Division of Health Care Finance & Administration

Bulletin **TC-17-4**

To: **TennCare Eligibility Specialists**
TennCare Eligibility Program Managers
TennCare Eligibility Appeals Staff

From: **TennCare Eligibility Policy Unit**

Date: **March 17, 2017**

Subject: **ABLE TN and Treatment of ABLE Accounts**

This bulletin provides notification of the establishment of ABLE TN and guidance concerning the treatment of ABLE accounts when determining eligibility.

An ABLE or 529A account is a tax-advantaged savings account designed to encourage and assist individuals and families with saving private funds for disability-related expenses for individuals with disabilities in order to maintain their health, independence, and quality of life. These expenses include, but are not limited to: education, housing, transportation, employment training and support, assistive technology, personal support services, and funeral and burial expenses. Funds saved within an ABLE account may grow tax-free and be withdrawn tax-free if used for qualified disability expenses (QDEs). These funds should supplement, not supplant, any other benefits the individual receives through other means, including Medicaid, Supplemental Security Income, and the beneficiary's employment.

The owner and beneficiary of an ABLE account must be disabled or blind prior to age 26 and be entitled to Social Security Disability or Supplemental Security Income or provide certification of a disability or blindness that began prior to age 26. The individual may own only one ABLE account and the account must be maintained under a qualified ABLE program. Tennessee passed its own ABLE law on May 18, 2015, establishing ABLE TN.

For eligibility purposes, during any period in which the owner and beneficiary of an ABLE account maintains, makes contributions to, or receives distributions from the ABLE account for qualified disability expenses, the ABLE account balance, including earnings and contributions to the account, should be disregarded. Distributions from the ABLE account are excluded if used or intended to be used for QDEs or spent for a non-qualified expense in the month of receipt. An ABLE account may be treated differently for the Supplemental Security Income program. Any amount in an ABLE account that exceeds $100,000 is a countable resource. Individuals may have SSI suspended when total countable resources exceed the SSI resource limit and all other resources besides the ABLE account are less than the SSI resource limit. Suspension by SSA for this reason will not impact that individual's Medicaid eligibility.

Policy updates regarding ABLE accounts are located on the internet within the following policies: *Countable and Excluded Resources for Medically Needy Categories, Medically Needy Countable and Excluded Income, ABD Countable and Excluded Resources,* and *ABD Unearned Income.*

For any questions related to this bulletin or its attachments, contact EligibilityPolicy.TennCare@tn.gov.
For more information regarding Tennessee's ABLE TN program, see http://www.abletn.gov/index.html.

Attachments:
TC-17-4 Attachment A: Countable and Excluded Resources for Medically Needy Categories, Policy Manual Number: 010.060
TC-17-4 Attachment B: Medically Needy Countable and Excluded Income, Policy Manual Number: 010.045
TC-17-4 Attachment C: ABD Countable and Excluded Resources, Policy Manual Number: 110.050
TC-17-4 Attachment D: ABD Unearned Income, Policy Manual Number: 110.030

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COUNTABLE AND EXCLUDED RESOURCES FOR MEDICALLY NEEDY CATEGORIES

Legal Authority: 42 CFR 435.840; 42 CFR 435.845; 45 CFR 233.20; Public Law 113–295; Tenn. Code Title 71, Chapter 4, Part 8

1. Countable Resources

Countable resources are all those available assets whose value is considered in determining resource eligibility. The equity value of all resources (real and personal property) owned by the household are countable unless specifically excluded by regulation.

Count the resources of the following individuals:

- Children under age 21 and pregnant women who apply for assistance; and
- Their Financially Responsible Relatives (FRR), if the relative and child(ren)/pregnant woman are living together at the time.

  NOTE: Do not count the resources of a pregnant woman's parents, even if they are living in the same home.

2. Definitions

Resource Characteristic: A description of a resource's intended use, source or a more specific description of a particular kind of resource. The resource characteristic often determines how to treat the resource, i.e. count or exclude. Not all resource types have a particular resource characteristic. Examples of a resource characteristic include: burial, business or self-employment, personal, and specific types of retirement plans.

