COMBINED MEDICAID 402-1
Countable and Excluded Resources

Supersedes: CMA 402-1 (01/01/2025)

Reference: ARM 37.82.101, .102, .903, 20 CFR 416 Subpart L; 42 CFR 435.601; 42 U.S.C. 1396p; P.L. 109-171; P.L. 109-432

Overview: ABD and Family Medically Needy: the equity value of all resources (real and personal property) the filing/assistance unit owns is countable unless specifically excluded by regulation. Resources the filing/assistance unit has a beneficial interest in are also countable. Inaccessible resources may be excluded.

ACA Medicaid programs are not subject to resource tests or limits.

Exclusions listed in this section do not apply to property the filing and/or assistance unit does not own. This includes, but is not limited to property owned by or held in:

1. A trust of any kind (whether or not any filing/assistance unit member is a trust beneficiary or a trustor),
2. A corporation of any kind (whether or not any filing/assistance unit member is a corporate shareholder),
3. A partnership of any kind (whether or not any filing/assistance unit member is a partner),
4. A limited liability company of any kind (whether or not any filing/assistance unit member is a member of the company), or
5. Any other legal entity, instrument, device or arrangement of any kind confirming the filing or assistance unit does not own the property.

See CMA 402-3 Trust Funds for information regarding trust-owned resources.

ACHIEVING A BETTER LIFE EXPERIENCE (ABLE) ACCOUNT:

The ABLE Act permits people with disabilities to save money in and withdraw funds from their ABLE accounts (similar to checking and savings) to pay for disability-related expenses, in support of their efforts to maintain health, independence and quality of

life. Funds in an ABLE account, including earnings on the account (e.g., interest) are excluded.

ALIEN'S SPONSOR'S RESOURCES:

An alien sponsor and their spouse's income and resources are deemed to the sponsored alien (refugees do not have sponsors) until such time as the alien:

1. Achieves U.S. citizenship through naturalization, or
2. Has worked 40 qualifying quarters.

ANNUITIES:

All commercial and private annuities, including single premium life endowment policies must be evaluated to determine their availability for the household's support and maintenance and whether the annuity must be assigned to Montana Medicaid prior to eligibility determination.

Annuity contracts such as Civil Service pensions and Railroad Retirement Benefit pensions use the term 'annuity' but are not the type of annuities that must be reviewed under resource policy; they are reviewed under income policy. **NOTE:** Annuity ownership, accessibility and equity value must be evaluated. Never assume an annuity is inaccessible (see CMA 401-1 Ownership, Accessibility and Equity Value for ownership/accessibility/equity value).

Determine annuity value by multiplying the total annual payments by the remaining annuity period on the date value is determined. When the annuity period is based on an annuitant's lifetime, multiply the annual payment by the annuitant's life expectancy (ABD 016 Life Expectancy Table). For a "period certain" annuity, multiply the annual payments by the lessor of the annuitant's life expectancy, or the period certain. The client can rebut the calculated value by providing verified purchase offers from sources in the legitimate business of buying annuities.

A growing secondary annuity market exists; even non-assignable annuities can be sold. An annuity company's letter stating an annuity is valueless is only the company's statement of contractual obligations regarding cash value, and has no bearing on true market value. To prove there is no market value/inaccessibility, two refusals on the secondary market are required. The client cannot purchase or pay for a refusal to meet this requirement.

Annuities owned by a community spouse, ineligible spouse or deemed parent are always a countable resource. The only means to exclude these annuities is if the annuity is period certain and the term has expired.

Annuities a Medicaid client purchased or converted on or after February 8, 2006, must be changed to name the Montana Medicaid program as the irrevocable residual beneficiary before Medicaid is approved or redetermined. Beneficiaries must be listed in the following order:

1. Community spouse
2. Minor child
3. Blind/disabled adult child
4. Montana Medicaid program

Only those listed may be named a beneficiary above the Medicaid program; all other beneficiaries must be listed below the Medicaid program. A community spouse cannot name an institutionalized spouse as a residual beneficiary in a position above the Medicaid program.

Count annuities owned by the Medicaid client or an eligible spouse unless all exemption criteria are met.

NOTE: An eligible spouse is the ABD spouse of a Medicaid applicant/recipient where neither spouse is institutionalized or open on Waiver.

