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**SA-3200 RESOURCES**

Reissued 04/01/2013

**I. INTRODUCTION**

This section outlines the resource requirements used in determining eligibility. Resources are all financial assets that an a/r owns or has the right, authority, or power to convert to cash, and are legally available for the a/r's support and maintenance, including month of entry into an eligible licensed facility. The resource limit is \$2000 for an applicant/recipient. **The budget unit is always one.**

Follow the steps below for SSI and Non-SSI recipients.

**A. SSI Recipients**

1. SSI recipients automatically meet the resource requirements for SA.
2. Verify and document on the [DAAS-8190-S, Workbook for SSI Recipients](#), that the a/r is an SSI recipient. Do not evaluate the a/r's resources.
3. If you have specific knowledge of resources that could impact SSI eligibility, notify your local Social Security Administration by the [DMA-5049, Referral to Local Social Security Office](#). SA eligibility continues unless the SSA changes their determination of eligibility for SSI.

**B. Non-SSI Recipients**

At each application and redetermination, document the a/r's statement and verification of all resources on the [DAAS-8190-NS, SA Workbook for Non-SSI Recipients](#). Also complete the [DMA-5030, Reserve History Sheet](#).

For reported changes in resources, verify and document continued resource eligibility. Review all available records and verify whether resources are countable. Use the [DMA-5030, Reserve History Sheet](#), to reflect changes in resources.

1. Solely owned resources  
The availability of all solely owned resources must be verified, documented, and evaluated using the procedures outlined in this section.
2. Jointly held resources  
The availability of resources owned jointly by the a/r and another person must be verified, documented, and may be counted:

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- a. If the other person is a recipient of another public assistance program (Work First, Medicaid, Special Assistance, or SSI):
  - (1) Count one-half of the value of the jointly owned resource, or  
**Note:** If more than two owners, then divide the value equally among the owners.
  - (2) If there is a legally binding agreement specifying how the resource is to be divided, count the share specified in the agreement as owned by the a/r.
  
- b. If the other person is not a recipient of another public assistance program, count the value of the a/r's share of resources owned if:
  - (1) The a/r can dispose of the resource without the consent and participation of the other person(s), or  
**Note:** If the a/r can dispose of the resource without the other's consent, the entire resource may be countable, such as a bank account held by two people who both have full access to the account.
  - (2) The other person(s) agrees to and, if necessary, participates in the disposal of the resource.  
  
Verify other owner(s) statement regarding their consent to sell the resource.
    - (a) If the owner(s) consents to the disposal of the resource, count the a/r's share of the resource.
    - (b) If the other owner(s) does not respond/cannot be located, do not count a/r's share of the resource.
    - (c) If the other owner(s) do not consent to the disposal of the resource, do not count the a/r's share of the resource.

3. Unsettled Estates

The availability of resources, whether solely or jointly owned, may be impacted by heir property and inheritances left to the a/r which are not yet settled. Unsettled estates must be verified, documented, and evaluated using the procedures outlined below.

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- a. Verify if the a/r has the legal right to any heir property or inheritance that is unsettled.
  - (1) Assets are normally unavailable until the estate is settled (probated).
  - (2) An estate that has been filed for probate is normally open up to 12 months unless there is a continuation approved by the Clerk of Court.
  - (3) Liquid assets may be available earlier if the account was joint with a "right to survivorship" held by the a/r. (Contact financial institution for verification).
- b. Contact the Clerk of Court to determine availability.
  - (1) Count any resources acquired by the a/r from a settled estate pursuant to the policies in SA-3200 Resources.
  - (2) Exclude any resources from an estate to the a/r until verification is received from the Clerk of Court that the heir property or inheritance has gone through probate and is released.

**Note:** Document the date on which the estate should be probated and flag the record to contact Clerk of Court.

4. Base Period for Resources

- a. Applications – The month of application, or, if there are excess resources, the month the resources are reduced.
- b. Redeterminations – For eligibility reviews, there is some flexibility as long as the “verification month” is:
  - (1) No earlier than the month of in which the review process (verifications, appointment letter, etc.) is started, and
  - (2) No later than the last month of the current payment review period during which the redetermination process is initiated.
  - (3) Establish the first moment date for verification of resources using the appropriate base from items (1) or (2) above.
  - (4) Document the established first moment date on the [DAAS 8190-NS](#) booklet in the section/s provided for liquid resources.

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- (5) Verify all liquid resources as of the established first moment date.
  - (6) Clearly document all verified liquid and other resources in the appropriate section/s of the [DAAS 8190-NS](#).
- c. Changes In Situation – Verify resources for the month of change. Refer to [SA-3310](#), Changes in Situation for further instructions. Resources (in alphabetic order)

Resource	Count	Do Not Count	Verification
Agent Orange Benefits		X	Refer to Lump Sums Exclusion Chart <a href="#">II.I.5.</a>
Annuities (if principal is available)	X		Refer to <a href="#">II.E.</a> below
Bank Accounts (includes checking, savings, EBT, CDs, and money market accounts)	X		Refer to <a href="#">II.C.</a> below
Boats, boat motors, and boat trailers (if not primary homesite)	X		Refer to <a href="#">II.O.</a> below
Burial Contracts		X	Refer to <a href="#">II.N.</a> below.
<ul style="list-style-type: none"> <li>• Prepaid Irrevocable (cannot be sold or “cashed-in”)</li> <li>• Revocable (can be sold or “cashed-in”)</li> </ul>	X		Refer to <a href="#">II.N.</a> below.
Burial Insurance	Must evaluate to determine if resource is countable or not countable		See Life Insurance, <a href="#">II.M.</a>
Burial Plots/Spaces and Other Burial Items (Excluding <u>all</u> burial property ended with applications effective December 1, 2009)	Must evaluate to determine if resource is countable or not countable		Refer to <a href="#">IV.B.</a> below.
Business, Discontinued Proceeds (including farm)	X		Refer to <a href="#">II.L.</a> below.
Business Equipment	X		Refer to <a href="#">II.O.</a> below
<ul style="list-style-type: none"> <li>• Not used to produce income</li> </ul>			

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Resource	Count	Do Not Count	Verification
<ul style="list-style-type: none"> <li>Used to produce income</li> </ul>		X	Refer to <a href="#">II.O.</a> below
Campers (if not primary homesite)	X		Refer to <a href="#">II.O.</a> below
Cash	X		Refer to <a href="#">II.A.</a> below
Cash and in-kind receipts for repair or replacement of lost, damaged, or stolen excluded resources		X*	Refer to <a href="#">II.I.</a>
Disaster Relief		X	Refer to <a href="#">II.I.</a>
Farm Equipment <ul style="list-style-type: none"> <li>Not used to produce income or to produce goods for home consumption</li> </ul>	X		Refer to <a href="#">II.O.1.i.</a> below
<ul style="list-style-type: none"> <li>Used to produce income</li> </ul>		X	Refer to <a href="#">II.O.1.i.</a> below
<ul style="list-style-type: none"> <li>Used to produce goods for home consumption (up to \$6,000 in total combined equity)</li> </ul>		X	Refer to <a href="#">II.O.1.i.</a> below
Heir Property – when part of an unsettled estate		X	Refer to <a href="#">I.B.3.</a> above
Investments (Bonds, Mutual Funds, Stocks/Securities)	X		Refer to <a href="#">II.F.</a> below
Jointly Owned Property <ul style="list-style-type: none"> <li>Tenancy-in-Common</li> </ul>	X		Refer to <a href="#">III.C.5.</a> below
<ul style="list-style-type: none"> <li>Tenancy-by-the-Entirety</li> </ul>	Must evaluate to determine if resource is countable or not countable		Refer to <a href="#">III.C.4.</a> above
Life Estate (Lifetime Right)	X		Refer to <a href="#">III.C.2.</a> below
Life Insurance (that accrues cash value (CV) <ul style="list-style-type: none"> <li>Total face value (FV) \$1,500 or less for the a/r (The excludable FV changed from \$10,000 to \$1,500 for applications taken on after December 1, 2009).</li> </ul>		X	Refer to <a href="#">II.M.</a> below

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Resource	Count	Do Not Count	Verification
<ul style="list-style-type: none"> <li>Total FV over \$1,500 for the a/r. (The excludable FV changed from \$10,000 to \$1,500 for applications taken on after December 1, 2009).</li> </ul>	X		Refer to <u>II.M.</u> below
Life insurance (which does not accrue CV)		X	Refer to <u>II.M.</u> below
Liquid assets of a business		X*	Refer to <u>IV.F.</u>
Lump Sum Payment	Must evaluate to determine if resource is countable or not countable		Refer to <u>II.I.</u>
Mobile Home (if not primary homesite)	X		Refer to <u>II.O.1.c.</u> below
<ul style="list-style-type: none"> <li>Motor Vehicles</li> </ul>	Must evaluate to determine if resource is countable or not countable		Refer to <u>II.O.4.b.(1)</u>
Motorized Mobile Home (if not primary homesite)	X		Refer to <u>II.O.</u>
Resident Personal Funds Accounts	X		Refer to <u>II.B.</u>
Personal Effects (i.e. Household goods)		X	
Proceeds from sale of excluded homesite		X*	Refer to Lump Sums Exclusion Chart, <u>II.I.5.</u>
Promissory Notes			Refer to <u>II.J.</u>
<ul style="list-style-type: none"> <li>Non-Salable</li> </ul>		X	
<ul style="list-style-type: none"> <li>Salable</li> </ul>	X		Refer to <u>II.J.</u>
Real Property	X		Refer to <u>III.</u>
<ul style="list-style-type: none"> <li>Homesite and contiguous property (unless it meets homesite exclusion- see <u>V.A.</u> below)</li> </ul>			
<ul style="list-style-type: none"> <li>Not Homesite</li> </ul>	X		Refer to <u>III.</u>

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Resource	Count	Do Not Count	Verification
Real Property – during reasonable efforts to see		X	Refer to <u>V. D.</u>
Relocation Assistance from State or local government		X*	Refer to <u>II.I.</u>
Relocation Assistance Payments Received under Title XX of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970		X	Refer to <u>II.I.</u>
Remainder Interest	X		Refer to <u>III.C.3.</u>
Restricted allotted land owned by an enrolled member of an Indian tribe		X	Refer to <u>IV.H.</u>
Resulting Trust / Legally Binding Agreements		X	Refer to <u>IV.E.</u>
Retirement Accounts (401(K), IRA, KEOGH)	X		Refer to <u>II.D.</u>
<ul style="list-style-type: none"> <li>• Accessible</li> <li>• Non-accessible</li> </ul>		X	Refer to <u>II.D.</u>
Reverse Mortgage		X	Refer to <u>II.G.</u>
<ul style="list-style-type: none"> <li>• Month of Receipt</li> <li>• Amount Remaining Month after Receipt</li> </ul>	X		Refer to <u>II.G.</u>
Rights of Use (Mineral, Timber, Hunting, Fishing, etc.)	X		Refer to <u>V.C.1.c.(4)</u>
Safe Deposit Box		X	Refer to <u>II.H.</u>
Tobacco Buyout Payments	X		Refer to <u>IV.G.</u>
Trust Funds			Refer to <u>II.K.</u>
<ul style="list-style-type: none"> <li>• Revocable</li> <li>• Irrevocable</li> </ul>	X	X***	Refer to <u>II.K.</u>

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Resource	Count	Do Not Count	Verification
Victim's Compensation Payments		X**	Refer to Lump Sums Exclusion Chart, <a href="#">II. I. 4.</a>

\* Time limited exclusion

\*\* May be time limited or permanently excluded

\*\*\* May be time limited exclusion, permanent exclusion, or countable depending on other conditions of trust

NOTE: All income produced by a countable or excluded resource must be considered when determining eligibility for the a/r.

## II. LIQUID RESOURCES

Includes but not limited to cash, bank accounts, certificates of deposit or any resource that can be converted to cash.

### A. Cash

Accept a/r's statement for cash on hand as of the first moment of the first day of the month as verification.

**NOTE:** Count as resources all cash except cash that is counted as income.

### B. Resident Personal Funds Accounts

If the a/r has a resident personal funds account, verify with the business office manager of facility or the bank (if it is deposited in an account for the a/r), the "closing balance" as of the last calendar day of the month preceding the verification month (in order to obtain the "1<sup>st</sup> moment" balance).

1. Document the countable amount and the verification of the account balance in the [DAAS 8190-NS](#), including the date verified, how it was verified, who verified it and the 1<sup>st</sup> moment date used.
2. For all SA reviews (and applications when client enters an SA facility prior to the month of application), the IMC must always contact the facility and verify the following:



- a. Whether the facility maintains a resident personal funds account for the a/r:
- b. If the facility maintains a resident account for the a/r, verify the account balance as of the first moment of the first day of the verification month.

**Note:** The requirement to contact the facility to verify patient account balances includes contacting the nursing facility if client moves from a nursing facility to an SA facility.

