LIST OF ASSETS

11.4 LIST OF ASSETS

The following alphabetical list identifies items which are considered in determining asset eligibility. Beside each item, there are three boxes. The yes or no in the boxes indicates if the item is an asset for the programs as listed below:

Box 1: SNAP Benefits

Box 2: WV WORKS, AFDC-Related Medicaid

Box 3: SSI-Related Medicaid, M-WIN, CDCS, PAC, QDWI, QMB, SLIMB, and QI-1

EXAMPLE:

Box 1	Box 2	Box 3
SNAP	WVW, AFDC Related	SSI Groups
Yes/No	Yes/No	Yes/No

When a “yes” or “no” in the box shows an asterisk (*) beside it, special conditions apply, and the narrative must be consulted.

Unless specified in the narrative or marked with an asterisk (*), the comments apply to all programs listed.

NOTE: See Chapter 17 for special procedures related to Long-Term Care Programs.

For any program not listed, see Section 11.2.

See Chapter 4 for verification information.

A. AGENT ORANGE COMPENSATION

SNAP	WVW, AFDC Related	SSI Groups
No	No	No

All payments from the Agent Orange Settlement fund or any other fund established pursuant to the settlement are excluded by federal law.

B. ANNUITIES

SNAP	WVW, AFDC Related	SSI Groups
Yes *	No *	Yes *

SNAP: The annuity must be accessible to an AG member.

AFDC-Related Medicaid, SSI-Related Medicaid, M-WIN, CDCS, PAC, QDWI, SLIMB and QI-1: The value amount counted depends upon the status of the annuity and when it was purchased.

1. Annuities Purchased Prior to 11/1/08

   The annuity must be revocable or assignable to be an asset.

   Revocable annuity - the value is the amount the purchaser will receive if he cancels the annuity.

   Assignable annuity - the value is the amount for which the annuity can be sold on the open market.

   Irrevocable or unassignable - the value is not an asset.

2. Annuities Purchased On or After 11/1/08

   The value of the annuity is as follows.

   Revocable annuity - the value is the amount the purchaser will receive if he cancels the annuity.

   Assignable annuity - the value is the amount for which the annuity can be sold on the open market.

   Irrevocable or unassignable annuity - the value is the amount for which the current or future stream of payments can be sold on the open market.

See Section 17.10 for annuities as a transfer of resources.

FOR LONG-TERM CARE MEDICAID ONLY: When an individual is approved for Long-Term Care Medicaid and has an excluded annuity described above, for which Medicaid must be the beneficiary, the Worker must fax a copy of the trust document and the Medicaid recipient's name, case number and name of the recipient's power-of-attorney or representative, if applicable, to the current contract agency for Estate Recovery. Information about this agency is in Chapter 17, Appendix I.

C. BANK ACCOUNTS AND CD'S

SNAP	WVW, AFDC Related	SSI Groups
Yes *	Yes *	Yes *

1. Savings Accounts

2. Christmas Clubs

3. Checking Accounts

4. Certificates of Deposits (CD's)

   The amount deposited, plus any accrued interest, minus any penalties imposed for early withdrawal, is counted as an asset.

   Some funds held in CD's cannot be withdrawn prior to maturity under any circumstances. In this situation, the certificate is not an asset until the first month after it matures.

NOTE: For a joint checking or savings account, or jointly owned time deposit, refer to the jointly owned assets section under each program of assistance.

The current month's income deposited in accounts is not counted as an asset for that month. See Section 11.2. Checks dated or posted before the usual check receipt date are treated as if they were received in the usual month of receipt.

SNAP Benefits: When excluded funds are kept in a bank account with other non-excluded money, the normally non-excluded funds are excluded for 6 months from the date they were placed in the account. After 6 months, the exclusion ends and all money in the account is an asset.

EXCEPTION: Educational funds are excluded for SNAP benefits, even when co-mingled with other funds.

SSI-Related Medicaid, M-WIN, CDCS, PAC, QDWI, QMB, SLIMB and QI-1: See item J,1 below for educational funds set aside for tuition and other educational expenses.

SSI-Related Medicaid, M-WIN, CDCS, PAC, QDWI, QMB, SLIMB and QI-1: Liquid assets used in a trade or business are excluded as property essential to self support.

5. Deposits By Others

When a non-AG member deposits his own money, for his own use, into the account of an AG member, the amount remaining in the account on the first day of the next calendar month is counted as an asset for the SNAP AG.

6. Dedicated Account for SSI Recipient

WV WORKS and SSI-Related Medicaid Groups: When the SSI recipient is under age 18 and SSA requires the establishment of a dedicated account for past due monthly SSI payments, the amount in the dedicated account is excluded as an asset. This applies when the back payment amount is deposited by SSA directly in the account and when it is deposited there at the discretion of the representative payee. These accounts may include checking, savings and money market accounts. The exclusion continues until all funds in the account are depleted, or until SSA determines the account no longer meets the SSA criteria for a dedicated account. The exclusion continues after the SSI recipient reaches age 18, as long as the account remains a dedicated account.

If the funds are commingled with any other funds, except accumulated earnings or interest from the account, the exclusion does not apply to any portion of the account.

For SNAP benefits see Section 11.5,A,4.

7. HUD Family Self-Sufficiency Escrow Accounts and Individual Development Accounts

SNAP	WVW, AFDC Related	SSI Groups
No*	No*	No*

Funds in either a Housing and Urban Development's (HUD) Family Self-Sufficiency (FSS) escrow account or Individual Development Account (IDA), as well as any disbursements made prior to program completion, are excluded.

Any disbursement made upon completion of the program is treated as a lump sum payment.

8. Individual Development Accounts (IDA)

SNAP	WVW, AFDC Related	SSI Groups
No	No	No

Both TANF-funded and demonstration project IDA's are excluded by federal law for all programs.

D. BONDS - U. S. SAVINGS

SNAP	WVW, AFDC Related	SSI Groups
Yes	Yes	Yes *

The cash-in value is counted.

SSI-Related Medicaid, M-WIN, CDCS, PAC, QDWI, QMB, SLIMB, and QI-1: A U.S. Savings Bond is not an asset during its six-month minimum retention period. As of the first moment of the seventh month, the bond is considered an asset. If an individual receives a bond as a gift, see Section 10.3, U.S. Savings Bonds.

SSI-Related Medicaid, M-WIN, CDCS, PAC, QDWI, QMB, SLIMB and QI-1: Liquid assets used in a trade or business are excluded as property essential to self support.

E. BURIAL FUNDS AND PLOTS

1. Burial Funds

SNAP	WVW, AFDC Related	SSI Groups
See	Section	11.5

Money set aside to pay for funerals and related expenses may be counted as an asset. When set up as a trust, prepaid burials can be paid for by cash, insurance policies or annuities.

For treatment of burial funds by program, see Section 11.5.

2. Burial Plots

SNAP	WVW, AFDC Related	SSI Groups
No*	No*	No *

a. SNAP Benefits, WV WORKS, and AFDC-Related Medicaid

One burial space, regardless of the type, per AG member is excluded.

b. SSI-Related Medicaid, M-WIN, CDCS, PAC, QDWI, QMB, SLIMB, and QI-1

Burial spaces which are intended for the use of the client, spouse, or any member of the immediate family, are excluded.

The immediate family includes:

- Parents, including adoptive parents
- Minor or adult children, including adoptive and stepchildren
- Siblings, including adoptive and stepsiblings.

Immediate family also includes the spouse of the above relatives. If the relative's relationship to the recipient is by marriage only, the marriage must be in effect in order for the burial space exclusion to continue to apply.

EXAMPLE: An individual owns burial spaces, 2 of which are for his brother and sister-in-law. Two years after he purchases the spaces, his brother and sister-in-law divorce. The space originally intended for the sister-in-law is no longer excluded.

F. BUSINESS AND NON-BUSINESS PERSONAL PROPERTY

1. Business Personal Property

SNAP	WVW, AFDC Related	SSI Groups
No *	Yes	No *

a. SNAP Benefits

Excluded if used in a business. If not excluded as business property, the equity value is an asset.

