considered available to the AG from the ineligible spouse, who is not a parent of the dependent children, is the asset value assigned to the eligible spouse as a result of joint ownership with the ineligible spouse.
- The assets considered available to the AG from other joint ownership is the countable asset value assigned to the AG member as a result of the joint ownership plus any other assets owned solely by AG members.

EXAMPLE: A woman receives WV WORKS for herself and her children from a previous marriage. She is now remarried and living with her husband. She and her current husband jointly own all their assets (John Smith or Mary Smith). Their countable assets total \$3,000. All of this amount is counted as an asset because the woman is in the AG, and because the jointly owned assets are considered available to her in their entirety.

b. WV WORKS

Treatment of jointly owned assets becomes significant when all the joint owners are not included in the AG.

(1) All Joint Owners in the AG

If all joint owners are in the AG, the total countable value of the asset is counted as an asset for the AG.

(2) All Joint Owners Not in the AG

If all joint owners are not in the AG, the following general rules apply:

- The non-excluded assets of an individual who is excluded by a law of disqualification, who would otherwise be required to be included, are available to his spouse and children in their entirety.
- The assets available to the AG from the disqualified individual are:
 - The value of the assets owned solely by the disqualified individual; and
 - The asset value assigned to the disqualified individual as a result of joint ownership.
- The assets considered available to the AG from other joint ownership is the countable asset value assigned to the AG as a result of the joint ownership, plus any other assets owned solely by AG members.

EXAMPLE: A WV WORKS AG consists of a mother, her 2 children and her husband, who is a stepparent to the children. The mother and her husband are convicted of selling drugs, but receive probation. The mother owns a vehicle with a FMV of \$18,000 and a piece of property she owns jointly with her brother with a total value of \$400. Her husband owns a vehicle valued at \$700. Even though neither adult qualifies to be included in the AG, their assets are counted for the children as follows: Husband's vehicle valued at \$700 + \$200 for 1/2 the value of the mother's jointly owned

excluded. If the irrevocable trust is less than \$1,500, the difference between \$1,500 and the irrevocable trust may be excluded. To qualify for all or a portion of the \$1,500 exclusion, burial funds must be formal agreements, such as burial contracts, burial trusts, or other funeral arrangements. Bank accounts, money set aside for burial and the cash surrender value of life insurance policies are not considered burial funds; they are countable assets.

b. AFDC Medicaid and AFDC-Related Medicaid

See item C,7 below. For these coverage groups, the \$3,000 limit on burial funds applies to each member of the AG.

C. SSI-Related Medicaid, CDCS, PAC, QDWI, QMB, SLIMB, QI-1 and QI-2

NOTE: When an asset is deemed, the full equity value is deemed with no disregards or deductions applied.

1. Assets of Disqualified/Ineligible Individuals

NOTE: There are no deeming provisions for the CDCS coverage group.

Assets of disqualified/ineligible individuals are deemed. The method of deeming depends on whether the individual is an adult or a child.

a. Adults

Assets of an SSI-Related Medicaid recipient and his spouse who lives with him are added together and compared to the asset level for 2.

b. Children

When the child lives with one parent and there is no stepparent, all assets of the parent which exceed the asset limit for one person are deemed to the child. The child's assets are then compared to the asset limit for one. When the child is living with both parents or a parent and stepparent, all assets of the parent(s) and/or stepparent which exceed the limit for two are deemed to the child. The child's assets are then compared to the asset limit for one.

EXAMPLE: A 10-year-old child is applying for SSI-Related Medicaid. He is living with his mother, his stepfather, and two minor dependent sisters, none of whom are Medicaid eligible. The child's assets are \$500. The combined assets of the mother and stepfather are \$4,000. The asset limit for 2 is \$3,000. Assets of \$1000 are deemed to

When one spouse is institutionalized, assets are treated according to item (1) above, even if they lived apart prior to institutionalization. See Chapter 17.

b. Joint Ownership With An SSI Recipient

Treatment of assets jointly owned with an SSI recipient depends on the type of asset.

(1) Bank Accounts

When the joint owner, who is an SSI recipient, does not successfully rebut the presumption of ownership through SSA, all account funds are considered to belong totally to the SSI recipient. Otherwise, the portion that SSA determines not to be his due to his successful rebuttal is considered to belong to the other joint owner(s).

(2) Other Assets

For assets other than bank accounts, unless there is evidence to the contrary, assume that each owner owns only his fractional interest of the shared asset.

c. Joint Ownership with Other SSI-Related, CDCS, PAC, QDWI, QMB, SLIMB, QI-1 and QI-2 Medicaid Clients.