Count annuities purchased or converted by a Medicaid client on or after February 8, 2006, unless determined to be an uncompensated asset transfer, or ALL of the following are met:

1. The client or eligible spouse are receiving scheduled payments; AND
2. Scheduled payments are made at least annually; AND
3. The contract requires equal payments (no balloon payments): AND
4. Payment schedule is actuarially sound (equal payments resulting in full payout based on the annuitant's life expectancy); AND
5. The annuity is irrevocable; AND
6. The contract and payments are non-assignable.

Annuities that are not amended to meet the above criteria are treated as uncompensated asset transfers. Annuities the institutionalized or community spouse purchases on or after February 8, 2006, are evaluated under uncompensated asset transfer rules if within the 60-month asset transfer look-back period. The following are not considered uncompensated asset transfers and do not require beneficiary assignment to the Medicaid program when payments are made to the account owner:

1. An individual retirement annuity (section 408, subsection (b) of the IRS Code of 1986); or

2. A qualified employer plan annuity (section 408, subsection (q) of the IRS Code of 1986); or
3. Purchasing an annuity with an IRA, employer, or employer association account; or
4. A qualified salary reduction arrangement (section 408(a), (c) or (p) of the IRS Code of 1986); or
5. A simplified employee pension (within the meaning of section 408(k) of the IRS code of 1986).

Request assistance through the Service Desk if one of these situations is alleged.

Evaluate individual retirement annuities both to determine an uncompensated asset transfer and whether or not a countable resource.

SEE BUSINESS PROCESS: Annuity and Trust Review

BASIC MAINTENANCE ITEMS:

Exclude household goods and personal effects essential to day-to-day living such as clothes, jewelry, furniture, and other similar items of value including a home computer or satellite TV dish.

BONDS:

Countable. Bonds include United States savings bonds and Treasury bills, notes, and bonds. If a joint owner has physical possession and refuses to surrender possession to the client, the bonds are considered inaccessible and are excluded as they must be presented to cash them in.

BURIAL ACCOUNTS/ CONTRACTS:

Burial accounts (bona fide funeral agreements) that exceed $1,500 equity value per individual are countable in full unless the agreement is irrevocable. Exclude funeral agreements that are inaccessible or irrevocable. A funeral agreement/contract is irrevocable if:

1. Both the client and funeral home representative have signed the agreement;
2. The price of each major service is specified;
3. The total dollar amount of the agreement is specified;
4. The client was neither a minor nor legally declared incompetent when the agreement was signed; and
5. The agreement specifies in writing that the money is not refundable under any circumstances.
6. Additionally, if the agreement is created in Montana;

a. The client must have been receiving public assistance at the time the agreement was signed or,
b. The client must have applied for public assistance within 6 months of the execution of the agreement.

PLEASE NOTE: All burial accounts/contracts that are created in a state other than Montana must be sent to the Policy Unit for review.

ABD: Certain otherwise countable resources may be excluded for burial. These resources must be separately identifiable and set aside for burial expenses and may not be commingled. They include:

1. Life insurance, if the total face value of <u>all</u> life insurance owned by the individual is $5000 or less.
2. Funds in an irrevocable burial trust (see CMA 402-3 Trust Funds) or contract (see above for irrevocable burial contract definition).
3. A maximum of $1500 per individual set aside in an account if designated by account title or via signing HCS-470 "Burial Designation". This $1500 exclusion is reduced by the <u>face value</u> of ordinary life insurance whose cash surrender value has been excluded, as well as by the value of any burial trusts or contracts or other resources designated for burial. The $1500 exclusion is not reduced by the value of burial plots. These funds are excluded effective the date they are designated as burial funds. Any funds (interest or principal) that are later withdrawn from an excluded burial fund will be considered income to the individual in the month after the month in which the withdrawal is discovered by/reported to OP.
4. Any interest earned on an account designated for burial which is left to accumulate and become part of the burial fund is excluded as income and as a resource. Do not enter the accumulated interest onto the system as income.

NOTE: Funds may be designated for each household member.

<u>BURIAL PLOT</u>:

Exclude the value of one burial plot for each immediate family member. **NOTE:** Immediate family members include the client's children, siblings, and parents. The family member need not be dependent upon or living with the client.