This exclusion continues during periods of unemployment due to physical inability to work as long as the individual intends to return to work when physically able.

Vehicles and recreational vehicles/equipment are excluded regardless of use.

b. SSI-Related Medicaid, M-WIN, CDCS, PAC, QDWI, QMB, SLIMB, and QI-1

The following are excluded as business personal property, regardless of the rate of return.

- Property currently used in a trade or business

- Property used by an individual as an employee for work

- Property required by an employer for work. Examples include, but are not limited to: tools, safety equipment and uniforms.

The property must be in current use or has been in use, with a reasonable expectation that the use will resume within 12 months of last use. The 12-month period can be extended for an additional 12 months if nonuse is due to a disabling condition. Verification of the condition is not required. The exclusion ends as of the date the person changes his intent to resume the self-support enterprise or employment for which he uses the property.

EXAMPLE: Sharon has a small business in her home making hand-woven rugs. The looms and other equipment used in the business have a CMV of $7,000. Her equity is $5,500 since she owes $1,500 on the looms. The $5,500 equity is excluded because the equipment is used in a business.

EXAMPLE: John owns a commercial fishing permit granted by the State Commerce Commission, a boat, and fishing tackle. The boat and tackle have an equity value of $6,500. The $6,500 equity is excluded because the boat and tackle are used in a business.

2. Non-Business Personal Property

a. Income Producing

SNAP	WVW, AFDC Related	SSI Groups
No *	Yes	No *

(1) SNAP Benefits: Property which is annually producing income consistent with its CMV is excluded. Vehicles and recreational vehicles/equipment are excluded regardless of use.

(2) SSI-Related Medicaid, M-WIN, CDCS, PAC, QDWI, QMB, SLIMB, and QI-1:

Up to $6,000 of an individual's equity in personal or real income-producing property is excluded, if it produces a net annual income of at least 6% of the excluded equity.

The maximum amount of net annual income the property must produce is $360.

If the individual's equity is greater than $6,000, only the amount that exceeds $6,000 is counted toward the asset limit, when the net annual income requirement of 6% is met on the excluded equity. Net annual income is the gross income from the enterprise, less the cost of doing business for a one year period. If the activity produces less than a 6% return, due to circumstances beyond the individual's control, such as crop failure or illness, and there is a reasonable expectation that the individual's activity will again produce a 6% return, the property is excluded. If the individual owns more than one piece of property, and each produces income, each has the 6% rule applied. Then, the individual's equity in all of the properties producing 6% are totaled to determine if the total equity is $6,000 or less. The equity in those properties that do not meet the 6% rule is counted as an asset. If the individual's total equity in the properties producing 6% income is over the $6,000 equity limit, the amount of equity exceeding $6,000 is counted as an asset.

The procedure to determine if the property is excluded is as follows:

Step 1: Add together the equity value of all personal and real business properties used in one enterprise.

Step 2: If the Step 1 amount is less than $6,000, multiply that amount by .06. If the Step 1 amount is $6,000 or greater, multiply $6,000 by .06.

Step 3: Compare the Step 2 amount to the net annual income. If the net annual income is equal to or greater than the amount in Step 2, subtract $6,000 from total equity value of the property(s). The remainder is an asset. If the net annual income is less than the amount arrived at in Step 2, the total equity of the property(s) is an asset.

EXAMPLE: Mr. Patterson owns a mobile home, which is not his residence that has a CMV and equity value of $3,000. He owns other property that has a CMV and equity value of $2,000. The mobile home produces a net annual rental income of $750, and the other property produces less than $50 a year. Since the mobile home produces more than a 6% return, its equity value is excluded. Since the other property produces less than a 6% return, its equity value is counted.

EXCEPTION: Property that represents the authority granted by a governmental agency to engage in an income-producing activity is excluded if it is:

- Used in a trade or business or non-business income-producing activity; or

- Not used due to circumstances beyond the individual's control, such as illness, and there is a reasonable expectation that the use will resume.

b. Necessary for Self-Support

SNAP	WVW, AFDC Related	SSI Groups
No*	Yes	No *

SNAP Benefits: Vehicles, recreational vehicles / equipment and mobile homes are excluded regardless of use.

SSI-Related Medicaid, M-WIN, CDCS, PAC, QDWI, QMB, SLIMB, and QI-1: Non-business personal and real property is considered essential for an individual and/or his spouse's self-support, if it is used to produce goods or services necessary for his daily activities. This property includes real property, such as land, which is used to produce vegetables or livestock for personal consumption only, such as corn, tomatoes, chickens, cattle. Vehicles used solely in a non-business self support activity such as a garden tractor or a boat used for subsistence fishing are included under this policy, but not vehicles as defined in item QQ, 3 below. Property used to produce goods or services or property necessary to perform daily functions is excluded, if the individual's equity in the property does not exceed $6,000. The amount of equity in excess of $6,000 is counted toward the asset limit.

EXAMPLE: Bill owns a small unimproved lot several blocks from his home. He uses the lot, which is valued at $4,800, to grow vegetables and fruit, only for his own consumption. Since his equity in the property is less than $6,000, the property is excluded as necessary to self-support.

G. CASH ON HAND
CASH SAVINGS

SNAP	WVW, AFDC Related	SSI Groups
Yes	Yes	Yes

This is a countable asset, except when any portion of it is the current month's income. Once the amount of cash, including cash benefits in an EBT account, the balance of unearned or earned income remaining on a pay card or debit card, savings, or cash benefits in an EBT account is determined, any remainder is an asset.

SSI-Related Medicaid, M-WIN, CDCS, PAC, QDWI, QMB, SLIMB and QI-1: Grants, scholarships, fellowships and gifts or portions of gifts set aside to pay tuition and other necessary educational expenses are excluded for 9 months following the month of receipt. Any portion of these funds used to pay expenses, other than those related to education, is counted as income in the month it is used to pay another expense. See Section 10.22,D,3.

SSI-Related Medicaid, M-WIN, CDCS, PAC, QDWI, QMB, SLIMB and QI-1: Liquid assets used in a trade or business are excluded as property essential to self support.

H. COLLECTIONS

SNAP	WVW, AFDC Related	SSI Groups
No	Yes	Yes

Goods and personal effects of unusual value such as, but not limited to, expensive china, silver, art work, antiques, or gun and coin collections.

I. CONTINUING CARE RETIREMENT COMMUNITY (CCRC)

SNAP	WVW, AFDC Related	SSI Groups
No*	WV WORKS - No AFDC Groups - Yes	Yes

1. SNAP Benefits

Admission or entrance fees are countable if refunded at the time the individual leaves the CCRC.

2. AFDC-Related Medicaid, SSI Medicaid, SSI-Related Medicaid, M-WIN, CDCS, PAC, QDWI, QMB, SLIMB, and QI-1

Any admission or entrance fee paid to a Continuing Care Retirement Community (CCRC) or life care community is considered an asset if:

- The individual can use the entrance fee to pay for care when other income or assets are insufficient; and

- The individual is eligible for a refund at death or upon leaving the CCRC, and

- The fee does not confer an ownership interest in the CCRC. See Section 11.1 for the definition of a CCRC.

NOTE: The admission or entrance fee is the full amount paid to become a resident of the CCRC.

J. CORPORATION FOR NATIONAL AND COMMUNITY SERVICE (CNCS)

SNAP	WVW, AFDC Related	SSI Groups
No	No	No

The payments are excluded by federal law.

K. DISASTER ASSISTANCE

SNAP	WVW, AFDC Related	SSI Groups
No*	No*	No*

Assistance provided as a result of a federally declared disaster.

See Section 11.2,F.

L. EDUCATIONAL FUNDS

1. Grants, Loans and Scholarships

SNAP	WVW, AFDC Related	SSI Groups
No*	No*	No*

When funds are excluded as income, they are also excluded as assets. See Chapter 10. However, funds that are not used for the intended purpose and are allowed to accumulate beyond the time they were intended to cover, are assets.

