



From: **Maureen M. Corcoran, Director**

To: **Ohio Department of Medicaid Clearance Reviewers**

Subject: **ABD Income and Resources FYRR**

This transmittal contains ten rules that are being amended from Chapter 5160:1-3 of the Administrative Code, adopted under section 111.15 of the Revised Code, as part of a five-year review.

The information contained in this clearance transmittal is for informational purposes only and is not intended to be part of the clearance review. Your review of and comments on the attached material are appreciated.

Chapter 5160:1-3 | Medicaid for the Aged Blind and Disabled

5160:1-3-03.5 Medicaid: application of income standards.

This rule is being amended to make updates as the result of five-year rule review to include replacing the terms “medicaid” with “medical assistance” and “if” with “when”.

5160:1-3-03.7 Medicaid: treatment of sick pay and sick leave.

This rule is being amended to make updates as the result of five-year rule review to include replacing the term “if” with “when” and reorganizing language for clarity.

5160:1-3-03.8 Medicaid: in-kind support and maintenance.

This rule is being amended to make updates as the result of five-year rule review to include replacing the terms “current market” with “fair market” and “if” with “when”, removing food as a consideration for in-kind support and maintenance, amending the definition of “public assistance household” by replacing “all individuals” with “the individual and at least one other household member” and adding “supplemental nutrition assistance program”, and reorganizing language for clarity.

5160:1-3-03.10 Medicaid: retirement funds.

This rule is being amended to make updates as the result of five-year rule review to include replacing the term “if” with “when”, updating a reference date, and reorganizing language for clarity.

5160:1-3-05.6 Medicaid: burial funds and contracts.

This rule is being amended to make updates as the result of five-year rule review to include replacing the terms “current market” with “fair market” and “if” with “when” and reorganizing language for clarity.

5160:1-3-05.7 Medicaid: burial spaces.

This rule is being amended to make updates as the result of five-year rule review to include replacing the term “if” with “when”, removing the term “member of”, and adding language for clarity.

5160:1-3-05.9 Medicaid: dividends and interest.

This rule is being amended to make updates as the result of five-year rule review to include language updates for clarity.

5160:1-3-05.10 Medicaid: household goods and personal effects.

This rule is being amended to make updates as the result of five-year rule review to include replacing the terms “current market” with “fair market” and “if” with “when”, adding an Administrative Code rule reference, and adding language for clarity.

5160:1-3-05.12 Medicaid: life insurance.

This rule is being amended to make updates as the result of five-year rule review to include replacing the terms “amount” with “value”, “policyholder” with “policy owner”, and “if” with “when”, and adding, removing, and reorganizing language for clarity.

5160:1-3-05.18 Medicaid: stocks, mutual funds, and bonds.

This rule is being amended to make updates as the result of five-year rule review to include replacing the terms “current market” with “fair market” and “if” with “when” and a reference date is being updated.

Fiscal Impact

The Ohio Department of Medicaid (ODM) supplies funding to Ohio's counties through the Department of Job and Family Services, which funds counties to conduct eligibility determinations and complete casework for the Medicaid program. The revisions to the rules in this clearance do not impose new requirements on county agencies and the implementation of these rules changes should result in no fiscal impact on the county agencies.

Questions pertaining to this clearance should be sent to Rules@Medicaid.Ohio.gov.

To receive notification when ODM posts draft rules for public comment please register via the Common Sense Initiative eNotifications Sign-up: [eNotifications Sign Up | Governor Mike DeWine \(ohio.gov\)](#). The Ohio Department of Medicaid will use this list to notify subscribers when draft rules are posted for public comment.

To receive notification when ODM original, revise, refile, or final files a rule package please register for Joint Committee on Agency Rules Review's (JCARR) RuleWatch at www.rulewatchohio.gov where an account can be created to be notified of rule actions by the rule number or department.

The main ODM web page includes links to valuable information about its services, programs, and rules; the address is <http://www.medicaid.ohio.gov>.

5160:1-3-03.5

Medicaid: application of income standards.

(A) The purpose of this rule is to set forth the application of income standards used in ~~medicaid~~ eligibility determinations of medical assistance for aged, blind, or disabled individuals.

(B) Definitions.

(1) "Income standard" means the income limit above which an individual is ineligible for a given category of ~~medicaid~~ medical assistance for the aged, blind, or disabled.

(2) "Couple income standard" is equal to the current supplemental security income (SSI) benefit rate for a couple. The updated figure is published annually by the social security administration.

(3) "Individual income standard" is equal to the current supplemental security income (SSI) benefit rate for an individual. The updated figure is published annually by the social security administration.

(C) Application of income standards.

(1) For an individual, countable income is compared to the appropriate individual income standard.

(2) For a married couple:

(a) ~~If~~When both members of the married couple are categorically eligible, countable income is compared to the appropriate couple income standard.

(b) ~~If~~When only one member of the married couple is categorically eligible, countable income may be compared to either the individual income standard or the couple income standard, in accordance with the deeming provisions set forth in rule 5160:1-3-03.3 of the Administrative Code.

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5160:1-3-03.7 **Medicaid: treatment of sick pay and sick leave.**

(A) The purpose of this rule is to set forth the treatment of sick pay and sick leave for eligibility for medical assistance.

(B) Definitions.

(1) "Sick pay" means a payment made to or on behalf of an employee by an employer or a private third party for sickness or accident disability.

