

## **0338**

## **RESOURCES GENERALLY**

### **0338.05**

### **RESOURCE LIMITS**

REV:10/2008

A determination of eligibility requires a review of the family's resources only for those coverage groups which require that resources be tested. In addition to the evaluation of resources at the time of MA application, resources are reviewed when a change occurs, or when information is received which indicates that unreported resources may exist.

#### CATEGORICALLY NEEDY MA ONLY (Non-Cash Eligibility)

When determining family MA Only Categorically Needy eligibility, resources are not tested for:

- o pregnant women;
- o children; or,
- o the parent(s) or caretaker relative of MA Only eligible children whose countable income is less than 175% of the Federal poverty Level.

With regard to family-related MA Only coverage groups that require countable resources be within program limits, the amount of non-exempt, available resources (real and personal property) that a family unit can possess and maintain Categorically Needy MA eligibility is one thousand (\$1,000) dollars:

#### TABLE OF CATEGORICALLY NEEDY RESOURCE UNITS

RESOURCE	LIMIT
Real Property and Personal Property	\$1,000
Home (in which family is living)	Excluded
Automobile	See Sec. 0338.25.20 and Sec. 0338.25.20.05
One burial plot or space	Excluded for each member of family
Funeral agreement	Not to exceed \$1,000 of equity value for each member of family
Household furnishing and appliances, effects and keepsakes of limited value	Excluded clothing, personal

#### MEDICALLY NEEDY MA

Determination of eligibility for medically needy eligibility requires a review of the family's resources. In addition to the evaluation of resources at the time of MA application, resources are reviewed when a change occurs, or when information is received which indicates that unreported resources may exist.

The resource limits for eligibility as Medically Needy are the following:

TABLE OF MEDICALLY NEEDED RESOURCE LIMITS

Resource	One Person	Two Persons	Additional Persons
Real Property and Personal Property	\$4,000	\$6,000	\$100 Each
Life Insurance	\$4,000 Each EACH Adult	\$4,000 Each EACH Parent	\$1,500 EACH Dependent Child Under 18
Burial Set-Aside	\$1,500 Each		
Tangible Personal Property (automobile, personal valuables,	\$5,000 per Household (See Exclusions) boat, etc.)		
Home and Adjoining Land	Excluded if Applicant is living in the home		
Burial Spaces	Excluded		
RSDI Retroactive Payments	Excluded for 6 Months		

**0338.10 DEFINITION OF RESOURCE**

REV:07/1994

A RESOURCE may be either real or personal property:

- o REAL PROPERTY is land, including houses or objects permanently attached to the land;
- o PERSONAL PROPERTY in a broad sense is everything that is subject to ownership that is not real property. Personal property includes liquid resources, such as cash, stocks, bonds, bank accounts, cash value of life insurance, automobiles and non-essential items.

**0338.10.05 Countable/Excluded Resources**

REV:07/1994

Resources are further defined based on 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. They are those resources that are available to the client, and that are not excluded. Resources are considered available both when actually available, and when the applicant/recipient has a legal interest in a liquidated sum and has the legal ability to make such sum available for support and maintenance. The determination of resource eligibility follows the same methodology set forth in Section 0334 - Determining Income Eligibility. Certain resources are excluded with the value of the remaining resources compared to the appropriate resource standard.
- 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., the home). Some resources are excluded to the extent they do not exceed a specific threshold amount (e.g., \$1,500 exclusion limit for automobile).

### **0338.15 DOCUMENTATION OF RESOURCES**

REV:07/1994

The information the individual supplies on the DHS-2, both at application and redetermination is documented through insurance policies, bank books, property records and similar documentary sources. The source used for verification of the resource is recorded in the appropriate area of the DHS-2. Photocopies of the documentation must be kept for the case file.

### **0338.20 TIMING OF RESOURCE EVALUATION**

REV:07/1994

If, at the time of the resource evaluation, countable resources exceed the resource limit, resources are assumed to be in excess of the limit for the entire month. Resources are evaluated at the point in time at which the application or redetermination is completed.

### **0338.25 EXCLUDED RESOURCES**

REV:06/1998

MA policy allows the exclusion of certain resources when counting the value of the family's resources to determine eligibility. The exclusion of certain resources takes into account the Current Fair Market Value (CFMV) and/or the Equity Value defined as:

- o Current Fair Market Value (CFMV): The amount for which the property (real and personal) can be expected to sell on the open market in the geographic area involved, under existing economic conditions at the time of the determination.
- o Equity Value: The CFMV of the resource less the amount of its legal encumbrances.

