

# MISSISSIPPI DIVISION OF MEDICAID

## Eligibility Policy and Procedures Manual

### 300.01 INTRODUCTION

The Medicare Catastrophic Coverage Act of 1988, (P.L.100-360), added provision 1902(r)(2) to the Medicaid statute which allows the state to apply income and resource rules to certain Medicaid coverage groups that are more liberal than the most closely related cash assistance group. For the FCC programs, the most closely related cash assistance group is the former Aid to Families with Dependent Children (AFDC) program. For the ABD programs, the most closely associated cash assistance group is the Supplemental Security Income (SSI) program.

#### 300.01.01 FAMILIES, CHILDREN AND CHIP PROGRAMS

Under 1902(r)(2) and other authorization, the FCC programs operate under liberalized resource policy and have no resource test for eligibility in any coverage group.

#### 300.01.02 AGED, BLIND AND DISABLED PROGRAMS

Medicaid uses the value of a person's resources as a factor in determining eligibility. It is generally expected that individuals or couples whose resources exceed the limit will use the excess to meet their needs before becoming eligible for Medicaid.

As a 1634 state, Mississippi is required to use SSI resource rules for ABD eligibility determinations. However, as indicated previously, the state is allowed to apply income and resource rules to certain ABD coverage groups that are more liberal than the SSI program. The Division of Medicaid requested and received approval to liberalize resource policies for some ABD coverage groups. However, some coverage groups are exempt from liberalization under 1902(r)(2) because they are considered "deemed" cash assistance groups. These coverage groups continue to follow SSI resource rules.

The remainder of this section describes the treatment of resources in determining eligibility in the Aged, Blind and Disabled programs and discusses the use of strict SSI rules or liberalized resource policy, as applicable.

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### 300.01.03 GENERAL RESOURCE PRINCIPLES

The following general principles about resources should be noted:

1. Not everything a person owns is a resource.
2. Not all resources count against the limit.
  - a. The Social Security Act and other Federal laws require certain types and amounts of resources to be excluded.
  - b. If a resource is not specifically excluded, it is countable.
3. In certain situations, federal law requires other people to share financial responsibility for an individual or couple.
  - a. In those situations, Medicaid considers the resources of the other person(s) along with those actually belonging to the individual or couple.
4. If countable resources exceed the limit, an individual or couple is not eligible.

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### 300.02 RESOURCE LIMITS

Federal law establishes a limit on the value of resources an individual or couple may own and still be eligible for Medicaid. Countable resources must not exceed the limit in effect for the applicable time period as indicated below:

	EFFECTIVE	INDIVIDUAL	COUPLE
Prior to	01-01-1985	\$1,500	\$2,250
	01-01-1985	\$1,600	\$2,400
	01-01-1986	\$1,700	\$2,550
	01-01-1987	\$1,800	\$2,700
	01-01-1988	\$1,900	\$2,850
	01-01-1989	\$2,000	\$3,000
	07-01-1999	\$3,000	\$4,000
	07-01-2000 ongoing	\$4,000	\$6,000

#### SSI and Liberalized Limits

The individual/couple limits for groups subject to SSI resource limits remain \$2,000/\$3,000. The increased limits above are applicable to most coverage groups subject to liberalized resource policies.

#### 300.02.01 COVERAGE GROUPS SUBJECT TO SSI RESOURCE LIMITS

SSI resource limits apply to the following coverage groups:

- SSI Retro Determinations
  - Unless the client must be placed in a liberalized coverage group for the retroactive period
- Former SSI Recipient Coverage Groups
  - Disabled Adult Child (DAC), Cost of Living (COL) and OBRA widows/widowers
- Disabled Child Living at Home (DCLH)
- Qualified Working Disabled Individuals (QWDI)
  - This reduced coverage group has resource limits that are twice the SSI limits

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### 300.02.02 COVERAGE GROUPS SUBJECT TO LIBERALIZED RESOURCE LIMITS

Liberalized resource limits apply to the following coverage groups:

- Long Term Care coverage groups (LTC)
- Home and Community Based Waiver groups (HCBS)
- Poverty Level Aged and Disabled (PLAD)
  - Program ended December 31, 2005.
- Healthier Mississippi Waiver (HM)
- Working Disabled (WD)
- Medicare Savings Programs (MSP) - See discussion on these reduced coverage groups below.