(2) "Sick leave" means a paid absence from duty for personal or family medical reasons and is considered a continuation of salary.

(C) Treatment of sick pay.

(1) Sick pay is treated as earned income (wages) ~~if~~when the individual receives sick pay within six months after stopping work and the income is not attributable to the employee's own contributions toward a sick pay plan.

(2) Sick pay is treated as unearned income ~~if~~when:

(a) The individual receives sick pay within six months after ~~stopping work~~the individual stops working and the income is attributable to the employee's own contributions toward a sick pay plan; or

(b) The individual receives sick pay more than six months after stopping work.

(3) To determine the six months' period after ~~stopping work~~the individual stops working; ~~begin with the first day of non-work, include the remainder of that calendar month, and include the next six full calendar months.~~

(a) Begin with the first day of non-work; and

(b) Include the remainder of the calendar month in which work stops; and

(c) Include the next six full calendar months.

(D) Treatment of sick leave.

(1) Sick leave payments are treated as earned income.

(2) Sick leave that is donated to the individual is treated the same as if it ~~werewas~~was the individual's own leave.

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5160:1-3-03.8

Medicaid: in-kind support and maintenance.

(A) This rule sets forth how in-kind support and maintenance is valued for ~~purposes~~the purpose of determining eligibility for medical assistance.

(B) Definitions.

- (1) "Actual value" is the dollar amount that an individual paid for an item or service, or for his/her share of an item or service.
- (2) "~~Current~~Fair market value" is the dollar amount for which an item would sell on the local open market.
- (3) "Household" is a personal place of residence in which individuals share common living quarters and ~~function~~that functions as a single economic unit.
- (4) "Household of another income standard" is equal to two-thirds of the income standard for an individual or couple as applicable.
- (5) "In-kind support and maintenance" is unearned income in the form of ~~food or shelter~~shelter, or something that can be used to get ~~food or shelter~~, that a person is given or receives because someone else pays for it.
- (6) "Living in household of another" means ~~that the~~that an individual ~~does not live in his/her own household~~is living in a household other than his or her own household as defined in paragraph (B)(7) of this rule.
- (7) "Living in own household" means that:
 - (a) The individual has ownership interest or life estate in the home; ~~or~~,
 - (b) The individual is liable for payment of any part of a rental charge; ~~or~~,
 - (c) The individual pays a pro-rated share of living expenses; ~~or~~,
 - (d) The individual lives in a non-institutional care situation.
- (8) "Non-institutional care situation" means ~~that~~:
 - (a) The individual has been placed by a public or private agency under a specific program of protective placement; ~~and~~,

- (b) The placement is in a private household that is licensed or otherwise approved by the state to provide protective care; ~~and;~~
 - (c) The placing agency retains responsibility for continuing supervision of the need for placement and of the services provided; and;
 - (d) The individual, the placing agency, or some other party pays for the services provided, or has a written agreement to pay for the services provided.
- (9) "Presumed maximum value" is one-third of the value of the individual income standard, as set forth in rule 5160:1-3-03.5 of the Administrative Code, plus twenty dollars.
- (10) "Public assistance household" is a household in which ~~all individuals~~ the individual and at least one other household member receive some type of public income-maintenance payments, including but not limited to Ohio works first (OWF), supplemental nutrition assistance program (SNAP), supplemental security income (SSI), disaster relief and emergency assistance, or state or local government assistance programs based on need.
- (11) "Shelter" means living quarters for an individual in the individual's permanent living arrangement.
- (12) "Shelter costs" means rent, mortgage payments, real property taxes, heating fuel, gas, electricity, water, sewerage, and garbage collection services.
- (C) In-kind support and maintenance received by an individual is excluded ~~if~~ when:
- (1) ~~The support and maintenance~~ is identified as excluded in accordance with rule 5160:1-3-03.2 of the Administrative Code; or;
 - (2) ~~The support and maintenance~~ is received from another member of a public assistance household; or;
 - (3) The individual receives SSI and the social security administration does not reduce the individual's SSI benefit because of in-kind support and maintenance.
- (D) In-kind support and maintenance received by an individual is countable unearned income and is valued by applying the household of another income standard when:
- (1) The household of another income standard when:
 - (a) The individual is a recipient of SSI benefits and receives the one-third reduction in the SSI benefit; or

(b) The individual lives for an entire month in another person's household, and receives both food and shelter for the entire month from someone living in that household.

~~(1) The individual is a recipient of SSI benefits and receives the one-third reduction in the SSI benefit; or,~~

~~(2) The individual lives for an entire month in another person's household, and receives both food and shelter for the entire month from someone living in that household.~~

(2) The presumed maximum value when the individual:

(a) Receives in-kind support and maintenance but lives in his or her own household;

(b) Does not live for the entire month in another person's household;

(c) Does not receive all of his or her food and shelter from another person in that household for the entire month; or

(d) Receives in-kind support and maintenance from someone outside the household.

(3) The fair market value or actual value, whichever is less, when the individual demonstrates:

(a) The fair market value of any in-kind support and maintenance received, minus any payment the individual makes for them, is less than the presumed maximum value; or

(b) The actual amount someone else pays for the individual's in-kind support and maintenance is less than the presumed maximum value.