The following resources may be excluded in the determination of MA resource eligibility:

- o Real property that is the home;
- o Real property owned by a married couple (under certain limited conditions);
- o Real property other than the home (six months, pending sale);
- o Income-producing property other than real estate;
- o Automobile (See Sec.0338.25.20 and Sec. 0338.25.20.05);
- o Burial plot;
- o Funeral agreement, not to exceed \$1,000 equity value;
- o Household furnishings, appliances, clothing, personal effects and keepsakes of limited value.

## **0338.25.05      The Home**

REV:07/1994

The home is excluded. The home exclusion applies to any land that appertains to the home and any other buildings located on such land, for example, a barn or shed. To appertain to the home, the real property must adjoin the plot on which the home is located and not be separated from it by intervening real property owned by others. (An AP-5A is completed on excluded property and filed in the case record.);

The home exclusion applies when the applicant/recipient is only temporarily absent from the usual residence. The home exclusion applies, for example, to the marital domicile when a parent and child(ren) leave to reside in a shelter, with relatives, or elsewhere, pending issuance of a restraining order against the spouse, and with the intention of returning to the home as soon as possible;

Property that is not the home and is owned by a married couple may be excluded if (1) the deed indicates the property is held by them as tenants by the entirety, and (2) the property is not the home of the applicant/recipient, and (3) the spouse of the applicant/recipient refuses to sell his/her interest in the property. To ascertain if these conditions are met, the eligibility technician must verify, by examination of the deed, that the parties own the property as tenants by the entirety and determine if the parties are still married because

a divorce (but not a legal separation) automatically dissolves a tenancy by the entirety. If the three conditions specified above appear to be met, the eligibility technician must refer the case, through the Regional Manager, to the Department's Office of Legal Counsel for a determination of the property's excludability. The referral should include copies of the deed to the property and any other relevant documents.

### **0338.25.10 Real Property Other Than Home**

REV:07/1994

Real property, except for the home in which the assistance unit is living or otherwise excludable as specified in Section 0338.25.05, is excludable for up to a maximum of six (6) months. The exclusion of real property is subject to the following provisions:

- o The family must make a good-faith effort to sell the property, generally by listing it with a licensed realtor. The realtor must indicate in a signed statement that the asking price is consistent with the property's Current Fair Market Value (CFMV). If the family chooses to sell the property independently, they must demonstrate a good-faith effort, for example, by adequate newspaper advertising of the property for sale. Any method of disposal other than listing with a realtor is subject to review and approval by the Regional Manager before it can be excluded.
- o The family must notify the agency upon executing a purchase and sale agreement, a copy of which is submitted to the eligibility technician. Further, within five (5) days of the closing, the family must provide the eligibility technician with a copy of the closing or settlement sheet.
- o If the net proceeds from the sale of the property, together with all other resources at the beginning of the disposal period, are within the allowable resource limit, no repayment is warranted.
- o If the property is not sold within six (6) months, eligibility ceases, and the entire amount of assistance paid during the period is treated as an overpayment and subject to repayment by the recipient. This provision also applies if eligibility ceases for any other reason.

### **0338.25.15 Income-Producing Property**

REV:07/1994

Income-producing property other than real estate is excluded.

Equipment such as farm tools, carpenter's tool and vehicles used in the production of goods and services as a means of earning a living may be

excluded from consideration as resources in certain circumstances. If the property has been used by the applicant/recipient to generate income and the reasonable expectation exists that it will be used for that purpose in the foreseeable future, the property is not subject to the \$1,000 resource limitation.

In making the determination that the income-producing property is excluded, the eligibility technician evaluates such factors as:

- o The applicant's present and future capacity to utilize the property to become self-supporting;
- o The suitability of the property to serve as one of the means to this goal; and,
- o The length of time expected to elapse before the property might be put to use in a self-support plan.

Appropriate medical, psychological and social service assessments are used to reach the determination.

## **0338.25.20      Automobile**

REV:06/1998

Automobile means a passenger car or other motor vehicle used to provide transportation of persons or goods.

In determining eligibility, count toward the resource limit only that part of the fair market value of any vehicle not otherwise excluded which exceeds \$4,600, or the portion of the family's equity in a vehicle which exceeds \$1,500 value, whichever is less.

Equity value is the difference between wholesale/average trade-in value of the automobile and the amount of total encumbrances (legal debts).

To assess the equity value of an automobile, determine the wholesale/average trade-in value of the car (truck, van, motorcycle), as listed in the Used Car Guide (NADA "Blue Book") minus any encumbrances. Encumbrances are verified from documents submitted by the applicant/recipient or from contact with collateral sources. (If a motor vehicle not excluded under Section 0338.25.20.05 is specially equipped with apparatus for the handicapped, the value of the apparatus is excluded from the assessment in applying the resource policy.)