### 300.02.03 REDUCED COVERAGE GROUPS

The reduced coverage groups for non-institutional individuals have or had a resource limit that is twice the SSI-related resource limit. However, under liberalized policy, the Medicare Savings Programs (QMB, SLMB, and QI) have no assets test. The limit for QWDI remains \$4,000/\$6,000.

COVERAGE GROUP	EFFECTIVE	INDIVIDUAL	COUPLE	MEDICAID PAYS
QMB Qualified Medicare Beneficiaries	07-01-1999	No Resource Limit	No Resource Limit	Medicare Cost Sharing Expenses
SLMB Specified Low-income Medicare Beneficiaries	07-01-1999	No Resource Limit	No Resource Limit	Medicare Part B Premium
QI Qualified Individuals	07-01-1999	No Resource Limit	No Resource Limit	Medicare Part B Premium
QWDI Qualified Working Disabled Individuals	07-01-1990	\$4,000	\$6,000	Medicare Part A Premium

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### 300.02.04 **RESOURCE LIMITS APPLICABLE TO INSTITUTIONAL GROUPS**

For Medicaid coverage groups considered to be “institutional” coverage groups, the following set of resource limits apply:

- Effective 10-01-1989, Spousal Impoverishment resource rules (discussed in detail in the Institutional section) apply to married couples whereby one spouse is in a medical facility while the other spouse remains at home. The Community Spouse is allowed a higher resource limit set by federal law and subject to increase each year.
- Effective 04-01-1993 until the coverage group ended 04-30-2005, Spousal Impoverishment rules applied to the Hospice Coverage group.
- Effective 01-01-1994, Spousal Impoverishment resource rules began to be applied to the HCBS Waiver programs.

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### 300.03 LIBERALIZED RESOURCE POLICY OVERVIEW

The following briefly describes the liberalized resource policies currently in effect. The liberalizations are described in greater detail in the discussion of each resource type:

- Spenddown of resources within a month to become eligible in that month- That is, eligibility may be established effective the first day of the month, if the countable resources fall below the limit within the month
- Excess resources earmarked for payment of private pay in a nursing facility in month(s) prior to Medicaid eligibility are not considered countable resources
- Income that accumulates pending Medicaid approval that results in excess resources can be excluded if this income is obligated for Medicaid Income purposes
- Certain property and types of ownership are totally excluded, regardless of value. Home property located in Mississippi, life estate and remainder interests in any property, 16<sup>th</sup> Section land leaseholds, mineral rights or timber rights that are not under production and housing on government-owned land are excluded under liberalized policy
- Income producing property is excluded if it produces at least 6% of the equity value of the property
- Promissory notes, loans and property agreements are excluded if the note produces a net annual return of 6% of the principal balance
- Up to 2 automobiles may be excluded
- Household goods are totally excluded and personal property up to \$5,000.00 in equity value is excluded
- The cash value of whole life insurance is excluded if the combined face value of all life insurance policies on any one individual is \$10,000.00 or less
- Burial spaces for family members are excluded as resources
- Burial funds set aside in a revocable arrangement are subject to a \$6,000.00 limit effective 04-01-2001

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### 300.04 SSI RESOURCE POLICY OVERVIEW

SSI policy specifies different exclusion limits or different ways to determine countable resources. If the resource policy has not been liberalized, SSI policy is applicable unless a subsequently issued federal statute or Medicaid regulation supersedes SSI policy.