SSI-Related Medicaid, M-WIN, CDCS, PAC, QDWI, QMB, SLIMB and QI-1: Grants, scholarships, fellowships and gifts or portions of gifts set aside to pay tuition and other necessary educational expenses are excluded for 9 months following the month of receipt. Any portion of these funds used to pay expenses, other than those related to education, is counted as income in the month it is used to pay another expense. See Section 10.22,D,3.

2. SMART529 Plan and Pre-Paid College Tuition Plans

SNAP	WVW, AFDC Related	SSI Groups
Yes	WVW - No AFDC Groups - Yes	Yes

The cash value of the account, minus any penalty for non-qualified withdrawals, is counted as an asset for the account owner, not the student beneficiary.

3. Coverdell Education Savings Accounts

SNAP	WVW, AFDC Related	SSI Groups
No	WVW - No AFDC Groups - Yes	Yes

An IRA type of account designed to pay education expenses.

M. EITC (Earned Income Tax Credit)

SNAP	WVW, AFDC Related	SSI Groups
No*	No*	No*

1. SNAP Benefits

EITC payments are excluded for 12 months from the date of receipt, if the recipient of the EITC is an AG member at the time of receipt and participates continuously during the 12-month period. AG's that temporarily do not participate for administrative reasons, i.e., redetermination, but who are otherwise eligible, do not lose the exclusion.

2. WV WORKS

EITC payments are excluded in the month of receipt and the following month only. This applies when received as part of the person’s pay or as one payment at end of the year.

3. SSI-Related Medicaid, M-WIN, CDCS, PAC, QDWI, QMB, SLIMB and QI-1

Remaining portions of EITC payments are excluded for 9 months following the month of receipt. This applies when received as part of the person's pay or as one payment at the end of the year.

N. EQUIPMENT ESSENTIAL FOR EMPLOYMENT

SNAP	WVW, AFDC Related	SSI Groups
No*	Yes	No*

1. SNAP Benefits

Property, such as the tools of a tradesman or the machinery of a farmer, which is essential to the employment or self-employment of an AG member is excluded. This exclusion continues during periods of unemployment due to physical inability to work as long as the individual intends to return to work when physically able. Property essential to the self-employment of an AG member engaged in farming is excluded for one year from the date he terminates his farming self-employment. Vehicles and recreational vehicles/equipment are excluded regardless of use.

2. SSI-Related Medicaid, M-WIN, CDCS, PAC, QDWI, QMB, SLIMB and QI-1

Property which is required by the individual's employer is excluded, regardless of value, as long as the individual is employed. Examples of this type of equipment include tools, uniforms, safety equipment, and other similar equipment.

Also see Business and Non-Business Personal Property, and Real Property.

O. FACTOR VIII OR IX BLOOD PRODUCTS LITIGATION, MDL 986, No.93-C-7452, ND OF ILLINOIS

See HEMOPHILIA/AIDS SETTLEMENTS AND FUNDS

P. FILIPINO VETERANS EQUITY COMPENSATION FUND

SNAP	WWW, AFDC Related	SSI Groups
No	WVW - No AFDC Groups - No	No

Q. GIFT CARDS / CERTIFICATES

SNAP	WWW, AFDC Related	SSI Groups
No	WVW - Yes AFDC Groups - Yes	Yes

1. AFDC- and SSI-Related Medicaid Groups:

Any unspent balance remaining on a gift card or gift certificate is an asset beginning the month following the month the gift card or certificate is received by the individual UNLESS

- The individual does not have the right, authority or power to convert or sell the gift card/certificate for cash; AND

- The card or certificate cannot be used to purchase food or shelter.

2. WV WORKS

Gift cards are not counted unless the card can be converted to cash or sold. The cash or sale value is considered an asset the month following the month of receipt.

R. HEMOPHILIA/AIDS SETTLEMENTS AND FUNDS

SNAP	WWW, AFDC Related	SSI Groups
No	WVW - No AFDC Groups - No*	No*

All payments are excluded by federal law.

1. Factor VIII or IX Concentrate Blood Products Litigation, MDL 986, No. 93-C-7452, ND of Illinois

   Medicaid Only: Other assets purchased with funds, such as a home or vehicle, are considered according to the policy for that asset. See item JJ for Trusts established with these funds. See Chapter 17 for Transfers of Resources.

2. Ricky Ray Hemophilia Funds

SNAP	WVW, AFDC Related	SSI Groups
No	WVW - No AFDC Groups - No*	No*

   Medicaid Only: Other assets purchased with the funds, such as a home or vehicle, are considered according to the policy for that asset. See item for Trusts established with these funds. See Chapter 17 for Transfers of Resources.

3. Walker v. Bayer, et al Settlements

SNAP	WVW, AFDC Related	SSI Groups
No	WVW - No AFDC Groups - No*	No*

   Medicaid Only: Payments made from any fund established pursuant to a class settlement in the case of Susan Walker v. Bayer Corp., et at. are excluded. Payments made as a result of an individual release of claims, instead of the class settlement, are excluded when the agreement is signed by all affected parties on or before the later of 12/31/97, or the date that is 270 days after the date on which the release is first sent to the persons to whom the payment is to be made.

   Other assets purchased with the funds, such as a home or vehicle, are considered according to the policy for that asset. See item for Trusts established with these funds. See Chapter 17 for Transfers of Resources.

S. HIGHWAY RELOCATION ASSISTANCE PAYMENTS AND URBAN RENEWAL RELOCATION PAYMENTS

SNAP	WVW, AFDC Related	SSI Groups
No	No	No

T. HOUSEHOLD FURNISHINGS, PERSONAL EFFECTS AND PETS

SNAP	WVW, AFDC Related	SSI Groups
No	No	No

Furniture, appliances, personal effects such as clothing, jewelry, and pets are excluded. Certain livestock may also be considered family pets. The Worker and Supervisor must determine on a case-by-case basis whether or not the livestock reasonably qualifies as a pet, taking into account the number of livestock/pets and their usage.

U. INCOME TAX REFUNDS AND REBATES

1. Income Tax Refunds

SNAP	WVW, AFDC Related	SSI Groups
Yes	Yes	Yes

NOTE: Federal tax refunds and advance payments received January 1, 2010 through December 31, 2012 are not counted as an available resource for a period of 12 months following the month of receipt.

2. Economic Stimulus Tax Rebate for 2007

SNAP	WVW, AFDC Related	SSI Groups
Yes*	Yes*	Yes*

NOTE: The Economic Stimulus Tax Rebate for 2007 is a countable asset for all programs if retained into the 3rd month following the month of receipt.

Refunds for the Child Care Tax Credit are excluded for the SSI-Related groups. Also see EITC.

V. INDIAN LANDS AND TRUSTS FUNDS

SNAP	WVW, AFDC Related	SSI Groups
Yes	Yes	Yes *

See Appendix C.

W. INSURANCE SETTLEMENTS

See Chapter 10 and Section 11.2,F

Treated as lump sum payments, or compensation for loss or damage.

X. JAPANESE-AMERICAN AND ALEUTIAN RESTITUTION PAYMENTS

SNAP	WVW, AFDC Related	SSI Groups
No	No	No

The payments are excluded by federal law.

Y. LAND SALE CONTRACT

SNAP	WVW, AFDC Related	SSI Groups
No	Yes*	Yes*

WV WORKS, AFDC- and SSI-Related Medicaid Groups:

The property is considered to belong to the buyer or purchaser as long as a legal contract is in effect but has no equity value until the terms of the contract are fulfilled. See LL below for the Homestead exclusion when the buyer lives on the property.

When an individual holds a land sale contract as a creditor, the outstanding balance of principal payments is an asset unless there is a legal bar to the sale of the contract.

NOTE: If the buyer defaults on the contract, the property is considered to belong to the seller again. The buyer only has equity value in the property after the terms of the contract are fulfilled.

Z. LIFE INSURANCE
(Cash Surrender Value)

SNAP	WVW, AFDC Related	SSI Groups
No	Yes	Yes*

SSI-Related Medicaid, M-WIN, CDCS, PAC, QDWI, QMB, SLIMB and QI-1: If the face value of all life insurance policies for one individual totals $1,500 or less, the cash surrender values are not counted as an asset. If the face value of all life insurance policies for an individual is in excess of $1,500, the cash surrender values are counted as an asset. The life insurance policy must be owned by the client or by a person whose assets are deemed to him to be counted. If the consent of another individual is needed to surrender a policy for its full cash surrender value, and the consent cannot be obtained, the policy is not an asset. Assignment of a life insurance policy to another individual means consent of that individual is required before it can be cashed.

