

0380

RESOURCES GENERALLY

0380.05

RESOURCE LIMITS

REV:06/1994

For MA Resource eligibility to exist, the institutionalized individual's countable resources cannot exceed the following basic limits:

- o For Categorically Needy eligibility - \$2000
- o For Medically Needy eligibility - \$4000

The evaluation of resources of an institutionalized individual with a community spouse first determines:

- o The total joint resources of a couple;
- o The spousal share of resources; and,
- o The community spouse resource allowance.

The computation of the community spouse resource allowance is based on the couple's total joint resources and the spousal share of those resources as of the first moment of the month in which the period of continuous institutionalization begins.

Except for the community spouse resource allowance, the total joint resources of a married couple with an institutionalized spouse are deemed available to the institutionalized spouse for purposes of MA eligibility.

Each determination of eligibility (new, reopening or redetermination) requires a review of resources, which includes sending three bank statements (AP-91). Resources are also reviewed at the time of a reported change, or when information is received which indicates a change has occurred, or that unreported resources may exist (Income Eligibility Verification System match, etc.).

Resources must be verified by a review of documents related to the resource, with copies of the documentation kept for the case file.

0380.10

RESOURCE DEFINITIONS

REV:07/2006

A RESOURCE is either real or personal property which the applicant/recipient can use (either directly or by sale or conversion) to provide for his/her basic needs for food, clothing, shelter or medical care. Third Party Resources for medical care, such as health insurance, are not countable resources in eligibility determinations.

- o REAL PROPERTY is land and generally whatever is erected or growing upon or attached to land. Real property also includes any interest in land. Examples of real property and interests in land include a lot with or without a house, a life estate, a remainder estate, mineral rights, easements, and leaseholds;
- o PERSONAL PROPERTY in a broad sense is everything that is subject to ownership that is not real property. It includes tangible and intangible personal property.
 - TANGIBLE PERSONAL PROPERTY includes movable and tangible things such as animals, furniture, automobiles, jewelry, boats, and merchandise.
 - INTANGIBLE PERSONAL PROPERTY includes such rights as stock, bonds, savings accounts, checking accounts, certificates or deposit, cash, and promissory notes.

Resources are further defined based upon whether they are countable or excluded in the process of determining eligibility for Medical Assistance.

- o COUNTABLE RESOURCE: A resource, whether real or personal property, that is counted toward a resource limit. Countable resources are available to the recipient, and are not excluded;
- o EXCLUDED RESOURCE: A resource that is not counted toward the resource limit because of a specific exclusion in policy. Some resources are totally excluded regardless of value (e.g. an automobile used for transportation for medical care); some resources are excluded to the extent they do not exceed a specific threshold amount (e.g. a certain amount of the equity of the home of a recipient, life insurance face value limit). See Section 0382, EVALUATION OF RESOURCES.

Other definitions pertaining to the evaluation of an institutionalized individual's countable resources are set forth below.

TOTAL JOINT RESOURCES is the combined resources of the community spouse and the institutionalized spouse, to the extent that either has an ownership interest in the resources. Total joint resources are normally calculated at two points in the eligibility determination process - 1) Advance Determination when the institutionalized spouse begins a continuous period of institutionalization, and 2) at the time of application for MA (total joint resources as they exist on the first day of the month for which eligibility is being determined).

SPOUSAL SHARE is one-half (1/2) of the couple's Total Joint Resources computed as of the beginning of a continuous period of institutionalization. The spousal share remains fixed until the institutionalized spouse is determined eligible for MA, regardless of any changes in the resources of the institutionalized spouse or the community spouse. At the time of MA eligibility determination, the spousal share is used as one component in the calculation of the community spouse resource allowance.

COMMUNITY SPOUSE RESOURCE ALLOWANCE is the amount of a couple's total joint resources which is attributed to the community spouse at the time Medical Assistance eligibility is determined for the institutionalized spouse.

A RESOURCE TRANSFER is the conveyance of right, title, or interest in either real or personal property from one person to another.