**C. Bank Accounts (includes checking, savings, EBT, CDs, money market accounts)**

1. Always verify bank accounts as of the first moment of the first day of the verification month. Request the account balance as of “close of business” on the last **calendar** day of the preceding month.
  - a. Verify the first moment balance or value by:
    - (1) Reviewing the last account statement;
    - (2) Reviewing automated teller statements that identify account owner and/or account number;
    - (3) Contacting the financial institution using the DSS-3431, Request for Financial Information.

At the top of the form, write in a request the account balance as of “close of business” on the last calendar day of the preceding month.

**Note:** Require the a/r to sign a separate DSS-3431, Request for Financial Information, for each bank or financial institution and explain the Financial Privacy Act as outlined on the form.

Explain to the a/r that:

- (a) Once consent is given, it may not be revoked;
- (b) The consent is valid for a period not to exceed twelve months; and
- (c) Giving consent is not a condition of doing business with any financial institution.

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- (d) He/she has the right not to give consent; however refusal to give consent will result in denial or termination of benefits for failure to cooperate in establishing eligibility
- (e) Financial institutions cannot provide information on joint accounts without the consent of all account holders. It is the responsibility of the a/r to obtain consent from all the joint owners.
- (f.) If the client reports that he has an EBT account, verify the cash balance through the North Carolina EBT Production System that is located in each county.

**NOTE:** Verify the 1st moment balance of the EBT account by viewing the credits at the end of the previous month and subtracting what was spent (debits) to get the 1st moment balance.

- 2. Count the total value of the a/r's checking, savings, EBT, CDs, money market accounts, in the a/r's countable resources.

**NOTE:** Subtract any penalties/fees for early withdrawal of CDs and count the remainder as the countable balance from the CD.

**D. Individual Retirement Accounts (IRA'S), Keogh Plans, and 401 (K) Plans**  
**Determine and document if the a/r owns an IRA, Keogh, or 401(K) account. If a/r acknowledges an IRA, Keogh, etc. verify the following:**

- 1. The type of fund or plan, and
- 2. The name of the company that offers the IRA, Keogh Plan, or the 401(K) Plan, and
- 3. The account number, and
- 4. The accessibility of the account

To verify, contact the employer or company administering the account/plan to determine the circumstances under which the funds can be withdrawn. Accessibility of the account/plan must be verified at application and each redetermination.

**NOTE:** If non-accessible by a/r, do not count the value of funds in the account.

5. The value of the account/plan as of the last calendar day of the month preceding the verification month. To verify;
  - a. Contact the financial institution using the [DSS-3431, Request for Financial Information](#). On the form, request the account balance as of “close of business” on the last calendar day of the preceding month.
  - b. Count the value of the funds in the account/plan minus the fees and penalties for converting the account/plan to cash.

**E. Annuities**

1. Document if a/r has any annuities.
2. To verify;
  - a. Request a copy of the terms of the annuity.
  - b. Contact the source of the annuity.
3. Determine the value of the resource.
  - a. Annuity principal that is available is a countable resource.
  - b. Evaluate a policy that has not been annuitized (method of payment selected) as whole life insurance to determine if the CV is countable.
  - c. Burial annuities are considered as an irrevocable burial trust.

NOTE: *Payments by an annuity are counted as income.*

**F. Investments (Stocks, Bonds, Mutual Funds/Securities)**

1. Determine if the a/r owns any securities (stocks, bonds, mutual funds).
2. Document the a/r’s statement on the following;
  - a. The name of the stock or mutual company or financial institution where the security (stocks, bonds, mutual funds) was purchased, and

**NOTE:** Verify series and date of issuance for all bonds.

- b. The account numbers, and

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- c. Number of shares, and
  - d. The value of the security (stocks, bonds, mutual funds).
3. Verify security (stocks, bonds, mutual funds) by:
  - a. Viewing the last monthly or quarterly statement from the brokerage firm.
  - b. Using the stock values listed in the newspaper or Wall Street Journal.
  - c. Obtaining information from a brokerage, investment firm, or bank.
4. Determine the countable value by:

Subtracting the cost of selling the shares on any day from the value of the stocks or mutual fund. Verify this cost by contact with a stockbroker or financial institution.

**G. Reverse Mortgage**

1. Determine if the a/r has a reverse mortgage.
2. Verify the monthly amount received by:
  - a. Copy of check or check stub, or
  - b. Contact with the issuing lending institution
3. Count only any amounts of payment remaining the first day of the month following the month of receipt.

**H. Safe Deposit Box**

1. Determine if the a/r has a safe deposit box,
2. At application and redetermination accept a/r's statement of contents if the a/r reports items that are not a countable resource (such as jewelry, wills, etc.).
3. If a/r discloses a potentially countable resource item (such as stocks), verify and document that resource.

## **I. Lump Sum Payment for Non-SSI Recipients**

Lump sum payments are payments received in one payment rather than recurring payments.

1. Lump sum payments include, but are not limited to:
  - a. Retroactive RSDI payments – Exclude as a resource for 9 months.
  - b. Retroactive SSI payments – Exclude as a resource for 9 months.
  - c. Retroactive VA benefits
  - d. Retroactive Railroad Retirement benefits
  - e. Lump sum insurance settlements
  - f. Proceeds from sale of excluded homesite
2. Verify lump sums by determining:
  - a. The source of the lump sum, and
  - b. The amount of the lump sum, and
  - c. When the lump sum was received, and
  - d. How much of the lump sum is still available to the a/r.
3. Verification of the lump sum can be obtained from:
  - a. The a/r's records such as:
    - (1) An award letter
    - (2) A statement of benefits
    - (3) A check stub or copy of check
  - b. A contact with the source of the payment, such as VA, retirement system, workman's compensation, insurance companies.
  - c. Social Security and SSI lump sum payments can be verified by the state on-line query (SOLQ).

4. Countable Lump Sums

- a. If lump sum is received prior to the month of application, count as resources the amount remaining as of the first moment of the first day of the month of application. Do not count as income.
- b. If the lump sum is received in an ongoing case, count as resources the amount remaining as of the first moment of the first day of the month following the month of receipt. Do not count as income.
- c. If the lump sum is receiving during the application process and it is not for unearned income (such as an insurance settlement or cash from the sale of an asset), count as resources the amount remaining as of the first moment of the first day of the month following the month of receipt. Do not count as income.
- d. If the lump sum is received during the application process and it is for unearned income (such as VA, retirement, etc.), determine the months in the application process that it covers and count as income in determining the payment for those months. See [SA-3210, Income, IV. C.8.a](#). Count the amount remaining as of the first moment of the first day of the next month as resources.

**Example:** Workman's Compensation Payment

Mr. Jones was awarded a workman's compensation lump sum payment of \$2,000 on July 6. He applied for SA in June. The award letter indicated that the lump sum covered December through July. He received \$160 for December, \$260 per month for January through June and \$280 in the month of July.

Month of Application:	June
Lump sum received in July:	\$2,000
Minus part of lump sum counted as income for June:	- 260
Minus part of lump sum counted as income for July:	<u>- 280</u>
Equals amount to count in resources in the first moment of the first day in August	\$1,460

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5. Lump Sum Exclusions

<b>Exclusion Period</b>				
<i>Type of Lump Sum</i>	<i>3 Months</i>	<i>6 Months</i>	<i>9 Months</i>	<i>Permanent</i>
Proceeds from sale of excluded homesite (if used to purchase another excluded home)	X			
Social Security / SSI Retroactive Payments			X *	
Cash and in-kind receipts from any source for the replacement or repair of lost, damaged, or stolen <u>excluded resources</u> **			X	
Victim's compensation payments ***			X	
Relocation Assistance (state/local issued) ****			X	
Relocation Assistance (federally issued)*****				X
Presidentially Declared Disaster Relief (all funding sources)				X
Agent Orange Benefits				X
Earned Income Tax Credit	Exclude for 9 months **			

- \* Apply Social Security and SSI Lump Sum payments as income for the intended retroactive months to calculate the Special Assistance payment for each month when approving an application. See SA-3210, Income.
- \*\* Exclude for up to an additional 9 months for cash receipts if for the first nine months, circumstances beyond the a/r's control prevent repair or replacement of the lost, damaged, or stolen property, **and** keep the a/r from contracting for such repair or replacement. The interest earned on these funds is excluded from income and resources for the same time period.
- \*\*\* To be excluded, the a/r must demonstrate that the payment was compensation for expenses incurred or losses suffered as a result of crime. Count interest earned from lump sum payment as resources or income. Refer to SA-3210, Income.
- \*\*\*\* Count interest earned from lump sum payment as resources or income. Refer to SA-3210, Income.

**J. Promissory Notes**

Exclude the value of any property agreement which is not legally negotiable (cannot be sold). This includes promissory notes, loan agreements, etc. A property agreement (usually a promissory note) which can be sold is a countable resource.

1. Verification of the promissory notes is required, and may consist of:
  - a. Client records;
  - b. Copies of agreement; or
  - c. Statements from the client, as well as from the borrower.
2. Verify with the following procedures:
  - a. Examine the terms of the agreement or note to determine if the owner has the legal right to sell his/her interest without the participation of the buyer/borrower. If salable, count the balance due on the note as an available resource.
  - b. If there is a clause that prevents sale or transfer of the note, it is not a countable resource.
  - c. Contact the agency/county attorney for assistance if negotiability cannot be determined from the terms of the agreement.
  - d. Count as income when:
    - (1) The loan is a non-countable resource, count payments received as unearned income. This includes any interest payments.
    - (2) The loan is counted as a resource to the a/r, count only the interest received as unearned income.
  - e. The a/r may rebut the value of the agreement. See procedures in Rebuttal section, V.E., below. If the a/r provides proof that he has attempted to sell the promissory note but there is no market for it, this may meet the rebuttal requirement to establish a lesser value.



## **K. Trust Funds**

### 1. Types of Trusts

- a. Revocable Trust - A trust which can be revoked by the grantor or modified or terminated by petitioning the court. A trust which is called irrevocable, but which terminates if some action is taken by the grantor, is a revocable trust for purposes of this section.
- b. Irrevocable Trust - A trust whose terms and provisions cannot be revoked or changed in any way by the grantor or any other party.
- c. Special Needs Trust - A specific trust that meets all the following conditions:
  - (1) Created on or after April 1, 1994, and
  - (2) Created for the sole benefit of a disabled individual (as determined by SSA) under age 65, and
  - (3) Established for the disabled individual (can use the a/r's assets or assets given by someone else) under age 65 by action taken by his/her parent, grandparent, legal guardian, or by a court, and
  - (4) Establishes that upon the death of the beneficiary the State will receive the principal balance remaining in the trust not to exceed the total amount paid by Medicaid on behalf of the individual.
  - (5) The a/r cannot create a special needs trust for himself by his own actions, with his/her own funds. If established by the a/r it must be set up as a pooled trust. See [II.K.1.d.](#) below.
  - (6) A trust established by a power of attorney (POA) for the a/r is considered to be a trust established through the actions of the disabled individual himself/herself.
- d. Pooled Trust - A type of trust that includes funds of more than one disabled individual combined for investment and management purposes. A pooled trust has all the following requirements:
  - (1) Created on or after April 1, 1994, and
  - (2) Created for the sole benefit of a disabled individual (as determined by SSA) of any age, and

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- (3) Established by the disabled individual, his parent, grandparent, legal guardian, or by a court, and
- (4) Managed by a non-profit association with a separate account maintained for each beneficiary.
- (5) Establishes that upon the death of the beneficiary the State will receive the principal balance remaining in the beneficiary's account not retained by the trust not to exceed the total amount of Medicaid paid on behalf of the individual.

2. Terms of the Trust

The terms specify what portion of the principal is available and what disbursements can be made from the trust. Common terms:

- a. Discretion of the trustee - allows the trustee to decide what portion (up to the entire amount) of the principal of the trust he will make available to the beneficiary.
- b. Full discretion - allows the trustee to disburse up to the entire amount of the trust to the beneficiary.
- c. Designated for medical expenses - allows the trustee to use the trust to pay the medical expenses of the beneficiary. The amount of the trust that is designated for medical expenses is considered an available asset to the beneficiary. Payments are a third party resource.
- d. Income beneficiary - allows payments to the beneficiary from the proceeds of the trust. The principal is not available for disbursement.
- e. Ultimate beneficiary - Indicates the entire principal of the trust will be available at a specific point in time.
- f. Exculpatory clause - Language in the trust that legally limits the authority of the trustee to distribute funds from a trust if the distribution would jeopardize eligibility for government programs, including Medicaid.
- g. Corpus – Principal of the trust. All property and other interests held by the trust, including accumulated earnings and any other addition to the trust after its establishment.

3. Whose Assets Are Used to Create a Trust

In determining whose assets (the grantor) are used to create the trust, consider the following:

- a. Any assets owned by the a/r.
- b. A settlement of an insurance claim or civil suit is considered the a/r's asset.
- c. Assets contributed directly into a trust by individuals other than the a/r or by a public organization are not considered the a/r's assets.