Resource Type: A liquid or non-liquid asset that an individual owns jointly or individually. The resource type describes the asset itself, and not it's intended use, source or other specific features. Examples of a resource type include: checking account, insurance, trusts, and property.

3. Resource Characteristics and Types

To determine whether a resource is countable or excluded, factors that must be considered are: the nature of the resource, the date it was created, its intended use and the source of funds used to create the resource.

Achieving a Better Life Experience (ABLE) Accounts	Resource Type	ABLE accounts or 529A accounts are tax-advantaged savings accounts for individuals with disabilities that are established under a qualified ABLE program. The funds within an ABLE account are intended to cover the individual's qualified disability expenses (QDEs) related to his or her blindness or disability. QDEs include, but are not limited to: education, housing, transportation, employment training and support, assistive technology and personal support services, health, prevention

		and wellness, financial management and administrative services, legal fees, and funeral and burial expenses. The balance within a single ABLE account for an individual, including contributions and earnings, is excluded as a resource. Distributions from the ABLE account are excluded if used or intended to be used for QDEs as long as the distributions are identifiable. Distributions from an ABLE account used for non-qualified expenses are excluded if spent in the month of receipt. Distributions from an ABLE account are countable when: • Distributions are retained past the month of receipt and are used for or intended to be used for non-qualified expenses; or • Distributions are retained past the month of receipt and were previously excluded because intended for a QDE, but used for a non-qualified expense. Count the amount of funds used as a resource the first of the month in which funds were spent; or • Distributions are retained past the month of receipt, have not been spent, and the intent to use the funds for a QDE has changed. Count the retained funds as a resource the first of the following month. Normal counting rules and exclusions apply to assets or other items purchased with funds from an ABLE account. Documentary evidence of an ABLE account should show the following information: • The name of the designated beneficiary or owner of the account; • The state ABLE program administering the account; • The name of the person who has signature authority (if different from the owner); • The unique account number assigned by the state to the ABLE account; • The date the account was opened; and • The first-of-the-month account balance.

Annuity	Resource Type	**1. General Rule** Annuities are contracts or agreements that, in exchange for a lump sum payment or series of payments, provide for the payment of income at regular intervals (i.e., monthly, quarterly, annually). Annuities establish a source of income for a future period, and are often used in retirement planning. Annuities may be counted as a resource or as unearned income, depending on the circumstances of the annuity. If an annuity is determined to be a countable resource, any payments from the annuity will be excluded as income. If the annuity is an excluded resource, the annuity payments received will be counted as unearned income. **2. Treatment of Annuities as a Resource** **a. Excluded Resource** Annuities are excluded resources if: i. The annuity meets all of the following 5 conditions: • The annuity is irrevocable; • The annuity is non-assignable; • The annuity is actuarially sound; and • The payment contract requires periodic payments of equal amounts. ii. A member of the household owns 100% of the resource and receives periodic payments from the annuity. iii. The annuity is considered an employee retirement annuity. If an annuity is an excluded resource, payments being received from the annuity may be countable unearned income. See the *Medically Needy Income Desk Guide.* To determine whether an annuity is actuarially sound, multiply the expected annual payments by remaining period of the annuity. If the period of the annuity is based on an annuitant's lifetime, the annual payments are multiplied by the annuitant's life expectancy, see the *SSA Period Life Table* desk guide. If the annuity is a "period certain" annuity, annual payments are multiplied by the annuitant's life expectancy or the period certain, whichever is less.