~~(E) In-kind support and maintenance received by an individual is valued by treating the in-kind support and maintenance as countable unearned income, using the presumed maximum value if the individual:~~

~~(1) Receives in-kind support and maintenance but lives in his own household, or~~

~~(2) Does not live for the entire month in another person's household, or~~

~~(3) Does not receive all his food and shelter from another person in that household for the entire month, or~~

- ~~(4) Receives in-kind support and maintenance from someone outside the household.~~
- ~~(F) In-kind support and maintenance received by an individual is valued by treating the in-kind support and maintenance as countable unearned income, using the current market value or actual value, whichever is less, when the individual demonstrates that:
 - ~~(1) The current market value of any in-kind support and maintenance received, minus any payment the individual makes for them, is less than the presumed maximum value; or,~~
 - ~~(2) The actual amount someone else pays for the individual's in-kind support and maintenance is less than the presumed maximum value.~~~~
- ~~(G) The administrative agency shall, for purposes of determining eligibility for medical assistance, determine the value of in-kind support and maintenance received by an individual in accordance with this rule.~~

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5160:1-3-03.10 **Medicaid: retirement funds.**

- (A) This rule describes how retirement funds are treated for ~~purpose~~the purpose of determining eligibility for medical assistance~~eligibility~~.
- (B) Definition. "Retirement funds" are plans designed to provide unearned income to supplant or supplement earned income. Retirement funds may include, but are not limited to such plans as: public and private pension, disability, or retirement plans; defined benefit employer pension plans, profit sharing pension plans, 403(b) pension plans, money purchase pension plans, employee stock ownership plans, and individual retirement accounts (IRAIRAs); KEOGHKeogh pension plans, Roth IRAs, simplified employee pension plans (SEP-IRASEP-IRAs), and 401k pension plans; or any other pension or retirement plans authorized under sections 401, 403, or 408 of the Internal Revenue Code (IRC) as outlined in 26 U.S.C. (as in effect ~~on February 1, 2016~~October 1, 2024), or any other enacted IRC provisions providing for a pension or retirement plan or any other similar financial vehicles administered by an individual, employer, or union. A retirement fund converted into an annuity shall be considered in accordance with rule 5160:1-3-05.3 of the Administrative Code.
- (C) Retirement funds treated as income.
- (1) A retirement fund in which an individual has the legal ability to receive regular guaranteed lifetime payments ~~will~~shall be treated as a source of unearned income rather than as a resource. A defined benefit employer pension plan is an example of this type of retirement fund.
 - (2) The individual is required to obtain the maximum available amount of payment from the plan. ~~If~~When the maximum available amount of payment requires the individual's spouse to consent to a waiver of the spouse's survivor benefits, the individual must document a good faith attempt to obtain that consent, and whether consent was obtained or refused. ~~If~~When consent is not obtained, the individual must elect the minimum spousal survivor benefit required by the plan.
 - (3) ~~If~~When allowed in the plan, the individual may elect a lesser payment in ~~favor of retaining~~order to retain a minimum survivor benefit for a child who ~~can be~~is documented to be blind or disabled, as defined in rule 5160:1-3-02 of the Administrative Code.
 - (4) ~~If~~When the retirement fund is determined ~~to not~~to be income, then the retirement fund shall be evaluated as a potential resource.

(D) Retirement funds treated as a resource.

- (1) The retirement fund shall be evaluated as a potential resource only after it is determined ~~to~~ not to be income.
- (2) A retirement fund is a countable resource ~~if~~ when the individual or the individual's spouse has an ownership interest in the retirement fund and the legal ability to convert it to cash.
 - (a) The value of a retirement fund is the amount an individual can currently withdraw from the fund.
 - (b) This determination shall be made by reference to documentation describing the retirement fund and/or a letter from the plan administrator.
 - (c) Self-defined retirement plans such as an IRA or ~~KEOGH~~ Keogh plan are examples of this type of retirement fund.
- (3) ~~When~~ When there is a financial penalty imposed by the plan administrator in order to convert the account to cash, the amount of the countable resource is the net amount payable to the individual after deducting the penalty. The amount payable ~~may~~ shall not be further reduced by the amount of any tax incurred by the individual as a result of the conversion of the account to cash.
- (4) A retirement fund is not a resource ~~if~~ when an individual must terminate employment in order to obtain any lump sum or payment.
- (5) A retirement fund determined to be a resource in accordance with paragraph (D) of this rule, which is owned by an ineligible spouse or parent or spouse of an ineligible parent, shall not be considered for deeming purposes described in rule ~~5160:1-3-03.20~~ 5160:1-3-05.20 of the Administrative Code.

(E) Administrative agency responsibilities.

- (1) The administrative agency must evaluate any retirement fund of which the individual is a beneficiary.
- (2) The administrative agency shall obtain the summary plan description or other document describing the rights and benefits under the retirement fund. A letter from the plan administrator may also be obtained to make the determinations required under this rule.

(F) Individual responsibilities. An individual is required to provide all available documentation to ~~aid~~assist the administrative agency ~~in~~with evaluating any retirement fund of which the individual is a beneficiary.

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5160:1-3-05.6

Medicaid: burial funds and contracts.

(A) This rule describes the treatment of burial funds and burial contracts for ~~purposes~~the purpose of determining eligibility for medical assistance.

(B) Definitions.

(1) "Burial funds" are revocable burial contracts, revocable burial trusts, other revocable burial arrangements (including the value of certain installment ~~contract~~contracts for burial spaces), cash, financial accounts (checking or savings accounts), or other financial instruments with a definite cash value (e.g., stocks, bonds, etc.).