NOTE: Endowment Life Insurance Policies are considered balloon annuities and subject to a transfer penalty for Long-Term Care Services. See Section 17.10.

AA. LIEAP (Low-Income Energy Assistance Program) AND ENERGY CRISIS INTERVENTION PAYMENTS

SNAP	WVW, AFDC Related	SSI Groups
No	No	No

The payments are excluded by federal law.

BB. LOANS, NON-EDUCATIONALS

SNAP	WVW, AFDC Related	SSI Groups
Yes*	Yes*	Yes*

1. SNAP Benefits

   Loans for which there is a verbal or written agreement to repay are excluded.

2. AFDC-Related Medicaid

   Loans which meet the definition of Bona Fide loans, as found in Chapter 10, are excluded as assets.

   When an individual holds a loan as a creditor, the outstanding balance of principal payments is an asset unless there is a legal bar to the sale of the loan agreement.

3. WV WORKS

   Loans are normally counted as income. See Chapter 10. However, when a loan is excluded from consideration as income and has not been used for the intended purpose within 3 months of the date the money is received, the funds remaining at the end of 3 months are counted as an asset. The remaining amount of a loan which was counted as income in the month of receipt, becomes an asset in the month following the month of receipt.

   When an individual holds a loan as a creditor, the outstanding balance of principal payments is an asset unless there is a legal bar to the sale of the loan agreement.

4. SSI-Related Medicaid, M-WIN, CDCS, PAC, QDWI, QMB, SLIMB and QI-1

   Loans received under conditions which preclude their use for living expenses are excluded.

   When an individual holds a loan as a creditor, the outstanding balance of principal payments is an asset unless there is a legal bar to the sale of the loan agreement.

CC. LUMP SUM PAYMENTS

SNAP	WVW, AFDC Related	SSI Groups
Yes*	No	No*

Lump sum payments are not counted as assets when counted as income. See Chapter 10.

When a lump-sum payment is received prior to the month of application, the amount remaining during the month of application is an asset. When a lump sum payment is received by someone being added to an active AG, the amount retained during his month of application is an asset.

1. SNAP Benefits

   Non-recurring lump sum payments are counted as assets. For recurring lump sum payments, see Section 10.4,D.

   NOTE: The one-time payment issued to RSDI, SSI and VA recipients under the American Recovery and Reinvestment Act of 2009 is excluded for 9 months following the month of receipt.

2. WV WORKS

   When the SSI recipient is under age 18 and SSA requires the establishment of a dedicated account for past due monthly SSI payments, any lump sum SSI back payment amount deposited in the dedicated account is excluded as an asset.

   If the funds are commingled with any other funds, except accumulated earnings or interest from the account, the exclusion does not apply to any portion of the account.

   NOTE: The one-time payment issued to RSDI, SSI and VA recipients under the American Recovery and Reinvestment Act of 2009 is excluded for 9 months following the month of receipt.

3. SSI-Related Medicaid, M-WIN, CDCS, PAC, QDWI, QMB, SLIMB and QI-1

   a. SSI Dedicated Accounts

      When an SSI recipient is under age 18 and SSA requires the establishment of a dedicated account for past due monthly SSI payments, any lump sum SSI back payment amount deposited in the dedicated account is excluded as an asset. If the funds are commingled with any other funds, except accumulated earnings or interest from the account, the exclusion does not apply to any portion of the account.

   b. RSDI and SSI Underpayments

      The payments are excluded for 9 months following the month of receipt.

c. RSDI and SSI Restitution Payments for Misuse by a Representative Payee

The payments are excluded for 9 months following the month of receipt.

d. RSDI, SSI and VA Payments Issued Under the American Recovery and Reinvestment Act of 2009

The payments are excluded for 9 months following the month of receipt.

DD. MUTUAL FUNDS

SNAP	WVW, AFDC Related	SSI Groups
Yes	Yes	Yes

EE. NAZI PERSECUTION VICTIMS PAYMENTS

SNAP	WVW, AFDC Related	SSI Groups
No	No	No

These payments excluded by federal law are made to individuals because of their status as victims of Nazi persecution and may include, but are not limited to:

- Austrian Social Insurance Payments
- German Reparations Payments
- Netherlands WUV Payments

FF. NORTH VIETNAM – DEPARTMENT OF DEFENSE (DOD) PAYMENTS TO PERSONS CAPTURED AND INTERNED

SNAP	WVW, AFDC Related	SSI Groups
No	No	No

The payments are excluded by federal law.

GG. PASS ACCOUNT

SNAP	WVW, AFDC Related	SSI Groups
Yes*	Yes	No

SNAP Benefits: Any PASS account developed for an SSI recipient by SSA is excluded.

See Chapter 10.

HH. PENSION AND OTHER RETIREMENT FUNDS

1. Cash Value Of Pension Funds

SNAP	WVW, AFDC Related	SSI Groups
No	No	Yes

SNAP Benefits, WV WORKS and AFDC Groups: The cash value of these accounts is excluded, unless removed from the account.

SSI-Related Medicaid: The amount counted is the total cash value of the account or plan, minus the amount of the penalty, if any, that would be applied for the early withdrawal of the entire amount.

Pension or other retirement funds of spouses ineligible to be included in the SSI-related Medicaid category because they are not aged, blind, or disabled are not deemed, nor are those belonging to parents or spouses of parents. Once removed from the pension or retirement account, the fund(s) is counted according to the policy for the asset to which it is converted, i.e., bank account, CD, etc.

2. 401k Plans

SNAP	WVW, AFDC Related	SSI Groups
No	Yes	Yes

SNAP Benefits: The cash value of these accounts is excluded, unless removed from the account.

WV WORKS and AFDC Groups: The amount counted is the total cash value of the account or plan, minus the amount of the penalty, if any, that would be applied for the early withdrawal of the entire amount.

SSI-Related Medicaid: The amount counted is the total cash value of the account or plan, minus the amount of the penalty, if any, that would be applied for the early withdrawal of the entire amount.

Pension or other retirement funds of spouses ineligible to be included in the SSI-related Medicaid category because they are not aged, blind, or disabled are not deemed, nor are those belonging to parents or spouses of parents. Once removed from the pension or retirement account, the fund(s) is counted according to the policy for the asset to which it is converted, i.e., bank account, CD, etc.

3. IRA, KEOGH, Simplified Employer Pension Plan Or Similar Plans

SNAP	WVW, AFDC Related	SSI Groups
No	Yes *	Yes *

SNAP: The following are excluded:

- Tax-preferred retirement accounts such as, but not limited to:
  - Simple 401 (k),
  - 501 (c)
  - 18, 403 (b) plan
  - 457 plan
- Federal Employee Thrift Savings plan
- Keogh Plan
- IRA
- Roth IRA
- SIMPLE IRA
- Simplified Employer Plan
- Profit Sharing Plan
- Pension or traditional defined-benefit plan, or
- Cash Balance plans

WV WORKS and AFDC Groups: Individual Retirement Accounts (IRA's), Simplified Employer Pension Plans (SEPs), which are considered to be IRA's, and funds held in KEOGH plans which do not involve the AG member in a contractual relationship with individuals who are not AG members, are counted as assets. The amount counted is the total cash value of the account or plan, minus the amount of the penalty, if any, that would be applied for the early withdrawal of the entire amount.

If the KEOGH Plan is such that individual participants may make withdrawals without affecting in any way other parties who are not AG members, the AG member's funds in the KEOGH Plan, minus any penalty affecting him only, are counted as an asset. The exclusion of the KEOGH Plan involving more than one person does not apply if the other persons involved in the Plan are members of the AG.

SSI-Related Medicaid: The amount counted is the total cash value of the account or plan, minus the amount of the penalty, if any, that would be applied for the early withdrawal of the entire amount.