Burial plots are real property for conditional assistance purposes (if a single individual has two burial spaces, but no family member to designate the second burial space to, for example).

SEE REFRESHER TRAININGS: Course: ABD Resources - Overview (dphhselearn.org) & Course: Life Insurance & Burial Accounts (dphhselearn.org)

BUSINESS ACCOUNT:

Exclude funds held in a business account that represents necessary business capital, operating funds, or funds prorated as income. If funds have not been prorated as income, see 'Property/Equipment Necessary for Employment'.

CAMPER:

Campers not intended to provide transportation (camp trailers, truck toppers, etc.) are countable unless otherwise excluded (e.g., used as a home).

CASH ON HAND:

Countable, unless it represents the current month's income, then it is excluded.

CERTIFICATE OF DEPOSIT (CD):

Countable. A CD's value is the net amount received after penalties for early withdrawal, if applicable. Taxes are not deducted. Determine the CD's net value using a detailed breakdown from the institution holding the deposit. The breakdown must include the gross deposit and individually identify any/all deductions and penalties that are subtracted from the gross if funds are withdrawn.

CONTRACT FOR DEED:

Exclude contract for deed value if:

1. The written contract terms include at least annual payments from the purchaser to the contract owner; and
2. The contract terms are being met.

If the written contract terms are not being met, the household/owners must exhaust all available legal recourse to enforce the contract terms before Medicaid can be approved. If the contract terms do not include provisions for at least annual payments to the contract owner, the unpaid balance or highest purchase offer from a knowledgeable source is considered an available/countable resource, unless contract terms specifically prohibit sale. If a contract was entered into during the look-back

period and did not contain these payment provisions, an asset transfer must be evaluated (CMA 404-1 Asset Transfers).

If an unscheduled lump sum payment is made to the contract principal, the unscheduled payment is income in the month received and a resource thereafter, to the extent retained. **Refer to** CMA 501-1 Unearned Income **for information regarding how contract for deed income is counted.**

CREDIT UNION ACCOUNTS:

Countable, unless otherwise excluded (i.e., portion that is the current month's income or funds prorated as income).

DEBIT CARDS:

Count the available balance, less current month income deposited or added to the card. Debit cards include prepaid or electronic funds deposit accounts where the individual has access to available funds (including, but not limited to Direct Express, Walmart Debit cards, prepaid credit cards, etc.).

DOMESTIC VOLUNTEER SERVICES ACT:

Excluded in month of receipt, countable the following month. This includes RSVP, Foster Grandparents, SCORE, and ACE programs funded through this act.

EDUCATIONAL INCOME:

Exclude all educational income (including Title IV, BIA, VA, Work Study for post-secondary education). The individual must be enrolled in school and attending classes to be considered a student. See CMA 401-1 Ownership, Accessibility and Equity Value 'Commingling'.

FAMILY SELF-SUFFICIENCY ESCROW PROGRAM ACCOUNTS:

Exclude funds held in an escrow account while the household participates in a HUD (Housing and Urban Development) Family Self-Sufficiency Program.

FUND RAISING ACCOUNT:

Account or fund-raising site established to provide financial and/or medical support for an individual (such as GoFundMe). Countable or excluded based on who established and who can access the account:

- Excluded if someone other than the beneficiary set up the account, and the beneficiary does not have access to make withdrawals. Income provided to the beneficiary directly from the account is treated as unearned lump sum

payment if it can be anticipated. Payments made directly to creditors are considered vendor payments and are excluded.

- Countable if someone other than the beneficiary set up the account and the beneficiary has access to make withdrawals.
- Countable if the beneficiary set up the account.

HOME and SURROUNDING PROPERTY/LOT:

Exclude the home and surrounding property. Property separated from the home property by a road or other right-of-way is not considered part of the property surrounding the home and is not excluded. Count a home located outside of Montana even if intent to return exists as maintaining a residence in another state indicates residency in that state. One vehicle used as a home may be excluded. If a vehicle is being excluded as a home, no other property may also be excluded as a home.

Only one home that is the filing/assistance unit's principal place of residence is excluded. See CMA 0-4 Acronyms and Glossary "Glossary" for the definition of principal place of residence. A home may continue to be the individual's principal place of residence, even though the individual is temporarily absent from it. See CMA 302-2 Temporary Absence from the Home for temporary absence information.