		If the amount expected to be paid out is equal to or greater than the purchase price of the annuity, the annuity is actuarially sound. **b. Countable Resource** An annuity is a countable resource if it does not meet the conditions in Section 2a. **c. Value of an Annuity** The countable resource value of an annuity is its FMV. If the applicant is able to provide the FMV of the annuity, verified by 2 credible sources in the legitimate business of selling and purchasing annuities, accept the verified value. If the applicant does not provide two credible statements of FMV, multiply the total annual payment by the period remaining to determine the countable value. Use the calculated value as the resource value. The calculated value of an annuity may be rebutted by providing statements of FMV amounts from 2 credible sources. A letter from the annuity company stating that the annuity has no value is simply a statement of the company's contractual obligations regarding cash value. This is irrelevant to the true market value of the annuity. There is a thriving secondary market for annuities; even non-assignable annuities can be sold.
Business or Self-Employment	Resource Characteristic	Excluded as essential for the production of earned income, either in trade, business or self-employment. Resources may include: • Tools/equipment; • Stock or raw materials; • Real property; • Personal property essential for income production; • Office equipment; • Business loans for the purchase of capital assets; • Inventory; • Machinery and equipment; • Business/commercial checking accounts; and • Life insurance. No exclusions listed in this section will be applied to property a household does not own, including use of such property, except by owners who are members of the household.

Burial	Resource Characteristic	Resources that are maintained for the explicit purpose of paying for costs related to the funeral and burial of a deceased household member are excluded as resources.
Burial Contract	Resource Type	Exclude burial contracts as a resource, whether revocable or irrevocable, for TennCare Medicaid Medically Needy categories. This applies to the applicant, as well as each household member. This does not include pre-paid or pre-need burial agreements.
Burial Plot	Resource Type	One burial plot for each member of the household is excluded. Burial plots and spaces include burial plots, crypts, mausoleums, urns and other repositories for bodily remains. It also includes vaults, headstones, markers, headstone, containers, and arrangements for opening and closing the gravesite.
Cash	Resource Type	Cash is countable. Cash is money on hand or available in the form of currency or coins. Foreign currency or coins are cash to the extent that they can be exchanged for United States issue.
Certificate of Deposit	Resource Type	Certificates of Deposit (CDs) are countable if held in a personal account. The value of a CD is the net amount that could be received after penalties for early withdrawal, if applicable. Taxes are not deducted in determining net value. Determine the net value of a CD via a detailed breakdown from the institution holding the deposit. The breakdown must include the gross deposit, and identify any and all deductions and penalties that would be deducted from the gross deposit if the funds were withdrawn. *See the Treatment of Resources: Ownership, Equity Value & Accessibility for Medically Needy* policy for treatment of jointly-owned CDs.
Checking Account	Resource Type	**1. Personal Checking Account** A personal checking account is countable. Determine the countable portion of the account based on ownership. **a. Single Owner Account** The countable resource is the portion of the account that is unencumbered as collateral for a loan, exclusive of funds representing current income.

		b. Joint Account See the *Treatment of Resources: Ownership, Equity Value & Accessibility for Medically Needy* policy for the treatment of jointly-owned checking accounts. **2. Other Checking Accounts** A checking account that is used for purposes other than personal use may be excluded on the terms of intended use. Other resource characteristics of a checking account include: • Burial • Educational Income • Individual Development Account • Plan for Achieving Self-Support (PASS) • Prorated as Income • Employment Business or Self-Employment • Proceeds from the Sale of a House • Disaster/Settlement • SSI/Social Security Administration (SSA) Retroactive Payment
Contract for Deed or Mortgage	Resource Type	The value of a contract for deed or mortgage may be a countable asset depending on the circumstances of the loan, including the individual's role as lender or borrower and the accessibility of the asset. **1. Definition** A mortgage is a security held by the lender on a particular property for the repayment of debt by the borrower within a particular time period. A contract for deed, land contract, and deed of trust are all mortgages on real property. **2. Individual is the Lender** **a. Countable Value** When the individual is the lender for a contract for deed, he or she may sell or transfer the instrument to have immediate access to the unpaid loan principal. The value of the resource equity value is a countable asset. Any subsequent payments to the principal made by the debtor after approval are considered a resource because the unpaid loan principal is a resource.

b. Excluded as a Resource

The value of the contract may be excluded from countable resources if the individual can demonstrate that the contract cannot be sold without the realization of a net loss.