Pension or other retirement funds of spouses ineligible to be included in the SSI-related Medicaid category because they are not aged, blind, or disabled are not deemed, nor are those belonging to parents or spouses of parents. Once removed from the pension or retirement account, the fund(s) is counted according to the policy for the asset to which it is converted, i.e., bank account, CD, etc.

II. PRODUCE AND LIVESTOCK FOR HOME CONSUMPTION

SNAP	WVW, AFDC Related	SSI Groups
No	No	No

JJ. PROMISSORY NOTES

SNAP	WVW, AFDC Related	SSI Groups
No	Yes *	Yes *

1. Promissory Notes Negotiated Before 11/1/09

The outstanding principal balance of a promissory note is not an asset.

2. Promissory Notes Negotiated On or After 11/1/09

WV WORKS, AFDC Medicaid, AFDC-Related and SSI-Related Medicaid: The outstanding principal balance in the month eligibility is determined is an asset, unless the client submits verification of a legal bar to the sale of the agreement or an estimate from a knowledgeable source which shows the CMV of the agreement is less than the outstanding principal balance. Knowledgeable sources include anyone in the business of making such estimates, including, but not limited to, banks or other financial institutions, private investors and real estate brokers. The estimate must show the name, title and address of the source. See Section 17.10,B,8 for promissory notes as a possible transfer of resources for Long Term Care.

KK. RADIATION EXPOSURE COMPENSATION FUND

SNAP	WVW, AFDC Related	SSI Groups
No	No	No

The payments are excluded by federal law.

LL. REAL PROPERTY

Also see BUSINESS and NON-BUSINESS PERSONAL PROPERTY

1. Homestead Property

SNAP	WVW, AFDC Related	SSI Groups
No	No *	No *

The client's homestead is the property on which he lives and which is owned, or is being purchased by him. It is the dwelling and the land on which the dwelling rests, which is not separated by intervening property

owned by others. Public rights-of-way which run through the surrounding property and separate it from the home, do not affect this exclusion. Any additional property acquired and not separated from the original acquisition by intervening property owned by others, is also excluded.

The value of structures on the property, other than the client's dwelling, is included in the exemption whether or not they are income-producing, except for mobile homes. For WV WORKS, AFDC and SSI groups, the value of any mobile home on the homestead property, if it is not the client's dwelling, is considered an asset, unless it is income-producing property. See Item 3 below.

a. SNAP Benefits

All real property and mobile homes are excluded, regardless of use.

b. SSI-Related Medicaid, M-WIN, CDCS, PAC, QDWI, QMB, SLIMB and QI-1

Only one dwelling is established as the client's principal place of residence, and only the principal place of residence is excluded. See Section 11.1 for the definition of principal place of residence. When an individual leaves his principle place of residence for any reason, but intends to return to it, the home is excluded. The exclusion is based solely on the individual's intent to return, even if the home is vacant or rented. The individual need not have the ability to return to the home, but must simply have the intent.

If an individual leaves the principal place of residence with no intent to return due to domestic abuse, the home continues to be excluded until the individual establishes a new principal place of residence or otherwise takes action rendering the home no longer excludable.

When an individual is institutionalized, his home remains his principal place of residence, regardless of his intent to return, as long as a spouse or dependent relative lives in the home. For purposes of the homestead exclusion only, a dependent relative is one who is dependent financially, medically, or as otherwise determined, upon the institutionalized person. The following are considered relatives of the institutionalized person: child, stepchild or grandchild; parent, stepparent or grandparent; aunt, uncle, niece or nephew; brother or sister, including relations of step or half; cousin or in-law.

When the equity value of an individual's home exceeds $500,000, he is ineligible for Medicaid payment for nursing home care or AD Waiver Services, unless his spouse, child under 21 or disabled adult child resides in the home.

NOTE: Property being purchased with a land sale contract is considered Homestead property if the buyer lives on the property. See Item X above for the equity value of land sale contracts.

When the client has only a life estate interest in his principal place of residence, the value of the life estate interest is excluded. For more information, see item 4 below. Temporary absences from the home for trips, visits, hospitalizations or institutionalization do not affect the homestead exclusion. See item 4 below for the purchase of a life estate in another individual's home.

2. Sale Proceeds Or Compensation For Loss Or Damage

See Section 11.2 CONVERSION OR SALE OF AN ASSET; COMPENSATION FOR LOSS OR DAMAGE

3. Non-Homestead Property

Treatment of non-homestead property as an asset depends on its use.

a. Income-Producing Property

SNAP	WVW, AFDC Related	SSI Groups
No	Yes	No*

(1) SNAP Benefits

All real property, mobile homes and mineral/timber rights are excluded, regardless of use.

(2) SSI-Related Medicaid, M-WIN, CDCS, PAC, QDWI, QMB, SLIMB and QI-1

(a) Real Property Used in a Business or Trade

All real property currently used in a trade or business is excluded, regardless of value or rate of return.

The property must be in current use or has been in use, with a reasonable expectation that the use will resume within 12 months of last use. The 12-month period can be extended for an additional 12 months if nonuse is due to a disabling condition. Verification of the condition is not required. The exclusion ends as of the date the person changes his intent to resume the self-support enterprise or employment for which he uses the property.

(b) Real Property Not Used in a Business or Trade

Up to $6,000 of an individual's equity in real or personal income-producing property is excluded, if it produces a net annual income of at least 6% of the excluded equity. The maximum amount of net annual income the property must produce is $360.

If the individual's equity is greater than $6,000, only the amount that exceeds $6,000 is counted toward the allowable asset limit, when the net annual income requirement of 6% is met. Net annual income is the gross income from the enterprise, less the cost of doing business for a one-year period.

If the activity produces less than a 6% return, due to circumstances beyond the individual's control, such as crop failure or illness, and there is a reasonable expectation that the individual's activity will again produce a 6% return, the property is excluded. If the individual owns more than one piece of property and each produces income, each has the 6% rule applied. Then the amounts of the individual's equity in all of the properties producing 6% are totaled to determine if the total equity is $6,000 or less. The equity in those properties that do not meet the 6% rule is

counted as an asset. If the individual's total equity in the properties producing 6% income is over the $6,000 equity limit, the amount of equity exceeding $6,000 is an asset.

The procedure to determine if the property is excluded are as follows:

Step 1: Add together the equity value of all personal and real business properties used in one enterprise.

Step 2: If the Step 1 amount is less than $6,000, multiply that amount by .06. If the Step 1 amount is $6,000 or greater, multiply $6,000 by .06.

Step 3: Compare the Step 2 amount to the net annual income. If the net annual income is equal to or exceeds the amount arrived at in Step 2, subtract $6,000 from the total equity value of the property(s). The remainder is an asset. If the net annual income is less than the amount arrived at in Step 2, the total equity of the property(s) is an asset.

EXAMPLE: Mr. Patterson owns a mobile home, which is not his residence that has a CMV and equity value of $3,000. He owns other property that has a CMV and equity value of $2,000. The mobile home produces a net annual rental income of $750, and the other property produces less than $50 a year. Since the mobile home produces more than a 6% return, its equity value is excluded. Since the other property produces less than a 6% return, its equity value is not excluded.

b. Necessary for Self-Support

SNAP	WVW, AFDC Related	SSI Groups
Yes	Yes	No*

SSI-Related Medicaid, M-WIN, CDCS, PAC, QDWI, QMB, SLIMB, and QI-1: Non-business real and personal property is considered necessary for an individual and/or his spouse's self-support, if it is used to produce goods or services necessary for his daily activities.

This type of property includes real property, such as land, which is used to produce vegetables or livestock for personal consumption only, such as, corn, tomatoes, chickens, cattle.

Vehicles used solely in a non-business self-support activity, such as a garden tractor or a boat used for subsistence fishing are excluded under this policy, but not vehicles as defined in item QQ,3 below. This property also includes personal property necessary to perform daily functions, but not passenger cars, trucks, boats, or other special vehicles. Property used to produce goods or services or property necessary to perform daily functions is excluded, if the individual's equity in the property does not exceed $6,000. The amount of equity in excess of $6,000 is counted toward the asset limit. Personal property which is required by the individual's employer for work is not counted, regardless of value, while the individual is employed. Examples of this type of personal property include tools, safety equipment, uniforms and similar items.