**EXAMPLE:** Community fundraiser for an adult in need of an organ transplant contributes the money directly into a trust.

- d. Assets used to form a trust created by a will from the estate of a deceased person (including a deceased spouse) are not considered the a/r's assets. This is also known as a Testamentary Trust.

**NOTE:** Assets, which are willed to an a/r and then used to establish a trust, are considered to be the assets of a/r.

4. Procedures

- a. Obtain a copy of the trust document and any supporting documentation detailing investments and distributions from the a/r, the a/r's legal representative, trustee, or attorney.
- b. Review the trust document to determine the core elements of the trust:
  - (1) What type of trust is it? (Is it a Special Needs or Pooled Trust?)
  - (2) Is the trust revocable or irrevocable?
  - (3) Whose funds were used to create the trust (grantor)?
  - (4) Who is the beneficiary (grantee)?
  - (5) When was the trust established? (Different time periods are covered by different rules. January 1, 2000, is a critical date.)
  - (6) What was the value of the trust when it was created?

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- (7) What are the terms of the trust, including what disbursements can be made from the trust principal and whether the trustee has discretion to disburse funds?
      - (8) Are there any special provisions?
    - c. Contact the trustee to verify:
      - (1) The current value of the trust, and
      - (2) Actual disbursements paid from the trust in the base period, and
      - (3) To whom the disbursements were made, and
      - (4) The dates of disbursement.
    - d. Contact your agency/county attorney about any questions concerning the type of trust or the terms of the trust.
  5. Determine Countable Income to the a/r
    - a. Income from a trust that is countable to the beneficiary is determined the same way no matter what type of trust, who created the trust, when it was created, or any special requirements.
    - b. Count as income to the a/r in the month received the actual money disbursed by the trustee from the trust principal or proceeds directly to the a/r (spouse, legal representative)
  6. Determine Countable Resources
    - a. Revocable Trust
      - (1) When the a/r is the beneficiary of a revocable trust created with the funds of an individual other than the a/r, do not count the principal as an available resource to the a/r. The trust principal is a resource to the grantor who created the trust and who has the power to revoke the trust.
      - (2) When the a/r is the grantor of a revocable trust for himself or for the benefit of another individual count the current principal plus proceeds that have not been distributed.

**NOTE:** This does not include a trust created by the will of a spouse. Refer to [II.K.3.d.](#)

b. Irrevocable Trust

- (1) When the a/r is the beneficiary of an irrevocable trust, if the a/r does not have the legal authority to revoke the trust or direct the use of the trust assets for his/her own support and maintenance, the trust principal is not a countable resource regardless of the date the trust was established (based upon the terms of the trust).
- (2) For irrevocable trusts established after January 1, 2000, when the a/r is both the grantor and the beneficiary, count as a resource the amount of the principal that can be made available to or for the benefit of the a/r under any circumstances, no matter how unlikely or distant those circumstances may be.

If the terms specify that the trustee has discretion, assume the trustee exercises full discretion and count the full amount that could be disbursed. In determining what is available to be disbursed, **DISREGARD:**

- (a) The purpose for which the trust was established,
- (b) Whether the trustee has discretion,
- (c) Any exculpatory clause restricting disbursements which affect Medicaid eligibility,
- (d) Any other restrictions on when disbursements can be made or the use of the distributions.

This means that if the terms allow ANY circumstances by which all or a portion of the principal or proceeds can be disbursed to a/r, that portion is considered an available resource to the a/r.

**EXAMPLE:** An irrevocable trust was established for the a/r using his own funds on 3/1/00. It contains \$75,000. The terms stipulate that the trustee can disburse up to \$50,000 to the grantor only in the event he needs a heart transplant. Count \$50,000 in resources because it can be paid under some circumstances, although remote. Or if the terms stipulate \$50,000 can be disbursed to the grantor on some date in the future, count \$50,000 in current resources because there is a circumstance where a disbursement can be made.

c. Special Needs or Pooled Trust

When the a/r is the beneficiary of a Special Needs or Pooled Trust established on or after April 1, 1994 do not count the trust principal or undistributed proceeds.

d. Trust Earnings

- (1) Trust earnings are not income to the trustee or grantor unless designated as belonging to the trustee or grantor under the terms of the trust. (For example, fees payable to the trustee or interest paid to the grantor)
- (2) Trust earnings are not income to the a/r who is the trust beneficiary unless the trust directs, or the trustee makes, payments to the a/r.
- (3) Additions to the trust principal made directly to the trust are not income to the grantor, trustee, or beneficiary except under SA-3200, III.k.6d(1) and (2) above.

e. Income Diversionary Trusts

Certain payments are non-assignable by law and are therefore income to the individual entitled to receive the payment. Count these payments as income following procedures in [SA-3210 Income](#). The following income sources may not be paid directly into a trust to establish eligibility, and no attempt to assign these income sources will be acceptable for eligibility purposes:

- (1) Temporary Assistance to Needy Families (TANF)
- (2) Railroad Retirement Board-administered pensions
- (3) Veteran pensions and assistance
- (4) Federal employee retirement payments (CSRS, FERS) administered by Office of Personnel Management
- (5) Social Security Title II and SSI payments
- (6) Private pensions under the Employee Retirement Income Security Act (ERISA) (29 U.S.C.A. Section 1056(d))

**L. Net Proceeds from a Business or Farm which have been Discontinued**

1. Determine if the a/r has stopped operating a business or farm.
2. Verify if there was any money left from the business or farm when the operation was stopped by examining the business or farm records provided by the a/r.
3. Count any remaining capital of farm or business operation in resources.

**M. Life Insurance**

1. The CV of life insurance policies are accessible and are a countable resource when the original FV of all cash accruing policies owned by the a/r exceeds \$1,500. (the excludable FV changed from \$10,000 to \$1,500 for applications taken on after December 1, 2009).
2. Eligibility for SA is not affected for ongoing recipients who were eligible for SA prior to 12/1/09 and had life insurance policies purchased prior to 12/1/09 with FVs over \$1,500 but \$10,000 or less. Document this in the case file. These individuals must also be noted with the Case Level Special Use Code "LI" in EIS at the next change in situation or redetermination, whichever comes first.
3. When entering the 'LI' code in EIS, the begin date is the date the code is entered in EIS. The end date is '999999'.
4. Effective December 1, 2009, if an ongoing recipient purchases cash accruing life insurance with a total FV that exceeds \$1,500.00, **treat it as a change in situation.** Verify the available CV and count toward the individual resource limit of \$2,000.00.
5. If SA correctly terminates, and the exempted client later reapplies for SA, beginning December 1, 2009 the applicant will be subject to the new resources policy, counting the CV of all cash accruing life insurance polices if the FV exceeds \$1,500.00.
6. Determine if the a/r owns or has recently purchased life insurance at application and each redetermination.
7. If the policy does not accrue CV, DO NOT count the FV as a resource.
  - a. A burial insurance policy is a contract whose terms preclude the use of its proceeds for anything other than payment of the insured's burial expenses. If a burial policy has a CV to which the owner has access, the policy is not burial insurance.

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- b. Most term life policies do not accrue CV and are not countable resources. However, some term life policies do accrue CV.

**Note:** If it is determined that a term life insurance policy does accrue CV, verify and count CV the same as other life insurance policies which accrue CV.

8. Verify life insurance policies by:

a. Examining the actual policy for:

- (1) The name of the Insurance Company
- (2) Policy number
- (3) Name of the insured (on whose life the policy is written)
- (4) Owner of the policy
- (5) Original FV
- (6) Whether policy is participating or non-participating; or

b. Contacting the life insurance company using the [DMA-5155](#), Verification of Cash Value of Life Insurance, to verify the following:

- (1) All policies owned by the a/r, including type and policy number(s);
- (2) Original FV;
- (3) Whether policy is participating or non-participating and how dividends are paid;
- (4) Cash Value;
- (5) Loans against policy (loan amount and date); and
- (6) Name of the insured

**NOTE:** Irrevocable arrangements, such as absolute assignment, irrevocable beneficiary, and collateral assignment, are excluded from being counted as resources for the a/r. The insurance company must verify irrevocable arrangements funded by life insurance. The policy is considered irrevocable the month the insurance company official signs the form acknowledging the change is in effect.



2. Participating Policies

- a. A non-participating policy does not pay dividends. Use the FV and current CV.
- b. A participating whole life policy pays dividends to the owner of the policy. Universal life policies are a common type of participating whole life. If the policy is participating and pays dividends, verify how dividends are paid as it may affect the CV or FV of the policy.

Verify dividend payment by a copy of the annual premium notice. The owner receives this on the anniversary date of the policy and it includes an accumulation of all benefits, the amount of dividends, and how dividends are being used or paid. If the owner does not have the premium notice, contact the insurance company.

(1) Dividend Additions

Dividend additions may be used to purchase additional FV; or increase the policy's CV. Usually the cash surrender value table that is issued with the policy does not reflect the value of dividend additions to CV.

(2) Dividend Accumulations

Dividend accumulations may be applied to premiums, or remain in the "custody" of the insurance company for the purpose of accumulating interest. Dividend accumulations that are not used to pay a premium are treated the same as money in a savings account. Dividend accumulations count regardless of FV.

(3) Dividend Payments to Owner

Dividend payments to the owner are income in the month received and a countable resource if retained until the following month.

**N. Prepaid Burial Contracts**

1. Document if the a/r has a prepaid burial plan. If this plan is funded with insurance, see final [note in ILM](#) above regarding irrevocable arrangements.
2. At application, verify the following by reviewing the contract or contacting the funeral home or burial trust company. Document the findings/verification in the [DAAS 8190-NS](#). The value of the plan

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- a. If it is irrevocable or revocable:
  - (1) If irrevocable, do not count it as a resource.
  - (2) If revocable, count the value as a resource, including accrued interest.  
NOTE: Revocable prepaid burial plans can be converted to irrevocable and excluded as a resource effective the date the contract becomes irrevocable. Refer to reduction of resources, VI., below.

**O. Personal Property**

- 1. Personal Property includes, but is not limited to:

- a. Motor vehicles (including motorcycles)
- b. Junked motor vehicles
- c. Mobile Homes
- d. Boats
- e. Boat Trailers
- f. Boat Motors
- g. Campers
- h. Trailers
- i. Farm Equipment

**NOTE:** If resource is considered farm equipment and is used to produce income or to produce goods for home consumption, do not count the value of the resource. Refer to [IV.D.](#) below.

- j. Business Equipment

**NOTE:** If resource is considered business equipment and is used to produce income, do not count the value of the resource.

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2. Document the a/r's response and appropriate verifications to the following questions:
  - a. The name of the owner(s) of the resource
  - b. The year, make, and model of the resource
  - c. Whether the vehicle is licensed
  - d. How the resource is used
  - e. If there is an amount owed on the resource and where it is financed
  - f. If a/r states they no longer own the resource, document the details and verification in the SA case file.
3. Verify ownership and value at application and each redetermination by:
  - a. Conducting an on-line inquiry on the a/r through the Department of Transportation (DOT) file. (Refer to the EIS-1101 for instructions for DOT Inquiries.)
  - b. If the information is not available in the DOT online inquiry, obtain the resource's value from:
    - (1) Tax records; or
    - (2) A dealer;
    - (3) An insurance company; or
    - (4) A bank, finance company, or other financial institution.
4. Determine the equity value (value minus encumbrances). Evaluate each resource individually.
  - a. Use the value determined in #3 above.
  - b. Motor Vehicles Used for Transportation

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5. Motor Vehicles used for transportation
  - a. Vehicle Exclusion (For resulting trusts and vehicles see [IV. E. 1 and 2](#) below.) Exclude one motor vehicle, registered or unregistered, from countable resources regardless of the value. When an individual owns more than one automobile apply the exclusion in the manner most advantageous to the individual.
  - b. Evaluating vehicle usage for possible resource exclusion.
    - (1) Assume the motor vehicle is used for transportation unless there is evidence to the contrary. For example, the vehicle may not be licensed or an individual cannot travel by car but must be transported by ambulance.
    - (2) If there is doubt as to the use of the vehicle, obtain a statement regarding how the vehicle is used for transportation for the individual.

For example, for a vehicle owned by an individual in an ACH to be excluded, it would have to be used to transport the applicant/recipient. Obtain a statement from the person who has the vehicle that the vehicle is used to transport the recipient and the nature of the transportation.

- (3) Junked Vehicles

A "junked vehicle" is one beyond repair that can only be used for parts and is not licensed. It does not meet the definition of a "motor vehicle used for transportation". **Effective December 1, 2009 the equity value of such a vehicle is a resource and is not eligible for resource exclusion.**

Eligibility for SA is not affected for recipients who were eligible for SA prior to 12/1/09 and ongoing, who had junked vehicles in their name prior to December 1, 2009. Document this in the case file.

If SA terminates and the client later reapplies for SA the applicant will be subject to the new resources policy, counting the value of junked vehicles.