SSI policies include:

- Eligibility is based on the individual's countable resources as of the first moment of the first day of the month and is applicable to the entire month. If resources exceed the limit as of the first moment of the first day of the month, the individual or couple is not eligible for that month. It is not possible to "spenddown" resources within a month to establish eligibility for that month under SSI resource policy.
- One automobile is automatically excluded regardless of value.
- The value of life estates and remainder interest in real property is a countable resource.
- The cash value of whole life insurance is excluded, if the combined face value of all policies on any individual is \$1,500 or less. The combined face value of these excluded policies is used as an offset in determining burial fund exclusion.

#### 300.04.01 FIRST OF THE MONTH RULE FOR MAKING RESOURCE DETERMINATIONS

In the programs using SSI policy, resource determinations are made as of the first moment of a calendar month. Any increase or decrease in the value of resources during a month is considered as of the first moment of the month following the month the change occurred.

**Example:** Tom Lee applies for assistance on March 30<sup>th</sup>. His only resource is 20 shares of XYZ stock that are worth \$800.00 on the date he applied. On April 30<sup>th</sup>, the value increased to \$1,000.00. His countable resource amount for April is \$800.00. The countable value for May is \$1,000.00.

**Example:** Rhonda Mooney applies for assistance on April 5<sup>th</sup>. On April 1<sup>st</sup>, her resources were \$500 in checking and \$700 in savings. On April 5<sup>th</sup>, her son gave her money and she purchases a CD worth \$1,800. Her savings balance increased to \$750 on April 30<sup>th</sup>, but her checking balance dropped to \$350. For April, countable resources are \$1,200 (\$500 + \$700). For May, they are \$2,900 (\$1,800 + \$750 + \$350). The CD is not considered until May since it was acquired in the middle of the month.

**NOTE:** Do not consider as a resource any advance dated checks or advance posted direct deposit checks received prior to the month of normal receipt. If retained, funds from such checks will be considered a resource as of the first moment of the first day of the month following the month in which the check is normally paid.

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### 300.05 RESOURCE DEFINITIONS

TYPE	DEFINITIONS	EXAMPLES
<b>RESOURCES (General Definition)</b>	<p>All assets, including real and personal property, which an individual or couple:</p> <ul style="list-style-type: none"> <li>• Owns</li> <li>• Can apply toward basic needs of food, clothing and shelter, either directly or by conversion to cash, (if not already cash)</li> <li>• Are not legally restricted from use for support or maintenance.</li> </ul>	<p>Examples include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• Home</li> <li>• Land</li> <li>• Bank Accounts</li> <li>• Burial Assets</li> <li>• Life Insurance</li> <li>• Automobiles</li> <li>• Investments</li> </ul>
<b>LIQUID RESOURCES</b>	<p>Cash or items that are readily converted to cash (within 20 workdays).</p> <p>Liquidity or nonliquidity of a resource has no effect on a resource's countability.</p>	<p>Absent evidence to the contrary, assume the following types of resources to be liquid:</p> <ul style="list-style-type: none"> <li>• Stocks, bonds and mutual fund shares</li> <li>• Checking and savings accounts, time deposits, CDs</li> <li>• US Savings Bonds, treasury bills</li> <li>• Mortgages and promissory notes</li> </ul> <p>(NOTE: This is not an all inclusive list of liquid resources)</p>
<b>NONLIQUID RESOURCES</b>	<p>Are not cash and are not readily convertible to cash</p> <p>Liquidity or nonliquidity of a resource has no effect on a resource's countability.</p>	<p>Absent evidence to the contrary, assume the following resources to be nonliquid:</p> <ul style="list-style-type: none"> <li>• Buildings, land and other real property rights</li> <li>• Vehicles</li> <li>• Farm machinery and livestock</li> <li>• Household goods and personal effects</li> <li>• Non-cash business property</li> </ul> <p>(NOTE: This is not an all inclusive list of nonliquid resources)</p>

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### Resource Definitions (Continued)