(2) "Prepaid burial contract" means an agreement whereby the buyer pays in advance for a burial that the seller agrees to furnish upon the death of the buyer or other designated individual.

(C) Burial funds exclusion.

(1) Up to one thousand five hundred dollars for each person ~~can~~shall be excluded in burial funds set aside for:

(a) The burial expenses of the individual; and

(b) The burial expenses of the individual's spouse.

(2) Burial funds must be clearly designated for the individual's or the individual's spouse's burial and must be kept separate from nonburial-related assets in order to be excluded.

(3) The burial funds exclusion is separate from and in addition to the burial space exclusion described in rule 5160:1-3-05.7 of the Administrative Code.

(4) Any accrual of interest or appreciation in the value of excluded burial funds is excluded from resources and income, even ~~if~~when the total value of the burial funds exceeds one thousand five hundred dollars.

(5) Expenses included for burial funds purposes are generally those related to preparing a body for burial and any services prior to burial ~~to include~~including transportation of the body, embalming, cremation, flowers, clothing, services of the funeral director and staff, etc.

- (6) Any burial funds that exceed the burial funds exclusion are combined with all other countable resources and compared to the resource limit described in rule 5160:1-3-05.1 of the Administrative Code.

(D) Irrevocable prepaid burial contracts.

- (1) Irrevocable prepaid burial contracts are not a resource.
- (2) Any portion of the contract that represents burial funds reduces the amount available under the burial funds exclusion described in paragraph (C) of this rule.
- (3) Any portion of the contract that represents the purchase of a burial space has no effect on the burial funds exclusion.

(E) Revocable or salable prepaid burial contracts.

- (1) ~~If~~When a prepaid burial contract is revocable or salable it is a countable resource and treated as a burial fund.
- (2) Any portion of the contract that clearly represents the purchase of a burial space is excludable as a countable resource ~~if~~when it meets the requirements of rule 5160:1-3-05.7 of the Administrative Code.
- (3) The value of a revocable or salable burial contract is:
 - (a) The amount payable to the buyer upon revocation; or
 - (b) ~~If~~When the contract is not revocable but is salable, its ~~current~~fair market value.

(F) Burial space contract.

- (1) The burial space exclusion described in rule 5160:1-3-05.7 of the Administrative Code is applied to any single-purpose burial space contract ~~if~~when:
 - (a) The contract lists all of the burial spaces and either includes a value for each space or the total value of all the spaces combined; and
 - (b) The seller's obligations to provide those items is not contingent on further payment, as in certain installment contracts (~~ie. i.e.~~, the items are actually being held for the individual's future use).
- (2) Treat the burial space contract as burial funds when:

- (a) The unidentified portion of a contract ~~that~~ implies that it covers only burial spaces but does not identify some or all of the spaces or does not include either a value for each burial space or the total of all the spaces combined; ~~or~~ and
- (b) The amount paid on an installment contract for burial spaces ~~if~~ when the contract does not entitle the individual to the spaces until the full purchase price has been paid.

(G) Life insurance funded burial contracts.

(1) A life insurance funded burial contract involves an individual owning/purchasing a life insurance policy on his or her own life and then assigning, revocably or irrevocably, either the ownership or proceeds of the policy to a third party, generally a funeral provider. The purpose of the assignment is to fund a burial contract.

(a) Assignment of ownership.

(i) Revocable assignment of ownership.

- (a) The burial space exclusion described in rule 5160:1-3-05.7 of the Administrative Code does not apply because the funeral provider has not received payment and no purchase of burial spaces has been made. The provider has no obligation to provide any spaces until the individual dies and, therefore, no spaces are being held for the individual.
- (b) The resource value of the burial contract is equal to the cash surrender value (CSV) of the life insurance policy, subject to the burial funds exclusion described in paragraph (C) of this rule.

(ii) Irrevocable assignment of ownership.

- (a) The burial space exclusion described in rule 5160:1-3-05.7 of the Administrative Code ~~may~~ shall apply ~~if~~ when the individual has: ~~the burial space contract with a funeral service company for specified burial spaces represents current right to the use of the items at the amount shown. Any portion of the burial contract that represents the purchase of a burial space has no effect on the burial funds exclusion described in paragraph (C) of this rule.~~

(i) Title to and/or possesses a burial space intended for the individual's use; or

(ii) A contract with a funeral service company for a specified burial space for the individual's burial.

(b) Any portion of the burial contract that represents the purchase of a burial space has no effect on the burial funds exclusion described in paragraph (C) of this rule.

~~(b)(c)~~ The life insurance policy and burial contract are not resources. The face value (FV) of the burial funds portion of the contract, if any, is subject to the burial funds exclusion described in paragraph (C) of this rule.

(b) Assignment of proceeds.

(i) Revocable assignment of proceeds.

(a) The burial space exclusion described in rule 5160:1-3-05.7 of the Administrative Code does not apply to the CSV of the life insurance policy because the funeral provider has not received payment and no purchase of burial spaces has been made. The provider has no obligation to provide any spaces until the individual dies and, therefore, no spaces are being held for the individual.

(b) The resource value of the burial contract is equal to the CSV of the life insurance policy.

