

11.1 DEFINITIONS

AMORTIZATION SCHEDULE

The schedule of payments for paying off a loan.

ASSETS

Total real and personal property the client has available to meet financial needs, including the value of assets assigned from certain individuals. Assets may be liquid or non-liquid.

LIQUID ASSETS

Those which are cash or payable in cash on demand, including financial instruments that can be converted to cash. For SSI-Related Medicaid: Liquid assets are those which are cash or which can be converted into cash within 20 working days. National, state and local holidays are not working days.

NON-LIQUID ASSETS

Those which can be converted or sold for cash. For SSI-Related Medicaid: Non-liquid assets are those which cannot be converted to cash within 20 working days.

ACCESSIBILITY OF ASSETS

A client may not have access to certain assets. In order to be considered an asset, the asset must be owned by or available to the client. If the client cannot legally dispose of the asset, it is not treated as an asset.

ANNUITY

An investment contract or agreement, which gives the right to receive fixed, periodic payments, either for life or a term of years.

BENEFICIARY

A person to whom benefits are payable.

BONDS

U.S. Government, municipal or corporate.

BURIAL FUNDS

Burial funds include revocable burial contracts, revocable and irrevocable burial trusts, cash, savings bonds, and any other separately identifiable assets which an individual states are intended for expenses connected with burial, cremation, or other funeral arrangements.

BURIAL CONTRACT

An agreement in which a provider of funeral services and burial items agrees to provide burial services or other final arrangements.

BURIAL INSURANCE

Insurance with terms specifically providing that the proceeds can be used only to pay burial expenses of the insured individual.

BURIAL SPACES

Conventional grave sites, crypts, mausoleums, urns, vaults or other repositories which are customarily and traditionally used for the remains of deceased persons.

Burial spaces include the following:

- Headstones, markers or plaques
- Burial containers for caskets
- Arrangements for opening and closing the gravesite
- Reasonable maintenance of such spaces.

BURIAL TRUST FUNDS

Assets placed in a trust fund for burial expenses.

IRREVOCABLE ARRANGEMENTS

Assets which are available for burial and held in an irrevocable burial contract or irrevocable burial trust. Irrevocable contracts and trusts are those which cannot be changed and which do not allow the client access to the assets.

CASH SAVINGS

The amount of savings or cash-on-hand held by the client or for him by another person.

CATEGORICALLY ELIGIBLE SNAP AG

An AG which is automatically eligible for the SNAP program without application of the usual eligibility tests.

CERTIFICATE OF DEPOSIT (CD)

Funds held in an account that specifies a maturity date.

COMMUNITY SPOUSE

A spouse living in the community whose spouse is an institutionalized individual. See Section 17.10,B,1. This definition is used when one spouse is applying for long-term-care benefits and the other spouse is not, and is used in conjunction with the definition of institutionalized spouse.

CONDITIONAL ELIGIBILITY

WV WORKS Only: The period of time during which eligibility is allowed, even though assets exceed the maximum allowable asset limit.

CONTINUING CARE RETIREMENT COMMUNITY (CCRC)

A residential community, also known as a life care community, which offers services for the remainder of an individual's life, with a choice of services and living situations, based on changing needs at each point in time. Individuals that enter these communities sign a long-term contract that provides for housing, services and nursing care, usually all in one location, enabling seniors to remain in a familiar setting as they age. These service and housing packages parallel independent living, assisted living and skilled nursing facilities. Seniors who are independent may live in a single family home, apartment or condominium within the continuing care retirement complex. If they begin to need assistance with activities or daily living, such as bathing, dressing, eating, etc., they may be transferred to an assisted living or skilled nursing facility on the same site.

CONTRACT BENEFICIARY

Any entity that is named in a contract as the beneficiary.

CONTRACT BUYER

A person who purchases goods or services as specified in a contract.

CONTRACT SELLER

A person, his agent or his employee who sells, makes available or provides contracts.

CONVERSION OR SALE OF AN ASSET

The sale or exchange of an asset from liquid to non-liquid or non-liquid to liquid.

CREDITOR

The owner of an agreement such as a promissory note or a property agreement such as a land sale contract. A creditor or lender is the seller of the property or holder of a promissory note.

CURRENT MARKET VALUE (CMV)

Also called FAIR MARKET VALUE. The amount an asset can be expected to sell for on the open market, in the particular geographic area. Market conditions are reflected in an asset's CMV.