TYPE	DEFINITIONS	EXAMPLES
<b>REAL PROPERTY</b>	Land, including buildings or immovable object attached permanently to the land.	
<b>PERSONAL PROPERTY</b>	Any property that is not real property.	Personal property includes: such items as: cash, jewelry, household goods, tools, life insurance policies automobiles
<b>EXCLUSION</b>	A resource, or part of a resource's value, that is not considered in the eligibility determination.	
<b>COUNTABLE RESOURCES</b>	Resources remaining after all exclusions are applied.  **The value of a resource is the amount of an individual's or couple's equity in it. The current market value and debt on a resource must be verified to determine the equity value.	
<b>CURRENT MARKET VALUE (CMV)</b>	The amount a resource can reasonably be expected to sell for on the open market in the particular geographical area involved or the sale price, if sold for a higher amount.	
<b>EQUITY VALUE</b>	The current market value (CMV) minus any encumbrance (payoff amount).	A piece of property has a CMV of \$35,000. The mortgage payoff is \$20,000. The equity value is \$15,000.
<b>ENCUMBRANCE</b>	An encumbrance is a legally binding debt against a specific property. The debt reduces the value of the encumbered property, but does not prevent the owner from transferring ownership (selling) to a third party. However, if the owner does sell it, the creditor will nearly always require payment from the proceeds of a sale.	
<b>CONSERVED FUNDS</b>	Funds or property being held for an individual by another person.	Daughter has \$30,000 in a bank in her name but it is verified to be her parents' money and is used for their needs.

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### 300.06 INCOME VS RESOURCES

It is important to distinguish between resources and income to know which counting rules to use for any given month. The same item is not evaluated under two sets of counting rules for the same month; that is, one item cannot be counted as both income and a resource in the same month:

- **Income Counting Rules** – Items received in cash or in-kind during a month are evaluated under the income rules.
- **Resource Counting Rules** – Items retained for use in the month following the month of receipt are subject to evaluation under resource rules, as are all other items not defined as income.

#### 300.06.01 DISTINGUISHING RESOURCES FROM INCOME

If an individual sells, exchanges, or replaces a resource, what he receives in return is not income; rather, it is a different form of resource. In order to distinguish resources from income, a determination must be on what has occurred and the monetary gain.

The monetary gain would be considered a resource when it:

- Was an increase in value of an existing resource;
- Was for the receipt or replacement of a resource;
- Was from the conversion or sale of a resource; or
- Was a cash or in-kind item for the replacement or repair of an excluded resource which is lost, damaged or stolen. (This is discussed further later in this chapter.)

**NOTE:** Dividends and interest are defined as returns on investments, stocks, bonds, and savings accounts, etc. Refer to the income section for handling.

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### 300.06.02 CONVERTED RESOURCES

If an individual sells, exchanges or replaces a resource, what he receives in return is a resource that has been converted from one type of resource to another.

Examples of converted resources are:

- A lot with equity value of \$5,000.00 is sold and the money is deposited into a money market account.
- A life insurance policy is cashed in and the proceeds are used to purchase a pre-need burial contract.

#### Handling Changes in a Converted Resource

When a resource changes form, it may also change as follows:

- From an excluded resource to a countable one,
- From a countable resource to an excluded one or
- To something that is not considered a resource for Medicaid purposes.

**Example:** An excluded vehicle is sold and proceeds are deposited into a checking account. The money received is a countable resource, rather than income.

**Example:** A life insurance policy with a face value of \$15,000.00 and a countable cash surrender value of \$1,000.00 is cashed in and the proceeds are used to purchase a cemetery plot which is excluded in the resource determination.

### 300.06.03 EVALUATION OF RECEIPT OF PROPERTY AS INCOME

When an individual first receives property (as a gift or inheritance, for instance, and not as a purchase or trade of one resource for another), the new property is subject to evaluation under the income rules for the month of receipt and under resource rules thereafter.