(i) ~~When~~ the FV of all life insurance policies on the individual's life is one thousand five hundred dollars or less, the CSV is excluded under the life insurance exclusion described in rule 5160:1-3-05.12 of the Administrative Code.

(ii) ~~When~~ the FV of all life insurance ~~policies~~ policies exceeds one thousand five hundred dollars, treat the CSV of the ~~policy~~ policies according to the burial funds exclusion described in paragraph (C) of this rule.

(ii) Irrevocable assignment of proceeds. The irrevocable assignment of proceeds is not ~~permitted~~ permitted by insurance companies without requiring the irrevocable assignment of ownership.

(2) When an individual irrevocably transfers ownership of a revocable life insurance policy that funds a burial contract to a trust established by a funeral company, the ~~CSV~~resource value of the policy is evaluated ~~under the trust~~in accordance with rule 5160:1-3-05.2 of the Administrative Code based on the date of the transfer.

(a) When a life insurance policy is placed irrevocably in a trust prior to January 1, 2000, evaluate the resource value of the policy in accordance with rule 5160:1-3-05.2 of the Administrative Code. The policy's CSV is not a resource when the individual does not have the legal authority to revoke or terminate the trust or to direct the use of the trust assets for his or her own support and maintenance.

(b) When a life insurance policy is placed irrevocably in a trust on or after January 1, 2000, the policy's CSV is a resource when the arrangement constitutes a trust established with the individual's funds. However, it is not a resource when the arrangement constitutes a purchase of goods and services by the individual and the subsequent establishment of a trust with the funeral provider's funds.

(c) The CSV of the burial funds portion of the contract is subject to the burial funds exclusion described in paragraph (C) of this rule.

(3) Life insurance funded burial contracts are not burial insurance.

(4) Dividend accumulations of a life insurance policy as part of the value of the policy or the prepaid burial contract are not excluded. Dividend accumulations are separate resources and must be designated separately in order to qualify for the burial funds exclusion.

(H) Burial insurance.

(1) Burial insurance is a contract whose terms prevents the use of its proceeds for anything other than payment of the insured's burial expenses.

(2) Treat burial insurance as burial funds described in paragraph (C) of this rule.

(3) The value of the burial insurance policy is the FV of the policy.

(I) Contracts for both burial ~~spaces~~funds and burial ~~funds~~spaces. ~~If~~When a contract does not indicate which amounts represent the purchase of burial spaces and which amount represents burial funds, and which parts, if any, are irrevocable, the entire contract shall be considered a resource in the form of burial funds.

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5160:1-3-05.7 **Medicaid: burial spaces.**

(A) This rule describes the treatment of burial spaces for the ~~purpose~~purpose of determining eligibility for medical assistance.

(B) Definitions.

(1) "Agreement," for the purpose of this rule, means a contract with a burial provider for a burial space held for the individual or a member of the individual's immediate family.

(2) "Burial space," means a burial plot, gravesite, crypt, mausoleum, casket, urn, niche, or other repository customarily and traditionally used for the deceased's bodily remains. The term also includes a contract for care and maintenance of the gravesite, sometimes referred to as an endowment or perpetual care and necessary and reasonable improvements or additions to such spaces, including but not limited to vaults, headstones, markers, ~~or~~ plaques, burial containers (e.g., for caskets), and arrangements for the opening and closing of the gravesite.

(3) "Immediate family" includes the individual's:

(a) Parents, including adoptive parents;

(b) Minor or adult children, including ~~adoptive~~adopted and stepchildren;

(c) Siblings, including ~~adoptive~~adopted and stepsiblings; ~~or~~and

(d) Spouses of immediate family ~~if~~when the marriage is in effect at the time of determination or renewal of eligibility for medical assistance.

(C) A burial space or burial space contract, described in rule 5160:1-3-05.6 of the Administrative Code, which represents the purchase of a burial space held for the burial of the individual, the individual's spouse, or ~~any other member of the~~ individual's immediate family is an excluded resource, regardless of value.

(D) A burial space is held for an individual when ~~someone~~he or she currently has:

(1) Title to and/or possesses a burial space intended for the individual's use (e.g., has title to a burial plot or owns a burial urn stored for his or her own use); or

- (2) A contract with a funeral service company for specified burial spaces for the individual's burial (i.e., an agreement which represents the individual's current right to the use of the items at the amount shown).
- (E) Until the purchase price is paid in full, a burial space is not held for an individual under an installment sales contract or similar device and the installment payments shall be considered burial funds in accordance with rule 5160:1-3-05.6 of the Administrative Code.
- (F) Administrative agency responsibilities. The administrative agency shall:
- (1) Determine whether the burial space is held for the individual, the individual's spouse, or ~~member of~~ the individual's immediate family ~~if~~when the agreement shows the purchase of a specified burial space at a specified price.
 - (2) 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.
 - (3) ~~If~~When the agreement calls for installment payments, determine whether the value of the burial space must be treated as burial funds in accordance with rule 5160:1-3-05.6 of the Administrative Code.

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5160:1-3-05.9

Medicaid: dividends and interest.

- (A) This rule describes the treatment of dividends and interest for the ~~purposes~~purpose of determining eligibility for medical assistance.
- (B) Definitions. "Dividends" and "interest", for the purpose of this rule, are returns on financial institution accounts. A cash gift or incentive payment to open an account is considered interest.
- (C) ~~If the resource that produced~~When the source of the dividends or interest is:
- (1) A countable resource, the dividends and interest are excluded.
 - (2) Excluded under a federal statute other than the Social Security Act, the dividends and interest are excluded.
 - (3) Excluded under section 1613(a) of the Social Security Act as described in rule 5160:1-3-05.14 of the Administrative Code, the dividends and interest may or may not be excluded, depending on the specific resource.

