

11.5 ASSETS OF PERSONS IN SPECIAL CIRCUMSTANCES

A. FOOD STAMP **BENEFITS**

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

1. Assets of Those Disqualified, Ineligible or Excluded By Law

The assets of ineligible members are not counted in determining the AG's eligibility.

However, disqualified individuals and individuals excluded by law must have their assets deemed to the AG. See Section 9.1,A for a list of disqualified individuals and those excluded by law.

The same asset exclusions which apply to AG members also apply to those who are disqualified or excluded by law.

2. Assets of Ineligible Students

If a student is found ineligible to participate in the Program because he does not meet the criteria for student eligibility, his assets are excluded. See Section 9.1,**A,4** for student eligibility information.

3. Jointly Owned Assets

The treatment of jointly owned assets becomes significant when all the joint owners are not included in the AG. An asset is considered jointly owned when the client has an investment in it or his name appears on it.

a. All Joint Owners Are In The AG

When all joint owners are in the AG, the total equity is counted, unless one of the joint owners is a WV WORKS or SSI recipient. See item 4 below.

b. All Joint Owners Are Not In The AG

If all of the joint owners are not in the AG, the asset owned jointly is considered available in its entirety to the AG, unless it can be demonstrated that such assets are inaccessible. If the AG can demonstrate that it has access to only a portion of the asset, the value of that portion is an asset.

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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 Stamp **benefits**. 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.

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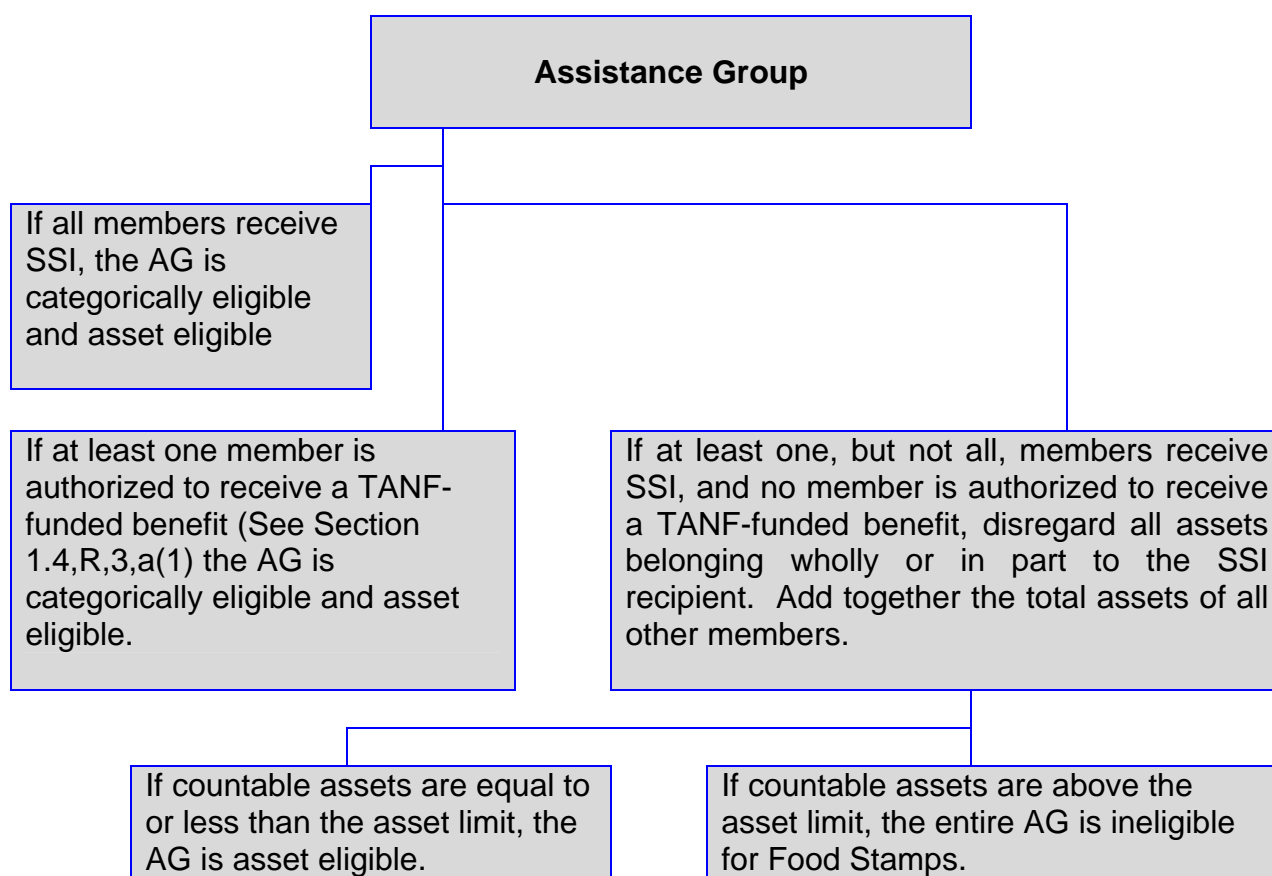
However, some assets of an SSI recipient are excluded. See item c below.