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(4) Other Vehicles Listed in DMV But A/R Denies Ownership

If a vehicle is listed in DMV as owned by the a/r, and the a/r states they do not own the vehicle, obtain a collateral statement from someone who can verify the client no longer owns the vehicle. Do not count the vehicle as a resource. However, if the vehicle in question is titled and currently tagged to the SA a/r the legal title stands. For further instructions see [IV. E. 1 and 2](#) below.

(5) If the a/r owns a vehicle jointly with another person, refer to [I.B.2.](#) for treatment of jointly owned resources. See [IV. E. 1 and 2](#) below.

c. Encumbrances Owed- Equity Value

(1) Determine if there are any debts or loans (encumbrances) owed on the resource. Verify the payoff amount owed as of first day of the verification month by contacting the creditor (bank, finance company, etc.). If there are no encumbrances, the value is the equity value.

(2) If there are encumbrances, subtract the amount owed on the resource from the value. The remainder is the equity value. If the encumbrances exceed the value, there is no equity value for the resource.

Example 1:

2000 Motor Vehicle

Fair Market Value	\$3500
Amount Owed	<u>- 1000</u>
Equity Value	\$2500

Example 2:

1995 Mobile Home  
(non-homesite)

Fair Market Value	\$6000
Amount Owed	<u>- 7000</u>
Equity Value	\$0

**III. REAL PROPERTY**

Real property consists of land and any attachments such as dwellings and other buildings. Property owned by the a/r, solely or with another person, may be a countable resource unless it can be excluded for one of the reasons in [V.](#) below.

Document the a/r's statement regarding ownership and location of real property.

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**A. Verify the ownership of real property by:**

1. Copies of deeds (Grantee/Grantor books at the office of the Register of Deeds)
2. Documentation or printout of tax record showing property
3. Copies of wills
4. Tax bill or statement
5. Evidence of judgments, liens, or boundary disputes
6. For applications, request a tax record check from other counties/states if client has recently moved to their current county of residence.

**B. Determine the equity value of all real property by:**

1. Verifying the tax value by using tax records;
2. Verifying encumbrances with the lien holder
  - a. Determine if there are any debts or loans (encumbrances) owed on the resource. Verify the payoff amount owed as of first day of the verification month by contacting the creditor (bank, finance company, etc.). If there are no encumbrances, the value is the equity value.
  - b. If there are encumbrances, subtract the amount owed on the resource from the value. The remainder is the equity value. If the encumbrances exceed the value, there is no equity value for the resource.

EXAMPLE: Property with a tax value of \$120,000. Encumbrances include first mortgage, payoff is \$32,000; home equity loan, payoff is \$8200; Countable equity value is \$79,800.

**NOTE:** If the a/r reports that he/she owns property in another county, state, or country, and you are unable to obtain the verification, ask a/r to assist in obtaining the verification of the real property.

**C. Countable Real Property**

1. Fee Simple

Fee simple ownership means absolute and unqualified legal title to real property. The owner(s) has unconditional power of disposition of the property during his or her lifetime. Upon his or her death, property held in fee simple can always pass to the owner's heirs. Fee simple ownership may exist with respect to property owned jointly or solely.

2. Life Estate Interest

- a. A life estate interest is created when a person transfers real property to another person but retains the rights to the property for the remainder of his/her life. To determine the value of a life estate interest, multiply the tax value by the life estate percentage from the Life Estate/Remainder Interest Unisex Table based on the age of the life estate holder. If there is more than one life estate holder, use the age of the youngest. Refer to <https://secure.ssa.gov/poms.nsf/lnx/0501140120>.
- b. If there is an outstanding lien/mortgage against the property, multiply the payoff amount by the same percentage from the Life Estate/Remainder Interest Unisex Table. Subtract the a/r's share of the lien/mortgage from his/her share of the tax value to determine the equity value.

3. Remainder Interest

- a. A remainder interest is created when a person transfers real property to another person but retains the rights to the property for the remainder of his/her life. The person to whom the property is transferred has a remainder interest. To determine the value of a remainder interest, multiply the tax value by the percentage from the Life Estate/Remainder Interest Unisex Table based on the age of the life estate holder. Refer to <https://secure.ssa.gov/poms.nsf/lnx/0501140120>.
- b. If there is an outstanding lien/mortgage against the property, multiply the payoff amount by the same percentage from the Life Estate/Remainder Interest Unisex Table. Subtract the a/r's share of the lien/mortgage from his/her share of the tax value to determine the equity value.

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4. Tenancy-By-the-Entirety

Property owned jointly by husband and wife is usually held by them as tenancy-by-the-entirety.

- a. If the conveyance of the property is made to the couple during the marriage, they hold the property as tenants-by-the-entirety even if it is not specifically stated in the deed.
- b. If the couple separates, whether legally or not, this does not dissolve tenancy-by-the-entirety. If they divorce, the tenancy-by the-entirety is dissolved, and they become tenants-in-common of the property, and either person can sell his half share.

5. Tenancy-In-Common Interest

- a. Property owned by 2 or more persons who are not married to one another or given to 2 or more persons by gift, will, or by intestate succession is held as tenancy-in-common. Each person has an undivided fractional interest in the whole property. Each owner may sell or give his individual interest in the property to another without the consent and participation of the other owners, and he may file suit with the court for partition of the property. Though property owned jointly by husband and wife is owned by tenancy-by-entirety, a legally binding agreement can be made that creates tenancy-in-common between husband and wife.
- b. If there is a legally binding agreement that specifies each owner's share, multiply the tax value by the fractional interest stated in the agreement for the a/r. If there is no legally binding agreement specifying shares, divide the tax value by the number of tenants in common.
- c. If there is a lien/mortgage on the property, multiply the payoff by the a/r's ownership share of the property. Subtract the a/r's share of the lien/mortgage from his/her share of the tax value to determine the equity value.

#### IV. SPECIAL INSTRUCTIONS FOR RESOURCE EXCLUSIONS

##### A. Homesite Property

The home site is the one dwelling the a/r considers his/her established or principal home, along with all contiguous property, regardless of type of ownership (sole ownership, life estate, tenancy-in-common, tenancy-by-the-entirety, etc.). It can be fixed or mobile and located on land or water (e.g., house, mobile home, camper, house boat, motor home).



Do not count the value of the homesite if one of the following applies:

1. The a/r states his subjective intent to return home. "Subjective intent" means that it is his/her intent to return regardless of the circumstances of the absence from the home. If the a/r is mentally competent, do not consider other factors such as the a/r's age, physical condition, mental capacity or other circumstances. The time of return may be indefinite, and there is no time limit on this exclusion. The property must have been the individual's home prior to the time the individual left the property.
  - a. Verify the following at application and each redetermination by obtaining a signed statement of the a/r's responses to following:
    - (1) When and why he left the home;
    - (2) Whether he intends to return, and If he does not intend to return, when that decision was made.
  - b. If the a/r is competent and the statement is not self-contradictory, the a/r's statement supersedes all other statements made by any other individuals.
  - c. If the a/r has been found legally incompetent, or if the a/r's statement is self-contradictory, obtain the signed statement from his representative (guardian, POA, spouse or family member).

Examples of self-contradictory statements:

"Sometimes I want to go home and sometimes I don't."  
"I intend to go home, but I want to stay here."  
"Yes, I want to go home, but I really don't know if I should."
2. There is a spouse or dependent relative remaining in the home. Dependency may be of any kind. The relative may depend upon the a/r for housing, financial support, food, clothing, etc. Accept the a/r's statement, or if the a/r is unable to provide a statement, the written statement of the representative (guardian, POA, spouse or family member). The homesite continues to be excluded if the relative is temporarily absent from the home but intends to return.

Verify by obtaining a signed statement at application and redetermination showing:

- a. Who is living in the home,
  - b. How they are related. Eligible relatives are:
    - (1) Spouse
    - (2) Child, stepchild or grandchild
    - (3) Aunt, uncle, niece, nephew
    - (4) Brother or sister (including step and half siblings)
    - (5) Cousin
    - (6) In-law
  - c. How the person is dependent upon the a/r.
3. If the one of the above exclusions ends (spouse or dependent relative is no longer living on the property, or the a/r states he no longer intends to return home), reevaluate the use of the property. Count the property's equity in resources beginning the first day of the month following the month the exclusion ends, unless the property can be excluded for another reason.

#### **B. Jointly Owned Property and Undue Hardship**

Effective April 1, 1988, the value of an individual's ownership interest in jointly owned real property is an excluded resource for as long as sale of the property would cause undue hardship, due to loss of housing, to a co-owner.

1. Undue hardship would result if such co-owner:
  - a. Uses the property as his or her principal place of residence;
  - b. Would have to move if the property were sold; and
  - c. Has no other readily available housing.

2. Obtain a statement from the co-owner regarding whether he or she:
  - a. Uses the property as his or her principal place of residence;
  - b. Would have to move if the property were sold; and
  - c. Has other living quarters readily available.

Accept any reasonable allegation from the co-owner that there is no readily available housing (e.g., no other affordable housing available or no other housing with necessary physical modifications for a handicapped individual).

If undue hardship ceases to apply because the joint owner moves off the property or dies, etc., the property may be excluded to allow reasonable efforts to sell as outlined in [V.D.](#)

### C. **Burial Spaces (Plots, Crypts, Vaults, Mausoleums, Caskets and Urns)**

Effective with applications on or after December 1, 2009, SA no longer excludes from countable resources the value all burial spaces, plots, vaults, mausoleums, casket and urns in the a/r's name. A burial space or agreement which represents the purchase of a burial space held for the burial of the a/r, his or her spouse, or any other member of his or her immediate family is an excluded resource, regardless of value.

Eligibility for SA is not affected for recipients who were eligible for SA prior to 12/1/09 and ongoing, who had all burial spaces, plots, vaults, mausoleums, casket and urns in their name prior to December 1, 2009. **Continue to exclude from countable resources even those burial items purchased for someone other than an immediate family member prior to December 1, 2009.** Document this in the case file.

Beginning December 1, 2009, if an ongoing recipient purchases a burial space, crypt, vault, mausoleum, casket or urn that is not designated for an immediate family member **treat it as a change in situation**. Count the value toward the individual resource limit of \$2,000.00. If SA correctly terminates and the client later reapplies for SA the applicant will be subject to the new resources policy, counting the equity value of burial spaces, plots, vaults, mausoleums, casket and urns not purchased for members of the a/r's immediate family.

“Immediate family” also includes the spouse of the immediate family member. If the relative's relationship to the a/r is by marriage only, the marriage must be in effect in order for the burial space exclusion to continue to apply. For example, a burial space held for a sister-in-law is no longer excludable if she and the a/r's brother divorce.

The a/r's immediate family includes his or her:

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1. Parents, including adoptive parents;
2. Minor or adult children, including adoptive and stepchildren;
3. Siblings (brothers and sisters), including adoptive and stepsiblings.
4. Of items that serve the same purpose, **exclude only one per person**. For example, exclude a cemetery lot and a casket for the same person, but not a casket and an urn.
5. **General Exclusion Procedures:**
  - a. If an a/r alleges owning only one burial space, or an individual and spouse (joint ownership) allege owning no more than two spaces, **assume** that the spaces are excluded.
  - b. If an a/r, or a/r and spouse (joint ownership), allege owning more than one or two spaces, respectively, obtain a signed statement showing:
    - (1) The name of the person for whose burial each space is intended; and
    - (2) The relationship of each such person to the a/r.
    - (3) Exclude only those spaces that are alleged to be for the burial of the a/r, the spouse, or a member of the immediate family.
6. **Verifying the Value of Non-excluded Burial Property**

Determine the amount the a/r paid for the property by examining the deed, contract or bill of sale. This includes plots, crypts, vaults, mausoleums, caskets and urns. If the a/r still owes payment for the property, subtract the amount owed from the agreed upon cost, and count the equity toward the allowable SA resource limit of \$2,000.

**D. Exclude personal and real property used by the a/r:**

1. In the operation (actively conducting business) of a trade, business, farm operation, or self-employment enterprise regardless of its equity value or amount of income.
2. For home consumption (such as land used to tend a garden or a boat used to fish). This exemption is limited. Only exempt up to \$6,000 in total combined equity of all personal and real property used for this purpose.

3. If the a/r is blind or disabled, exclude resources that are identified as necessary to fulfill a plan for achieving self-support (PASS) which is in writing, has been approved by Social Security, and is being actively pursued by the a/r. A PASS is usually designed for up to 18 months, but may be extended by Social Security for up to 48 months. Begin counting the resources the first day of the month following the month in which the a/r fails to follow the conditions of his plan or reaches the goal of his plan.

