Rule No. 560-X-25-.06 Financial Eligibility Criteria - Resources.

(1) General - In order for an AFDC-related individual to be eligible for Medicaid, he or she must meet the AFDC financial criteria in effect in 1996. An SSI-related individual or couple must not have total countable resources in excess of $2,000 for an individual or $3,000 for a couple. An individual covered under the Qualified Medicare Beneficiary Program created by the Medicare Catastrophic Coverage Act of 1988, the Specified Low Income Medicare Beneficiary Program created by the Omnibus Budget Reconciliation Act of 1990, or the Qualifying Individual Programs created by the Balanced Budget Act of 1997 must not have total countable resources in excess of three times the SSI resource limit. Resource standards for Qualified Medicare Beneficiaries, Specified Low Income Medicare Beneficiaries and Qualifying Individuals are a federal requirement but are not an eligibility requirement for Alabama's Medicare Savings Programs.

(a) Liquid vs. Non-liquid Resources. Resources are those assets including both real and personal property which an individual or couple possesses. It includes all liquid (spendable) assets, as well as non-liquid assets. Non-liquid resources are assets which are neither cash nor financial instruments. They are resources which cannot be converted to cash within 20 days.

(b) Income vs. Resources. Income is anything of value an individual/couple receives during a month. Resources are the assets such as those described above, which the individual/couple already has at the beginning of a month in which eligibility for Medicaid is being determined. An item cannot be counted as both income and a resource in the same month.

(2) Minimum exclusions of Non-liquid Resources - The following types of assets may be excluded from countable resources under certain conditions:

(a) Motor vehicles. An automobile may be excluded to the extent that its value does not exceed the amount specified in 20 CFR §416.1218.

(b) Life insurance. Life insurance owned by an individual (and spouse, if any) may be excluded to the extent provided in 20 CFR §4l6.1230.

(c) Household Goods and Personal Effects. Household goods and personal effects are totally excluded from countable resources.

(d) Burial Funds and Burial Spaces.

1. Burial Funds. In determining the resources of an individual (and spouse, if any) there shall be excluded an amount not in excess of $1500 each of funds designated for burial arrangements of the individual or individual's spouse and which are to be used for no other purpose. The applicant/recipient must submit documented evidence of the specific designation of burial funds. Each person's $1500 exclusion must be reduced by:

(i) the face value of insurance policies on the life of an individual owned by the individual or spouse if the face value is $1500 or less and the cash surrender value of those policies has been excluded from the countable resource limit and

(ii) amounts in an irrevocable trust (or other irrevocable arrangement) available to meet the burial expense.

2. Burial spaces. In determining the resources of an individual, the value of burial spaces for the individual, the individual's spouse, or any member of the individual's immediate family will be excluded from resources. The opening and closing of the grave and headstones are considered as burial space items.

(e) Real Property.

1. Home. If the home is the individual's principal place of residence, and if the individual's or his representative's signed statement identifies the reason for being away from home and the intent to return to the home, it will be excluded as a resource. If an eligible or ineligible spouse resides in what was the individual's principal place of residence prior to institutionalization, it will be excluded as long as the spouse continues to live there. Individuals whose equity interest in the home exceed ~~$500,000~~ the Home Equity Limit published annually by U. S. Department of Health and Human Services (HHS) are ineligible for Medicaid long-term care services unless the individual's spouse, child under 21, or child who is blind or permanently and totally disabled resides in the home.

2. The home may be excluded if a dependent relative is living in the home. (For this purpose a relative is defined as: son, daughter, stepson, stepdaughter, in-laws, mother, father, stepmother, stepfather, grandmother, grandfather, grandson, granddaughter, aunt, uncle, sister, brother, stepsister, stepbrother, half-sister, half-brother, niece, nephew, cousin.) Dependency may be of any kind; e.g., financial, medical, etc. If a relative, other than a spouse, is living in the home and is not dependent upon the claimant, he or she is not a dependent relative, then the home cannot be excluded on this basis. The dependency must have been immediately prior to the applicant's admission to the nursing home, and the dependent's situation must be checked periodically to determine if the dependency continues to exist.