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**300.07 FACTORS THAT MAKE PROPERTY A RESOURCE**

Property of any kind, including cash, is a resource only if it meets all three criteria listed below:

<b>RESOURCE CRITERIA</b>	<b>DESCRIPTION</b>
<b>OWNERSHIP INTEREST</b>	An individual must have some form of ownership in property in order for the property to be considered a resource. The fact that an individual has access to property, or has a legal right to use it, does not make it a resource if there is no ownership interest.
<b>LEGAL RIGHT TO ACCESS (SPEND OR CONVERT) PROPERTY</b>	<p>An individual must have a legal right to access property. Even with ownership interest, property cannot be a resource if the owner lacks the legal ability to access funds to spend or convert non-cash property into cash.</p> <p>The fact that an owner does not have physical possession of property does not mean it is not his resource. It is a resource if the owner still has the legal ability to spend it or convert it into cash.</p> <p>An individual has free access to, and unrestricted use of, property even when he can take actions only through an agent (such as a representative payee or conservator).</p>
<b>LEGAL ABILITY TO USE FOR PERSONAL SUPPORT AND MAINTENANCE</b>	Even with ownership interest and legal ability to access property, a <u>legal</u> restriction against the property's use for the owner's own support and maintenance means the property is not a resource.

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**300.08 ACCESS TO RESOURCES**

Unless an individual has been declared legally incompetent, he is assumed capable of managing his own affairs and his resources are considered. Competency does not affect consideration of resources.

**300.08.01 INDIVIDUALS DECLARED LEGALLY INCOMPETENT**

The following is applicable to individuals who have been declared legally incompetent:

<b>Court Appointed Guardian or Conservator</b>	<b>No Court Appointed Guardian or Conservator</b>
<p>If the court has appointed a guardian or conservator, resources owned by the individual are considered available.</p> <p>Seeking court approval</p> <ul style="list-style-type: none"><li>• Is not a legal restriction to the sale or disposal of the property;</li><li>• Does not change the property's status as a countable resource to the individual.</li></ul>	<p>If the court has not yet appointed a guardian or conservator, resources owned by the individual are not considered available.</p> <p>The individual does not have access to the resource until a guardian or conservator has been appointed.</p>

**300.08.02 TYPES OF ACCESS**

Resources are accessible through an agent, litigation or a petition-conservatorship account under SSI and liberalized resource policy:

- **Access Via an Agent**

An individual is considered to have free access to, and unrestricted use of, property even when he can take those actions only through an agent, such as a representative payee or guardian.

**Example:** Joan Shoto receives Social Security. Her mother, Laura Shoto, is her representative payee and has Power of Attorney. The bank account is a countable resource to Joan because she has unlimited access through her mother.

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### TYPES OF ACCESS (Continued)

- **Access Only Via Litigation**

If there is a legal restriction, or a bar, to the sale or use of property, such as a co-owner legally blocks the sale of jointly-owned property, an individual is not required to undertake litigation to accomplish the sale or access. The property is not a resource under such circumstances in a month if a legal bar exists any time in the month.

**Example:** Shelley Lumpkin and her sister, Susan Smith, co-own a piece of property they inherited from their parents. Last year Susan took legal action to prevent Shelley from selling. Shelley is not required to enter into litigation to gain the ability to sell, so the property is not a resource to her.

- **Access Via Petition-Conservatorship Account**

Petitioning a court is different from undertaking litigation. Seeking court approval is not a legal restriction against use. Although the individual does not have access to the asset, the conservator does. Therefore, it is available for the individual's support and maintenance and is, therefore, that individual's resource. This is true despite the fact that the individual or his agent is required to petition the court to withdraw funds for the individual's support and maintenance.

The conservator will be allowed a period of time to petition the court. Once the conservator has verified a petition has been filed with the court, the regional office will follow-up to determine the outcome.

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### 300.09 ASSETS VS RESOURCES

Not everything a person owns (assets) are resources for Medicaid purposes. As previously indicated, a resource is cash or other real or personal property that an individual (or spouse, if any):

1. Owns,
2. Has the right, authority or power to convert to cash, (if not already cash),
3. Is not legally restricted from using for his support or maintenance.