#### **E. Resulting Trusts/Legally Binding Agreements**

1. Policy
  - a. It is presumed that a resource owned by an individual is also available to him, unless there are circumstances that make the resource unavailable.
  - b. The terms of a divorce decree, will, deed, court order, resulting trust or legally binding agreement may cause a resource technically owned by an individual to be unavailable to him.
  - c. A resulting trust exists when a person has a resource in his/her own name but is holding it for the benefit of another person and he:
    - (1) Retains no legal interest in the resource, and
    - (2) Will not benefit from the disposal of the resource.
  - d. If the a/r or a person financially responsible for the a/r alleging that a resource is held in trust for someone else continues to retain a legal interest in the resource and/or will receive the proceeds from the disposal of the resource, it is not considered to be held in trust for someone else and is a countable resource.
  - e. If the a/r or a person financially responsible for the a/r claims a resource is not available because of a resulting trust/legally binding agreement, he/she must cooperate by presenting necessary documentary evidence to show that the resource is unavailable.
  - f. A legally binding agreement may be either a written or a verbal contract. The evidence must be sufficient to:
    - (1) Convince others of the validity of the agreement,
    - (2) Show that the agreement existed at the time of the purchase/deposit of the resource, and

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- (3) Show that the legal titleholder holds the resource/property in trust for the party applying the purchase price or making the deposit.
2. Procedures
  - a. When a resource is apparently owned by an individual who has applied for Special Assistance, determine whether it may not be actually available to him because of a legally binding agreement or resulting trust. Obtain verification at application or any change in situation involving a resulting trust/legally binding agreement. It is not necessary to reverify at redetermination.
    - (1) Written Contract
      - (a) Review the contract and determine if it affects the availability of the resource.
      - (b) Determine the intent and terms of the agreement between parties, including the type of resource, the date of the contract, reason for its existence, and specific terms of the agreement.
      - (c) Contact the county or agency attorney if there are questions regarding the terms or validity of the written contract.
    - (2) Verbal Contract/Agreement

Ask the a/r to submit 2 different types of the following evidence:

      - (a) Written statement(s)/affidavit(s) from the parties involved in the verbal agreement:
        1. Giving the type of resource,
        2. The intent and terms of the agreement, and
        3. Describing the involvement of the parties to the agreement.
      - (b) Canceled checks or receipts for payments on a mortgage, loan, etc., showing who is making payments on the resource,
      - (c) Letter(s) or statement(s) from finance companies, banks, credit unions, loan officers, automobile salespersons, insurance companies or agents, or others identifying the type of resource and supporting claims that the resource is held for another individual who is making payments on the resource, or

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- (d) Written statements from at least 2 knowledgeable persons:
  - 1. Identifying the type of resource, and
  - 2. Giving the circumstances surrounding ownership, and
  - 3. Availability of the resource and the basis for their knowledge.
- (3) Real Property
  - (a) Contact the county attorney to request assistance in determining availability if the resource in question involves real property.
  - (b) Only a court can set aside a deed to real property.
- (4) Liquid Assets/Bank Accounts

Obtain the following documentation for a bank account the a/r alleges is in his/her name only for check cashing purposes or because the other individual needs the a/r or financially responsible person's name on the account in the event of absence, illness, or for other reasons:

(a) Primary Verification

A written statement from each individual whose name is on the account, attesting to actual ownership of the funds and why the a/r's or financially responsible person's name is on the account.

(b) Alternative Verification

A statement regarding the ownership of funds from the a/r or financially responsible person and one other knowledgeable source, such as:

- 1. The parties involved in the agreement,
- 2. Finance companies, banks, credit unions, loan officers, automobile salespersons, insurance companies or agents, or
- 3. An individual who knows the circumstances surrounding ownership and availability of the resource.

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(5) Motor Vehicles

Obtain the documentation in (a) below and one of the documents listed in items (b), (c), or (d), below for a motor vehicle in the name of the a/r or financially responsible person who alleges that he is not the owner:

- (a) Written statement(s) or affidavit(s) from the a/r and the other party(ies) involved in a verbal contract:
    - 1. Giving the intent and terms of the agreement and the involvement of the parties to the agreement, and
    - 2. Stating that the true owner, who is not the a/r or financially responsible person, makes monthly payments on the vehicle and pays the insurance premiums or taxes on the vehicle.
  - (b) Cancelled checks or receipts for payments on a loan, etc., showing who is making payments on the vehicle.
  - (c) Letter(s) or statement(s) from finance companies, banks, credit unions, loan officers, automobile salesmen, insurance companies or agents, or others supporting claims of the cost or of responsibility for the vehicle.
  - (d) Written statements from at least 2 knowledgeable sources as to the circumstances surrounding ownership and availability of the vehicle. Include the basis for their knowledge.
- b. Do not count the resource for the a/r who shows by the evidence that it is held in trust for another individual.
  - c. If the other individual applies for SA/MA, it must be counted as a resource for that individual.

**F. Liquid Assets of a Business**

- 1. Determine if the a/r has liquid assets needed to operate a business.
- 2. Verify the status of bank accounts used in the operation of a business.
  - a. DBA (doing business as) account- Verify with the bank and the records of the DBA account that these funds are not used for personal bills



- b. Combined with personal funds- If the bank account is used for personal and business transactions, the business assets must be separately identified to be excluded.
2. Exclude a business account in the name of the business or corporation that is totally separate from personal funds. Count the income of the business. Refer to [SA-3210, Income](#).

### **G. Tobacco Buyout Payments**

Tobacco allotments were administered by the Farm Service Agency and provided the right to produce a certain number of pounds of tobacco for harvest. Effective November of 2005 the Tobacco Transition Payment Program (TTPP) **eliminated the tobacco quota or allotment system**, calculating the value of lost quota and providing compensation in the form of cash installment payments to both owners and producers. Essentially the quotas were bought by the federal government. An initial payment was made to each quota owner and to each quota producer in November 2005.

Beginning January 2006, both tobacco quota owners and tobacco quota producers were given the option to receive annual payments over a ten year period or receive all payments in one lump sum.

Payments are distributed during the first couple of months each calendar year. Based on SSI policy, it has been determined by SSI that these payments will be treated differently for quota owners than they will be for quota producers.

1. TTPP payments to quota owners are a conversion of a resource, i.e., quota for cash. The rationale for treating the compensation to quota owners as a conversion of a resource is that the quota is assigned to the land ownership. Land meets the definition of a resource.
  - a. If the quota owner converts the quota to like property, i.e., another resource, treat the transaction as a conversion of a resource.
  - b. If the quota owner assigns the contract to a third party because he or she does not want the payments, i.e., gives it away, follow the transfer of resource policy.
2. TTPP payments to quota producers, or those who rent the land, are net earned self-employment income (NESE). The compensation for producers represents the value of lost price support in the sale of tobacco and should be treated as NESE.

If the quota producer assigns the contract to a third party because he or she does not want the payments, i.e., gives it away, follow the transfer of resource policy in [SA-3205](#).

#### **H. Restricted Allotted Land Owned by an Enrolled Member of an Indian Tribe**

In determining the resources of an individual (and spouse, if any) who is of Indian descent from a federally recognized Indian tribe, any interests of the individual (or spouse) in trust or restricted lands are excluded from resources.

If a/r alleges an interest in trust or restricted land as a member of an Indian Tribe:

1. Obtain for the file a copy of any document or documents that might identify it as such; and/or
2. Verify the allegation with the appropriate Indian agency.
3. If a/r is a member of a recognized Indian Tribe, exclude all interest in trust or restricted land.

#### **I. Incompetency**

If an a/r does not have resources that exceed the resource limit, incompetence is not an issue. When an a/r has excess resources and he is alleged to be incompetent or has been ruled incompetent by a North Carolina court, use the following policy to determine if the resources may be excluded.

1. General
  - a. Resources owned by a/r or where the a/r has a legal interest are not available to the a/r if:
    - (1) He is alleged to be incompetent and has no legal representative/guardian/durable POA to make the resources available, or
    - (2) He has a legal representative/guardian/durable POA who does not act to make the resources available.
2. Policy Rules
  - a. Otherwise countable and available/accessible resources, held solely or jointly by an alleged to be incompetent a/r, are exempt prior to a formal declaration of incompetency if:

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- (1) A written statement as described in [IV.I.3.a. \(3\)](#), below, from a knowledgeable source supports the allegation of incompetence, and
- (2) The a/r is alleged to be incompetent for a period of at least 30 consecutive days or until his/her death, and

**NOTE:** If applicant is not alleged to be incompetent for 30 days hold application for the 30-day period.

- (3) The resources cannot be accessed on behalf of the a/r because:
  - (a) He has no legal representative/guardian/durable POA, or
  - (b) His/her legal representative/guardian/durable POA is unable, fails, or refuses to act to make the resources available.

b. Incompetency for Special Assistance eligibility purposes may be:

- (1) Alleged by someone who is in a position to know, as indicated in [IV.I.3.a. \(2\)](#), below, or
- (2) Adjudicated incompetent by a North Carolina court.

c. Incompetency may be alleged:

- (1) At the application interview, or
- (2) When an a/r receives new resources, or
- (3) When unreported resources are discovered, or
- (4) When a change in situation causes a previously exempt resource to become countable, or
- (5) When the value of a resource increases.

d. Exclude otherwise countable resources of an alleged incompetent individual if a representative has not been previously established who is legally authorized to act on the alleged incompetent individual's behalf, including accessing his/her resources.

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- e. For purposes of Special Assistance eligibility, a formal judgment of incompetence is not required if the a/r has previously executed a valid durable POA and his/her attorney-in-fact is able and willing to act in the a/r's behalf.
  - (1) Resources held by the alleged incompetent a/r with a valid durable POA are considered available and countable.
  - (2) If the durable POA is unable or unwilling or otherwise fails or refuses to act on the a/r's behalf to make the resources available, the resources are unavailable, a legal guardian of the estate may be established to act for the a/r. IMC may refer to Adult Services for guardianship services. Continue to exclude resources until situation is resolved. See [IV. H.3.](#), below for procedures.
- f. When the a/r has been adjudicated incompetent by a North Carolina court and the court has appointed a guardian of the estate, resources are available under certain conditions described in procedures below.

3. Procedures

a. Alleged Incompetence

Inform the family member or legal representative of an a/r who may be incompetent, including a public agency acting on the a/r's behalf, that:

- (1) Otherwise countable resources may be exempt for a certain period of time if the a/r is alleged to be incompetent for a period of at least 30 consecutive days or until his/her death, and
  - (a) The a/r does not have someone legally authorized to act on his/her behalf to access his/her resources, or
  - (b) His/Her legal representative/guardian/durable POA is unable, fails or refuses to act to make the resources available, and

**NOTE:** The individual must have been alleged incompetent for at least 30 consecutive days or have died before resources may be exempt.

- (2) The alleged incompetence is supported by the written statement of one of the following:
  - (a) A physician, or

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- (b) A nurse, social worker, or psychologist, and
- (3) The statement/testimony includes:
  - (a) An explanation of the reasons the a/r is alleged to be incompetent,
  - (b) The approximate onset of the alleged incompetence,
  - (c) The ending date of alleged incompetence, if the person has improved, and
  - (d) The basis for the knowledge or opinion of the individual alleging the incompetence.

b. Exclude Resources

Exclude all resources, beginning with the first month for which assistance is requested:

- (1) For all months that the evidence as defined in [IV.I.1.](#) above clearly shows that the a/r was incompetent, and
- (2) Until one of the following occurs:
  - (a) A North Carolina court rules that the a/r is incompetent and appoints a guardian of the estate or general guardian, or
  - (b) The court rules that the a/r is not incompetent, or
  - (c) The court does not rule and dismisses the case because of the death or recovery of the a/r.

c. Requirement to Formally Establish Incompetence

Inform the a/r's family or representative that steps must be taken to establish the a/r's incompetence formally in a North Carolina court. If the a/r's representative states that he is willing and able to act on the a/r's behalf, explain that:

- (1) All documents and petitions necessary to have the a/r formally declared incompetent must be filed with a North Carolina court in order to have a guardian of the estate or general guardian appointed by the court, and

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- (2) The necessary legal documents must be filed with the court within 30 calendar days of the latter of:
  - (a) The date of application for Special Assistance, or
  - (b) The discovery of a previously unreported resource or receipt of a new resource in an ongoing case.

d. Referral for Guardianship Services

Refer the case to the Adult Services Unit at any point that the a/r's representative:

- (1) Requests guardianship services, or
- (2) If the family or representative pursues guardianship, but only guardian of person is appointed, or
- (3) States that he is unwilling or unable to pursue guardianship, or
- (4) Refuses to participate or cooperate in the court proceedings required to make the resources available to the a/r, or
- (5) Fails to take the necessary steps outlined in [IV.I.3.c.](#), above, within 30 calendar days of contact by the IMC regarding his/her responsibilities.

e. No Ruling of Incompetence

Count resources at the beginning of the next month if:

- (1) The court finds that the a/r is not incompetent, or
- (2) The court dismisses the case, or
- (3) The services unit determines that guardianship is not the appropriate alternative to meet the a/r's needs.

f. Incompetence Is Established by the Court

When an adjudication of incompetence has been established by a North Carolina court and a general guardian or guardian of the estate has been appointed, regard the resources as follows:

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- (1) Count liquid resources and personal property resources beginning with the first day of the month immediately following the month in which the legal guardian is appointed.
  - (2) Count real property resources only after the Court has given final approval for sale of the property.
    - (a) Inform the guardian that it may be in the a/r's best interest to petition the Clerk of Court for approval to dispose of or convert the real property resource.
    - (b) Count the value of the real property resource on the first day of the month immediately following the month in which the Court issues an "Order Confirming Sale", unless the guardian has taken steps to exclude it by making it income-producing.
    - (c) The "Order Confirming Sale" is a document issued to the guardian authorizing final sale of the property and must be signed by the Clerk of Court and a Superior Court Judge. It is only issued after a sales contract has been executed and no further bids have been received during a period of time allowed by the Court.
- g. Failure of Legal Guardian to Act
- (1) If a legal guardian fails to access liquid resources or fails to begin the process to access real property for the a/r's use within 30 calendar days of appointment, make a referral to Adult Services.
  - (2) The Social Worker may:
    - (a) Determine if the guardian is acting in the a/r's best interests, and
    - (b) Inform the IMC either that the present guardian is acting in the a/r's best interests or that a new guardian should be appointed.
  - (3) The Social Worker may notify the Clerk of Court for intervention if he determines that the a/r's interests are not being served or are questionable.
  - (4) Continue to exclude the resources until the Clerk of Court acts to appoint a successor.