ABD: The exclusion is provided as long as the client, their spouse, Power of Attorney, legal guardian, or Medicaid authorized representative expresses the client's intent to return to the client's principal place of residence.

ABD: Do not consider the home exclusion when determining the Home Maintenance Allowance (ABD 805-2 Post Eligibility Treatment of Income (PETI)) or applying Lien and Estate Recovery provisions (CMA 304-4 Lien and Estate Recovery).

A home will also be excluded as the principal place of residence if it is newly purchased and the applicant/recipient has not yet moved in, but will move in within 30 days (i.e., newly purchased mobile home that must be set up prior to owner moving in). Count land on which the client is building on or intends to build.

Nursing home and waiver benefits cannot be covered/paid for an applicant who has home equity greater than $752,000(effective 01/01/2026), regardless of whether or not they intend to return home or are still living in the home (waiver). This limit does not apply if a community spouse or a minor or disabled child lawfully resides in the home.

SEE BUSINESS PROCESS: Evaluating the use of Home Characteristic to Real Property

INCOME PRODUCING PROPERTY:

For property used in a trade or business (e.g., farming), see 'Property/Equipment necessary for Self-Employment.'

Exclude income producing property necessary for self-employment. Count the equity value of income-producing property not used for self-employment.

Family Medically Needy: Rental Property is not excluded solely on the basis that it is being rented. Rental property is only excluded when the owner is in the property rental business (the owner must be materially participating in the rental operation and decision-making a minimum of 10 hours per week). If the owner is not materially participating at least 10 hours per week, the property's equity value is countable.

ABD: If the property owner is actively participating in the business operation and decision making at least 10 hours per throughout the year, states the business is self-employment, and, if filing income taxes, reports the income on Schedule C, F or SE, treat the property as necessary for self-employment. If the above requirements are not met, treat the property as income producing.

ABD: Exclude $6,000 of the income producing property's equity value (not necessary for self-employment) when the annual net income produced is at least 6% of the FMV.

The $6000 exclusion applies to the total combined value of ALL income producing property the individual owns or jointly owns (except life estate property, which may be separately excluded). The 6% income production/$6000 equity exclusion does not apply to any resource used in self-employment or used to produce items for home consumption.

INDEPENDENCE ACCOUNTS:

Qualifying Independence Accounts (including the interest on and earnings from) are excluded while the client is receiving coverage under the Montana Medicaid Workers with Disabilities (MWD) program. There is no minimum or maximum limit to establish the account or that can be deposited into an existing account while the client is receiving coverage under MWD. In order to meet the resource exclusion, the Independence Account must meet all of the following criteria:

1. The account must be established by the beneficiary when MWD coverage begins or while receiving MWD coverage; AND
2. The account must meet the Department's approval and be designated as an Independence Account; AND
3. The funds in the account must be held separate from non-exempt resources.

Once the client's coverage under MWD ends, the following rules apply:

1. The amounts contributed to the account (including the interest on and earnings from the account) during the individual's coverage under MWD shall be excluded.
2. No additional deposits into the account are permitted once the individual's MWD coverage ends.
3. Account activities are subject to standard eligibility resource policies including asset transfer evaluations.

INDIVIDUAL DEVELOPMENT ACCOUNT:

IDAs may be established by or on behalf of a TANF eligible individual. IDAs are created and funded through periodic IDA contributions and are matched by or through a not-for-profit organization or a State/Local government agency in cooperation with such organization. IDAs are designed to enable an individual to accumulate funds for post-secondary education, first home purchase or business capitalization. Montana has a TANF-funded IDA pilot program.

Exclude account funds, including interest earned, as long as the individual maintains/makes contributions to the account. TANF-funded IDAs remain excluded after the individual's TANF closes as long as the individual maintains/makes account contributions. Exclude matching funds, interest paid and disbursements for qualifying purposes. Emergency withdrawals are considered loans and are excluded income.

ITEMS OF UNUSUAL VALUE:

Countable. See also 'Basic Maintenance Items'. Vehicles are not considered items of unusual value.

LAND:

Countable, unless specifically excluded. Count land the client is building on or intends to build on. Exclude land that is contiguous to the property the home is on.