The conveyance may be by sale, gift, or other process.

COMPENSATION/CONSIDERATION is all real and/or personal property, or any other right or item of value that is received by an applicant/recipient pursuant to a binding contract in exchange for a resource. The recipient may receive the consideration or compensation prior to, at the time of, or after the transfer.

Items of value that serve as consideration or compensation include money, food, shelter, services, stocks, bonds, etc.

FAIR MARKET VALUE (FMV) of property (real and personal) is the amount for which the property can be expected to sell on the open market in the geographic area involved and under existing economic conditions at the time of the determination.

EQUITY VALUE is the FMV less the amount of any legal encumbrances.

UNCOMPENSATED VALUE (UV) is the equity value of a transferred resource minus the amount of compensation/consideration received by the applicant/recipient in exchange for the resource.

0380.25**REPLACEMENT OF A RESOURCE**

REV:06/1994

When an individual sells a home and the proceeds are used to purchase a new home within three months, the money obtained from the sale of the home cannot be considered a resource.

Cash (e.g. an insurance settlement) received for the purpose of repairing or replacing an excluded resource that is lost, damaged, or stolen is excluded as a resource for a period of nine months with an additional nine-month extension for good cause. Similarly, in-kind replacement of a lost, damaged, or stolen excluded resource is also an excluded resource.

0380.30**AVAILABILITY OF A RESOURCE**

REV:06/1994

In order to be countable in the determination of Medical Assistance eligibility, a resource must be available to the individual. The individual must be able to use the resource to provide food, shelter, clothing, or convert it into a form in which it can be used to meet needs:

- o A resource is considered to be available both when actually available, and when the applicant has the legal ability to make such sum available for support and maintenance;
- o Resources are not available when a legal impediment exists which precludes the applicant from making the resource available for support, maintenance or medical care.

Applicants/Recipients are required, as a condition of eligibility, to cooperate with the Department in making resources available. See Section 0308, COOPERATION REQUIREMENTS.

0380.35**EXCLUDED RESOURCES**

REV:07/2006

In determining eligibility for both Categorically Needy and Medically Needy Medical Assistance for an institutionalized individual, the following resources, subject to certain rules discussed in Section 0382, EVALUATION OF RESOURCES, are EXCLUDED:

The total joint resources of the married couple with an institutionalized spouse are deemed available to the institutionalized spouse for the purpose of eligibility determination.

0380.40.05 Total Joint Resources

REV:06/1994

The total joint resources of an institutionalized spouse and community spouse are ALWAYS EVALUATED AS OF THE FIRST OF THE MONTH IN WHICH A CONTINUOUS PERIOD OF INSTITUTIONALIZATION BEGINS, regardless of the actual date on which the evaluation is conducted.

The total joint resources are equal to the combined resources of the couple, regardless of whether they are owned partly or wholly by either spouse. The evaluation of specific resources follows the policies set forth in Section 0382.

The procedures for evaluating total joint resources differ depending on whether the initial evaluation is conducted in advance of a Medical Assistance application at the individual's request (Advance Determination), or is conducted as part of a Medical Assistance application.

0380.40.05.05 Advance Determination

REV:06/1994

The LTC/AS unit conducts evaluations of total joint resources when requested by an institutionalized or community spouse in advance of a Medical Assistance application. When a request for an Advance Determination is received, the LTC/AS unit forwards a packet containing the MA-2 and MA-2a to the requesting spouse. The completed forms are returned to the LTC/AS unit with supporting documentation which includes a copy of the couple's most recent income tax returns.

Upon receipt of the MA-2, a file/case number is assigned.

If all relevant documentation is provided, the LTC/AS unit determines the total joint resources and spousal share. If the information provided is not sufficient for a determination, the LTC/AS unit requests that the additional information be provided within a reasonable period of time.

Within 45 days of receipt of a completed MA-2 and all relevant supporting documentation, both spouses are notified of the results of

the advance determination of total joint resources and spousal share via an MA-3.