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5160:1-3-05.10 **Medicaid: household goods and personal effects as resources.**

(A) This rule describes the treatment of household goods and personal effects for the ~~purposes~~purpose of determining eligibility for medical assistance.

(B) Definitions.

(1) "~~Encumbrance" means a claim, lien, charge, or liability attached to and binding on an identified piece of real or personal property~~is defined in rule 5160:1-3-05.1 of the Administrative Code.

(2) "Household goods"; for the purpose of this rule, are all personal property customarily found in or near the home and used on a regular basis in connection with the maintenance, use, and occupancy of the premises. This encompasses items necessary for an adequate standard of sustenance, accommodation, comfort, information, and entertainment of occupants and guests. Such items include furniture, household appliances, carpets, dishes, cooking and eating utensils, televisions, and personal computers.

(3) "Personal effects," for the purpose of this rule, are ~~other~~items of personal property normally held and recognized as incidental items intended for personal use by one or more household members. Such items include clothing, personal jewelry, pets, personal care items, musical instruments, books, or items of cultural or religious significance.

(C) Household goods and personal effects are excluded as resources.

(D) Items acquired or ~~are~~ held for their value or as an investment are not considered household goods or personal effects and are countable resources. Such items can include but are not limited to gems, ~~jewelry~~jewelry that is not worn or held for family significance, collectibles, or animals for investment purposes.

(1) The ~~current~~fair market value is the countable resource amount.

(2) ~~If~~When there is an encumbrance on the items, the equity value is the countable resource amount.

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5160:1-3-05.12 **Medicaid: life insurance.**

(A) This rule describes how life insurance policies are treated for ~~purpose~~the purpose of determining medical assistance eligibility.

(B) Definitions of terms contained within life insurance policies.

- (1) "Accelerated life insurance payments" means some or all of the proceeds from the life insurance policy are paid out to the policy owner prior to the death of the insured.
- (2) "Beneficiary" means an individual or entity named in the contract to receive the policy proceeds upon the death of the insured.
- (3) "Cash surrender value (CSV)" means ~~a form of~~the monetary equity value that the policy acquires over time. The owner of a policy can obtain its CSV only by turning the policy in for cancellation before it matures or the insured dies. A loan against a policy reduces its CSV. The value usually increases with the age of the policy.
- (4) "Dividend accumulations" are dividends which accrue in an account that the insurance company controls for the policy owner. The policy owner can access the funds without penalty at any time without affecting the policy's face value (~~FV~~) or CSV. Dividend accumulations cannot be excluded from resources under the life insurance exclusion, even ~~if~~when the policy that pays the accumulations is excluded from resources. Unless they can be excluded under another provision, ~~they~~the accumulations are a countable resource.
- (5) "Dividend additions" are amounts of insurance purchased with dividends and added to the policy, increasing its death benefit and CSV. The table of ~~CSV's~~CSVs that comes with a policy does not reflect the added CSV of any dividend additions.
- (6) "Dividends"; for the purpose of this rule, means periodically (annually, as a rule), the insurer may pay a share of any surplus company earnings to the policy owner as a dividend. Depending on the life insurance company and type of policy involved, dividends can be applied to premiums due, paid by check to the owner, or by an addition or accumulation to an existing policy.
- (7) "Face value" (~~FV~~) means the amount of basic death benefit contracted for at the time the policy is purchased. It is the amount to be paid out when the insured dies.

- (8) "Insured" means the individual whose life is covered by the life insurance policy.
- (9) "Insurer" means the company or association which contracts with the policy owner.
- (10) "~~A life~~Life insurance policy" means a contract under which the insurer agrees to pay a specified amount to a designated beneficiary upon the death of the insured.
- (11) "Owner" means the individual with the right to change such a policy. ~~It~~This is normally the person who pays the premiums.
- (12) "Term life insurance" means an insurance policy that provides coverage for a specified period at a guaranteed rate. ~~Usually and which usually~~ does not have a CSV. Policy owners have the option of converting some term life policies into universal life or whole life insurance policies.
- (13) "Universal life insurance" means an insurance policy that provides insurance over a specified period with greater flexibility ~~on~~regarding premium payment and potential for higher internal rates of return, ~~and builds CSV for policy owners over time.~~
- (14) "Whole life insurance" means an insurance policy that applies part of the premium payments to build CSV for the policy owner.
- (C) A life insurance policy is a countable resource to the policy owner for medical assistance purposes ~~if~~when it generates a CSV. Its value as a resource is the amount of the CSV.
- (1) The total CSV of all life insurance policies for an individual is excluded ~~if~~when the total face value of the policies is equal to or less than one thousand five hundred dollars for any one individual. ~~It~~When the total face value of all life insurance policies for any one individual is more than one thousand five hundred dollars, then the total CSV of all the policies for that individual is counted toward the applicable resource limit. Policies ~~in~~for which a CSV has not yet accrued are still considered available when determining the total face value of the individual's life insurance policies.
- (2) Life insurance policies ~~in~~for which no CSV will ever accrue (e.g., term life insurance); are not considered ~~in~~when determining the face value of the insurance policies; and are excluded from all computations. In addition, burial insurance policies are not considered ~~in~~when computing face value. Burial insurance is insurance which by its terms can only be used to pay the burial expense of the insured and will not accrue any CSV.