LAND IN CONSERVATION RESERVE PROGRAM (CRP):

Countable or excluded, depending in circumstances.

Exclude the CRP (Conservation Reserve Program) land as necessary to produce income if the individual is actively farming/ranching on land not in CRP. When the client is not farming/ranching other land, CRP land can only be excluded if the owner is in the property rental business (the owner must be materially participating in the rental operation and decision-making a minimum of 10 hours per week). If materially

participating at least 10 hours per week, the CRP property is excluded as part of a self-employment business. Count the property's equity value if the landowner is not materially participating at least 10 hours per week.

ABD Only: If the landowner is not materially participating at least 10 hours per week, the CRP property is subject to the $6000/6% rule listed in "Income Producing Property".

LIFE ESTATES:

A life estate is a durational property right limited to the life estate owner's life, or to another person's life. The life estate owner does not have the property title and cannot sell the property. They can, however, sell their interest in the property, unless the contract terms restrict the sale (life estate value is excluded if the sale is restricted), and they are entitled to any property income. **NOTE:** Mineral or oil rights cannot be sold or leased without the titleholder's specific consent.

Determine life estate value by multiplying the property FMV by the percentage listed on the "Life Estate Interest Table" (ABD 017 Life Estate Interest Table) for the life estate owner's age. **NOTE:** When more than one person owns a life estate, base the value on youngest owner's age.

Exclude a life estate if it is the client's principal place of residence. Life estate value may be excluded if the property is used to produce income, and the annual net income produced is at least 6% of the FMV. This exclusion can apply to a life estate on:

- A private residence that the life estate owner or his/her dependents do not occupy, and that does not meet the principal place of residence definition; or
- A business property, such as a ranch or commercial property.

NOTE: If the life estate property is business property (such as a ranch or other business property) and is excluded as a home, if ANYONE is using the property as part of a business, the life estate owner must be receiving income for the property's use (rental or lease income). If the life estate owner is not receiving income from the user, evaluate this as an uncompensated transfer of income, per CMA 404-1 Asset Transfers.

An uncompensated asset transfer penalty is evaluated when the client purchases a life estate in another person's home. See CMA 404-1 Asset Transfers. The client can overcome the penalty if they live on the property as their principal place of residence for at least one full year after the purchase date. If the individual lives on the property for one year after purchasing the life estate, the life estate is excluded as the individual's and/or their spouse's home. If they move from the property, the property must be generating income consistent with the property's value to remain excluded.

Conditional assistance may be used to exclude a life estate. Because conditional assistance rules consider life estates as personal property, the six-month conditional assistance period applies.

LIFE INSURANCE:

Exclude term life insurance policies.

Family Medically Needy: Exclude the cash and face values of all ordinary (whole life or straight life) life insurance policies.

ABD: Exclude the cash and face values only when **face** value of all insurance policies for an individual is $5000 or less.

If the client cashes in or borrows against their whole life insurance policy, the proceeds are countable resources in the month of receipt.

SEE REFRESHER TRAINING: Course: Life Insurance & Burial Accounts (dphhselearn.org)

LIMITED LIABILITY COMPANIES (LLC):

A type of business organization that offers the limited liability of a corporation and the tax benefit of a partnership. LLCs may have one or more members and are treated as corporations for resource purposes. **Each LLC member's proportionate interest is countable**, unless an enforceable no-sell agreement exists, or the LLC is inaccessible. Value is determined by dividing the company's net value (assets less liabilities) by each member's documented individual interest.

Evaluate an uncompensated asset transfer anytime an action is taken (such as entering into a no-sell agreement) that causes the LLC to become inaccessible.

LIVESTOCK:

Exclude livestock necessary for employment, raised for home consumption or that are pets. Income-producing property policy applies to livestock used to produce income not related to a business/self-employment. This may be referred to as a "run on shares" by another individual.

LOANS GIVEN by the HOUSEHOLD/PROMISSORY NOTE:

A promissory note or other loan given by an applicant or recipient is considered personal property (usually a liquid asset) and is countable, unless the note/loan is legally inaccessible. The lender holds legal interest and has the legal ability to make available his/her share in the note/loan. The equity value of the note/loan (the principal reduced by any third-party lien) is countable.