All documents related to the advance determination of the total joint resources are retained in the district office case record until:

- o A Medical Assistance application is filed; or,
- o The institutionalized spouse ends the continuous period of institutionalization by residing outside the institutional setting for at least thirty consecutive days; or,
- o The death of one spouse.

At the time of Medical Assistance application, the file is used as the Medical Assistance case record.

0380.40.05.10 **Determination at Time of Appl**

REV:06/1994

When a Medical Assistance application is filed by an institutionalized individual with a community spouse, the LTC unit determines if an advance determination has been completed. If so, the file is requested from the LTC/AS unit which conducted the initial determination.

If an advance determination has not been completed, the LTC/AS worker conducts both the evaluation of total joint resources as of the time of institutionalization, and the determination of total joint resources as they exist at the time of application.

The determination of total joint resources at the beginning of the period of institutionalization is needed to calculate the spousal share and the community spouse resource allowance. The determination of total joint resources at the time of the MA application is needed to determine the countable resources of the institutionalized spouse. (The countable resources of the institutionalized spouse, for purposes of MA resource eligibility, is the couple's joint total resources at the time of application LESS the community spouse resource allowance).

0380.40.10 **Spousal Share**

REV:06/1994

The spousal share is equal to one-half of the value of the couple's total joint resources as of the beginning of a period of continuous

institutionalization. The value of the spousal share remains fixed at the value computed as of the beginning of the period of continuous institutionalization, regardless of changes in resources which may occur between the beginning period of institutionalization and the time of the MA eligibility determination.

0380.40.15 Community Spouse Resource Allowance

REV:01/2007

The community spouse resource allowance, to the extent such resources are available, is equal to the greater of:

- O \$20,328; or,
- O The spousal share, up to a maximum of \$101,640.

0380.40.20 Community Spouse Resource Allowance Examples

REV:01/2007

BRADLEY Example:

Mr. Bradley becomes institutionalized on October 20, 2005. His community spouse requests an initial evaluation of total joint resources and the spousal share. The initial evaluation results in a finding that the Bradleys have total joint resources (as of 10/1/05) in the amount of \$200,000 (joint bank accounts of \$95,000, stocks owned solely by Mrs. Bradley of \$82,000 and non-home real estate, vacant land, owned solely by Mr. Bradley with a Fair Market Value of \$23,000). The spousal share is \$100,000.

The Bradleys are apprised via MA-3 of these findings.

An application for Medical Assistance is not filed for 22 months, until July 29, 2007.

A second evaluation of total joint resources is conducted to establish total joint resources as of the month of application.

As of the first moment of July, 2007, total joint resources amount to \$128,000 (non-home real estate with an appreciated value of \$31,000; Mrs. Bradley's stock with an appreciated value of \$87,000; joint bank account of \$10,000).

Although the spousal share is \$100,000, the community spouse resource allowance for Mrs. Bradley is capped at \$101,640 (the greater of \$20,328 or the spousal share up to a maximum of \$101,640). Mr. Bradley's countable resources are \$26,360 and he is ineligible for Medical Assistance.

JONES Example:

Mrs. Jones, age 74, applies for Medical Assistance on April 20, 2007. She became institutionalized on November 3, 2006 when she was placed in an NF directly from her community residence.

Neither she nor her community spouse requested an evaluation of total joint resources at that time. To establish Mrs. Jones' countable resources for eligibility determination purposes, two evaluations of total joint resources are completed. The first to determine total joint resources as of the first moment of the month of institutionalization, November 1, 2006 (so that the spousal share can be established); the second to determine total joint resources as of the first of the moment of April, 2007 (so that the community spouse resource allowance for Mr. Jones, and thus Mrs. Jones' countable resources can be determined).

As of November 1, 2006, Mr. and Mrs. Jones' total joint resources are determined to be \$39,000 (consisting of joint checking and savings accounts totaling \$7,500 and jointly held stocks with a fair market value of \$31,500). The spousal share is consequently \$19,500.