However, in certain situations, an asset that is not a resource may become one at a later date or vice versa. The distinction is important since:

- An asset that is not a resource does not count against the resource limit (while a resource may count); and
- Proceeds from the sale or trade of a resource, i.e., the amount representing conversion of principal from one form to another, are also resources; however, what a person receives from a non-resource is subject to evaluation as income at the time of receipt.

**Example:** An individual is the beneficiary of a trust which is not his resource. Therefore, when the trust pays him his monthly allowance, he receives income.

#### 300.09.01 RESOURCES WITH ZERO VALUE

Property does not cease to be a resource simply because it has no current market value. Even though there is no value to count, the property remains a resource for as long as it meets the definition of a resource.

If the property develops market value at a later time, this will be an increase in the value of a resource rather than receipt of income.

#### 300.09.02 PROPERTY THAT IS NOT A RESOURCE

Any property (asset) that does not meet the above definition of a resource is not a resource, e.g., an individual who has an ownership interest in property, but is not legally able to transfer that interest to anyone else does not have a resource.

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### **Property That is Not a Resource** (Continued)

**Example:** An individual owns a block of stock with his brother. Although the form of ownership is one which would permit either to sell the property without the other's consent, the brothers have a legally binding agreement that one will not sell without consent of the other.

The individual's brother refuses his consent, making the stock a non-resource for the individual. If the brother subsequently agrees to sell, the stock would be evaluated under resource-counting rules beginning with the month following the month of consent. The value of the stock would **not** be counted as income to the individual in the month consent is given.

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### 300.10 UNKNOWN ASSETS

An individual may be unaware of his ownership of an asset. If this is the case, the asset is not a resource for the period during which the individual is unaware of his ownership. Once the asset is discovered by the individual, the value, including any monies accumulated on it through the month of discovery, must be treated as follows:

- **Month of discovery** – The value of the unknown asset, including any monies (such as interest) that have accumulated on it through the month of discovery, is evaluated under regular income-counting rules.
- **Months after month of discovery** – For months after the month of discovery, the previously unknown asset is a resource and subject to usual resource counting rules.

When an individual alleges having been unaware of his ownership of an asset, obtain a signed statement from the individual. Also obtain any available supporting documentation including, but not limited to, signed statements from other individuals familiar with the situation, etc.

**Example:** While in the hospital, the recipient received a check for \$125.00 as a “get-well” gift from her neighbors. She was unaware of the gift. At the time, her affairs were being managed by her daughter who put the check in a desk drawer and failed to tell the recipient about it.

In the month the recipient learns of the existence of the check, the check is counted as income. In the following month, it is counted as a resource.

**Example:** As the result of contacting the tax assessor’s office, the specialist learns that the recipient has ownership interest in previously unreported property (undeveloped land). The property is co-owned with another individual who has always paid the property taxes. Contacts with the recipient and the other individual confirm the recipient’s allegations that he was unaware the original owner of the property had died and therefore, the recipient never knew that he had inherited an ownership interest. The value of the recipient’s ownership interest is counted as income in the month he learned of the ownership interest and as a resource the following month.

**NOTE:** If the client is aware of an asset, but the representative is unaware and/or fails to report it, the asset is not treated as an unknown asset.

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### 300.11 VALUATION OF RESOURCES

The value of a resource is the amount of an individual's or couple's equity in it. As indicated in the definitions section, the equity value (EV) of a resource is its current market value (CMV) less any encumbrance(s).

**NOTE:** The pay-off amount for each encumbrance on the property is used in the calculation of its equity value.

### 300.12 WHOSE RESOURCES TO COUNT

When eligibility is determine or re-determined, the resources of the following must be considered:

- Applicant/Recipient;
- Spouse of the applicant/recipient;
  - If the spouse is included in the household;
  - Even if the spouse is not applying or is ineligible. (Exception: Institutionalized individuals are discussed later in this chapter)
- Parent(s) of an applicant/recipient who is a child under age 18 living in the same household.

**NOTE:** There is no deeming of parental resources to the eligible child in the Disabled Child Living at Home group or in any institutional group for the month of entry.