

SPOUSES

Persons legally married to each other, under the provisions of State law, or those moving to West Virginia from states that recognize their relationship as a legal marriage.

West Virginia does not have a provision in State law regarding common-law marriage. Any individual that establishes this type of relationship in a state that recognizes common-law marriages is considered married for the Department purposes.

The states and cities which recognize common-law marriages are:

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| Alabama | Oklahoma |
| Colorado | Rhode Island |
| District of Columbia | South Carolina |
| Iowa | Texas |
| Kansas | Utah |
| Montana | |

The following are recognized if established by the date shown.

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| Georgia 1/97 | Ohio 10/91 |
| Idaho 1/96 | Pennsylvania 1/05 |

Effective October 8, 2014 same-sex marriage is a legal marriage in the state of West Virginia. Same-sex couples legally married after this date are defined as legal spouses for DFA program purposes. Same-sex couples who move to West Virginia, and are legally married under the laws of jurisdiction in which the marriage was celebrated, are recognized as spouses. This includes a civil union or domestic partnership only if recognized as legal marriage under the state law where such union was entered into.

STOCKS

A security representing a share of ownership in a business or corporation.

TRUSTEE

Person or institution which holds legal title to property for the benefit or use of another.

TRUST

Any arrangement in which a grantor transfers property to a trustee(s) with the intention that it be held, managed or administered by the trustee(s) for the benefit of the grantor or certain designated individuals (beneficiaries). The trust must be valid under State law and manifested by a valid trust instrument or agreement. A trustee holds a fiduciary responsibility to manage the trust's corpus and income for the benefit of the beneficiaries. For Medicaid, the term trust also includes any legal instrument or device that is similar to a trust.

Legal Instrument Or Device Similar To A Trust: Any legal instrument, device or arrangement which may not be called a trust under State law, but which is similar to a trust. That is, it involves a grantor who transfers property to an individual or entity with the intention that it be held, managed or administered by the individual or entity for the benefit of the grantor or others. This may include, but is not limited to, escrow accounts, investment accounts, pension funds, and other similar entities managed by an individual or entity with fiduciary obligations.

UNCOMPENSATED VALUE

The Fair Market Value, less any outstanding loans, mortgages or other encumbrances on the asset, minus the amount of compensation received by the AG.

UNDUE HARDSHIP

This condition exists when the application of one of more of the following asset policies, (1) excessive home equity, (2) transfer to a non-permissible trust, and/or (3) a transfer of assets penalty results in the denial of payment of Long-term-care Services, and causes the individual to be deprived of medical care to the extent that the individual's health or life would be endangered or his food, clothing, shelter or other necessities of life are at severe risk.

When there has been a transferred asset, in order to meet Undue Hardship requirements, the individual must have exhausted all means, legal and otherwise, to receive fair market value for and/or to regain the transferred asset. All means, legal or otherwise, refers to action through the court system and/or the voluntary return or recovery of the asset or item. Undue hardship does not