As of April 1, 2007, the total joint resources of the Jones' amounted to \$24,500 (joint bank accounts of \$5,500, and jointly held stocks with a fair market value of \$19,000, the value decreased as a result of a decline in share price and liquidation of some shares to help pay for costs of care). Mrs. Jones' countable resources amount to \$4,172 (total joint resources at the time of application) less the community spouse resource allowance (the greater of \$20,328 or the spousal share up to \$101,640: $\$24,500 - \$20,328 = \$4,172$). Mrs. Jones would be ineligible for the month of April, except that \$2,500 was paid toward the cost of care for April on April 15th. This documented allowable expenditure reduces excess resources to within the limit. Based on resources, Mrs. Jones is eligible effective April 1st. She is otherwise eligible, and is certified for Medical Assistance effective April 1. She has already paid for her institutional care for the month of April, however, so no

vendor payment can be made for the month of April.

In May of 2007 Mr. and Mrs. Jones separate the funds in their accounts to reflect the above attribution of resources. On June 10th, Mrs. Jones receives an inheritance of \$50,000. The resource is hers alone - none is attributed to Mr. Jones. Mrs. Jones is determined ineligible for Medical Assistance effective July 1.

SMITH Example:

Mr. Smith, age 79, is placed in an NF on June 15, 2007, subsequent to a hospitalization which began on February 24, 2007.

He required acute care hospitalization from February 24th through March 28th, was on Administratively Necessary Days from March 29th through the end of his hospital stay. He applies for Medical Assistance on April 20th, from the hospital, while pending placement. His continuous period of institutionalization begins February 24th. The retroactive period encompasses the day that begins a continuous period of institutionalization, and medical expenses for which Medical Assistance is requested have been incurred in that retroactive month. Consequently, only one evaluation of total joint resources is conducted to determine the spousal share and countable resources. The LTC/AS worker evaluates the resources of Mr. Smith and his community spouse as of the first moment of February. The total joint resources are \$21,108 comprised entirely of a checking and savings account owned solely by Mr. Smith). The spousal share is \$10,554. Mr. Smith's countable resources as of February 1st are \$780 (total joint resources of \$21,108 less the community spouse resource allowance \$20,328 {the greater of \$20,328 or the spousal share}).

Mr. Smith is otherwise eligible, and is certified for Medical Assistance beginning February 1, 2007.

0380.40.25

Segregating the Resources

REV:01/1996

The total joint resources of the couple should be divided as soon as practicable to segregate in the community spouse's name the funds permitted as a community spouse resource allowance.

Resources transferred to the community spouse in order to segregate the funds permitted as a community spouse resource allowance are exempt from the rules pertaining to transfer of resources set forth in Section 0384.

Any resource acquired by the community spouse after the month in which an institutionalized spouse is determined to be eligible will not be deemed available to the institutionalized individual.

Conversely, any resource acquired by the institutionalized spouse in the month after the determination of eligibility is fully countable, and cannot be transferred to the community spouse as part of the community spouse resource allowance.

Resources transferred by an individual to a community spouse under a court order are also exempt from the rules pertaining to transfer of resources in Section 0384.

0380.40.30 Assign Rights, 3rd Party Resou

REV:06/1994

Under Rhode Island law, rights to spousal support are automatically assigned to the Department of Human Services upon application for and receipt of Medical Assistance. In the event the community spouse does not make the couple's joint resources (less the community spouse resource allowance) available to the institutionalized spouse, the institutionalized spouse is not determined to be ineligible on the basis of such resources. When a community spouse has refused to make resources available, and eligibility has been established, the Department is empowered to take action to obtain said resources to reimburse DHS for the cost of medical care paid for on behalf of the institutionalized spouse.

The institutionalized spouse is required, as a condition of eligibility, to assist DHS in the process of obtaining such support from the community spouse.

Resources obtained as a result of action taken against the community spouse that are in excess of the incurred cost of institutional care are distributed to the institutionalized spouse, and are considered to be countable resources of the institutionalized spouse.