Evaluate the current status of the contract at redetermination. Do not extend benefits pending a demonstration of unsaleability.

c. Establishing Value

The amount of the unpaid balance of the property agreement (mortgage, contract for deed, etc.) is the value of the countable asset and must be verified at each application and redetermination.

3. Individual is the Borrower

If the individual is the borrower, the property agreement is not a resource. However, the property purchased may be a countable resource following the month of transaction.

4. Reverse Mortgage

a. Description

A reverse mortgage is a loan against the equity in an individual's home that provides cash advances but requires no mandatory monthly re-payment during the life of the loan. If the interest is unpaid, it is allowed to accrue against the value of the individual's home.

A reverse mortgage is similar to a conventional mortgage because the bank does not own the home but holds a lien on the property. The borrower continues to hold the title to the property. The bank cannot demand payment from any family member if there is not enough equity to cover paying off the loan and there is no penalty for paying off the mortgage early.

b. Policy Application

The proceeds received from a reverse mortgage are tax-free and available as a lump sum or fixed monthly payment for as long as the individual lives on the property. The loan is not due and payable until the borrower no longer occupies the home as a principal

		place of residence. When the owner no longer resides on the property, the balance of the borrowed funds is due and payable. After the amount received is repaid, any additional equity in the property belongs to the owners or their beneficiaries. When an individual has money in a reverse mortgage line of credit, this money does not count as a loan, or as income or a resource for determining TennCare Medicaid eligibility. If the individual transfers the money to an investment or to a bank account, the amount transferred will become a countable resource. In order to qualify for a reverse mortgage, an individual must be at least age 62 and the property must be the borrower's primary residence. When money is received from a reverse mortgage: • The money withdrawn is tax-free and can be used for any purpose; • The money can be received as a lump sum, line of credit, a monthly payment or any combination of the 3; • There are no mandatory monthly repayment requirements; • The loan can be repaid anytime without penalty; • The title of the home does not change; and • The lender sets the maximum loan amount.
Educational Income	Resource Characteristic	Educational income received under Title IV of the Higher Education Act of 1965, such as Pell Grants, Federal Educational Loans and Work-Study Programs, or Bureau of Indian Affairs (BIA) Grants should be excluded as a resource; there is no time limit. Grants (other than Title IV or BIA grants) scholarships, fellowships and gifts intended to pay for tuition, fees or educational expenses are excluded for nine months beginning the month after received.
Farm, Business or other Equipment	Resource Type	The equity value of non-business income producing real property, other than the homestead, is countable. If the property is used for business or self-employment, it is excluded as Business or Self-Employment. Rental property is a common form of income producing property. Rental property is countable if the individual who owns the property is not 'in the business of' renting property.

		An individual who is 'in the business of renting property is someone who materially participates in the operation and decision making of the rental business for at least 20 hours per week.
Household Goods and Personal Effects	Resource Type	**1. Definition** Household goods are items of personal property, found in or near the home, which the individual uses on a regular basis. The individual needs household goods for maintenance, use and occupancy of the premises as a home. Examples of household goods include: furniture, appliances, and electronic equipment. Personal Effects are items of personal property ordinarily worn or carried by the individual, or items that have an intimate relation to the individual. Examples of personal goods include: personal jewelry, personal care items and clothing, pets, educational or recreational items, and items of cultural or religious significance to the individual. Items required because of an individual's physical or mental impairment, such as prosthetic devices or wheelchairs, are also personal effects. **2. Treatment** Excluded.
Individual Development Account (IDA)	Resource Characteristic	IDAs may be established by or on behalf of an individual eligible for Families First assistance. An IDA is different from a regular savings account because funds deposited by a participant are matched by a separate entity and there are restrictions on the use of these funds. An IDA will provide an opportunity for a participant to build assets to further support the transition to self-sufficiency. Funds, including accrued interest, in the account are disregarded as a resource as long as the individual complies with the IDA eligibility rules and continues to maintain or make contributions into the account.
Income-Producing	Resource Characteristic	This is a resource characteristic that applies to real property used in a trade or business or non-business income-producing activity. Income producing property is not property that is necessary for self-employment. Income producing property in the Medically Needy categories is countable, if accessible to the individual.