If a household makes a loan that is considered inaccessible or is shown to have significantly lower market value than the unpaid balance of the loan, the loan will be considered to be an uncompensated transfer of assets (follow policy in CMA 404-1 Asset Transfers, including rebuttal period). The uncompensated asset transfer will be considered the outstanding balance due on the loan as of the date of the lender's application for nursing home or waiver services.

Examples of loans which might be considered inaccessible or have significantly lower market value include, but are not limited to:

1. A loan that is not secured by a lien against property of equal or greater value than the loan amount.

2. A loan that contains provisions for forgiving the loan upon the death of the lender (i.e., when the person loaning the money dies, the loan is considered paid in full).

3. The repayment terms of the loan are not "actuarially sound." For example, a loan that contains unreasonable repayment provisions, such as a $10,000 loan with a repayment requirement of $10 per month, which cannot be expected to be repaid within the reasonable lifetime of either the lender or borrower.

4. A verbal loan agreement.

5. The loan allows for sporadic, unequal, deferred, or balloon payments.

Also see CMA 401-1 Ownership, Accessibility and Equity Value Inaccessible Resources.

LOANS RECEIVED by the HOUSEHOLD:

Exclude loans in the month received and the following month.

LUMP SUM PAYMENTS:

Excluded income in month of receipt (if cannot be prospected); countable resource the following month, unless otherwise excluded.

Countable lump sum payments may include, but are not limited to lottery winnings, gifts, gambling winnings, inheritance, etc.

Exclude retroactive Social Security or SSI payments retained in bank accounts or as cash for nine months after the month of receipt. (P.L. 108-203).

NON-HOME REAL PROPERTY:

Count the equity value of non-home real property, whether listed for sale or not, unless the property's value is inaccessible or otherwise excluded. Land on which the individual intends to build or is building is countable.

Encumbrances against the property are considered in determining equity value. Medicaid liens are considered encumbrances if Lien & Estate Recovery Unit confirms the liens are currently enforceable.

OIL and MINERAL RIGHTS:

Exclude oil and mineral rights when the property's surface rights are excluded (e.g., as the home). See 'Royalty' in 501-1, for oil and/or mineral right income. Acceptable verifications include deeds, lease agreements, titles, and homestead documents. If oil and/or mineral rights are producing income under a lease agreement, the owner may be constrained from selling or otherwise disposing of those rights.

A knowledgeable source (e.g., area brokers, Bureau of Land Management or companies that lease mineral rights) may be able to provide fair market value. Equity value is determined by subtracting encumbrances/liens from the fair market value.

SEE BUSINESS PROCESS: Mineral and Oil Rights (non-Tribal)

PATIENT TRUST ACCOUNT of a NURSING HOME/ INSTITUTION RESIDENT:

Countable. Patient trust accounts are administered by nursing homes or similar facilities and may hold only a small amount of spending money or may hold all of a patient's unspent funds.

PERSONAL CHECKING ACCOUNT:

Countable. Current month income deposited into a bank or credit union account is income in the month received and a countable resource in future months, to the extent retained.

PLAN for ACHIEVING SELF-SUPPORT (PASS):

Exclude income an SSI recipient deposits into an approved PASS account, as well as the PASS account itself. The exclusion continues until the PASS contract expires or ends or the individual no longer receives SSI payments.

PREPAYMENT of MORTGAGE, RENT or OTHER EXPENSES:

Prepaying rent is a countable resource unless the individual cannot receive the money back under any circumstances (i.e., lease agreement has a 'no refund' policy or the landlord states, in writing, that funds will not be returned to the renter).

Unless the facility refuses to refund the payment, prepaying nursing home facility charges that exceed the estimated patient liability is a countable resource.

Prepaying a mortgage is not considered a resource.

PROPERTY/ EQUIPMENT ESSENTIAL for EMPLOYMENT:

Excluded as essential for the production of earned income, unless otherwise indicated below. See also **'Income Producing Property'** in this section and **"Resources"** in the Self-Employment Income section, CMA 503-1 Self-Employment Income

Exclude resources that, as a condition of employment (other than self-employment), must be furnished by the employee. An employer-employee relationship must exist that requires the employee to furnish the resources/tools. **NOTE:** Other business structures, including LLCs, partnerships and other entities, may report income on Schedule C, F or SE. These entities are not self-employment businesses and property owned by them is not owned by the household; therefore, these resource exclusions do not apply.