3. Jointly-Owned Home Property. Jointly-owned home property will be excluded from resources if the sale would cause the other owner undue hardship due to the loss of housing. Undue hardship is defined as when; the property serves as the principal place of residence for one of the owners; the sale of the property would result in the loss of that residence; and no other housing would be readily available for the other owner.

4. Income-Producing Property. Income-producing property is excluded from resources when the equity in the property does not exceed $6,000 and the property produces net annual return of at least 6 percent of equity.

(i) Where the value of the property is in excess of $6,000, the amount in excess can be counted toward the resource limitation as long as the individual remains eligible and the property nets at least 6 percent of its equity value per annum.

(ii) Where the property is not excluded because the net annual return is less than 6 percent of the equity value, the total value is an includable resource.

(iii) Where the home is associated with self-support activities, the value of the home, contiguous land, and buildings on the land will be excluded. Total equity in other assets used for producing income must be $6,000 or less and the activity must produce at least 6 percent on the equity. Where the equity value of assets for producing income is in excess of $6,000, the amount in excess will be applied to the resource limitation. Resources used to produce items only for home consumption or tools required by employer are assumed to be netting reasonable rate of return. Property does not have to be utilized if it, in combination with other resources, does not exceed the liquid resource limit.

5. Bona Fide Effort to Sell Interest in Real Property: Real property may be excluded as long as a bona fide effort is being made to sell the property. A bona fide effort to sell is defined as an attempt to sell through listing with a real estate agent or by attempt to sell by the owner. A period in excess of 7 days during which no attempt is made to sell voids this exclusion. To qualify for this exclusion, the property must have been listed for sale as of the first moment of the month that eligibility is being sought. Applicant must agree to reimburse the

Agency for expenses incurred during the effort to sell and make prompt repayment after sale. Bona fide effort to sell will be reviewed periodically to verify a continuing effort.

6. Property that is specifically designated for a Plan of Self-Support for the Blind or Disabled, as provided in 20 C.F.R. (Part 416), may be excluded.

(3) Valuation of Resources - The value of an individual's resources for Medicaid eligibility purposes is based upon the individual's equity interest in the resource. Equity is defined as the current market value (or fair market value) of the resource less any recorded indebtedness against the resource, such as a mortgage or lien. A lien taken by the Medicaid Agency under the provisions of 42 U.S.C §1396p and Chapter 33 of this Code does not operate to reduce the current market value of the property until such lien becomes enforceable in accordance with the terms of the above-cited authorities.

(a) In the case of real property, the current market value of the property, for Medicaid eligibility purposes, is the appraised value of the property established by the current tax assessment notice from the tax assessor's office in the county in which the property is located.

1. This appraised value will be used unless the tax assessment:
   (i) Is more than one year old;
   (ii) Is a special purpose assessment;
   (iii) Is under appeal;
   (iv) Is based on a fixed rate per acre method;
   (v) Does not provide an appraised value or an assessment ratio for determining such value;
2. Only if one of the above conditions exists, other evidence, such as appraisals or estimated from knowledgeable sources, may be used to establish current market value.

(b) In the case of a life estate or remainder interest in real property, the value of the individual's interest is determined by first establishing the current market value of the property and then multiplying that value by the appropriate life estate or remainder factor, based upon the age of the individual, set forth in the Life Estate and Remainder Tables, 26 C.F.R. §20.2031.7.

1. The value obtained shall be presumed correct unless the individual furnishes clear and convincing evidence establishing a lower value. Such evidence includes, but is not limited to:
   (i) efforts to sell the property interest, as evidenced by such factors as the price at which the property interest is offered for sale, marketing and advertising exposure given and offers and negotiations;
   (ii) appraisals of the property interest by knowledgeable and experienced sources;
   (iii) extent and results of negotiations with owners of other interests in the property or owners of adjoining property.