Sick and Disability Insurance	Resource Type	Excluded. Sick and disability insurance primarily provides income to the insured if he or she becomes disabled.
Burial Insurance	Resource Type	Excluded. Burial insurance is a contract whose terms specifically provide that the proceeds can only be used to pay the burial expenses of the insured.
Items of Unusual Value	Resource Type	**1. Definition** Items of unusual value are items that an individual acquires or holds because of their value or as an investment. These items may meet the definition of personal effects. Examples of an item of unusual value include: gems, art collections and animals owned for investment purposes. In general, an item may be considered an item of unusual value if the item is not excluded as a household good or personal effect, and the equity value of the item is over $500. **2. Treatment** An item of unusual value that generates income for the individual is a countable resource. Up to $2,000 of all total personal items of unusual value may be excluded. Amounts exceeding the $2,000 limit are countable resources.
Life Estates	Resource Type	**1. General Rule** A life estate is a property right with a duration limited to the life of the party holding it or to the life of some other party. The holder of a life estate does not have title to the property and cannot sell the property. However, the holder of a life estate can sell his or her interest in the property unless restricted by the terms of the contract, and is entitled to any income from the property. The income is deemed available to the holder, regardless of whether he or she actually receives the income. Upon the death of the owner of a life estate, full title and ownership usually passes to the individual named in the will or deed as entitled to the property. Property in which an individual holds a life estate is

		subject to the same exclusion rules as property the individual owns by title. **2. Life Estate Exclusions** • A life estate will be excluded as the home when the property is the individual's principal place of residence. • A life estate will be excluded when it is necessary for the production of earned income. See Business or Self-Employment. • The terms of life estate contract prevents the holder from selling his or her interest in the property. **Countable Value** If the life estate is not excluded based on the criteria above, the entire value of the life estate is a countable resource. The life estate value is determined by multiplying the fair market value of the property by the percentage listed in the "Life Estate Interest Table" for the age of the individual on whose lifetime the life estate is based. If more than one person owns the life estate, the value is based on the owner with the longest life expectancy.
Life Insurance	Resource Type	Excluded. Exclude the value of all life insurance policies owned by individuals for each household member. This includes any cash value that the policy may have accumulated.
Livestock	Resource Type	The value of livestock necessary for Business or Self-Employment, as a tool of the trade, or raised for home/personal consumption is an excluded resource. Income received is countable as self-employment income. Livestock that is used as non-business income-producing property is countable, and subject to the policy provided under Income-Producing.
Oil and Mineral Rights	Resource Type	Oil and mineral rights may be included with land ownership or owned separately. If surface rights of the same property are excluded, for example, as a home, so are oil and mineral rights. Obtain verification of oil and/or mineral rights. Acceptable verifications are deeds, lease agreements, titles and homestead documents. If oil and/or mineral rights are producing income

		under a lease agreement, the owner may be constrained from selling or otherwise disposing of those rights. If the land is already excluded, the oil and/or mineral rights are excluded.
Personal	Resource Characteristic	A personal resource is typically for the use of the individual and his or her family. A personal resource is typically countable, unless excluded based on the terms of the asset.
Personal Consumption	Resource Characteristic	Exclude the equity value of non-business property used to produce goods or services essential to daily activities. Non-business property used for personal consumption can be real or personal property. It produces goods or services essential to daily activities if it is used, for example, to: • Grow produce or livestock solely for personal consumption in the individual's household; or • Perform activities essential to the production of food solely for home consumption. Note: This does not include any vehicle that is used for transportation.
PASS	Resource Characteristic	PASS is an SSI provision to help individuals with disabilities return to work. Any income an SSI recipient places in an approved PASS account is excluded as a resource. The PASS account itself is also excluded. This exclusion expires when the PASS contract expires or ends, or when the individual is no longer an SSI recipient.
Proceeds from the Sale of a Home	Resource Characteristic	The proceeds from the sale of a home are excluded to the extent that the funds are intended to be used to purchase another home subject to the homestead exclusion, and the funds are used for such a purpose within 3 months of the date of receipt of the proceeds.
Promissory Note	Resource Type	**1. Promissory Note: Personal Use** A promissory note or other loan given by the household is considered personal property and is countable, unless the note or loan balance is inaccessible. The lender holds legal interest and has the legal ability to make available his or her share in the note or loan. The equity value of the note or loan is countable. **2. Promissory Note: Other Uses** Promissory notes that are made for purposes other than personal use are treated according to their intended use. Promissory notes may be used for the following purposes:

