

MISSISSIPPI DIVISION OF MEDICAID

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302.04.03 JOINTLY OWNED PROPERTY WHOSE-SALE WOULD CAUSE UNDUE HARDSHIP

The value of an individual's ownership interest in the jointly-owned property is an excluded resource for as long as the sale of the property would cause an undue hardship, due to loss of housing, to a co-owner.

Procedure

Treatment Under SSI and Liberalized Resource Policy

Undue hardship would result if the co-owner:

- Uses the property as his principal place of residence
- Would have to move if the property were sold
- Has no other readily available housing

Verify joint ownership and obtain a signed statement from the client and joint owner which documents the undue hardship. Hardship must be updated at every review. The exclusion ends when any one of the above conditions no longer exists.

Example: Mr. Allen and his son jointly own a piece of land. The son and his family live on the property and have no other place to live. Mr. Allen applies for Medicaid. The property is excluded because the sale would cause an undue hardship to his son. However, if the son owned another house nearby which was vacant and habitable, there would be other available housing. Under these circumstances, undue hardship would not exist and the value of Mr. Allen's interest would be countable.

302.04.04 EXCLUSION OF REAL PROPERTY DUE TO REASONABLE EFFORTS TO SELL

Real property may be excluded from resources if the owner is making reasonable efforts to sell it and those efforts have been unsuccessful. The individual must maintain their efforts to sell unless good cause, i.e., circumstances beyond the individual's control prevent his taking the required actions to accomplish reasonable efforts to sell, exists. In addition, the individual must accept a reasonable offer for the property.

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Exclusion of Real Property Due to Reasonable Efforts to Sell (Continued)

Procedure
<p><u>Treatment Under SSI and Liberalized Resource Policy</u></p> <p>The specific requirements listed below must be met in order for this exclusion to apply:</p> <p>Reasonable Efforts To Sell</p> <ul style="list-style-type: none">• Reasonable efforts to sell real property consist of taking all necessary steps to sell it through media serving the geographic area in which the property is located. Reasonable efforts specifically mean that:<ul style="list-style-type: none">○ Within 30 days of signing Form-320A, Agreement to Sell Property, the owner(s) must:<ul style="list-style-type: none">▪ List the property with an agent; or▪ Begin to advertise in at least one of the appropriate local media, place a "For Sale" sign on the property (if permitted), begin to conduct open houses or otherwise show the property to interested parties on a continuing basis and attempt any other appropriate methods of sale; and• Except for gaps of no more than 1 week, the owner must maintain efforts of the type listed above; and• The owner does not reject any reasonable offer to buy the property and accepts the burden of demonstrating to Medicaid's satisfaction that an offer was rejected because it was not reasonable. <p>Reasonable Offer To Buy</p> <ul style="list-style-type: none">• Assume that an offer to buy the property at a particular price is reasonable if at least two-thirds of the estimated current market value (CMV) is or will be received. The CMV is established by obtaining a knowledgeable source estimate of the property as outlined in 301.01.08, Verifying Current Market Value.

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Procedure

Good Cause

Good cause exists when circumstances beyond an individual's control prevent the required action to accomplish reasonable efforts to sell. If good cause exists for failure to meet any of the criteria specified above, the exclusion can continue provided action is taken to resume efforts to sell.

Examples of good cause include:

- No offer to buy is received
- A legitimate offer does not result in a sale
- Escrow begins, but closing does not take place within the disposal period
- Incapacitating illness or injury, such as the individual becomes homebound or hospitalized for a prolonged period due to illness or injury and cannot take steps necessary to sell the property or to arrange for someone to sell it on his behalf

Example: Sandy Patterson is a Medicaid recipient whose property has been excluded due to a bona fide effort to sell. She accepted a reasonable offer for the property; however, the buyer backed out of the deal at closing. Ms. Patterson immediately started sales efforts again. Good cause exists.

Failure To Make Reasonable Efforts

Unless there is good cause, failure to meet any of the criteria specified under "Reasonable Efforts to Sell" and "Reasonable Offer to Buy" means that:

- An individual is not making reasonable efforts to sell the property and is not accepting a reasonable offer to buy;
- The individual's countable resources include the value of the property beginning with the month following the month in which reasonable efforts to sell stop or the month following the month the owner failed to accept a reasonable offer to buy; and
- The individual will be charged with an improper payment, if applicable.

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Procedure

Initial Verification of Efforts To Sell

The effort to sell must be documented in the case record within the 30-day time period for applying the exclusion by requiring all proof such as:

- Copy of the listing agreement with the real estate agent in current use;
- Dated advertisement(s) indicating the property is for sale;
- Contracts with local media to advertise the property;
- A photograph of the "For Sale" sign on the property, in conjunction with other efforts;
- Any other relevant items.

Effective Date Of Exclusion

If the appropriate proof is submitted, the exclusion is applied back to the first of the month in which the effort to sell was initiated.

If a reasonable effort to sell was in existence prior to the date of application, the exclusion can be applied retroactively provided the effort is documented and DOM-320A is signed.

If the effort to sell is just beginning, the exclusion applies effective with the first month DOM-320A is signed (provided it is signed within 30 days). If not signed within 30 days, the exclusion applies as of the first month a reasonable effort to sell is initiated.

Follow-Up Contacts

Contacts must be scheduled at 90-day intervals until the property is sold or the exclusion ends. Follow-up contacts may be by telephone to determine efforts being made to accomplish the sale and to document whether there has been any offer to buy since the prior contact. If an offer to buy has been refused, a statement must be submitted explaining the refusal.

NOTE: The refusal of an offer to buy must be evaluated under the "Reasonable Offer to Buy" guidelines. If the refusal is unacceptable, the exclusion ends beginning with or retroactive to the month after the month of the refusal to sell.

If the reasonable efforts to sell are not continuing at each follow-up contact, determine if good cause exists. If good cause does not exist, the exclusion ends beginning with or retroactive to the month after the month the reasonable efforts stopped.