NOTE: When a non-WV WORKS or a non-SSI recipient transfers an asset(s) to an SSI recipient in the same AG, a transfer of assets penalty may be appropriate. This is because such a transfer could result in eligibility because the assets of an SSI recipient are disregarded. See Section 11.7,A.

In addition, when a non-WV WORKS or non-SSI recipient allows an SSI recipient in the same AG to become a joint owner of an asset, a transfer of assets penalty may be appropriate. See Section 11.7,A.

c. Asset Determination Based on AG Composition

The process of determining asset eligibility for the AG's specified in items a and b above is charted below:



NOTE: The asset limits for the Food Stamp Program, as found in Section 11.3, apply.

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 or unlicensed vehicles.

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.

1. Assets Of Disqualified/Ineligible Individuals**a. AFDC Medicaid**

The assets of disqualified parents are counted in their entirety for the AG. Assets of other ineligible persons, including stepparents, are not deemed. When a parent and an ineligible person jointly own an asset, see item 3 below.

b. AFDC-Related Medicaid

NOTE: Assets of the ineligible stepparent are deemed to the parent, but never to the stepchildren.

The asset limit used for the AG is based on the size of the Needs Group. See Chapter 9. Assets of all the members of the Income Group are counted, except that the assets of a child are never counted for his sibling(s) or for his parents.

EXAMPLE: A mother and three children are included in the AFDC-Related Medicaid AG. Her husband, who is the stepfather of the recipient children, and his two dependent children are in the home. The asset limit for the mother is the asset limit for a 7-person Needs Group. The asset limit for the children is the asset limit for a 4-person Needs Group.

c. WV WORKS

The assets of disqualified individuals, those excluded by law, and excluded SSI recipients age 18 or over, who would otherwise be required to be included in the AG, are counted as if they were members of the AG. The WV WORKS asset exclusions are applied and the remainder is counted. Assets of other ineligible persons are not deemed. For jointly owned assets, see item 3,b below.

2. Assets Of Ineligible Students

Student status has no bearing on asset eligibility.

3. Jointly Owned Assets

Also see Section 11.2.

a. AFDC Medicaid and AFDC-Related Medicaid

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.

EXAMPLE: Same situation as above except that the woman is not included in the AG. Because the jointly owned assets are considered hers in their entirety, and her children are in the AG, all of the \$3,000 in assets is counted.

EXAMPLE: A woman, separated from her husband, receives WV WORKS for herself and her children. She and her husband jointly owned property and neither can sell his interest in it. Her husband refuses to sell the property and divide the money. The property is excluded, but it is treated as a potential resource for WV WORKS purposes.

