

earned income, \$65 shall be subtracted and then one-half of the remainder. When there are 2 parents, an additional amount equal to the maximum federal share of the SSI benefit paid to a couple living in their own household shall be subtracted, and when there is one parent, an additional amount equal to the maximum federal share of the SSI benefit paid to an individual living in his or her own household shall be subtracted. The remaining income shall be considered available to the SSI-related child as unearned income.

(5) **INCOME LIMITS FOR CHILD-ONLY MA GROUPS.** (a) In third-generation and stepchild cases, each MA group shall be tested against an income standard consisting of a proportionate share of the AFDC-related standard for the appropriate family size. For purposes of this paragraph, "family" means parents and all children in the household for whom either spouse is legally responsible, including the third-generation, but not SSI recipients or NLR children. If the stepchild or third-generation child is ineligible for MA because of excess income, the applicant may elect either a family spend-down period or a child-only spend-down period to gain MA eligibility.

(b) The eligibility of an SSI-related child shall be determined by testing against the SSI-related income standard for one person.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.

**HSS 103.06 Assets.** (1) **SPECIAL SITUATIONS OF INSTITUTIONALIZED PERSONS.** (a) In determining the eligibility of an institutionalized person, only the assets actually available to that person shall be considered.

(b) The homestead property of an institutionalized person is not counted as an asset if:

1. The institutionalized person's home is currently occupied by the institutionalized person's spouse, child who is under age 18, or child who is 18 years or older and who is developmentally disabled;

2. The institutionalized person intends to return to the home and the anticipated absence from the home, as verified by a physician, is less than 12 months; or

3. The anticipated absence of the institutionalized person from the home is for more than 12 months but there is a realistic expectation, as verified by a physician, that the person will return to the home. That expectation shall include a determination of the availability of home health care services which would enable the recipient to live at home.

(c) If none of the conditions under par. (b) is met, the property is no longer the principal residence and becomes non-homestead property.

(d) When income that has been protected for the personal needs of institutionalized recipients accumulates to the point that the asset limit is exceeded, the recipient may voluntarily apply the excess assets accumulation as a refund to the department. If the recipient does not elect one of the refund options under par. (e), MA eligibility shall terminate at the time the asset limit is exceeded. Eligibility may not be reinstated until the assets are below the limit at which time a new application shall be required.

(e) The recipient may apply the excess assets as a refund to the department in one of the following ways:

1. The agency may project the amount of excess assets expected over a year to arrive at an amount for the client to refund the department. When refunds equal MA benefits already received, no more refunds may be made until more MA benefits have been received. In no instance may refunds exceed benefits; or

2. If, at the time of review, excess assets do not exceed an amount 3 times the federal share of the SSI payment for one person living at his or her home, eligibility may be continued on condition that the recipient agrees in writing to refund the excess assets to the MA program.

(2) MOTOR VEHICLES. (a) In this section:

1. "Motor vehicle" means a passenger car or other motor vehicle used to provide transportation of persons or goods and which is owned by a person in the MA or fiscal test group.

2. "Equity value" means the fair market value minus any encumbrances which are legal debts.

3. "Fair market value" means the wholesale value shown in a standard guide on motor vehicle values or the value as estimated by a reliable expert.

(b) For persons whose eligibility is being determined according to AFDC categorically needy or AFDC medically needy financial standards, the following conditions shall apply:

1. If one vehicle is owned, up to \$1,500 of equity value shall be exempted; and

2. If more than one vehicle is owned, up to \$1,500 of equity value from the vehicle with the greatest equity value shall be exempted. The equity value of any other vehicle is counted as an asset.

(c) For SSI-related persons whose eligibility is determined based on medically needy financial standards, the following conditions shall apply:

1. If only one vehicle is owned, it shall be exempted;

2. If 2 or more vehicles are owned and fewer than 2 vehicles are needed for employment or medical care, the vehicle with the highest equity value shall be exempted. The equity value of the other vehicles shall be counted as an asset; and

3. If 2 or more vehicles are needed for employment or medical care, the 2 vehicles with the highest equity value shall be exempted. The equity value of any other vehicle shall be counted as an asset.

(3) JOINT ACCOUNTS AND JOINTLY HELD PROPERTY. (a) *Joint accounts.* A joint account shall be deemed available to each person whose name is on the account or listed as an owner. The value of a joint savings or checking account shall be determined as follows in determining eligibility for MA:

1. For persons who receive MA who are not age 65 or over, or not blind or disabled, the division of a joint account shall be determined according to applicable federal law; and

2. For persons who receive MA who are age 65 or over or who are blind or disabled, joint accounts shall be divided as follows:

a. If both owners of the joint account receive MA, equal shares of the joint account shall be included for the purpose of determining MA eligibility; and

b. If only one owner of the joint account receives MA, the full amount of the joint account shall be included for the purpose of determining MA eligibility.