DEBT

Any form of legal indebtedness against an asset, such as mortgages, liens, loans, purchase contracts and security interests. For purposes of establishing equity value, a debt must be legally recognized as binding on the individual who holds the asset.

DEDICATED ACCOUNT

An SSI recipient, who is under age 18 and who has a representative payee, may have a dedicated account, so that back SSI payments can be deposited directly into the account. SSA regulations require that certain such payments be directly deposited. Other payments of the same type are not required to be deposited directly into the account, but may be deposited in the dedicated account at the discretion of the representative payee. SSA places certain restrictions on the use of the funds deposited into these accounts. SSI representative payees receive notification from SSA that a dedicated account must be established and also receive notification when an SSI back payment amount is directly deposited.

Assets

ELDERLY

Age 60 and over, for SNAP benefits and WV WORKS. Age 65 and over, for Medicaid.

ENDOWMENT FOR PERPETUAL CARE

A contract for care and maintenance of a grave site.

EQUITY VALUE

The CMV, less any legal debts, such as mortgages, liens, etc. This is determined by multiplying the amount of the installment payment by the number of payments left and subtracting this amount from the CMV.

EXCESSIVE HOME EQUITY

This definition is used in the determination of eligibility for Long-term-care Services for Medicaid. Excessive home equity can result in a denial of payment for LTC or waiver services when the equity in the homestead exceeds the current allowable maximum, currently \$560,000.00. This amount changes every year and is updated in this Section.

A denial for excessive home equity is subject to the Undue Hardship Provision. See 11.1 and 17.10 for details.

EXCLUDED

Assets which are not considered when determining asset eligibility.

FAIR MARKET VALUE (FMV)

See CURRENT MARKET VALUE

HOMESTEAD PROPERTY

The dwelling and land on which the dwelling rests, which is not separated by intervening property owned by others. This property does not have to be part of the original purchase. This includes the life estate interest, when it is the life estate holder's home.

IMMEDIATE FAMILY

The SSI-Related Medicaid individual's immediate family includes: parents, or adoptive parents; minor or adult children, including minor or adoptive- and step-children; siblings, including adoptive- and step-siblings. Immediate family also includes the spouse of the above relatives.

INCOME- PRODUCING PROPERTY

Property that is annually producing income which is consistent with its CURRENT or FAIR MARKET VALUE.

INDIVIDUAL DEVELOPMENT ACCOUNT (IDA)

An IDA is a special bank account that helps an individual save for his education or the purchase of a first home or to start a business. The funds are matched by a government or non-profit agency.

INSTITUTIONALIZED SPOUSE

A spouse who is an institutionalized individual. See Section 17.10. This individual has a spouse living in the community who is not receiving long-term-care benefits. This definition is used when one spouse is applying for long-term-care benefits and the other spouse is not, and is used in conjunction with the definition of community spouse.

IRREVOCABLE

Impossible to retract, revoke or annul.

JOINTLY OWNED PROPERTY

An asset owned by two (2) or more individuals.

LAND SALE CONTRACT

A contract whereby a land owner enters into a legal agreement to sell property to another person by installment payments. The buyer is entitled to possession and equitable title to the property. The seller or creditor holds legal title until the buyer completes the required payments to fulfill the contract.

LIFE ESTATE HOLDER

The person who benefits from the life estate.

LIFE INSURANCE

A contract whereby one party insures his own life or the life of another party for a specified amount of money.

CASH SURRENDER OR CASH-IN VALUE

The amount of cash received by the owner of the policy, if redeemed before death of the insured.

Assets

FACE VALUE

The specified amount payable on death of the insured, usually listed on the front of the policy, is the amount guaranteed and premium terms agreed upon via contract at the time of purchase. When the premium payment specified in the contract has been fulfilled and premium payments continued to be made resulting in additional paid-up insurance, the policy's death benefit, i.e., face value, has increased and the current amount counted.

TERM INSURANCE

Policies which do not have a cash surrender value.

WHOLE LIFE INSURANCE

Insurance policies which have a cash surrender value.

LONG-TERM-CARE INSURANCE PARTNERSHIP (LTCIP) ASSET DISREGARD

An asset disregard available to certain institutionalized aged, blind or disabled individuals with income equal to or less than 300% of the SSI payment for 1 but whose resources exceed the allowable asset limit. Eligible individuals must have a Qualified LTCIP Policy issued by a Partnership State while residing in a Partnership State with insurance payments made as of the date of the State's State Plan Amendment (SPA) that implemented the LTCIP. See Chapter 17, Appendix J. Assets are disregarded dollar-for-dollar in the amount of insurance payments made. Assets are protected at Estate Recovery in this same amount. See Chapter 17, Section 17.10.