EXAMPLE: A woman and her 3 children apply for WV WORKS. The woman owns her homestead property and another piece of land valued at \$600. In addition, she and her sister jointly own property valued at \$750. The deed shows the owners as Betty and Wilma Smith. They are trying to sell the property. The value assigned to the applicant is \$975, i.e., the total value of the land she owns alone plus $\frac{1}{2}$ of the value of the jointly owned property.

- (3) Assets Jointly Owned by WV WORKS and SSI Recipient (For AFDC Medicaid and AFDC-Related Medicaid).

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

- (a) 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 be his due to his successful rebuttal is considered to belong to the other joint owner(s).

(b) 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.

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 disqualified, 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

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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 $\frac{1}{2}$ the value of the mother's jointly owned property. The mother's vehicle is excluded.

EXAMPLE: A woman receives WV WORKS for herself and her child. Her husband, who is the child's stepfather, is disqualified. The woman and her husband own a piece of property in Ohio. They own this property jointly with the woman's brother, who currently lives in a trailer on the property. Each owns an equal share of the property which has a FMV of \$1,550. Each person's share of the FMV of the property is \$516.66. The woman's share is counted as an asset because she is included in the AG. The stepfather is disqualified, but his share still counts for the AG because he would normally be required to be included in the AG. The woman's brother's share is not counted as an asset; he does not live with the AG, is not included and is not required to be included. The total amount counted as an asset from this property for the AG is \$1,033.32 or \$1,033.

For other examples, see item a above.

4. Special Considerations Depending On AG Composition

For AFDC-Related Medicaid Only: Assets of a child are never counted for sibling(s) or for a parent(s), even though the child is included in the Needs Group of his sibling(s) and parent(s).

5. Retroactive Payments

Retroactive payments are counted as an asset when retained into the month following the month of receipt.

6. Low Profit From The Sale Of An Asset

The Food Stamp provision for low profit from the sale of an asset does not apply.

7. Burial Funds

a. WV WORKS

Burial funds of up to \$1,500 for each AG member may be excluded, provided any amount in an irrevocable burial trust is excluded in its entirety first. This limits the amount of other excludable burial funds. If the irrevocable trust is \$1,500 or more, no other burial funds may be 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 AND QI-1

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 the child whose total assets are now \$1500. The asset limit for one person is used to determine the child's asset eligibility.

2. Assets Of Ineligible Students

Student status has no bearing on asset eligibility.

3. Jointly Owned Assets

The treatment of jointly owned assets depends upon the relationship of the joint owners and whether or not all the joint owners are included in the AG. This is explained below.

There are 5 instances in which the full equity of a jointly owned asset is not counted for each owner.

These are detailed in items a-c and e below and in Section 11.2,D when joint ownership is indicated by use of the word "and" to connect all owners.

See Section 11.4 for information concerning joint ownership of Life Estates.

a. Joint Ownership by Spouses

For spouses, joint ownership is not the deciding factor.

(1) Spouses Who Live Together

For spouses who live together, the assets of one spouse are counted in their entirety for the other spouse, even when they are not actually available. The asset limit for two is used.

(2) Spouses Who Do Not Live Together

For spouses who do not live together, only the jointly owned assets that are accessible to the spouse are counted toward the asset limit. The asset limit for one is used. See Section 11.2.

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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 and QI-1 Medicaid Clients.

When the joint owners include more than one applicant or recipient of SSI-Related, CDCS, PAC, QDWI, QMB, SLIMB or QI-1 who are not spouses, the equity value of the asset is divided by the number of SSI-Related, CDCS, PAC, QDWI, QMB, SLIMB or QI-1 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 or QI-1 clients. See item c above.
- The client has not successfully rebutted the presumption of full ownership. See item e below.

e. Rebuttal When Client Denies Ownership of Assets

When the client has unrestricted access to assets, his ownership is presumed even though he does not consider himself an owner. He must be allowed to rebut the Department's presumption of ownership.