EXAMPLE: Bill owns a small, unimproved lot several blocks from his home. He uses the lot, which is valued at $4,800, to grow vegetables and fruit, only for his own consumption. Since his equity in the property is less than $6,000, the property is excluded as necessary to self support.

c. Other Real Property

SNAP	WVW, AFDC Related	SSI Groups
No	Yes*	Yes*

The equity in property, not otherwise excluded, is an asset.

(1) SNAP Benefits

All real property, mobile homes and mineral/timber rights are excluded, regardless of use.

(2) WV WORKS

Any non-excluded real property which the AG is making a good faith effort to sell is excluded for six months. A good faith effort means that the property is currently available for sale through a real estate agent or through publication.

The only time this exclusion applies is when the client has agreed in writing, using Form DFA-22, to dispose of the property within the six-month exclusion period. Any

payments made to the AG during this disposition period must be repaid to the Department once the client disposes of the asset.

If, for any reason, the client fails to dispose of the property, or the case is closed during the exclusion period, all of the payments made to the AG must be repaid. If, at the end of the 6-month period, the client has failed to dispose of the property, it must be counted as an asset.

(3) AFDC-Related Medicaid

The equity in real property, other than homestead property, is an asset.

(4) SSI-Related Medicaid, CDCS, PAC, QDWI, QMB, SLIMB, and QI-1

When the client's non-excluded real property is not used in a trade or business or does not meet the $6,000 or the $6,000/6% limitation, the equity in the property is an asset. See items a and b above.

4. Life Estates

SNAP	WVW, AFDC Related	SSI Groups
No	No	Yes*

Under a life estate, an individual who owns property transfers ownership of the property to another individual, while retaining certain rights to it for the rest of his life, or the life of another person. Generally, a life estate entitles the owner of the life estate to possess, use, and obtain profits from the property for as long as he lives. However, actual ownership of the property has been transferred.

When an individual purchases a life estate interest in another individual's home, a transfer of resources penalty is imposed unless the individual who purchased the life estate resides in the home for at least 1 year after the date of purchase.

If the individual has resided in the home for at least 1 year after the life estate was purchased, determine the value of the life estate as follows.

(1) No Intent to Return

If the individual does not intend to return to the home in which the life estate was purchased, the value of the life estate is determined by following the steps outlined below.

When the individual has no intent to return due to domestic abuse, the life estate continues to be excluded until the individual establishes a new principal place of residence or otherwise takes action rendering the life estate no longer excludable.

(2) Intent to Return

The purchase of a life estate may be excluded if the individual intends to return to the home and the individual resided in the home for at least one year after the purchase.

When the client establishes a life estate with his own property, the property itself is no longer an asset to him because ownership has been transferred. However, the value of the life estate is treated as an asset when it is not the client's principal place of residence unless he cannot legally dispose of the life estate. The value is determined as follows:

Step 1: Determine the CMV of the property.

Step 2: Determine the age of the life estate holder, as of his last birthday and the life estate factor for that age found in Appendix A. The table contained in the WV State Code is not used; only Appendix A is used.

Step 3: Multiply the CMV by the life estate factor determined in Step 2.

The resulting amount is counted as an asset for the life estate holder.

If the client believes the life estate is worth less than the determined value, he must provide proof of a lower value.

NOTE: For long-term care cases, a penalty may be applied for transferring property when retaining a life estate or for purchasing a life estate interest in another individual's home. See Chapter 17.

When property is transferred to a client by someone who retains a life estate interest in the property, the transferred property is counted as an asset, unless the client cannot legally dispose of it.

5. Real Property Related to Vehicle Maintenance

SNAP	WVW, AFDC Related	SSI Groups
No	Yes	Yes

MM. RECREATIONAL EQUIPMENT

SNAP	WVW, AFDC Related	SSI Groups
No	Yes	Yes

See Section 11.1. Recreational equipment is considered personal property. See the RAPIDS User Guide. The retail value (CMV) must be used when determining equity. See Section 11.2,C.

EXCEPTION: When the individual lives in his recreational equipment, it is considered his home and is excluded as long as he lives in it.

NN. RECREATIONAL VEHICLES

SNAP	WVW, AFDC Related	SSI Groups
No	Yes	Yes

See Section 11.1. Recreational vehicles are considered personal property. See the RAPIDS User Guide. The retail value (CMV) must be used when determining equity. See Section 11.2,C.

EXCEPTION: When the individual lives in his recreational vehicle, it is considered his home and is excluded as long as he lives in it.

OO. RICKY RAY HEMOPHILIA FUNDS

See HEMOPHILIA/AIDS SETTLEMENTS AND FUNDS

PP. SATELLITE DISHES

SNAP	WVW, AFDC Related	SSI Groups
No	No	No

QQ. STOCKS

SNAP	WVW, AFDC Related	SSI Groups
Yes *	Yes *	Yes *

To establish the CMV of a stock for applicants, the Worker must use the closing stock market price as of the last business day of the prior month. For recipients who purchase stocks, the purchase price is used. All policies applicable to stocks also apply to preferred stocks, as well as warrants, rights and options to purchase stocks.

EXCEPTION: Shares of stock in an Alaskan Native Regional or Village Corporation are excluded for all programs.

NOTE: The par value or stated value shown on some stock certificates is not the market value of the stock.

RR. SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP) BENEFITS

SNAP	WVW, AFDC Related	SSI Groups
No	No	No

This includes coupons and SNAP benefits in an EBT account.

SS. SWIMMING POOLS

- Above-ground

SNAP	WVW, AFDC Related	SSI Groups
No	Yes	Yes

- In-ground: considered part of the homestead are excluded.

SNAP	WVW, AFDC Related	SSI Groups
No	No	No

TT. TRUST FUNDS

SNAP	WVW, AFDC Related	SSI Groups
Yes*	Yes*	Yes*

In general, if the client has unrestricted access to the principal of the trust, it must be counted as an asset.

1. SNAP Benefits

Any funds in a trust or transferred to a trust and any income produced by that trust are considered inaccessible to the AG and excluded if:

- The trust arrangement is not likely to cease before the next redetermination and no AG member has the power to revoke the trust arrangement or change the name of the beneficiary before the next redetermination; and

- The trustee administering the funds is either:

  - A court, or an institution, corporation or organization which is not under the direction or ownership of any AG member, or

  - An individual appointed by the court who has court-imposed limitations placed on his use of the funds which meet all other fund requirements found in this item (item 1); and

- Trust investments made on behalf of the trust do not directly involve or assist any business or corporation under the control, direction, influence of an AG member; and

- The funds held in irrevocable trust are either:

  - Established from the AG's own funds, if the trustee uses the funds solely to make investments on behalf of the trust or to pay education or medical expenses of any person named by the AG creating the trust, or

  - Established from non-AG funds by a non-AG member.

When withdrawals are made from a trust fund, see Chapter 10 for policy about treatment of the withdrawal as income.

Dividends which the AG has the option of either receiving as income or reinvesting in the trust are not assets. See Chapter 10 for treatment of dividends.

A client cannot be required to petition the court for the use of the trust. In addition, this fund cannot be presumed to be available to the client.

2. WV WORKS, SSI Medicaid, AFDC-Related and SSI-Related Medicaid, M-WIN, CDCS, PAC, QDWI, QMB, SLIMB and QI-1

NOTE: For SSI Medicaid, AFDC-Related and SSI-Related Medicaid, M-WIN, CDCS, PAC, QDWI, QMB, SLIMB and QI-1 programs, this section applies to any trust established on or after 8/11/93. For trusts prior to 8/11/93, see Appendix B of this Chapter.

NOTE: For the WV WORKS program, this item applies to any trust established on or after 1/01/97, regardless of the date the county changed from TANF to WV WORKS. However, no penalty may be applied until the case was converted from TANF to WV WORKS. Trusts established prior to 1/01/97 are not counted as assets.

For burial trusts, see Section 11.5.