- (3) When the face value of all countable life insurance policies on an ineligible individual exceeds one thousand five hundred dollars and deeming is required, the ~~cash value~~ CSV of the policies is combined with the ineligible individual's other countable resources and appropriately deemed to the eligible individual.
- (D) The individual must submit all life insurance policies that the individual and the individual's spouse own. The following information must be recorded in the case record:
- (1) Name of insured;
 - (2) Name of policy owner;
 - (3) Type of insurance (whole life, universal life, or term life);
 - (4) Date the policy was purchased;
 - (5) Maturity date of policy, ~~if~~when specified;
 - (6) Face value;
 - (7) Cash surrender value, ~~if~~when applicable;
 - (8) Amount of loans outstanding against the policy, ~~if~~when applicable;
 - (9) For term insurance, amount of premium and frequency;
 - (10) Contact information for the insurance company to include address and phone number; ~~and~~
 - (11) Policy number;
 - (12) Information regarding whether the life insurance policy pays dividends and, when it does, what option the policy owner selected for his or her disposition (i.e., accumulations, additions, applied to premiums, paid by check); and
 - (13) The current amount of the dividend accumulations, if any.
- (E) Factors to consider when determining whether a life insurance policy is a resource:
- (1) ~~if~~When the policy does not have a CSV due to the type of policy, further examination is not necessary. ~~if~~When the policy does have a CSV, the administrative agency must distinguish between the owner of the policy and the insured.

- (2) The owner of the policy is the only individual who can receive the proceeds under the cash surrender provisions of the policy. Therefore, it is not material that the individual (or individual's spouse) is the insured individual ~~if~~when the individual is not also the owner of the policy. ~~If~~When this is the case, there is no resource available to the individual.
- (3) A life insurance policy is an available resource only when the policy is owned by the individual or person whose resources are deemed to the individual. ~~If~~When the consent of another person is needed to surrender a policy for its full CSV, the policy is available as a resource after the individual has obtained the consent of the other person. The individual must make a reasonable effort to obtain consent. ~~If~~When the consent cannot be obtained, the policy is not available to the individual. Any doubt ~~about possible~~regarding potential availability ~~is~~must be resolved by contacting the insurance company. ~~A determination would need to be made as~~The individual's inability to obtain consent to surrender the policy for CSV must be evaluated to determine whether an improper transfer ~~had~~ occurred.
- (4) The exclusion of a total of one thousand five hundred dollars face value of countable insurance policies applies to each individual separately and does not mean an average of one thousand five hundred dollars per person. An individual and the individual's spouse are each allowed one thousand five hundred dollars but not any combination of values for a three thousand dollar total for both.
- (5) CSV of a policy is determined by contacting the insurance company ~~whenever~~when there is any question regarding the policy's current value.
- (6) The insurance exclusion does not apply to a matured endowment policy since the owner may elect to receive the total face value at any time. ~~If~~When the individual leaves the matured policy on deposit with the insurance company, it is no longer classified as insurance but is considered an investment at interest (the same as money in a savings account).

(F) Evaluating the insurance policy.

- (1) Face value. The face value on the insurance policy may be labeled the "face amount," "sum insured," "amount of insurance," or "amount of this policy."
- (a) The face value does not include additional benefits payable because of special conditions such as double indemnity riders, which apply in the event of accidental death.

- (b) ~~If~~When the face value cannot be determined, the insurance company or local agent must be contacted for clarification. For example, the insurance company must be contacted to clarify the value when there has been a lapse in the policy because of nonpayment of premiums which results in some other insurance option becoming effective. ~~If~~When the information is obtained by telephone, the name, title, and telephone number of the person contacted, and the name and address of the insurance company and the details of the conversation ~~are~~must be documented in the case record.
- (2) Cash surrender value. To compute the ~~cash surrender value~~CSV of a life insurance policy, it is necessary to know whether the premiums are up-to-date or in default (have not been paid) and to read the conditions in the policy affecting ~~cash surrender~~CSV. The anniversary date of a policy is the same day and month as the date of issuance. Verification of the ~~cash surrender value~~CSV must be obtained from the insurance company ~~if~~when the CSV, on its own, or in conjunction with other resources, is close to the applicable resource limit.
- (3) Dividends.
- (a) Dividend additions.
- (i) The ~~FV~~face value of dividend additions are not included when determining whether a life insurance policy is countable or excluded as a resource.
- (ii) ~~If~~When the life insurance policy is a countable resource, include the CSV of dividend additions when determining the resource value of the policy.
- (iii) ~~If~~When the life insurance policy is an excluded resource, the CSV of the dividend additions is not included when determining the individual's countable resources.
- (b) Dividend accumulations.
- (i) Dividend accumulations are not excluded under the life insurance provision, even ~~if~~when the life insurance policy that pays the dividend accumulation is excluded.
- (ii) Unless the dividend accumulations are excluded under another provision, dividend accumulations are countable as a resource, even ~~if~~when the life insurance policy is excluded because the policy's ~~FV~~face value is one thousand five hundred dollars or less.