		• Burial; • Business or Self-Employment; and • Proceeds from the Sale of a Home.
Prorated as Income	Resource Characteristic	A resource that has been prorated as income is an excluded resource. Example: Farmer Jones sells his crop in September for $12,000. The money from the sale is intended to support his family for a year. The $12,000 is prorated as income, $1,000 a month. The $12,000 is excluded as a resource.
Real Property	Resource Type	Real property is any building and/or land, improved or unimproved, including recreational, residential and/or commercial property. **1. Countable Value** The equity value in all real property the individual owns individually or jointly is a countable resource with the following exceptions: • Property excluded as home; • The inaccessible equity value of real property; • Real property necessary for the production of earned income (see Business or Self-Employment). **2. Ownership by Title** **i. Ownership Types** **Sole Ownership**: Individual is the only person who owns the property and its sale or transfer is not subject to the approval of others. **Tenancy-in-Common**: Each owner has an undivided interest in the whole property and can sell his or her own interest without the consent of the other owner(s). Upon the individual owner's death, his share passes directly to his or her heir(s). **Joint Tenancy**: Each owner holds an individual interest in the whole property and can sell his or her interest at any time without the consent of the other owner(s). If specifically stated in the deed, the interest of one owner upon his or her death will automatically pass to the other owner. This is the "right of survivorship" and rarely occurs in Tennessee.

Tenancy by the Entirety: This form of ownership can exist only between individuals validly married to each other. Any real property held jointly between two spouses is held as "tenants by the entirety" unless the deed explicitly states otherwise. The owners are treated as if they were one entity, requiring the consent of both owners before any interest can be sold. Upon the death of one owner, his or her interest passes directly to the other owner.

Home: The home and surrounding property which is not separated from the home by intervening property owned by others. Public rights of way, such as roads which run through the surrounding property and separate it from the home, will not affect the exemption of the property. The home and surrounding property shall remain exempt when temporarily unoccupied for reasons of employment, training for future employment, illness, or uninhabitability caused by casualty or natural disaster, if the household intends to return. Households that currently do not own a home, but own or are purchasing a lot on which they intend to build or are building a permanent home, shall receive an exclusion for the value of the lot and, if it is partially completed, for the home.

ii. Verification

Verify ownership by accepting the individual's sworn statement as to property ownership, a copy of the deed or other public record. If copies of the deed or other public records are unavailable, contact the county Register of Deeds who can verify ownership information.

iii. Establishing Value

The countable value of real property is equal to the individual's equity value in it. The equity value is equal to the Total Market Appraisal, also known as the real value or Fair Market Value, of the property less any encumbrances, liens or other legal claims.

iv. Total Market Appraisal

Total Market Appraisal is determined using the property's assessed value, which can be easily verified. Assessed value is expressed as a percentage of Total Market Appraisal and in Tennessee the ratios are in the chart below.

Type of Property	Assessed Value: Real Value
Farm/Residential	25%
Commercial/Industrial	40%

Use the following formula to determine a property's real value:

Farm/Residential: Assessed Value x 4.0 = Real Value
Commercial/Industrial: Assessed Value x 2.5 = Real Value

v. Assessed Value

Determine and verify the assessed value by reviewing a recent tax assessment notice, contact with the county assessor's office, or written documentation of assessed/real value from the agency responsible for property assessment in another state, if appropriate.