Generally, all trusts are counted as assets, regardless of their purpose, restrictions on distributions or on the trustee's discretion to distribute the funds, whether acted on or not. There are exceptions to this general rule and there is a difference in the treatment of trusts established by a will and those not established by a will. In addition, sometimes revocable and irrevocable trusts are treated differently. Details are found below.

If a trust is made up of the client's resources and those of one or more other persons, only the amount established with the client's resources is counted.

For purposes of this item (item 2), the terms "individual" or "client" include:

- The client
- His spouse
- Any person, including a court or administrative body, with legal authority to act in place of, or on behalf of, the individual or the individual's spouse
- Any person, including a court or administrative body, acting at the direction of, or upon the request of, the individual or the individual's spouse.

a. Trusts Established By Will

A trust is treated as an asset only to the extent that it is available to the client. Clauses included in a trust which limit the trustee's use of the funds (i.e., exculpatory clauses) are recognized and the amount of funds affected by such exculpatory clauses, is excluded. Irrevocable trusts are excluded, regardless of the amount. There is no penalty for the placement of funds in an irrevocable trust.

b. Trusts Not Established By Will

When the following two conditions are met, the trust policy contained below in this item is applied. If the two conditions are not met, the fund is treated as any other bank account.

1. An individual has established a trust if his resources were used to form all or part of the corpus of the trust.

2. Any of the following persons established the trust for the individual by any vehicle other than by will:

- Individual
- Individual's spouse
- A person, including a court or administrative body, with legal authority to act in place of, or on behalf of, the individual or the individual's spouse
- A person, including any court or administrative body, acting at the direction of, or upon the request, of the individual or the individual's spouse.

In the following four trust situations, the trust is totally excluded. In addition, establishment of these trusts is not treated as an uncompensated transfer of resources, as defined in Chapter 17 and Section 11.7.

NOTE: For these purposes, the SSA definition of disability is used. Therefore, any person medically approved for or receiving SSI, based on disability, meets the definition, as well as persons who have been determined disabled by the Medical Review Team (MRT). If no disability determination has been made, the case must be submitted for a MRT decision. See Section 12.10.

1. A trust containing the assets of an individual, under age 65, who is disabled, and which is established for his benefit by a parent, grandparent, legal guardian, or a court. The exception continues even after the individual becomes age 65, as long as he continues to be disabled. This is commonly known as a special needs trust.

   To qualify for the exception, a trust must contain a provision that the State will receive all amounts remaining in the trust upon the death of the individual, up to the total Medicaid and/or WV WORKS payments made on his behalf.

2. A trust which contains the assets of an individual who is disabled and which meets all of the following conditions.

   - The trust is established and managed by a non-profit association.
   - A separate account is maintained for each beneficiary of the trust, but, for purposes of investment and management of funds, the trust pools the funds in these accounts.
   - Accounts in the trusts are established solely for the benefit of the disabled individual.
   - Accounts in the trusts are established by the individual, his parent, grandparent, legal guardian or by a court.
   - The trust must include a specific provision that amounts remaining in the individual's account that are not retained by the trust upon the client's death, must be used to reimburse the State for Medicaid and/or WV WORKS payments which were made on the individual's behalf.

FOR MEDICAID ONLY: When an individual is approved for Medicaid and has an excluded trust described above, for which Medicaid must be the beneficiary, the Worker must fax a copy of the trust document and the Medicaid recipient's name, case number and name of the recipient's power-of-attorney or representative, if applicable, to the current contract agency for Estate Recovery. Information about this agency is in Chapter 17, Appendix I.

3. Burial trusts which meet all of the following conditions:

   - The individual signs a contract with the funeral director promising prepayment in return for specific funeral merchandise and services.

   - The contract is irrevocable.

   - The individual pays the agreed upon amount to the funeral director in the form of a direct cash payment, purchase or transfer of a life insurance policy or annuity which is assigned to the funeral director.

   - The funeral director, in turn, places the preneed payment or device into a trust or escrow account which the funeral director establishes himself. If the client establishes the trust or other device himself, the amount may be considered a transfer of resources. See Chapter 17 and Section 11.7.

4. A trust established with a settlement or funds received from the following:

   - Factor VIII or IX Concentrate Blood Products Litigation, MDL 986, No. 93-C-7452, ND of Illinois

   - Ricky Ray Fund

   - Walker v. Bayer Settlement

c. Revocable Trusts

Once the Worker determines that the trust was not established by a will and does not meet one of the exceptions, above, the following rules apply:

- The corpus of the trust is considered an available asset.

- Payments from the trust to the client or for his benefit are counted as income.

d. Irrevocable Trusts

Once the Worker determines the trust was not established by a will and does not meet one of the exceptions above, the following rules apply:

If there are any circumstances under which payments from the trust could be made to the client or for his benefit, that portion of the corpus, or the interest, is an asset.

- If payments are made from the available corpus, or interest, to the client or for his benefit, the amount is treated as income.

(1) Payment for the Client's Benefit

Throughout this item d "payments made on behalf of the client" or "for his benefit" means payments of any kind to another entity, such that the client derives some benefit from the payment. This may include, but is not limited to, clothing, television, payments for services or care rendered, whether medical or personal, payments to maintain a home, etc. Any payment for the benefit of the client is counted, even if it is not customarily counted in determining Medicaid and/or WV WORKS eligibility.

In determining whether payments can or cannot be made from a trust, take into account any restrictions on payments, such as use restrictions, exculpatory clauses, limits on trustee discretion, etc., that may be included in the trust.

EXAMPLE: A trust provides that the trustee can disburse only $1,000 out of a $20,000 trust, only the $1,000 is treated as a payment that could be made to the client or for his benefit. The remaining $19,000 is treated as an amount which cannot, under any circumstances, be paid to, or for the benefit of the individual.

EXAMPLE: A trust contains $50,000 that the trustee can disburse only in the event that the grantor needs a heart transplant. The full amount is payment that could be made under some circumstances, even though the likelihood of payment is remote if the client does not have heart problems.

In determining whether payments can or cannot be made from a trust, the Worker must take into account restrictions included in the trust on how payments can be made, the Worker must not take into account when payments can be made. When a trust provides, in some manner, that a payment can be made, even though that payment may be sometime in the future, the trust must be treated as providing that payment can be made from the trust.

e. Undue Hardship

There is a hardship provision for Long-Term Care Medicaid which allows the Department to exclude a trust when counting it results in undue hardship for the client. All decisions about undue hardship are made by the Undue Hardship Waiver Committee. Any requests for such a determination are submitted in writing and must show complete details about the undue hardship which will result. See "Undue Hardship" in Section 11.1 and Section 17.6.

UU. UNIFORM GIFTS TO MINORS ACT FUNDS

SNAP	WVW, AFDC Related	SSI Groups
Yes	Yes	No

VV. VEHICLES

SNAP	WVW, AFDC Related	SSI Groups
No	Yes*	Yes*

The owner of a vehicle is generally the individual to whom it is titled. However, when the title of a vehicle is not in the client's name, but the client states he is the owner, the vehicle is counted as the client's asset. If the title is in the client's name, and he indicates the vehicle no longer belongs to him, and the name on the title has not been changed, the vehicle is presumed to be his, unless he can

prove otherwise. Only those vehicles of members of the AG, individuals who are disqualified or excluded by law and who would otherwise be required to be included, are considered when determining vehicle assets.

A leased vehicle, in which the individual has no equity and which he cannot sell, is excluded.

The trade-in value is usually used as the CMV for AFDC and AFDC-Related, SSI-Related Medicaid, M-WIN, CDCS, PAC, QDWI, QMB, SLIMB, QI-A and WV WORKS.

See items LL and MM of this Section for RECREATIONAL VEHICLES and EQUIPMENT.

The trade in value is not increased by adding the value of low-mileage or other factors, such as optional equipment or special equipment for the disabled.

Possible sources for obtaining the trade-in value are listed in Section 4.2. Throughout the following items, the term “listed value” refers to the value obtained from one of the sources in Section 4.2.

- SNAP Benefits

  All vehicles, including recreational vehicles and equipment, as defined in Section 11.1, are excluded for the SNAP Program.