When the joint owners include more than one applicant or recipient of SSI-Related, CDCS, PAC, QDWI, QMB, SLIMB, QI-1 or QI-2 who are not spouses, the equity value of the asset is divided by the number of SSI-Related, CDCS, PAC, QDWI, QMB, SLIMB, QI-1 or QI-2 clients, regardless of the number of other joint owners. The result is counted as an asset for each client.

d. Joint Ownership by Others

When all of the following conditions apply, jointly owned assets are counted in their entirety for each owner.

- Joint ownership is indicated by use of the word "OR". See Section 11.2,D.
- The joint owners are not spouses. See item a above.
- One of the joint owners is not an SSI recipient. See item b above.
- The joint owners are not SSI-Related, CDCS, PAC, QDWI, QMB, SLIMB, QI-1 or QI-2 clients. See item c above.

11.6 DETERMINING COUNTABLE ASSETS

A. FOOD STAMPS

The countable assets of the AG include all assets of the AG members and any individuals excluded by law or disqualified. See Chapter 9. For information about the assets of non-citizens, see Chapter 18.

B. WV WORKS, AFDC MEDICAID, AFDC-RELATED MEDICAID

1. WV WORKS, AFDC Medicaid

The countable assets of the AG include all assets of the AG members and of individuals excluded by law or disqualified, who would otherwise be required to be included.

2. AFDC-Related Medicaid

The countable assets used for the AG include all assets of the members of the Income Group, except that the assets of a child are not counted for his sibling(s) or for his parent(s).

C. SSI-RELATED MEDICAID, CDCS, PAC, QDWI, QMB, SLIMB, QI-1, QI-2

1. Adults

To determine the countable assets of the AG, the assets of spouses who are living together are combined.

2. Children

a. SSI-Related Medicaid

When the child lives with one parent, and there is no stepparent, all assets of the parent which exceed the asset limit for one person are deemed to the child. The child's assets are then compared to the asset limit for one. When the child is living with both parents, or a parent and stepparent, all assets of the parent(s) and/or stepparent which exceed the limit for two are deemed to the child. The child's assets are compared to the asset limit for one.

11.7 TRANSFER OF ASSETS

A. FOOD STAMPS

There is a penalty when an AG member, an individual excluded by law or disqualified, knowingly transfers assets for the purpose of qualifying for the Food Stamp Program. Supervisory approval is required before notification of disqualification is sent to the client.

1. Applicants

If the applicant has transferred assets within the 3-month period immediately preceding the date of application, the AG is disqualified from participation in the Program for up to one year from the date the transfer is discovered.

2. Recipients

If a recipient transfers an asset, the AG is disqualified from participation for up to one year from the date the transfer is discovered.

3. Permissible Transfers

Eligibility is not affected by transfers of assets which:

- Would otherwise not affect eligibility, such as personal effects, excluded vehicles, etc.; or
- Are sold or traded at or near the CMV; or
- Are transferred between members of the Food Stamp AG.

EXCEPTION: The assets of an SSI recipient are excluded in a mixed Food Stamp AG. See Section 11.5,A,4. Therefore, a transfer from a non-SSI recipient to an SSI recipient could be a transfer of assets and any such transfer must be explored.

- Are transferred for other purposes.

EXAMPLE: Placing funds in an irrevocable burial trust fund.

in excess of the asset limit or \$150. The disqualification period is one month.

B. MEDICAID

There is no transfer of assets penalty for Medicaid, except when a Medicaid recipient, who receives Medicaid under a coverage group that requires an asset test, applies for or receives long-term care services. See Chapter 17.

C. WV WORKS

NOTE: The following policy is used for transfers of assets made on or after 1/1/97, regardless of the date the individual county changed from TANF to WV WORKS. However, no penalty may be applied until the case has been converted from TANF to WV WORKS. There is no penalty for transferring assets prior to that date.

1. Definitions

For purposes of this item (item C), the following definitions apply.

- Fair Market Value (FMV): An estimate of the value of an asset, if sold at the prevailing price at the time it was actually transferred.

For an asset to be considered transferred for FMV, or to be considered transferred for valuable consideration, the compensation received for the asset must be in a tangible form, with intrinsic value. A transfer for love and consideration, for example, is not considered a transfer for FMV. Also, while relatives and family members legitimately can be paid for care they provide to the individual, it is presumed that services provided for free, at the time, were intended to be provided without compensation. Therefore, a transfer to a relative for care provided in the past normally is not a transfer of assets for FMV. However, an individual may rebut this presumption.