LUMP SUM PAYMENTS

Non-recurring, recurring, or advance payments. This may include, but is not limited to, RSDI, stock dividends paid quarterly, or payments from an income disability insurance plan which cover a previous period, but are delayed for medical reports, etc.

MIXED SNAP AG's

AG's which include a recipient of TANF-funded program, or SSI or who is authorized to receive information and referral services and at least one person who does not receive either of these 3 benefits. Mixed AG's are categorically eligible for SNAP benefits.

MUTUAL FUNDS

A pool of assets managed by an investment company that buys and sells securities and other investments.

NEGOTIABLE AGREEMENT

An agreement whereby the ownership of the instrument itself and its face value can be transferred, e.g., sold, from one person to another.

NON-HOMESTEAD PROPERTY

Real property, other than the homestead, that the client owns or is purchasing.

PERSONAL CARE CONTRACT (PCC)

A legal, written contract, also referred to as a personal care agreement or personal service contract, executed between an individual or his authorized representative and the caregiver, often an adult child, relative or friend, in which the caregiver agrees to render services at fair market value (FMV) in exchange for reasonable payment. See Fair Market Value.

Reasonable payment is determined by comparing compensation paid by home-care agencies or other independent caregivers for similar services in the same locale at the specific time period when services were rendered.

The amount of any resource transferred to pay for personal care services is compared to the value of the personal care services after FMV is determined. A transfer for FMV incurs no penalty. When the value of the transfer exceeds the FMV of the services, the excessive amount is subject to a transfer penalty.

PRINCIPAL PLACE OF RESIDENCE

The dwelling the client considers his fixed, established home. The principal place of residence must be a home in which the individual has lived.

PROCEEDS FROM SALE OF HOME

Net amount received by the seller, after satisfaction of all encumbrances and sale expenses.

PROMISSORY NOTE

A written, unconditional agreement whereby one party promises to pay a specified sum of money at a specified time or on demand to another party. It may be given in return for goods, money loaned or services rendered. See BONA FIDE LOAN in Section 10.1.

PURE SNAP AG's

Every person included in the SNAP AG receives TANF-funded benefits or SSI or is authorized to receive information and referral services. Pure SNAP AG's are categorically eligible for SNAP benefits.

REBUTTAL

The process whereby the client refutes the Department's presumption of unrestricted access to resources.

RECREATIONAL VEHICLES AND EQUIPMENT

May include, but is not limited to, boats, snowmobiles, campers, camper-trailers, airplanes, and similar equipment that do not meet the definition of a vehicle and ATV's and similar vehicles that do not require licensing, even though they may be licensed. This does not include sporting equipment or toys. Also see VEHICLE.

RESOURCES

Income and assets.

RETIREMENT FUNDS

Funds in an individual account, pension fund or retirement plan, such as IRA's, KEOGH Plans, 401k's, SEP's and employer plans.

REVOCABLE

Capable of being revoked, retracted or annulled.

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 or 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

Assets

exist when the denial causes the individual inconvenience or might restrict his lifestyle, but would not put him at risk of serious deprivation.

UNDUE HARDSHIP COMMITTEE

A standing committee comprised of representatives from BMS and DFA, that determines if an individual's denial for Medicaid LTC Services should be waived due to the individual's undue hardship condition as defined above.

UNDUE HARDSHIP PROVISION

This provision only applies to individuals who are denied Medicaid LTC Services due to the application of the excessive home equity, transfer of asset to a non-permissible trust and/or a transfer of assets penalty. The individual must be *otherwise* eligible for LTC Services.

UNIFORM GIFTS TO MINORS ACT (UGMA)

The State law which allows an irrevocable gift of money or property, made to a minor, to be tax-free. This may also be referred to as Uniform Transfer to Minors Act (UTMA).

VEHICLE

A car, truck, motorcycle, motor scooter, or a camper when the living section of the camper is a permanent part of the motorized section. To be considered a vehicle, it must require licensing to operate on public roadways, not necessarily be licensed. ATV's are treated as recreational vehicles, not as vehicles. See Section 11.4,QQ,3 for SSI-Related vehicles.

Also see RECREATIONAL VEHICLES AND EQUIPMENT.