(b) *Jointly held property.* If the applicant or recipient is a joint owner of property with a person who refuses to sell the property and who is not a legally responsible relative of the applicant or recipient, the property shall not be considered available to the applicant or recipient and may not be counted as an asset. If the property is available to the applicant or recipient, it shall be divided equally between the joint owners.

(4) **HOMESTEAD PROPERTY.** (a) A home owned and lived in by an applicant or recipient is an exempt asset.

(b) Net proceeds from the sale of homestead property shall be treated as assets except when the proceeds are placed in escrow in contemplation of purchase of another home. Proceeds in escrow are exempt assets for a maximum of one year.

(5) **NON-HOMESTEAD REAL PROPERTY.** (a) If the equity value of the non-homestead property together with all other assets does not exceed the asset limit, the person may retain the property and be eligible for MA.

(b) If the value of non-homestead property together with the value of the other assets exceeds the asset limit, the non-homestead property need not be counted as an asset if it produces a reasonable amount of income. In this paragraph, "reasonable amount of income" means a fair return considering the value and marketability of the property.

(c) If the total value of non-homestead property and non-exempt assets exceeds the asset limit, the person who owns the non-homestead property shall list the property for sale with a licensed realtor at a price which the realtor certifies as appropriate. If the property is listed for sale, it may not be counted as an asset. When the property is sold, the net proceeds shall be counted as an asset.

(6) **LIFE ESTATE.** The applicant or recipient or that person's spouse may hold a life estate in a homestead without affecting eligibility for MA. If the person leaves the property and it is sold, any proceeds received shall be considered assets.

(7) **TRUSTS.** (a) Trust funds shall be considered available assets, except that:

1. Trust funds payable to a beneficiary only upon order of a court shall not be considered available assets if the trustee or other person interested in the trust first applied to the court for an order allowing use of part or all of the trust fund to meet the needs of the beneficiary and the court denied such application;

2. Trust funds held in a trust which meets the requirements of s. 701.06, Stats., shall not be considered available assets unless the settlor is legally obligated to support the beneficiary;

3. For SSI-related MA applicants and recipients, the pertinent SSI standards on the treatment of trusts as resources shall apply; and

4. For AFDC-related applicants and recipients, the pertinent AFDC standards on the treatment of trusts as resources shall apply.

(8) **PERSONAL PROPERTY.** Household and personal effects of reasonable value, considering the number of members in the fiscal test group, shall be exempt.

(9) **LOANS.** Money received on loan shall be exempt unless it is available for current living expenses, in which case the money shall be treated as an asset even if a repayment schedule exists.

(10) **LIFE INSURANCE POLICIES.** The cash value of a life insurance policy shall be considered an asset, except that for SSI-related persons it is an asset only when the total face value of all policies owned by the person exceeds \$1,500. In this subsection, "cash value" means the net amount of cash for which the policy could be surrendered after deducting any loans or liens against it, and "face value" means the dollar amount of the policy which is payable on death.

(11) **LUMP SUM PAYMENTS.** All lump sum payments, unless specifically exempted by federal statute or regulation, shall be treated as assets instead of income. In this subsection, "lump sum payment" means a non-recurring payment such as retroactive social security benefits, income tax refunds, and retroactive unemployment benefits.

(12) **WORK-RELATED ITEMS.** Work-related items essential to the employment or self-employment of a household member, except motor vehicles, are exempt from being counted as assets. For business or farm operations, internal revenue service (IRS) returns shall be used to determine whether or not the operation is profitable or moving toward becoming profitable. If the operation is not profitable or becoming profitable, all assets related to the operation shall be counted in the determination of eligibility.

(13) **SPECIAL EXEMPT ASSETS FOR BLIND OR DISABLED PERSONS.** The following assets shall be exempted in determining the eligibility of blind or disabled persons:

(a) Assets essential to the continuing operation of the person's trade or business;

(b) Income-producing property; and

(c) Funds conserved for a departmentally approved plan for self-support of a blind or disabled person. The conserved funds shall be segregated from other funds. Interest earned on conserved funds is exempt so long as the conserved funds do not exceed the provision of the approved plan.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.

**HSS 103.07 Income.** (1) **SPECIAL SITUATIONS OF INSTITUTIONALIZED PERSONS.** (a) *Support received by institutionalized persons.* 1. Any financial Register, February, 1986, No. 362