The individual has the right to rebut the assessed value. He or she must provide two written appraisals from two knowledgeable real estate sources, such as a licensed real estate agent, or an appraiser for the Veterans Affairs (VA) or Federal Housing Administration (FHA) that substantiates the claim. In redetermining the value of the property, use the higher of the two appraisals. Retain copies of both appraisals for the case record. If the property value is redetermined in this way, the individual must have the opportunity to present a current alternated valuation at every reapplication or redetermination.

vi. Equity Value

To determine the individual's equity value in real property, subtract the following from the Total Market Appraisal:

- The unpaid mortgage principal, excluding interest;
- The value of any legal lien or claim filed against the property; and
- The amount of any unpaid taxes, excluding current taxes.

The remainder is the equity value and is a countable resource.

vii. Descent of Homestead/Right to Elective Share (Tenn. Code Ann. § 31-4-101)

Right to Elective Share

The surviving spouse of an intestate (without a will) decedent who elects against taking an intestate share, or a surviving spouse who elects against a decedent's will, has the right of election (unless limited by subsection (c) of this same title, to take an elective share amount equal to the value of the decedent's net estate as defined in subsection (b) of this title. The elective share is determined by the length of time the surviving spouse and the decedent were married to each other.

Share of Surviving Spouse and Heirs (Tenn. Code Ann. § 31-2-104)

The intestate share of the surviving spouse is:

- If there are no surviving descendants of the decedent, the entire intestate estate; or
- If there are surviving heirs of the descendants, either one-third or a child share's of the entire intestate estate, whichever is greater.

Countable Value

After the elective share amount has been determined, and all the funeral and administration expenses and debts by creditors have been secured, any remaining amount is countable to the surviving spouse.

The applicant's sworn statement of ownership is sufficient verification when property is inherited through right to elective share.

viii. Ownership Interest in Unprobated Estate

An individual may inherit an interest in property which he or she may sell or transfer even though the estate is still in probate, i.e. the inheritance has not been legally distributed.

Ownership interest in an unprobated estate is

		substantiated by the will which granted the individual his or her interest:
		
		• Deceased died Testate (with a will): Review a copy of the will or request that the individual provide a written statement from his or her attorney itemizing the property in which the individual has an interest. Value each item as is appropriate for its classification, i.e. real estate, personal property, vehicle, etc. The value is a countable resource unless the individual alleges it to be inaccessible and it is determined the availability of the asset provisions apply.
		• Deceased died intestate (without a will): Collect the following information and submit it to the TennCare Eligibility Policy Unit with a request for assistance in determining the value and availability of the individual's interest in unprobated property:
		  o Copies of deeds or titles to all properties owned by the deceased;
		  o Description of other items owned by the deceased, e.g. motor vehicles;
		  o The individual's relationship to the deceased;
		  o The date of the deceased's death; and
		  o The number of surviving relatives and their relationship to the deceased.

Retirement Account	Resource Type	IRAs, 401(k)s, Keogh and pensions or retirement accounts valued 20,000 or less are excluded as resources. If the amount of money in an IRA, 401(k) or Keogh is more than \$20,000, only the amount in excess of the \$20,000, minus penalty for early withdrawal, is a countable resource.
Savings Account	Resource Type	Countable. If the current month's income has been deposited into the account it must be excluded when determining the current value of the account. See the *Treatment of Resources: Ownership, Equity Value & Accessibility for Medically Needy* policy for treatment of jointly-owned accounts. A savings account may be excluded if it is used for one of the following purposes: • Burial funds; • Business or Self-Employment; • Educational Income; • Individual Development Account; • PASS; • Proceeds from the Sale of a Home (subject to time

		limits); • Prorated as income; • Settlement or Disaster Payment, if excluded by policy; and • SSI/SSA Retroactive Payment (subject to time limits).