- For the Sole Benefit Of: A transfer is considered to be for the sole benefit of a spouse, disabled child, or a disabled individual under age 65, if the transfer is

for any assets transfers depends upon whether or not a trust fund was involved.

a. Trust Amounts Treated As Uncompensated Transfers

The look-back period is 60 months for amounts in revocable or irrevocable trusts that are considered transferred. The time period begins the month the client applies for WV WORKS.

b. Other Transfers

The look-back period is 36 months. The time period begins the month the client applies for or is converted to, WV WORKS.

3. Permissible Transfers

The following transfers do not result in a penalty for transferring assets.

a. Transfer to a Trust

When an AG member transfers assets to a trust that is excluded from consideration as an asset, no penalty is applied.

b. Transferred Assets Returned

When all assets transferred for less than FMV have been returned to the client, no penalty is applied. However, if a penalty has already been applied or has already started, a retroactive adjustment back to the beginning of the penalty period is required. The client is not necessarily asset-eligible once the resources are returned.

If part of such assets are returned, the penalty period is adjusted accordingly.

c. Client Intended Fair Market Return or Other Valuable Consideration

When the client can demonstrate that he intended to dispose of the asset for FMV or for other valuable consideration, no penalty is applied.

d. Transfer Was Not To Qualify For WV WORKS

Step 3: Subtract the Step 2 amount from the Step 1 amount. The result is the uncompensated value of the transfer.

Step 4: Divide the Step 3 amount by 100% current FPL for the AG size. The result is the number of months the penalty covers.

6. Transfer To Purchase An Annuity

Establishment of an annuity is sometimes treated as a transfer of assets, depending on whether or not the annuity is actuarially sound. The average number of years of expected life remaining for the individual who benefits from the annuity must coincide with the life of the annuity for it to be actuarially sound and, thus, not treated as an uncompensated transfer of assets. If the individual is not reasonably expected to live longer than the guarantee period of the annuity, the individual will not receive FMV. The annuity is not, then, actuarially sound and a transfer of assets for less than FMV has taken place.

The transfer is considered to have occurred at the time the annuity was purchased. Only the amount that is not actuarially sound is treated as an uncompensated transfer. Life Expectancy Tables by sex are found in Appendix E of Chapter 17.

EXAMPLE: A 30-year-old father who won \$500,000 in the lottery, purchases a \$500,000 annuity which is to be paid over 40 years. His life expectancy, according to Appendix E of Chapter 17, is 44.06 years. The annuity is actuarially sound so no transfer of resources has taken place.

EXAMPLE: A 60-year-old grandmother, who is the caretaker for her grandchildren, requests to be included in the payment. She purchases a \$50,000 annuity to be paid over 25 years. According to Appendix E of Chapter 17, her life expectancy is only 22.86 years. Therefore, the amount which will be paid out by the annuity for 2.14 years is considered an uncompensated transfer of assets which took place at the time the annuity was purchased.

7. Transfer Penalty

The transfer of assets penalty is ineligibility for a WV WORKS payment.

each transfer as a separate event, with its own penalty period.

All penalties for transferred assets run consecutively.

b. Length of Penalty

The penalty period lasts for the number of whole months determined by the following calculation:

Total amount transferred during the look-back period divided by 100% of the current FPL for the AG size.

When the amount of the transfer is less than the FPL amount, no penalty is applied until a series of transfers totals more than the FPL amount.

The penalty runs continuously from the first day of the penalty period, whether or not the client continues to receive benefits.

There is no maximum or minimum number of months a penalty may be applied.

c. Who Is Affected By the Penalty

The WV WORKS AG is affected by any transfer described above when any AG member, disqualified individual or any entity acting on behalf of, or at the discretion of, a member or a disqualified individual transfers an asset.

When the AG splits into 2 or more groups, the remaining penalty period is divided equally between the adults included in the WV WORKS benefit. A recording in each affected case must specifically explain the division of the penalty period.

EXAMPLE: Mr. and Mrs. Green received WV WORKS for themselves, Mrs. Green's 3 children from a previous marriage and Mr. Green's nephew. Mr. Green transferred an asset for less than FMV, and a 10-month penalty was imposed from February through November. Mr. Green leaves the home in April and Mrs. Green reapplies for WV WORKS. Mrs. Green continues to be

However, actual withdrawal of funds from the account, or removal of all or part of the asset by another person, removes the funds or property from the control of the client, and, thus, is a transfer of assets. In addition, if placing another person's name on the account or asset actually limits the client's right to sell or otherwise dispose of it, the addition of the name constitutes a transfer of assets.

If either the client or the other person proves that the funds withdrawn were the sole property of the other person, the withdrawal does not result in a penalty.

