



COMBINED MEDICAID 402-2 Native American Resources

Supersedes: FMA 402-2 (01/01/08); MA 402-2 (01/01/08); Bulletin FMA 53/MA 94 (12/19/08); Bulletin FMA 58/MA 99 (11/20/09); Bulletin FMA 68a/MA 111a (08/01/12); Bulletin FMA 68b/MA 111b (08/01/12); Bulletin FMA 70/MA 113 (11/05/12)

Reference: OBRA '93; ARM 37.82.101, .903; 20 CFR 416, Subpart L; 42 CFR 435.601; P.L. 111-5 (American Recovery and Reinvestment Act of 2009)

Overview: The equity value of the filing/assistance unit's owned resources (real and personal property) are countable unless specifically excluded by regulation.

COUNTABLE RESOURCES:

Countable resources include, but are not limited to retained proceeds of the following payments:

1. Tribal payments unless otherwise excluded;
2. Tribally managed gaming revenues distributed per capita (P.L. 98-64);
3. Resources purchased with funds which are no longer clearly identifiable as excluded;
4. Bureau of Indian Affairs (BIA) payments, unless otherwise excluded;
5. Transfers of countable monies from other Native American agencies;
6. Fee patent land; and
7. Payments derived from the Keepseagle vs. Vilsack settlement of Tribal Trust Accounting and Management Lawsuits are countable income in the month received (to the extent they can be anticipated), and a countable resource in future months, if retained.

EXCLUDED RESOURCES:

Excluded Native American resources include:

1. 107th Meridian Settlement payments (AKA Senior Benefit payments) received by the Crow elders;
2. Retained proceeds of any payment that was an excluded Native American income when received. This may include, but is not limited to:
 - a. All payments (regardless of amount) per individual per calendar year derived from leases or other uses of individual interests in trust or restricted lands;
 - b. Farm and grazing leases, oil and gas royalties and mineral rights payments from land other than trust or restricted land;

- c. Gravel sales;
 - d. Timber sales;
 - e. Estate payments;
 - f. Oil and gas bonuses;
 - g. Mineral rights bonuses;
 - h. Right-of-way payments;
 - i. Seismic payments;
 - j. Land sale proceeds;
 - k. Judgment claim payments as listed in CMA 501-2;
 - l. Payments derived from sub-marginal lands held in trust;
 - m. Per capita to enrolled members of certain tribes when distributed under specific public laws as listed in CMA 501-2;
 - n. Ownership interests in rents, leases, royalties or usage rights related to natural resources.
3. Interest earned on all Native American funds/resources;
 4. Resources purchased with excluded Native American funds; **NOTE:** This exclusion extends to only the original items purchased with excluded funds.
 5. Individual enrolled tribal members' interests in trust or restricted lands, oil and mineral rights, and improvements (buildings) on such land;
 6. All compensation (including cash, stock, partnership interest, land, interest in land, and other benefits) received under Section 15 of P.L. 100-241, 2/3/88, (the Alaska Native Claims Settlement Act Amendments of 1987);
 7. Reimbursements from the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 (P.L. 91-646, Section 216);
 8. Funds paid to heirs of deceased Indians under the Old Age Assistance Claims Settlement Act;
 9. Payments derived from the Cobell settlement are excluded as a resource as long as the funds can be specifically identified as being from this settlement, including Tribal land buyback program; and
 10. Payments derived from the Nez Perce et.al, v. Salazar settlement of Tribal Trust Accounting and Management Lawsuits are excluded as a resource as long as the funds can be specifically identified as being from the this settlement.
 11. The first purchase made with excluded Native American funds retains the exclusion.

In the case of commingled funds, exclusion continues so long as the excluded funds are clearly identifiable. When excluded income/resources are no longer clearly identifiable in a commingled account, exclusion no longer applies. See 'Commingled Funds', CMA 401-1.

INDIAN LANDS:

Indian (Native American) land held jointly with the Tribe or land that can only be sold with the Bureau of Indian Affairs approval is excluded, as are any improvements (buildings, etc.) to the excluded trust land. Oil and mineral rights on Indian land are also excluded.

Fee patent land is countable, unless otherwise excluded (home, necessary for self-employment, etc.). See "Glossary" for further explanation of fee patent land. Oil and mineral rights connected to fee patent land are treated according to policies at CMA 402-1.

INDIVIDUAL INDIAN MONEY (IIM) ACCOUNTS:

IIM accounts are excluded. Normally it is not necessary to verify an IIM account. However, documentation may be needed to verify a resource exclusion if the resource was purchased with IIM funds.

Effective Date: July 01, 2016