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- (5) Count the resources as described in [IV.I.3.f.](#), above, if the Social Worker determines that the a/r's best interests are being served or if the Clerk of Court appoints a new guardian. Continue to exclude resources until the new guardian has "Order Confirming Sale."
- h. Documentation
  - (1) File copies of the durable POA and/or Letters of Guardianship in the a/r's case record.
  - (2) File the copy of "Order Confirming Sale" in the a/r's case record.
  - (3) File copies of documents to show that all required steps have been taken to establish formal guardianship and that the guardian has taken the necessary actions to make the a/r's resources available.
- i. Computation of Countable Resources
  - (1) Exclude all resources for any month or portion of a month for which assistance is requested and there is documentation that the a/r is alleged incompetent to access his/her resources.
  - (2) Count all resources that are available to the a/r if competency is restored by a court beginning with the first day of the month following restoration of legal competency.

## V. REDUCTION OF RESOURCES

The purpose of this section is to outline procedures for reducing resources to establish eligibility for Special Assistance. If countable resources exceed the SA limit on the first moment of the first day of the month, the a/r does not meet resource requirements until the next calendar month. The exception to this rule is if the burial exclusion is sufficient to reduce resources to the allowable limit.

The a/r may reduce resources by spending down excess liquid assets, designating certain types of resources for burial, meeting the \$6,000/6% test for income-producing property, making a reasonable effort to sell excess personal or real property, and rebutting the established value of resources.

### A. Reduction of Liquid Assets (Spending Down)

The a/r can reduce cash resources by paying for goods and services at fair market value that benefit the a/r (e.g., paying for room and board at an adult care home, purchasing needed items, or paying off debts).



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1. Verification
  - a. Cash
    - (1) Ask a/r to provide receipts for purchases.
    - (2) A/R's written statement.
  - b. Bank Accounts
    - (1) Determine the amount of any outstanding checks. Do not consider a check as outstanding if it is more than six months old.
    - (2) Evaluate whether checks were written and either mailed or delivered to the payee prior to the first moment of the verification month BUT had not cleared the bank prior to the first moment of the verification month.
    - (3) Once the check has cleared the bank, verify the date it cleared from the bank statement or by written or verbal contact with the bank.
    - (4) If available, compare the checkbook register (or check stubs) to the bank statement.
      - (a) Use the a/r's checkbook register (or check stubs) to verify the:
        - 1) Date the outstanding check was written,
        - 2) Check number,
        - 3) Payee of the check, and
        - 4) Sequential order of dates and check numbers.
      - (b) Use the bank statement to verify that the check did not clear the bank prior to the first day of the month.
    - (5) If the checkbook register (or check stubs) is not available, incomplete, or the order of dates and check numbers is not clearly sequential, verify outstanding status of the check by:
      - (a) Written or verbal verification from the bank that a stop payment against the check has not been requested, and
      - (b) A signed, dated statement from the a/r (or the person who actually signed the check) which includes:

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- 1) Check number,
  - 2) Date the check was mailed or hand delivered,
  - 3) Amount of the check, and
  - 4) That the check is for payment of a valid expense.
2. Determine the countable resource amount.
- a. Use the verified checking account balance.
  - b. Subtract verified outstanding checks from the balance.
  - c. Do not deduct a check written in advance for prepayment of cost of care.
  - d. If the a/r's Social Security and/or SSI is direct deposited and either one or both checks are deposited early (prior to the first day of the month in which the check counts as income), deduct the early payment(s).
  - e. Count the remainder as the countable resource amount from the checking account.
  - f. If there is excess resources, and the a/r uses the account to deposit income from rental property or self-employment, deduct outstanding or future expenses incurred to produce the income using the following guidelines:
    - (1) Convert the gross income and expenses to a monthly amount per [SA-3210, Income](#).
    - (2) Deduct from the opening balance any portion that is counted as income or can be deducted as an operational expense for the current month and any future month.
    - (3) Do not deduct any portion that was income or expenses for past months.

For example, the a/r receives \$240/month countable rental income. His operational expense is \$600/year in property taxes, which converts to \$50/month. Deduct from the first month balance the \$240 income and the \$50 for property taxes.

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- g. Document the SA case file with the countable amount and the verification of the account balance and outstanding checks.

**B. Burial Exclusion**

Burial exclusion is used only when the a/r has excess countable resources. It is a method to exclude up to \$1500 of otherwise countable liquid resources for burial expenses of the a/r.

1. Burial Exclusion Rules

- a. Always ask the a/r if there are resources that are intended to be used for burial purposes.
- b. Use the \$1500 burial exclusion to reduce countable resources when the a/r has excess liquid resources in:
  - (1) A revocable burial contract for his/her burial expenses,
  - (2) CV of life insurance on his/her own life, or
  - (3) Cash/bank accounts.
- c. Do not use the burial exclusion if the a/r has irrevocable burial arrangements valued at \$1500 or more. Irrevocable contracts are not a countable resource but they are applied to and use up the burial exclusion.
- d. If excluding \$1500 of the a/r's countable resources listed above is sufficient to reduce countable resources to the limit:
  - (1) Inform the a/r that liquid resources (except life insurance) designated as a burial asset cannot be excluded if commingled (held in the same account) with non-burial resources. Request proof that resources have been separated.
  - (2) When burial resources are no longer commingled, exclude \$1,500 of the value of liquid resources for the a/r's burial expenses.
  - (3) Exclude the liquid resources in the burial exclusion back to the first month assistance is requested.
- e. If applying the \$1,500 burial exclusion does not reduce resources below the limit, resources must be reduced within the 45/60-day standard for applications. In this case, eligibility cannot begin until the month after the month in which resources are reduced.

2. Burial Exclusion Procedures

Follow the steps in this section to apply the burial exclusion. Always deduct the value of burial resources until the burial exclusion is depleted (you reach zero dollars) or all resources have been deducted. Deduct resources in the order specified in the Burial.

Burial Exclusion Guide

<b>Deduct from the \$1,500 burial exclusion:</b>	<b>If the total value is more than \$1,500 or more than the amount remaining in burial exclusion:</b>
Value of irrevocable arrangements	Do not count excess.
FV of life insurance when less than \$1,500 . (The excludable FV changed from \$10,000 to \$1,500 for applications taken on after December 1, 2009).	Reduces \$1,500 exclusion but never counts.
Value of revocable contract	Count excess, ignore interest earned once designated and excluded at application.
CV of life insurance (greater than \$1,500 FV). (The excludable FV changed from \$10,000 to \$1,500 for applications taken on after December 1, 2009).	Count excess at application, ignore increases once designated for burial.
Cash or funds in a bank account (separately identifiable)	Count excess. If result is excess resources, a/r must reduce resources.

3. Irrevocable Burial Arrangements

Follow these steps to determine if there is an irrevocable arrangement. Deduct any irrevocable burial arrangement from the \$1,500 burial exclusion. If there is any amount of exclusion left, continue to the next excludable item.

a. Irrevocable Trust/Contract/Absolute Assignment

- (1) Review the contract or contact the funeral home or burial company to determine the value of the plan, the name of the beneficiary and that it is irrevocable.
- (2) Do not require that the contract include a listing of goods and services to be provided unless the information is needed for evaluation for transfer of resources. Refer to [SA-3205](#) for transfer rules.

- b. Irrevocable Designation of Beneficiary
  - (1) The designation may be made when the policy is taken out, or
  - (2) The beneficiary may be irrevocably changed by a rider filed with the insurance company.
  - (3) Verify with the insurance company that:
    - (a) The designation has been filed with the company,
    - (b) The designation is irrevocable, and
    - (c) The client cannot access the CV of the policy.
  - (3) The services purchased do not have to be selected in advance.

**Note:** The reserve reduction is effective the first day of the month that the [life insurance company acknowledges the transfer in writing](#).

- 4. **FV of Life Insurance** – Recipient Eligible for and Received SA Prior to December 1, 2009 and Ongoing
  - a. **The excludable FV of cash accruing life insurance changed from \$10,000 to \$1,500 for applications taken on after December 1, 2009.** Eligibility for SA is not affected for recipients who were eligible for SA prior to December 1, 2009 and ongoing, who had cash accruing life insurance policies purchased prior to December 1, 2009, with a FV over \$1,500.00, but less than \$10,000.00. SA does not count the CV unless the FV exceeds \$10,000.00.
  - b. **For redeterminations**, if a recipient is eligible for, or receiving SA prior to December 1, 2009 and ongoing, continue to exclude up to \$10,000.00 FV in cash accruing life insurance purchased prior to December 1, 2009, before counting the CV.
  - c. A new Case Level Special Use code ‘LI’ (Life Insurance Face Value Over \$1500) was created in EIS for the SAA and SAD programs only and is valid with ambulation capacity codes ‘B’, ‘C’, ‘E’, and ‘H’ in order to track these individuals and identify them for redeterminations and for State reporting purposes. Make certain the new Case Level Special Use code ”LI” is keyed in EIS, identifying the recipient as an SA recipient who was eligible for SA prior to December 1, 2009, with cash accruing life insurance purchased prior to December 1, 2009, with a total FV over \$1,500.00 and a FV up to \$10,000.00.

- d.. Beginning December 1, 2009, if an ongoing recipient buys cash accruing life insurance with a total FV that exceeds \$1,500.00 **treat it as a change in situation**. Verify the available cash value and count toward the individual resource limit of \$2,000.00.
  - e. If SA terminates and the client later reapplies for SA, the applicant will be subject to the new resources policy, counting the CV of face value of all cash accruing life insurance policies if the FV exceeds \$1,500.00.
  - f. After deducting irrevocable burial arrangements, if the total FV of all life insurance policies owned by the a/r does not exceed \$1,500.
    - (1) Deduct the FV of all whole life policies that insure the life of the a/r from the amount left in the a/r's \$1,500 burial exclusion.
    - (2) FV is not a countable resource, but it must be applied to the burial exclusion.
    - (3) Term life and burial association policies do not generally accrue CV. If they do not accrue CV, they are not a countable resource and are not deducted from burial exclusion.
    - (4) If there is any amount of exclusion left, continue to the next excludable item.
5. Revocable Burial Arrangements
- After deducting irrevocable burial arrangements and FV of non-countable life insurance, deduct the value of a revocable burial contract with a funeral home or other revocable trust or annuity established for burial expenses from the amount left in the \$1,500 burial exclusion.
- a. Revocable means the funds are available and can be withdrawn.
  - b. A revocable trust or annuity that is not limited to payment of burial expenses within the body of the agreement cannot be excluded under burial exclusion policy.
  - c. Deduct the value of the revocable burial arrangement from the amount left in the \$1,500 burial exclusion.
  - d. A revocable burial trust may appreciate in value or accumulate interest.



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- (2) At redetermination, the original amount of CV that exceeded the \$1,500 burial exclusion (counted at application and not excluded as part of the \$1,500 burial exclusion) continues to count in resources. However, increases in CV are ignored as long as the policy(s) is designated for burial.

Example: The a/r has one life insurance policy with FV of \$13,000 and a CV at application of \$3,000. The a/r stated it is intended and needed for burial expenses. There are no other resources.

\$3,000	CV of insurance intended for burial
<u>-1500</u>	Burial exclusion (no other burial asset)
\$1500	Excess counts in resources.

At review the CV has increased to \$3,500. The a/r continues to state that it is needed for burial and has acquired no other resources to be applied to the burial exclusion. Continue to count only \$1,500 of CV as a countable resource. Increases in CV after SA eligibility begins are ignored.