APPENDIX A

LIFE ESTATE TABLE

<u>Age</u>	<u>Life Estate Factor</u>	<u>Age</u>	<u>Life Estate Factor</u>
0	.97188	30	.95543
1	.98988	31	.95254
2	.99017	32	.94942
3	.99008	33	.94608
4	.98981	34	.94250
5	.98938	35	.93868
6	.98884	36	.93460
7	.98822	37	.93026
8	.98748	38	.92567
9	.98663	39	.92083
10	.98565	40	.91571
11	.98453	41	.91030
12	.98329	42	.90457
13	.98198	43	.89855
14	.98066	44	.89221
15	.97937	45	.88558
16	.97815	46	.87863
17	.97700	47	.87137
18	.97590	48	.86374
19	.97480	49	.85578
20	.97365	50	.84743
21	.97245	51	.83674
22	.97120	52	.82969
23	.96986	53	.82028
24	.96841	54	.81054
25	.96678	55	.80046
26	.96495	56	.79006
27	.96290	57	.77931
28	.96062	58	.76822
29	.95813	59	.75675

APPENDIX B

TREATMENT OF MEDICAID ASSETS PRIOR TO 8/11/93

Medicaid for AFDC Recipients - Prior to 8/11/93: A trust is treated as an asset to the extent that it is available to the client or for his benefit. 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, excluded as an asset. Irrevocable trusts are also excluded, regardless of the amount. There is no penalty for the placement of funds in an irrevocable trust.

SSI-Related Medicaid Only - Prior to 8/11/93: An irrevocable trust, i.e., a trust that is recognized by State law and cannot be legally revoked is excluded as an asset.

Any trust agreement that restricts the client's access to the trust funds (e.g., only the trustee or court, etc., can invade the principal), the principal does not count as an asset. This is true even when the trust arrangement: (a) can be revoked by someone other than the client; (b) provides a regular specified payment from the principal to the client for the use of the client; (c) designates a representative payee or legal guardian as the trustee for treatment of bank accounts which use the form of "in trust for". When payments are made to the client from the trust, these payments are counted as income and not an asset.

In general, if the client has unrestricted access to the principal of the trust, it is an asset.

Trusts containing exculpatory clauses are treated as if the exculpatory clauses were not contained in the trust. Exculpatory clauses are those which in any way limit the trustee's discretion to disburse funds for services or items covered by Medicaid or any other government aid or assistance program.

The following examples illustrate the type of clauses disregarded when examining a trust fund:

- It is the intention of the Grantor that no trust income or principal shall be paid to or be expended for the benefit of . . . so long as there are sufficient monies available to them for their care, comfort and welfare from federal, state and local government agencies and departments.
- It is the intention of the Grantor that in no event should trust income or principal be paid to or for the benefit of a

VEHICLE WORKSHEET FOOD STAMP PROGRAM

LICENSED VEHICLE <small>MAKE/MODEL/YEAR</small>	TOTALLY EXCLUDED? & REASON <small>YES: GO TO NEXT VEHICLE.</small>	DISREGARD FOR HH USE? (HT) <small>YES: COUNT AMT. OVER \$4,650. Do NOT COUNT EQUITY. GO TO NEXT VEHICLE.</small>	DISREGARD AS NECESSARY FOR WORK? (ET) <small>YES: COUNT AMT. OVER \$4,650. Do NOT COUNT EQUITY. GO TO NEXT VEHICLE</small>	CMV OVER \$4,650 COMPARED TO EQUITY (OT) <small>COUNT HIGHER AMT.</small>	AMOUNT COUNTED AS ASSET FOR THIS VEHICLE
	IP FA ME WT UH FW			AMT. OVER = EQUITY =	
	IP FA ME WT UH FW			AMT. OVER = EQUITY =	
	IP FA ME WT UH FW			AMT. OVER = EQUITY =	
	IP FA ME WT UH FW			AMT. OVER = EQUITY =	
	IP FA ME WT UH FW			AMT. OVER = EQUITY =	

TOTAL LICENSED VEHICLE ASSETS: _____

UNLICENSED VEHICLE <small>MAKE/MODEL/YEAR</small>	CMV	AMOUNT OWED <small>\$ OF PAY. x NO. PAYS LEFT = AMOUNT OWED Do NOT USE PAY-OFF AMT.</small>	EQUITY <small>CMV MINUS AMT. OWED</small>

TOTAL UNLICENSED VEHICLE ASSETS: _____

WORKER: _____

TOTAL VEHICLE ASSET AMT: _____

DATE COMPLETED: _____