2. AFDC-Related Medicaid

STEP 1: When the AG Has Only One Vehicle

One vehicle is excluded, provided the equity does not exceed $1,500. When the equity of the vehicle is greater than $1,500, the excess amount is an asset. If the client disagrees with the value or the value cannot be obtained, procedures in Step 2 are followed to determine equity.

STEP 2: Determining Equity in All Vehicles

The listed trade-in value of the vehicle is used, unless one of the following conditions exists:

- The client disagrees with the listed value.

  The client is responsible for obtaining one estimate on form DFA-V-1, Vehicle Estimate. The Department assumes any expense incurred in obtaining this estimate, using form DF-67. If the Department has no objection to the client's estimate, it is accepted as the value used in determining equity. The listed value is not used once an estimate has been obtained.

  If the Department determines that the estimate obtained by the client is unreasonable, a second estimate is obtained by the Worker from a qualified appraiser of the Department's choice. Form DF-67 is used to pay for the estimate. This estimate and the client's estimate are averaged to arrive at a value used in determining countable equity.

- The vehicle value is not listed.

  In this situation, the client's statement of the value of the vehicle(s) is accepted unless it appears incorrect. If the statement appears incorrect, the Worker requires that the client obtain one estimate. Form DFA-V-1 is used, and payment, when required, is made by the Department, using a DF-67. If the vehicle is listed as junk with the Department of Motor Vehicles, as indicated on the title of the vehicle, a sale value of $25 is assigned to it, and that amount used as the CMV.

In determining the countable value of the vehicle(s), only the equity is counted. Once the CMV is determined, the amount of the periodic installment payment is multiplied by the number of payments remaining. The result is subtracted from the CMV to determine the equity. Only when the client indicates he intends to pay off the vehicle in a lump sum is the pay-off amount used instead of the amount of remaining payments.

STEP 3: Determining Asset Value of All Vehicles

After equity is determined for each vehicle, $1,500 is subtracted from the one with the highest equity. Any amount in excess of the $1,500 is an asset for that vehicle. In addition, the equity in all other vehicles is counted in its entirety. See Step 1 above.

EXAMPLE: A client has three (3) vehicles. The listed values are:

Vehicle A	Vehicle B	Vehicle C
$2,500	$1,500	$1,750

The client disagrees with the listed values of Vehicles B and C. Estimates are obtained for Vehicles B and C as follows:

Vehicle B	Vehicle C
$900	$1,200

The Department disagrees with the estimate obtained for Vehicle B and obtains another estimate of $1,100.

The values used to determine countable equity are found by using the listed value for Vehicle A, accepting the client-obtained estimate for Vehicle C and by averaging the two estimates for Vehicle B. Therefore, the countable equity is determined as follows:

Vehicle A	Vehicle B	Vehicle C
$2,500	$1,000	$1,200
- 300 Owed	- 400 Owed	-500 Owed
$2,200 Equity	$600 Equity	$ 700 Equity

Vehicle A is the vehicle with the highest equity; Vehicle A receives the $1,500 exclusion.

Vehicle A	Vehicle B	Vehicle C
$2,200	$600	$700
-1,500		
700		
Counted toward the asset limit.	Counted toward the asset limit.	Counted toward the asset limit.

Total Vehicle Asset Value = $2,000. The case is ineligible.

3. SSI-Related Medicaid, M-WIN, CDCS, PAC, QDWI, QMB, SLIMB and QI-1

One vehicle is excluded as an asset for these coverage groups regardless of value, when it is used for transportation of the AG or a member(s) of the AG's household. For SSI-related policy, vehicles used for transportation include, but are not limited to, cars, trucks, motorcycles, boats, snowmobiles, animal-drawn vehicles and animals. A temporarily-disabled vehicle, normally used for transportation, also meets the criteria. The following do not meet the definition of a vehicle for SSI-related Medicaid groups:

- A vehicle with a junked title

- A vehicle only used for recreational purposes, such as a boat or snowmobile.

When there is more than one vehicle, the vehicle exclusion is always applied in a manner which benefits the AG. The car with the highest value may not be the vehicle used for transportation; however, it may be excluded for that reason, if it is to the AG's advantage.

EXAMPLE: John Smith owns a 2004 Toyota Camry with an FMV of $18,000 and his equity is $1,000. He also owns a 1994 Volkswagen Jetta with equity value of $3,640. This amount exceeds the asset limit. Mr. Smith states he uses the Toyota for transportation. Based on Mr. Smith's statement, the Toyota would be excluded for transportation and the equity in the Volkswagen would be an asset. However, because the equity in the Toyota is only $1,000, the Volkswagen is excluded for transportation because it is more advantageous to Mr. Smith.

STEP 1: Exclusion Based on Use

One vehicle is totally excluded, regardless of its value, when it is used for transportation of the AG or a member(s) of the AG's household.

STEP 2: Determining current market value (CMV) of all non-excluded vehicles.

The equity value of any other vehicle(s) which is not excluded in Step 1 is an asset, unless the vehicle(s) is excluded by other policy, such as property essential to self support.

The listed trade-in value of the vehicle is used to determine equity value, unless one of the following conditions exist:

- The client disagrees with the listed value.

- The vehicle value is not listed.

In either of these situations, the client is responsible for obtaining one estimate at his expense on form DFA-V-1, Vehicle Estimate, or provide similar documentation that contains the necessary information to establish CMV. If the Department has no objection to the client's estimate, it is accepted as the value used in determining equity. The listed value is not used once an estimate has been obtained.

4. WV WORKS

NOTE: Equity is not a factor in any step of the process determine countable vehicle assets.

STEP 1: Exclusion of One Vehicle as defined in 11.1 per Work-Eligible Individual in the household.

One (1) vehicle per Work-Eligible Individual in the household is excluded regardless of value. The CMV, not equity, of all other vehicles is an asset.

STEP 2: Determining Current Market Value (CMV) Of All Non-Excluded Vehicles

The listed trade-in value of the vehicle is used, unless one of the following conditions exists:

- The client disagrees with the listed value.

  The client is responsible for obtaining one estimate on form DFA-V-1, Vehicle Estimate. The Department assumes any expense incurred in obtaining this estimate, using form DF-67. If the Department has no objection to the client's estimate, it is accepted as the CMV. The listed value is not used once an estimate of the value has been obtained.

  If the Department determines that the estimate obtained by the client is unreasonable, a second estimate is obtained by the Worker from a qualified appraiser of the Department's choice. Form DF-67 is used to pay for the second estimate. This estimate and the client's estimate are averaged to arrive at the CMV.

- The vehicle is not listed.

  In this situation, the client's statement of the value of the vehicle(s) is accepted unless it appears incorrect. If the client’s statement appears incorrect, the Worker requires that the client obtain one estimate. Form DFA-V-1 is used, and payment, when required, is made by the Department, using a DF-67.

If the vehicle is listed as junk with the Department of Motor Vehicles, as indicated on the title of the vehicle, a sale value of $25 is assigned to it, and that amount used as the value.

STEP 3: Determining Asset Value of All Non-Excluded Vehicles

The CMV as determined in Step 2 above, of all non-excluded vehicles is counted in its entirety, regardless of the client's equity.

WW. VIETNAM VETERAN – CHILD BENEFIT

SNAP	WVW, AFDC Related	SSI Groups
No	No	No

The payments are excluded by federal law.

An allowance under 38 U.S.C., Chapter 18, to a Child of a Vietnam Veteran. This includes:

- Individual with spina bifida who is the child of a Vietnam veteran
- Individual with a covered birth defect(s) who is the child of a female Vietnam veteran

XX. VICTIM COMPENSATION PAYMENTS

SNAP	WVW, AFDC Related	SSI Groups
Yes	WVW - No AFDC **Related** - No*	No*

SSI Medicaid Groups Only: The payment is excluded for 9 months, beginning with the month following the month of receipt.

YY. WALKER V. BAYER, ET AL SETTLEMENTS

See HEMOPHILIA/AIDS SETTLEMENTS AND FUNDS

DUE TO THE DELETION

OF SOME MANUAL MATERIAL

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