- e. An applicant may designate remaining CV for burial when there is an existing loan on the policy or it is collateral on an outstanding loan. If a new loan/cash withdrawal occurs after designation for burial, designated status is lost. That policy cannot be re-designated for burial. Any CV remaining on that policy counts in reserve at that time and in the future. Once the loan is paid off the policy can be re-designated.
- f. Once an application has been dispositioned and there is a policy designated for burial expenses, any action that reduces or depletes the CV of life insurance (except to pay the premium), revokes the burial designation. Burial exclusion can no longer be applied to the policy. Stop excluding the CV when:
- (1) A loan has been taken against the CV subsequent to designation; or
  - (2) The policy has been used as collateral subsequent to the exclusion
  - (3) A policy is “designated” and action is taken during the application processing period to reduce the value. Do not consider the policy as having been designated for any period of time for which eligibility is being determined.



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- g. Always count the CV of policies owned by the a/r, regardless of the insured, if the a/r's total FV of all cash accruing policies exceeds \$1,500. (The excludable FV changed from \$10,000 to \$1,500 for applications taken on after December 1, 2009).
- h. A revocable change in beneficiary of an insurance policy to a funeral home does not make the CV unavailable to the a/r.

**Example 1:** Mr. Brown owns a whole life insurance policy with a FV of \$1,500 on himself, a whole life insurance policy with a FV of \$1,500 on his grandson, and a \$1,000 term life (non-cash accruing) on himself. The total FV of all whole life policies owned by Mr. Brown is \$11,500, which exceeds \$1,500 so CV is countable. Only the CV of the a/r's (Mr. Brown) whole life policy can be deducted from his burial exclusion. The \$1,500 whole life on his grandson cannot be applied to Mr. Brown's burial exclusion because he is not the insured. The \$1,000 term life insurance policy is not applicable to burial exclusion.

**Example 2:** Mr. Jones has a whole life insurance policy with FV of \$15,000 and no other burial resources. The current CV on the policy is \$2,500. Mr. Jones has changed the beneficiary of the policy to be the local funeral home. The change is revocable. \$1,500 of the CV of the designated policy can be excluded through burial exclusion, but the remaining \$1,000 CV counts in resources.

7. Cash/Funds Held in a Bank Account

- a. These countable liquid resources:
  - (1) May be used to purchase burial assets to reduce resources in any amount within the 45/60 day processing time; BUT
  - (2) May be excluded under burial exclusion **only** when \$1,500 burial exclusion will reduce resources and establish eligibility.
- b. If exclusion of the amount remaining in burial exclusion is enough to reduce resources:
  - (1) Inform the a/r of the amount of funds that can be designated for burial.
  - (2) Obtain a/r's written statement as to whether he intends to use the funds for burial expenses.

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- (3) Inform the a/r that cash funds intended for burial expenses must not be commingled with other funds.
- (4) For an application, the funds *must be separated* and proof must be provided within the 45/60 day processing time.
- (5) For a recipient, proof must be provided prior to the effective date of termination.
  - (a) Send a timely notice informing the recipient of the amount of excess resources.
  - (b) Inform the recipient that a signed statement that the funds will be designated and separated for burial expenses must be received within the 10-day notice period.
  - (c) Proof that action has been taken to separate the funds must be provided within 30 days of the timely notice.
  - (d) If proof is not received within 30 days, send an adequate notice and terminate the case.
  - (e) Proof must show, at a minimum that the necessary paper work was submitted to the insurance company or funeral home, or funds held in a bank are designated and separated.
- c. If the applicant dies before the application is disposed, the amount of countable resources excluded for burial expenses is \$1,500 regardless of the actual cost of burial. If excess funds have not been separated, burial exclusion does not apply.
- d. Once cash/funds have been designated for burial, any interest accrued is not a countable resource. It is not necessary to reverify at redetermination.
- 8. If the amount remaining in the burial exclusion is not enough to reduce resources to the allowable limit, inform the a/r of the amount of excess resources and any other methods to reduce, including purchasing an irrevocable burial resource.

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**Example:**

Mrs. Stanly applied on June 4 for ongoing SAA and for retroactive Medicaid benefits for May. She has one life insurance policy with FV of \$1,000 and a savings account with \$2,500 which she states is intended and needed for burial expenses.

\$1,500	Burial exclusion
<u>- 1000</u>	FV of life insurance
\$ 500	Amount left for burial exclusion

\$2,500	Liquid resources designated for burial
<u>- 500</u>	Amount which can be excluded through burial exclusion
\$2,000	No excess resources

Even though there is no excess, the applicant must separate the excess funds. Because eligibility is established using the \$1,500 burial exclusion, the applicant has until the processing deadline to provide proof that at least \$500 in liquid resources is separately identifiable.

**C. Exclusion of Income Producing Real/Personal Property (\$6,000/6% Test)**

This test is used to determine if real or personal property (usually rental property) that cannot otherwise be excluded is exempt from countable resources because it is "income producing." To exclude property, it must produce a net annual income of at least 6% of its equity after all expenses related to producing the income are deducted. **Any countable equity value in excess of \$6,000 is countable in resources.**

Even though all or a portion of property that meets the \$6,000/6% rule may be excluded, the a/r is subject to a sanction if income producing property is transferred. Refer to [SA-3205, Transfer of Resources](#).

1. Determine the Equity Value of the Property:  
Tax Value - Encumbrances/liens = Equity Value.

- a. Real Property Value

Tax Value - Always use the tax value when counting real property as a resource and to calculate the countable equity value.

- b. Personal Property Value

Use the tax assessed value to determine the equity.

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c. Rights of Use

- (1) The a/r may own rights of use in non-business real property. Rights of use are tied to land or the natural resources of land and may have countable value separate from the land.
- (2) The value of the right of use, if owned by the a/r, is exempt if it meets the \$6000/6% income producing criteria.
- (3) Land is also income-producing if the a/r owns the land and rents or leases a right of use which produces net income based upon \$6000/6% test.
- (4) Types of rights of use:
  - (a) Mineral Rights-ownership interest in certain natural resources, such as coal, oil, sulfur, gas, etc., coming from the ground.
  - (b) Timber Rights-ownership of timber growing on land, with or without ownership of the surface of the land.
  - (c) Hunting or fishing rights.

2. Determine Net Annual Income

a. Calculate the gross annual income.

- (1) If the same amount is received monthly, multiply this amount by 12 months (amount x 12 months = gross annual income).
- (2) If received other than monthly, calculate a gross annual income amount according to instructions in [SA-3210, Income](#).
- (3) If gross annual income has changes in the past 12 months (base period), use the amount currently being received to determine gross annual income.

b. Determine the gross annual allowable operational expenses.

- (1) Verify operational expenses for the previous calendar year based on expenses on the tax form if using tax statements to determine income.

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- (2) Verify operational expenses for the twelve months prior to the application or redetermination interview for a business if using business records.

- (3) Allowable Expenses

Deduct predictable expenses paid by the a/r which are necessary for the production or collection of income. Unexpected expenses are not included as part of the 6% test for reserve.

Allowable expenses include but are not limited to the following:

- (a) The interest portion of a mortgage payment,
  - (b) Property taxes,
  - (c) Insurance,
  - (d) Maintenance,
  - (e) Utility costs paid by the a/r,
  - (f) Labor costs,
  - (g) Real estate agent's fees,
  - (h) Sales taxes,
  - (i) Advertising for tenants,
  - (j) Verified transportation costs related to a rental property operation,
  - (k) Interest payments on loans for equipment necessary to produce the rental income.
- (4) Non-Allowable Expenses

Do not deduct the following expenses from rental income:

- (a) Expenses paid by a third party unless reimbursed by the a/r.

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- (b) The principal portion of a mortgage payment. The principal is deducted from the tax value as an encumbrance in reserve.
- (c) A capital expenditure. This is an expense for an addition to or increase in the value of the property and is subject to depreciation for tax purposes (e.g., principal portion of mortgage payment, additions to existing structure).
- (d) The property depreciation amount claimed as a federal income tax deduction.
- (e) Replacement of an existing feature of the property which could have been repaired. (e.g., furnace could be repaired but is replaced with new heating system).
- (f) Replacement of an existing feature of the property which could not be repaired with one that is greater in value (e.g., replacement of shingle roof with brick tile roof) which results in improvement and increases the value of the property.

c. Calculate net annual income.

$$\begin{array}{r} \text{Gross Annual Income} \\ - \text{Gross Annual Allowable Operational Expenses} \\ \hline = \text{Net Annual Income (DO NOT ROUND)} \end{array}$$

d. Determine \$6000/6% net annual income test.

The equity value of property multiplied by 6% equals the net annual income that must be produced to exclude property. DO NOT ROUND.

$$(\text{Equity value} \times .06)$$

e. Compare net annual income amounts.

Compare V.C.2.c., net annual income to V.C.2.d., net annual income that must be produced to exclude property.

- (1) If the net annual income is equal or greater than the net annual income that must be produced, then the property produces 6% net annual income. Proceed below to determine the equity value to exclude for each classification.

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- (2) If the verified net annual income is less than the net annual income that must be produced, then the property does not produce 6% net annual income. The property is not excludable and the total equity value is counted towards the resource limit.

**Example:** A/R pays all expenses himself. There is no mortgage on the property.

Tax value of property	\$7,000
Property tax per year	\$ 95
Other operational expenses per month	\$ 10
Insurance per year	None
Monthly gross rent	\$75

\*Determine equity for \$6000/6% test.

\$7000	Tax Value
- \$0	Encumbrances (if any)
\$7000	Equity

\*Determine annual income.

\$75	Gross monthly rent ( x 12 months)
\$900	Gross annual rent
- \$95	Property taxes
- \$0	Insurance
<u>- \$120</u>	Other expenses annualized (\$10 X 12=\$120)
\$ 685	Net annual income (\$900 - \$95- \$120)

\*Determine the \$6000/6% net annual income that must be produced.

\$7000	Tax Value
<u>x .06</u>	
\$ 420	= 6% Net annual income that must be produced

\*Compare annual income to 6% of equity to determine if property produces 6% net annual income. In this case, \$685 is greater than \$420 so the property meets the \$6000/6% test. \$1000 (equity amount above \$6000) is countable resources.

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**NOTE:** If income is verified according to instructions in SA-3210, Income, and included in the monthly budget, then the income is considered received for purposes of the \$6000/6% income test. This is true even if it is discovered that the income was not actually paid to the a/r. The income is counted in the a/r's budget.

3. The net annual income requirement is waived when property that has formerly produced annual income produces no income due to natural disaster such as storms, drought, fire, hurricanes, etc.
  - a. A statement to this effect from the local FSA office (for crop damage), insurance company, FEMA, or county extension agent is necessary as verification.
  - b. The property would have to produce an income in the next 12 months for the income producing exemption to continue, unless the conditions that prevented the production of income were beyond the a/r's control.
4. The resource is income-producing on the day that a contract for rental/lease is signed or a verbal agreement is made (rent may be paid monthly, quarterly, semi-annually, annually, etc., and may be due at some point after the date of the contract/verbal agreement). If there is no contract or prior agreement, the resource is income producing on the day that the first payment is paid.

**D. Reasonable Efforts to Sell Personal or Real Property**

An a/r who meets all non-resource eligibility requirements, but is ineligible solely due to excess personal or real property, may receive SA for a limited period of time while attempting to sell the excess property.

1. Requirements for Exclusion of Property Due to Reasonable Efforts to Sell

To exclude personal or real property while the a/r attempts to sell it, both of the following conditions must be met:

- a. The a/r's countable liquid resources may not exceed the \$2,000 resource limit.
- b. The a/r must agree in writing to make reasonable efforts to sell excess personal or real property at current market value (as established using procedures in SA-3200, Resources) within a specified period, and to use the proceeds of sale to refund the benefits received during the period the resources are excluded.



2. Explanation of Exclusion of Property Due to Reasonable Efforts to Sell

Explain these provisions to any anyone who could take advantage of the provision if aware of it. This includes:

- a. Individuals who inquire about eligibility and who may have excess resources.
- b. Applicants with excess non-liquid resources whose liquid resources do not exceed the resource limit or are close to the resource limit.
- c. Recipients whose benefits are about to be terminated due solely to excess non-liquid resources.

3. Exclusion Period for Real Property

- a. The initial exclusion period for real property is 9 months.
- b. After the initial 9 months, real property that an recipient has made reasonable but unsuccessful efforts to sell throughout a 9-month period continues to be excluded for as long as:
  - (1) The individual continues to offer the property for sale; and
  - (2) Including the property as a countable resource would result in a determination of excess resources.

4. Exclusion Period for Personal Property

- a. The initial exclusion period for personal property is 3 months.
- b. The recipient is allowed an additional 3 months exclusion period for personal property for good cause. Good cause exists when circumstances beyond a recipient's control prevent him/her from making reasonable efforts to sell. Good cause is defined as:
  - (1) No Offer to Buy - The recipient makes reasonable efforts to sell the property throughout the initial 3 month exclusion period but receives no offer to buy them.