(1) Evidence Necessary For Rebuttal

The client must provide the following evidence to rebut the presumption of ownership:

- A statement written by the client giving his explanation of ownership of the asset and the reason the asset is not accessible to him. In addition, when the asset is a bank account or certificate of deposit, the Worker must document who made deposits to and withdrawals from the account and who benefited from the funds.
- Corroborating statements from the other owners. However, if the joint-owner is incompetent or a minor, it is not necessary to obtain a corroborating statement.
- Proof of change in the asset ownership designation which removes the client's name as an owner or restricts his access to the asset.

4. Special Considerations Depending On AG Composition

None.

5. Retroactive Payments

These are counted as an asset when retained as of the first moment of the month following the month of receipt.

6. Low Profit From The Sale Of An Asset

The Food Stamp provision for low profit from the sale of an asset does not apply.

7. Burial Funds

Beginning with applications processed on 8/11/93, a client may retain a maximum of \$3,000 in burial funds for himself. He may also retain the same amount for his spouse. These funds may be in the form of money set aside for burial (maximum of \$1,500, not comingled with other funds), face value of life insurance policies, revocable or some irrevocable burial trusts or prepaid funeral contracts, etc.

Burial trusts are treated like any other trust funds, unless all of the following conditions are met:

- The individual signs a contract with the funeral director promising prepayment in return for specific funeral merchandise and services. Such goods and services must be listed.
- 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 the 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.
- The client is expected to receive goods and services with a total FMV at least equal to the amount he paid.

When all of these conditions are met, burial funds are excluded in their entirety for the client and/or his spouse.

The exclusion is determined by the following method, with irrevocable burial funds being used for the exclusion before any other funds.

Step 1: \$3,000 Maximum Burial Exclusion

Step 2: Subtract irrevocable burial trusts, irrevocable burial contracts or any other irrevocable burial agreements.

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- Step 3: Subtract face value of all life insurance policies whether or not these policies are also counted as assets.
- Step 4: Subtract revocable burial trusts and any other revocable burial agreements; money set aside for burial (maximum of \$1,500, not comingled with other funds).
- Step 5: This is the remaining amount of other assets which may be excluded for burial.

EXAMPLE: An unmarried man applies for Medicaid. He has \$1,800 set aside for burial and he has just established an irrevocable preneed burial trust, in the amount of \$2,000. This totals \$3,800 in burial funds. Since he cannot access any of the money in the preneed burial trust, it is excluded first as part of the \$3,000 burial exclusion. Of the \$1,800 in funds set aside for burial, only \$1,000 is excluded. The remaining \$800 is counted as an asset and must be removed from the account so that it is not comingled with the burial fund.

Step 1:	\$3,000	Maximum burial exclusion
Step 2:	<u>-2,000</u>	Irrevocable burial fund exclusion
	\$1,000	Remaining burial exclusion
Step 3:	<u>- 0</u>	Face value of all life insurance policies
	\$1,000	
Step 4:	<u>-1,800</u>	Money set aside for burial
	- \$800	Counted as asset, must not be co-mingled

EXAMPLE: A married couple purchased an irrevocable pre-need funeral trust for \$20,000 from a funeral home. The director of the funeral home placed the funds in an irrevocable arrangement of \$10,000 for each person. In addition, each has \$1,500 set aside for burial. Because each irrevocable trust exceeds the \$3,000 burial fund exclusion, no additional funds are excluded. The excess \$7,000 in each irrevocable trust is not an asset. However, the \$1,500 set aside for burial for each person cannot be excluded because the irrevocable burial trust meets and exceeds the maximum allowable exclusion. The couple, therefore, has countable assets of \$3,000.

EXAMPLE: Same as example above except each person placed \$10,000 in an irrevocable trust for burial purposes. The \$3,000 maximum burial fund exclusion is excluded from the \$10,000 irrevocable burial fund for each. The remaining excess \$7,000 in each irrevocable trust is not an asset, because it is not accessible to him. If, however, he enters a nursing home, the \$7,000 is considered a transfer of resources. See Chapter 17. This policy does not conflict with the policy about counting life insurance policies as assets. The process described here uses the face value only to determine how much in other funds may be excluded for burial funds.