(c) Dividends count as income ~~if~~when the total ~~FV~~face value of all the life insurance policies on any one person does not exceed one thousand five hundred dollars. Dividends are excluded as income ~~if~~when the life insurance policy is countable as a resource.

(d) The individual must submit the most recent annual dividend statement issued by the company for each life insurance policy, when applicable.

(4) An owner's failure to pay the premiums on the life insurance policy or failure to elect an option within a certain period of time after defaulting on the premiums generally causes an option to apply automatically. The CSV is usually applied by the company along with any dividends to buy extended life insurance. Under these circumstances, the face ~~amount~~value of the life insurance is uncertain and there is a possibility that a certain option or options have come into play. It is necessary for the insurance company to compute the actual CSV before a determination of eligibility can be made. The current face value and CSV must be obtained from the insurance company.

(5) When an individual has borrowed on a life insurance policy, the amount of the CSV depends upon the outstanding loan. Under these circumstances, the administrative agency must contact the insurance company to determine the amount of the CSV.

(G) Treatment of accelerated life insurance payments.

(1) Most accelerated payment plans fall into three basic types, depending on the circumstances which cause or trigger the payments to be accelerated. These types are the following:

(a) ~~Long-term~~Long-term care model, which allows the ~~policyholders~~policy owners to access ~~their~~the death benefits should they require extended confinement in a care in a facility or, in some instances, home health care services at home;

(b) Dread disease or catastrophic illness model, which allows ~~policyholders~~policy owners to access ~~their~~the death benefits ~~if they~~of the contract ~~or acquire one of a number of~~ in order to care for the insured during any specified covered ~~conditions~~condition; and

(c) Terminal illness model, which allows ~~policyholders~~policy owners to access ~~their~~the death benefits ~~following a diagnosis of the contract when the~~ insured is diagnosed with a terminal illness where death is likely expected to occur within a specified ~~number of months~~period.

- (2) Some companies refer to these types of payments as "living needs" or "accelerated death" payments.
- (3) Depending on the type of accelerated payment plan, receipt of accelerated payments may reduce the policy's face value ~~by the amount of the payments and may reduce the CSV in a manner proportionate to the reduction in face value. In some cases, a lien may be attached to the policy in the amount of the accelerated payments and a proportionate reduction in CSV results.~~
- (4) Accelerated payments are not "benefits" for purposes of exploring potential income. It is not required that a ~~policyholder~~policy owner apply for accelerated payments as a condition of obtaining or retaining eligibility for medical assistance~~eligibility~~.
- (5) Since accelerated payments can be used to meet food or shelter needs, the payments are income in the month received and a resource ~~if~~when retained into the following month and not otherwise excludable.
- (6) The receipt of an accelerated payment is not treated as a conversion of a resource for ~~medicaid~~medical assistance purposes. ~~This is because, under an accelerated arrangement, an individual receives proceeds from the policy, not the policy's resource value, which is its CSV.~~

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5160:1-3-05.18

Medicaid: stocks, mutual funds, and bonds.

- (A) This rule describes the treatment of stocks, mutual funds, and bonds for ~~purposes~~the purpose of determining eligibility for medical assistance.
- (B) Stocks held by an individual, including preferred stocks, warrants and rights, and stock option purchases.
- (1) Stock shares represent ownership in a business corporation. Their value shifts with demand and may fluctuate widely.
 - (2) The ~~current~~fair market value of publicly traded stock as of the first moment of a given month is its closing price on the last business day of the preceding month. The stock closing price, on a given day, can usually be found in the next day's regulator or financial newspaper. The value of over-the-counter stocks are shown on a "bid" and "asked" basis. The bid price is used to determine the stock's value.
 - (a) ~~When~~ the closing or bid price of a stock is not shown, a local securities firm must determine its value.
 - (b) The stock of some corporations not publicly traded is held within close groups and traded very infrequently. The sale of such stock is often handled privately and subject to restrictions. The burden of proof for establishing the value of this kind of stock is on the individual. The preferred evidence is a letter or other written statement from the firm's accountants giving their best estimate of the stock's value and the basis for the estimate, and can include the most recent sale, the most recent offer from outsiders, the ~~current~~fair market value of assets less debts on them, cessation of activity and sale of assets, and bankruptcy.
 - (3) The county prosecutor or the administrative agency's legal staff shall be consulted for assistance ~~in~~with determining the value of the stock when the verification of the ~~current~~fair value of the stock of a closely held corporation is questionable, including when there are indications that the extent of an individual's ownership is being manipulated to reduce the value of the stock as a countable resource.
 - (4) ~~When~~ the ownership of the stock is shared (i.e., more than one name is on the face of the stock certificate), each owner owns an equal share of the value of the stock.

- (5) Shares of stock in an Alaskan native regional or village corporation, as defined in 43 U.S.C. 1601 - 1624 (as in effect ~~on February 1, 2016~~ October 1, 2023), are excluded from resources.
- (C) ~~A~~ The value of a mutual fund is determined in the same manner as the value of a stock.
- (D) The ~~current~~ fair market value of a municipal, corporate, or government bond is counted as a resource. ~~If~~ When the ownership of a bond is shared, each owner owns an equal share of the ~~current~~ fair market value of the bond.
- (E) The current redemption value of a U.S. savings bond is a countable resource. ~~If~~ When the ownership of the U.S. savings bond is shared, each owner owns equal shares of the redemption value of the bond.

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