0380.40.35 Fair Hearing

REV:06/1994

- o S/he incurs (or has incurred) outstanding allowable medical bills or other allowable expenses that equal or exceed his/her excess resources; AND,
- o S/he reduces the excess resources to the appropriate resource limit by actually paying the allowable expenses or fees, and submitting verification thereof within thirty days of the date of the rejection or closing notice. Both the expenditure of the resource and submission of verification of the expenditure and the reduced resource must occur within the thirty day time period.

The bills used to establish eligibility cannot be incurred earlier than the first day of the third month prior to the date of an application that is eventually approved. Allowable bills, which the applicant has paid and used to reduce resources, may not be the same bills that have been used to meet an income spenddown.

The agency representative must see the bills that have been actually paid in order to verify that resources have been properly reduced.

0380.45.05 Date of Eligibility

REV:06/1994

An individual who reduces resources and is otherwise eligible will be eligible as of the date the incurred allowable expenses equalled or exceeded the amount of his or her excess assets, subject to verification that the excess resource was actually expended on the allowable expense. In no event shall the first day of eligibility be earlier than the first day of the month of application.

Although an applicant may reduce excess resources by paying an allowable expense that was incurred up to the first day of the third month prior to the date of an application, an applicant cannot establish eligibility by resource reduction in the retroactive period.

The applicant will be required to verify that:

- o S/he incurred the necessary amount of expenses; and,
- o His or her excess resources were reduced to the allowable resource limit by expenditure of the excess resource on the allowed expense.

0380.45.10**Allowable Expenses**

REV:04/2001

Only certain expenses may be used to establish eligibility by reduction of excess resources. These expenses are as follows:

- o Medical expenses that would be allowed under the policy on the Flexible Test of Income. See Section 0390, FLEXIBLE TEST OF INCOME.
- o Certain fees required for: a) an individual to make income or resources available; or b) an incompetent individual, who needs a court-appointed guardian, to access or consent to necessary medical treatment, including applying for Medical Assistance. Only the fees indicated in Sections 0380.45.10.05 through 0380.45.10.15 are allowable under this provision.

0380.45.10.05***Guardian/Conservatorship Costs***

REV:04/2001

Applicants who have court-appointed guardians or conservators are generally required to pay court-approved guardian/conservator's fees. Such fees include but are not limited to court filing fees, the cost of a Probate Bond, court-approved guardianship/conservatorship fees, and court-approved legal fees.

Allowable court-approved expenses not covered by other sources for items listed in Section 0380.45.10, subject to the Rhode Island Supreme Court approved fee schedule (currently \$30 per hour under "Executive Order" Number 95-01), may be considered.

When such guardianship fees have been approved by Probate Courts, related guardian ad litem fees not exceeding \$250 may also be recognized. The applicant must submit a copy of the Probate Court Order and any supporting documentation, including an itemized bill for allowable guardianship expenses.

The case is referred to the Office of Legal Counsel by the Long Term Care Administrator (or his designee) for a decision on the amount of the allowable deduction. The referral must contain a brief description of the case, a copy of the Probate Court Order, an itemized bill from the guardian, and any other supporting documentation submitted by the applicant. The total amount allowed must be reasonable and shall be based on the hours approved by the

particular Probate Court for items listed in 0380.45.10 at the rate of compensation paid for guardians ad litem in Family Court as specified in the then-current Rhode Island Supreme Court Executive Order on fee schedules.

0380.45.10.10 Legal Fees

REV:06/1994

Individuals who incur legal fees resulting from legal action to obtain income or resources for their support may expend excess resources to pay such fees.

0380.45.10.15 Tax Assessments

REV:06/1994

Individuals ordered by the Internal Revenue Service, the Rhode Island Division of Taxation, or other State or municipal taxing authority to pay income taxes may expend excess resources to pay the taxes.

0380.45.15 Examples of Resource Reduction

REV:01/2007

The following are hypothetical cases involving resource reductions:

- O MR. M files an application on 7/21. As of 7/1, he has a savings account of \$3,075 and an automobile with a countable value of \$975, for a total of \$4,050. On 7/10, he withdrew \$125 from the bank for automobile repairs, reducing his resources to \$3,925. He is ineligible as of 7/1 and the change in resources during July does not affect his INELIGIBILITY. He has no allowable expenses on which to expend the excess resource. He remains ineligible in July. He may be eligible in August if his countable resources are \$4,000 or less on 8/1.