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- (2) Offer That Does Not Result in a Sale - A legitimate or apparently legitimate offer to buy the personal property stops further efforts to sell it for a prolonged period of time, and the prospective buyer subsequently cannot or will not complete the purchase.
  - (3) Sale Begins But Closing Does Not Take Place Within Initial Exclusion Period - The recipient accepts an offer to buy, which precludes acceptance of another offer, but the sale (at which full or partial payment and transfer of title are exchanged) does not take place within the initial exclusion period.
  - (4) Incapacitating Illness or Injury - The recipient becomes ill, injured and/or hospitalized for a prolonged period and cannot take the steps necessary to sell the resource or to arrange for someone to sell it on his/her behalf.
  - (5) Joint Owner Dies - A joint owner dies, and administration or probate of the estate delays efforts to sell the resource (assuming that the property continues to be a resource).
5. The exclusion period begins:
- a. Only after it is determined that the a/r meets all non-resource eligibility requirements, including disability/blindness, if applicable; and
  - b. The dss accepts the a/r's signed DAAS-3002, Agreement to Sell Property form.
    - (1) Send a written notice once all non-resource eligibility requirements are met.
    - (2) Acceptance of the agreement is defined as the date the a/r receives written notice that the agreement is in effect.
      - (a) Allow 5 days for the a/r to receive the notice. The date of acceptance is 5 days from the date on the notice unless the individual proves he/she did not receive it within the 5-day period.
      - (b) If the written notice is handed to the individual, the date of acceptance is that date.

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6. The exclusion period ends at the earliest of the following:
  - a. Sale of the property;
  - b. The month after the month in which continued reasonable efforts to sell end, absent good cause;
  - c. The a/r signs a written request for cancellation;
  - d. Countable resources fall within the applicable limit (e.g., the individual depletes resources); or
  - e. The a/r reaches the end of the full exclusion period including any allowable extensions.
  
7. Effective Dates of the SA Payment During the Exclusion Period
  - a. The SA payment can begin no earlier than the month after the month in which the exclusion period begins.
  - b. The SA payment ends the month in which the exclusion period ends.

**Example:** Mr. Vance’s exclusion period for selling his \$12,000 boat begins on January 12. He sells the boat on March 20, which ends the exclusion period. He is eligible for SA for February and March.

If no sale had occurred, the exclusion period would have ended on April 11 and he could have received SA for the 3 months of February, March and April. The boat would have become a countable resource on May 1 (unless the period was extended due to good cause).
  
8. Signing the “Agreement to Sell Property”
  - a. Complete a DAAS- 3002, Agreement to Sell Property. Have the a/r or representative sign the form once you determine that the a/r meets all but the resources requirements for eligibility (including disability/blindness).
  - b. Give or mail the a/r or representative a copy and file the original in the case record.
  - c. Advise the a/r or representative about the requirement to make continuing reasonable efforts to sell, including not refusing any reasonable offer to buy; the types of evidence required; and the necessity for periodic follow-up contacts.

d. Request For Cancellation Of The “Agreement To Sell Property”

The a/r may at any time cancel the agreement and keep the excess resources. Make sure the a/r understands that he/she will be ineligible and will have to refund all benefits received during the exclusion period. If possible, obtain the a/r’s written statement that he/she wishes to cancel the Agreement to Sell Property stating that he/she understands the consequences of cancellation. Terminate the SA with timely notice and begin recovery action.

9. Reasonable Efforts To Sell Real Or Personal Property

The a/r must make reasonable efforts to sell excess real or personal property by taking all necessary steps to sell it through media serving the geographic area in which the property is located.

a. Within 30 days of signing the agreement to sell, the a/r must:

- (1) List the property with an agent or begin to advertise in at least one of the appropriate media, or
- (2) Place a "For Sale" sign on the property, or
- (3) Begin to conduct open houses or otherwise show the property to interested parties on a continuing basis, or
- (4) Attempt any other appropriate methods of sale such as posting notices on community bulletin boards, distributing fliers, etc.

b. Except for gaps of no more than 1 week, the a/r must maintain efforts to sell as described in this section. The a/r must not reject any reasonable offer to buy the property and must accept the burden of demonstrating to the county’s satisfaction that he rejected an offer because it was not reasonable. An offer to buy property is reasonable if it is at least two-thirds of the estimated CMV, or two thirds of the value established through the rebuttal process.

c. Contacts With A/R To Verify Reasonable Efforts to Sell

- (1) For personal property, make a contact every 30 days during the 3 month exclusion period (and the extension if applicable).
- (2) For real property, make a contact 35 days following the date of acceptance of the agreement to sell, and every 60 days thereafter until the end of the 9 month period.

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- (3) Remind the a/r of the responsibility for selling the property and the time remaining in the exclusion period. Verify and document the efforts being made to accomplish a sale whether there has been an offer to buy since the prior contact, and good cause in the absence of reasonable efforts to sell if applicable.
  - (4) Document the a/r's allegations regarding ads, listings, consignments, and other efforts to sell the resources. Obtain any supporting evidence or third party evidence available to support the a/r's allegations. These may include a copy of the listing agreement with the real estate agency in current use, dated advertisements indicating the property is for sale, contracts with media to advertise the property, a photograph of the "For Sale" sign on the property, copies of fliers or posted notices; and/or any other evidence of reasonable efforts to sell property.
  - (5) Verify only those allegations necessary to establish that the a/r is making reasonable efforts to sell. Verifying duration of an ad, listing or consignment at the outset will prevent the need to verify its continuing existence at subsequent follow-up contacts.
- d. Document the following at each contact:
- (1) Whether there have been any offers to buy since prior contact;
  - (2) The amount of the offer and whether the a/r accepted it; and
  - (3) If the a/r has refused an offer that was at least two-thirds of the estimated CMV, his explanation for refusal.
- e. If the a/r is making continuing reasonable efforts to sell, flag the case for follow-up contact.
- f. If the a/r is not making continuous reasonable efforts to sell:
- (1) Investigate whether there is good cause. Record the a/r's allegations as to why he/she is not making reasonable efforts to sell. Obtain any evidence the a/r or a third party has to support allegations of good cause.
  - (2) If you determine the a/r is not making reasonable efforts to sell and there is no evidence to establish good cause, send timely notice to terminate SA effective with the month following the month in which reasonable efforts cease. Begin recovery action following procedures in [V.D.13](#).

10. Documentation of Sale

Obtain evidence of:

- a. The gross purchase price (whether in cash, on a contract, or both),
- b. Any encumbrances on the property (taxes due and payable by seller, mortgage or other lien balance, etc.), and
- c. Any expenses incurred in connection with the sale (advertising costs, realtor or other listing fees, consignment or auction fees, attorney fees, etc.).

11. Real Property Unsold

- a. If real property remains unsold at the end of the 9 month exclusion, and the recipient continues to make reasonable efforts to sell, continue to exclude the property the real property until one of the conditions in [V.D.6.](#) ends the exclusion.
- b. No further regular follow up is required except at the regular eligibility redetermination. At that time, ask the recipient if he/she still has the property and if it is still available for sale. If so, continue to exclude the property.
- c. If the property is sold after the end of the 9 month exclusion, the exclusion ends. Redetermine eligibility based on resources held the month after the month in which the property is sold. Refer to Overpayment Procedures [V.D.13.](#) to begin recovery. The recipient must refund only the first 9 months of benefits.

12. Personal Property Unsold

If the personal property remains unsold at the end of the 3 month exclusion, and any applicable extension, add the equity value of the excess personal property to the value of other countable resources at the beginning of the payment period to determine the overpayment. Refer to Overpayment Procedures in [V.D.13.](#)

13. Overpayment Procedures

When an exclusion of real or personal property ends, compute an SA overpayment. This is the amount of SA that would not have been paid had the resource not been excluded. The total overpayment also includes amounts still due from any prior exclusion periods.

a. Disposal At or Above Current Market Value

Consider the net proceeds to be available to repay the overpayment. Net proceeds are the sale price minus any encumbrances on the property and the expenses of sale.

b. Disposal At Less Than CMV

Calculate the overpayment the same as for disposal at current market value, but include the uncompensated value as well as the net proceeds. However, the a/r has the right to provide rebuttal evidence to establish a value less than current market value. If the property sells for less than current market value but there is evidence to support a lesser value, do not include the uncompensated value in the overpayment.

c. Property Not Sold

- (1) Personal Property - Calculate the overpayment using the current market value rather than the net sale proceeds.
- (2) Real Property - The exclusion may continue. Do not calculate an overpayment unless or until the exclusion period ends for one of the reasons outlined in V.D.6.

d. Amount of the Overpayment

- (1) Recalculate total countable resources. Add the net sale proceeds from the sale (or the current market value if unsold) to the countable resources in the first month of the exclusion period. If the property was sold for less than the current market value, add the uncompensated value.
- (2) The overpayment is the lesser of:
  - (a) The amount by which the revised total countable resources exceeds the resources limit in effect at the beginning of the exclusion payment period; or
  - (b) The amount of SA benefits actually paid during the exclusion period.

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(3) Establishing a Lesser CMV

Before computing the overpayment, remind the recipient of the right to rebut the value of the property.

(4) Burial Exclusion

When recalculating the amount by which total countable resources exceeded the limit at the beginning of the payment period, you can exclude up to \$1,500 of funds set aside to meet burial expenses. Apply this exclusion only if the a/r alleged having such funds set aside at the beginning of the exclusion period.

(5) Sale For Other Than Cash

(a) If the a/r sells property on a contract for sale, promissory note, installment payment contract or other property agreement, this satisfies the terms of the agreement to sell. For overpayment purposes, the purchase price is the down payment in cash (if any) plus the principal amount of the contract.

(b) In determining the value of the contract for continuing eligibility purposes, consider any amount that must be refunded as an encumbrance on the contract. Evaluate the availability of the contract or promissory note. If the contract is an excess resource, the a/r may enter into another agreement to sell the contract subject to the 3 month disposal period for personal property.

(6) Exchange of Excess Property

The exchange or trade of property does not satisfy the terms of the Agreement to Sell Property. If the newly acquired property is an excluded resource, the recipient no longer has excess resources so the exclusion period ends. Calculate an overpayment based on the benefits received during the exclusion period.

If the newly acquired property is a countable resource and the recipient still has excess resource, the a/r can still satisfy the agreement by selling the new property within what remains of the exclusion period. The new property cannot qualify for a new conditional benefits agreement.



e. Refunding Overpayments

- (1) Complete the DSS-1656, Refund Receipt, when a refund of an overpayment is made either by cash or personal check. Refer to EIS-3250, Processing Cash Overpayment Collections.
- (2) Deposit the payment into the DSS account. Prepare a county DSS check in the amount of the refund and submit with the DSS-1656.
- (3) Mail to:

Program Benefits Payment Section  
2019 Mail Service Center  
Raleigh, NC 27699-2019

14. Resources Within Limit

If, at any time during the exclusion period, the a/r reduces or converts resources so that there are no longer excess resources, without the exclusion:

- a. Calculate an overpayment using the original current market value (unless the a/r establishes a lower value through rebuttal); and
- b. Determine ongoing eligibility for SA based on countable resources after the refund of the overpayment.

15. Transfer of Resources During the Exclusion Period

Transfers of real or personal property that is excluded under “Reasonable Efforts to Sell” provisions are non-allowable transfers and are subject to transfer sanctions. Refer to SA-3205, Transfer of Resources.

**E. Rebuttal Procedures**

The a/r may rebut the value of countable resources including real property (sole or partial ownership interest), promissory notes, and personal property.

The tax value of real property and the current market value of a promissory note may be rebutted by documentary evidence to establish a lesser value.

If the a/r wishes to rebut the value of real property, the rebuttal applies to the value of the entire parcel. **However, the a/r may rebut the market value of a life estate separately from the value of the entire parcel.**

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1. Documentary evidence is a statement from a knowledgeable source located in the same geographic area as the property. Geographic area is the same area as covered by local radio, television, newspaper and other media.
2. The statement from the knowledgeable source must be written, signed and have enough information to identify the source easily.
  - a. It must be specific as to the value and the point in time for which the estimate is made; and
  - b. It must include the basis for his/her knowledge or expertise.
3. If the statement is questionable, the county may obtain an estimate from a knowledgeable source and use the average value.
4. Examples of types of knowledgeable sources are:
  - a. For real property and promissory notes:
    - (1) Licensed real estate brokers;
    - (2) Local Farm Service Agency office;
    - (3) Local office of the Farmer's Home Administration;
    - (4) Commercial banks, savings and loan association, mortgage companies and similar lending institutions;
    - (5) An official of the local real property tax jurisdiction, or
    - (6) County Agricultural Extension Service;
    - (7) Professional appraisers;
    - (8) Companies which are in the business of buying and selling promissory notes.
  - b. For personal property a statement from a car dealer or dealer of the item in question. The statement must include the make, model, year, color, and general description of the vehicle/personal property, as well as the market value.

5. Updating Rebuttal Evidence
  - a. Real Property/Promissory Notes – reverify at each redetermination
  - b. Personal Property – do not reverify the rebuttal value at redetermination unless the DMV/tax value has increased or there is some indication of a change in the value of the property.