To exclude property as necessary for self-employment the property owner must be materially participating in the self-employment business a minimum of 10 hours per week. See 'Income-Producing Property' for more information. Self-employment/farm resources **may** include:

· Tools/equipment such as those needed by a carpenter, mechanic, cosmetologist, etc.;

- Stock (such as office supplies) or raw materials
- Personal property essential for income production
- Office equipment such as furniture, computers, calculators, etc.
- Business loans for the purchase of capital assets
- Inventory
- Machinery and equipment
- Other items needed to produce income; and
- Business/commercial checking account

o Self-employment funds retain their exclusion for the period they are prorated as income, even when commingled.

o Business/commercial checking account funds that are not prorated as income may be excluded as business working capital, business loans, etc.

Resources may be excluded for up to one year due to temporary inactivity in the trade or self-employment business. The client must plan to actively return to the same trade/business within one year from the month they are no longer materially participating in the trade/business. If the client does not return to the business, the resources become countable.

Exclusions are only applied to property the filing/assistance unit owns. Property owned by a partnership, incorporated business, LLC or other business structure is not excluded as necessary for self-support.

PROPERTY IN PROBATE:

Excluded; ownership must be evaluated once probate is settled.

RESOURCES USED AS COLLATERAL:

Count only the equity/accessible portion of a resource used as collateral for a loan. If the lien/agreement contains language specifically stating the resource cannot be sold, it is considered inaccessible.

RETIREMENT ACCOUNTS/ PENSION PLANS:

A retirement account or pension plan is an investment account that is intended to provide income at retirement. The equity value is the cash value minus any early withdrawal penalty.

Clients must avail themselves of periodic payments when that option is available.

Excluded when the client is receiving periodic payments, and the account principal is unavailable as a result of these payments.

Countable (full account balance) when the client is receiving periodic payments, but the account principal is available as a lump sum. A breakdown from the institution holding the deposit, showing gross deposits and individual deductions as well as penalties for withdrawing the funds is needed to determine the account's net value.

Employment-related retirement accounts: Inaccessible when the individual remains employed with the business/entity holding the account. Countable the day after employment is ended, even when funds are not immediately distributed.

401-K: Excluded when the individual remains employed with the business/entity through which the account was established. Countable the day after employment is ended.

Individual retirement account (IRA): Count the equity value. If IRA funds are used to buy an annuity, the annuity is evaluated under annuity income and resource policies.

KEOGH Plans: Countable, even when funds are not being accessed.

SAFE DEPOSIT BOX:

Contents must be reported and verified.

SALE OF A RESOURCE:

When an excluded or countable resource is sold, the proceeds remain excluded or countable in the month sold. Count any proceeds remaining the following month (e.g., cash, savings account, etc.) If a self-employment resource is sold, see CMA 503-1 Self-Employment Income, 'Capital Gain or Loss'.

SAVINGS ACCOUNT:

Countable. Exclude current month income deposited into the account when determining account value.

SECURITY DEPOSITS:

Exclude rental and utility security deposits for both landlords and tenants.

SELF-EMPLOYMENT RESOURCES:

Exclude property essential to self-employment. For additional information, see 'Business Accounts', 'Income Producing Property', 'Loans' and 'Property Essential for Self-Employment' in this section and 'Vehicles' in CMA 403-1 Vehicles. **NOTE:** LLC, corporation, and other similar business arrangement owners do not own the company or business property; they own stock or shares in the business.

SETTLEMENTS & RESTITUTION PAYMENTS:

Proceeds of legal decisions and settlements are countable unless specifically excluded by rule or federal act.

Agent Orange: Exclude payments made under the Agent Orange Compensation Act (P.L. 101-201). Count payments made to veterans under the Agent Orange Act of 1991 (P.L. 102-4).

Asbestos: Count funds received from an asbestos settlement or lawsuit. The funds are countable the earlier of date available or date received.

Cobell et al vs. Salazar: Exclude payments derived from this settlement (P.L. 111-5)

Crime Victims Compensation Act: Exclude all payments received und this act. (P.L. 103-322).