- O MR. E is a Categorically Needy individual who does not receive SSI. As of 3/1, he had a \$2,000 life insurance policy with a cash surrender value of \$800, a savings account valued at \$900 and an excluded automobile, for a total of \$1,700. On 3/5, he sold his automobile for \$1,000 and deposited the money in his savings account. His countable resources then amounted to \$2,700 (the

sale of the car is considered a "converted" resource) and that is the amount he had as of 4/1. The increase in his resources does not affect his ELIGIBILITY for March. He is ineligible as Categorically Needy for April, and is notified that he is Medically Needy. He has no allowable expenses on which he can expend excess resources. He will remain Medically Needy until the month following the month his resources are reduced to \$2,000 or less; i.e., he is not Categorically Needy for as long as the excess resources are retained and THROUGH the month that his resources are reduced to within the resource limit.

- O MS. D applies for recertification on 5/1. She had \$3,700 in her savings account. On 5/3, she received a \$660 RSDI check which was directly deposited in her savings account. She is eligible for the month of May since the \$660 is income in the month of receipt. However, she retains the \$660, and consequently exceeds the resource limit for June 1, with total resources of \$4,360. She is notified on 6/2 that she is ineligible due to excess resources, and her case is closed effective June 13th. On June 20th, she enters the hospital. Her Medicare deductible is \$992 (the Part A deductible as of January 1, 2007). She opts to reduce her resources by expending \$360 on the outstanding deductible for the hospital bill. She re-establishes eligibility effective June 20th.

- O MS. I applies for recertification on 7/20. She had \$3,975 in her savings account as of 7/1. On 7/31, \$43 in interest was added to her account, for a total of \$4,017. She is ELIGIBLE in July. As of 8/1, the interest is a cash resource and she is INELIGIBLE for August. She has no allowable expenses incurred or outstanding in August on which she can expend excess resources. On August 10th, she reduces her resources to below \$4,000 by purchase of a pair of shoes. She will NOT REGAIN eligibility for the month of August even though her resources are again within the resource limit.

The earliest she CAN REGAIN ELIGIBILITY is September 1, if her resources are within allowable limits as of the first moment of that month.

- O MR. C applied on July 15th for help with a hospital bill

of \$12,000 incurred between June 2nd and June 15th. He had total countable resources of \$6,485 on June 1st. He paid \$2,000 on June 29th toward the bill from his cash resources, leaving countable resources of \$4,485 on July 1st. He was notified on July 30th that he was ineligible due to excess resources, and that he could reduce resources to establish eligibility. He expended an additional \$500 toward the hospital bill on August 20th. He presented verification of the expenditure and the reduced resources on August 25th, and was determined to be eligible effective July 1st in the ongoing period. He was ineligible for copayment of the balance of the hospital bill from June, because June is a retroactive month.

- O MR. D has resources of \$6,500 on the first of July. He incurs allowable medical expenses of \$8,000 during a hospitalization from July 5th through July 20th. He applies for Medical Assistance on July 29th. He is rejected on August 10th due to excess resources and is apprised of the ability to reduce resources to establish eligibility. On August 20th, he purchases an excludable automobile for \$3,000, reducing his countable resources to \$3,500. He does NOT establish eligibility for July or August. He reapplies in September, has countable resources within the limit, and is otherwise eligible. He is accepted effective September 1st.

- O MRS. P has resources of \$10,000 on August 1. She is hospitalized August 10th, incurring a bill of \$22,000 between August 10th and August 17th. She files an application for Medical Assistance on August 30th. On September 12th, she is determined ineligible due to excess resources and notified of the possibility that she could reduce resources to become eligible. On September 15th, she paid \$6,000 toward the hospital bill. She was subsequently certified eligible effective August 10th.