If the automobile is not listed in the Blue Book, or the recipient disputes the value as stated because of physical damage, the appraisal of a registered automobile dealer is accepted as evidence of the average trade-in/wholesale value.

### Family with Two or More Automobiles

For a family with two or more automobiles, calculate the portion of the value of each vehicle which exceeds \$4,600, or the portion of the family's equity which exceeds \$1,500 value, whichever is less. The total of those computations is countable towards the resource limit.

If the value of automobiles, when combined with other countable resources, exceeds the \$1,000 resource limit, eligibility does not exist.

### **0338.25.20.05      *Special Use Vehicles***

REV:06/1998

The value of vehicles used primarily for income-producing purposes is excluded. Such vehicles include but are not limited to:

- o a taxi, truck, or fishing boat;
- o a vehicle which annually produces income consistent with its fair market value, even if only used on a seasonal basis;
- o a vehicle used for long distance travel, other than daily commuting, which is essential to the employment of a family member;
- o a vehicle necessary to transport a physically disabled family member where the vehicle is specially equipped to meet the specific needs of the disabled person or is the vehicle is a special type of vehicle that makes it possible to transport the disabled person; and,
- o a vehicle used as a family's home.

### **0338.25.25      **Burial Plot****

REV:07/1994

One (1) burial plot or space for each member of the assistance unit is excluded. A burial space is any conventional gravesite, crypt, mausoleum, urn, or other repository customarily used for the remains of a deceased person.

### **0338.25.30      **Funeral Agreement****

REV:07/1994

A bona fide funeral agreement, not to exceed \$1,000 of equity value for each member of the assistance unit, is excluded. A bona fide or good-faith funeral agreement is a cash resource reserved authentically and solely to meet the funeral expenses of the beneficiary.

It must not constitute a mere shelter for funds that would otherwise count toward the \$1,000 resource limit.

Evidence that funds in a purported funeral agreement are being tapped for other than their avowed purpose is a contraindication that the agreement is bona fide. Every funeral agreement must be submitted to and, if appropriate, approved by the Regional Manager before it can be

excluded as a resource. Further, at each recertification, the eligibility technician must review each excluded funeral agreement. Any new, significant information bearing on the agreement is submitted to the Regional Manager for evaluation and determination of its continued excludability.

### **0338.25.35 Resources Excluded by Law**

REV:07/1994

Resources excluded by law in determining need and the amount of assistance include:

- o Funds awarded under PL 98-123 to the Red Lake Band of Chippewa Indians.
- o Funds awarded under PL 98-124 to the Assiniboine Tribe of the Fort Belknap Indian Community, and the Assiniboine Tribe of the Fort Belknap Indian Reservation.

### **0338.30 RESOURCE REDUCTION**

REV:07/1994

If an applicant or recipient is found to be ineligible due to excess countable resources, s/he is notified that eligibility does not exist via an Eligibility Notice. Included with the Notice is an attachment describing the possibility of resource reduction (form MA-6). The applicant/recipient may establish eligibility if the excess resource amount is expended on allowable medical, legal, or guardianship/conservatorship expenses.

Eligibility may be established as of the date the allowable expense equals or exceeds the excess resource. (However the date of eligibility achieved via resource reduction can never be earlier than the first day of the month of application). To reduce resources under this provision, the applicant must verify the asset reduction within 30 calendar days of the date of the notification.

An applicant whose countable resources exceed the basic resource limitation may establish eligibility on the basis of resources if:

- 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 must occur within the thirty day time period.

Medical Assistance is not responsible for payment of that portion of the medical bills equal to the amount of the excess assets. 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.

### **0338.30.05 Date of Eligibility**

REV:07/1994

An individual who meets the requirements for resource reduction and is otherwise eligible will be eligible as of the date his or her 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 use medical bills incurred up to three months prior to his/her application to reduce resources, an applicant cannot achieve retroactive eligibility via resource reduction.

The client 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.

### **0338.30.10 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 0336, FLEXIBLE TEST OF INCOME.
- o Certain fees required for: a) an individual to make income or resources available; or b) for 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 0338.30.10.05 through 0338.30.10.15 are allowable under this provision.

#### **0338.30.10.05 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 0338.30.10, subject to the Rhode Island Supreme Court approved fee schedule (currently \$30 per hour for guardians under "Executive Order" Number 95-01), up to \$125 monthly 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 any allowable guardianship/conservatorship expenses.

The case is referred to the Office of Legal Counsel by the Regional Manager for a decision on the amount of the allowable deduction. The total amount allowed must be reasonable and shall be based on the hours approved by the particular Probate Court for items listed in Section 0338.30.10 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.

**0338.30.10.10      *Legal Fees***

REV:07/1994

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.

**0338.30.10.15      *Tax Assessments***

REV:07/1994

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.