(c) In the case of entrance fees in a continuing care retirement community or life care community the value of the entrance fee shall be considered a resource available to the individual to the extent that:

1. The individual has the ability to use the entrance fee, or the contract provides that the entrance fee may be used to pay for care should other resources or income of the individual be insufficient to pay for such care;

2. The individual is eligible for a refund of any remaining entrance fee when the individual dies or terminates the continuing care retirement community or life care community contract and leaves the community; and

3. The entrance fee does not confer an ownership interest in the continuing care community or life care community.

(4) The following are more liberal resource requirements than SSI for determining the eligibility of individuals as Qualified Medicare Beneficiaries, Specified Low Income Medicare Beneficiaries, and Qualifying Individual-1:

(a) All resources of the applicant and the resources of the applicant's spouse are excluded.

(b) All interest and dividend income is excluded.

(5) The following are more liberal resource requirements than SSI for determining the eligibility of individuals eligible under the institutional Medicaid program:

(a) The required net annual income of six percent is waived for the excluded $6,000.00 in equity value for income-producing property essential to self-support.

(b) The consideration of a life estate interest in real property is waived.

(c) Cash value of life insurance policies with combined face value less than $5,000.00 is excluded.

(d) The burial fund exclusion is increased to $5,000.00

(e) Commingling of burial funds is allowed.

(f) Long-Term Care Insurance Policies issued before March 1, 2009

1. Medicaid will not consider resources of a person equal to the amount of long-term care insurance benefit payments in determining Medicaid eligibility when the long-term care insurance policy has paid at least the first three years of nursing home care and/or home health care services.

2. The exclusion shall be for the life of the purchaser provided he or she maintains obligations pursuant to the long-term care insurance policy.

3. Insurance benefit payments made on behalf of a claimant, for payment of long-term care services, shall be considered to be expenditure of resources as required for eligibility for medical assistance to the extent that the payments are all of the following:

(i) For services Medicaid approves or covers for its recipients.

(ii) In an amount not in excess of the charges of the health services provider.

(iii) For nursing home care and/or home health care services.

(iv) For services delivered after October 1, 1997.

(g) Long-Term Care Insurance Policies issued on or after March 1, 2009

1. Medicaid will not consider resources equal to the amount of benefits paid (dollar-for-dollar) by an Alabama Long-Term Care Insurance Partnership Policy (Partnership Policy) for long-term care services received in determining Medicaid eligibility and in estate recovery.

2. The amount to be excluded will be above and beyond the standard resource exclusion provided under the Medicaid State Plan. To qualify for this exclusion, the individual must be covered by a Partnership Policy that has been certified by the Alabama Department of Insurance as meeting the following criteria:

(i) The policy covers a person who was a resident of Alabama when coverage first became effective under the policy. Medicaid will provide reciprocity with respect to long-term care insurance policies covered under other state long-term care insurance partnerships. The amount of the resource exclusion will equal the resource exclusion that would apply to a Partnership Policy issued under the Alabama Long-Term Care Partnership Program.

(ii) The policy meets the definition of a "qualified long-term care insurance policy" found in section 7702B(b) of the Internal Revenue Code of 1986.

(iii) The policy meets the specific requirements of the Deficit Reduction Act of 2005 and National Association of Insurance Commissioners (NAIC) Long Term Care Insurance Model Regulations and Model Act, as last amended.

(iv) The policy includes the following inflation protection: for purchasers under 61 years old, compound annual inflation protection; for purchasers 61 to 76 years old, some inflation protection; and for purchasers 76 years or older, inflation protection may be offered but is not required.

3. The issue date is the effective date of coverage under the policy. If a long-term care insurance policy issued before March 1, 2009 is exchanged after that date for a Partnership Policy, the resource exclusion will apply only with respect to insurance benefits received under the new Partnership Policy.

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