Disaster & Emergency Assistance: Exclude funds issued due to a presidentially declared disaster (PL 100-707) or due to a major disaster or emergency per the Disaster Relief and Emergency Assistance Amendments of 1988. See also 'Fire or Casualty Insurance Proceeds' in this section. Governmental disaster payments designated to restore a home damaged in a disaster are excluded if the household can be legally sanctioned for not using the funds as intended. This includes some, but not all, Federal Emergency Management Agency (FEMA) payments.

Factor VIII or IX Concentrate Blood Products Litigation, MDL 986 (No. 93-C-7452, Northern District of Illinois): Exclude payments hemophilia patients receive as a result of this class action lawsuit.

Fire or Casualty Insurance Proceeds: Treat cash benefits received as proceeds of fire or casualty insurance claims to make repairs to or dispose of damaged property as follows:

Exclude a settlement only when it is for replacement or repair of an excluded resource. If the settlement is related to a countable resource, the settlement is also countable. When the settlement is excluded as income, it is also excluded as a resource for up to 9 months. If good cause exists, an additional 9-month exclusion may be allowed if the repair/replacement is not completed within the original 9-month period.

Keepseagle vs. Vislack – Settlement of Tribal Trust Accounting and Management Lawsuits: Count settlement payments in the month received, when they can be prospected.

Nazi Persecution Victims Exclude restitution payments made under the Victims of Nazi Persecution Act of 1994 (P.L. 103-286)

Nez Perce et. al. v. Salazar – Settlement of Tribal Trust Accounting and Management Lawsuits: Exclude payments derived from this settlement.

Radiation Exposure: Exclude payments made under the Radiation Exposure Compensation Act (P.L. 101-426).

Spina Bifida: Exclude payments made to children of Vietnam veterans for spina bifida related disabilities (P.L. 104-204).

Structured Settlements: A structured settlement is a financial or insurance arrangement including periodic payments that a person (claimant) accepts to resolve a personal injury claim as an alternative to a lump sum settlement. Usually, the periodic payments

portion of a structured settlement is funded through the purchase of an annuity. The annuity is not owned by the person to whom the settlement and payments are due (claimant). The annuity is owned by the entity that was liable for the injury/claim (usually an insurance company).

Annuity criteria and regulations addressed earlier in this manual do not apply to annuities that fund structured settlements in personal injury claims, because annuities that fund structured settlements are not owned by the person to whom the payments are made. The injured party (claimant) only has a right to the stream of income, not to the annuity itself.

Structured settlement annuities which contain non-assignment language and in which no payments have been sold to third parties (usually companies in the business of purchasing structured settlements) are not resources to the injured party (claimant) entitled to the payments.

If an injured party (claimant) has sold some, but not all of their rights to a structured settlement annuity to a third party, their right to any remaining stream of income is a countable resource---it has clearly been shown to be accessible in a lump sum by the past partial sale/assignment.

Susan Walker V. Bayer Corporation, et al, 96-C-5024 (Northern District of Illinois Exclude payments made as a result of this class settlement and payments made as a result of a case entered into in lieu of the class settlement when signed by all affected parties on or before December 31, 1997.

Wartime Relocation of Civilians: Exclude payments made to certain U.S. citizens of Japanese ancestry, resident Japanese aliens and certain eligible Aleuts under the Restitution for World War II Internment of Japanese Americans and Aleuts/Civil Liberties Act of 1988 (P.L. 100-383).

STOCKS AND MUTUAL FUNDS:

Countable, unless otherwise excluded as indicated below. **NOTE:** Exclude stock in a 'close' or 'family corporation' when there is a no-sell agreement among stockholders; the stock is considered inaccessible.

TAX REFUND/ CREDIT:

Treat tax refunds and credits as follows:

Child Tax Credit: Excluded in month of receipt and following month.

Earned Income Tax Credit (EITC): Excluded in month of receipt and following month.

Income Tax Refund - Federal/State: Excluded in month of receipt; countable resource the following month.

Renters/Homeowners Credit: Excluded in month of receipt; countable resource the following month.

TRAILERS:

Countable, unless otherwise excluded (e.g., home, income producing, etc.) This applies to all trailers, including 5th wheels.

SEE REFRESHER TRAINING: Course: ABD Resources - Overview (dphhselearn.org)

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