Settlement or Disaster Payment	Resource Characteristic	Payments or benefits provided under certain Federal statutes are excluded. Excluded settlement and/or disaster payments include:
		
		• Agent Orange Settlement Payments;
		• Disaster Relief Assistance received under the Disaster Relief Act of 1974;
		• Distribution of perpetual judgment funds to Indian tribes under the following:
		   o Indian Judgment Funds Distribution (P.L 93-134)
		   o Black Feet and Gros Ventre Tribes (PL 92-254)
		   o Grand River Band of Ottawah Indiana in Indian Claims Commission Docket No. 40-K;
		   o Tribes of groups under PL 93-134;
		   o Yakima Indian Nation or the Apache Tribe of the Mescalero Reservation (PL 94-433); and
		   o Receipts from land held in trust by the Federal government and distributed to certain Indian tribes under PL 94-114.
		• Factor VIII or IX Concentrate Blood Products Litigation. The settlement payments made as a result of the class action lawsuit to hemophilia patients infected with HIV through blood plasma products;
		• Filipino Veterans Compensation Fund Payments: Lump sum payments made to certain veterans and spouses of veterans who served in the military of the Government of the Commonwealth of the Philippines during WWII;
		• Japanese-American and Aleutian Restitution Payments;
		• Payments made to individuals because of their status as victims of Nazi persecutions;
		• Payments to children born of Vietnam veterans diagnosed with spina bifida;
		• Payments made under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (state and local payments are only excluded for nine months);
		• Revenues from the Alaska Native Fund paid under section 21(a) of the Alaska Native Claims Settlement

		Act; and • State funds paid to crime victims (excluded for 9 months).
SSI/SSA Retroactive Payment	Resource Characteristic	SSI retroactive payments are benefits issued in any month after the calendar month for which they are paid. SSA retroactive payments are benefits issued in any month that is more than a month after the calendar month for which they are paid. SSI/SSA Retroactive payments are excluded for 9 months after the payment is received and counted after that 9 month exclusion period.
Stocks, Bonds and Mutual Funds	Resource Type	**1. Stocks** Stocks owned for personal use are countable resources. Shares of stock represent ownership in a corporation or business. For incorporation purposes, stock is assigned a “par value”, but a stock’s value as an asset is based on the market value. The market value of a stock is a countable resource. Accept the individual’s attestation or a copy of the stock certificate, if available. The stock may be counted at a lower value than the market value of a stock if the individual can substantiate the lower value by providing written confirmation of the lower value from a local securities broker. **2. Bonds** Bonds owned for personal use are countable resources. A U.S. Savings Bond is a document issued by the government acknowledging that the money has been loaned to it and will be repaid to the owner with interest. The current value of a bond, which is its countable value, depends on the length of time elapsed since the date of issue and is subject to fluctuations in the interest rate. The name of the bond owner is printed on its face. Some bonds have conversion of “cash-in” restrictions. Consult a bank to determine the current value of a U.S. Savings Bond and document the date the contact was made, the name of the institution contacted and the quoted value in case notes. **3. Mutual Funds** **a. Personal** Personal mutual fund shares are countable. A mutual

		fund is a company that buys and sells securities and other property. The current market value (CMV) of the shares in the mutual fund owned by an individual is a countable resource unless the individual can establish a lesser value. Determine the CMV by consulting a stockbroker or newspaper to verify the closing price of the stock market as of the day of application or redetermination. Document the case record with the following information: • Date that contact was made, or date of newspaper; • Name of individual or newspaper consulted; and • Price quoted. The individual can substantiate a lower value by presenting written confirmation of a lower price from a local securities broker. Accept written verification of ownership from the mutual fund company or by viewing the shares themselves. **b. Mutual fund shares owned for other purposes** Mutual fund shares held for purposes other than personal use are subject to different treatment. Mutual funds shares may be owned for the following purposes: • Burial; • Business or Self-Employment; • Educational Income; • Proceeds from the Sale of a Home; • Prorated as Income; or • Settlement or Disaster Payment, if excluded by policy.
Tools of the Trade	Resource Characteristic	Tools of the Trade are excluded as essential for the production of earned income. Personal property required by the individual's employer for work is not counted regardless of the value while the individual is employed. An employer-employee relationship must exist between the owner of the resource and the employer that requires the individual to furnish a resource as a condition of employment. Examples of this type of personal property include tools, safety equipment, uniforms and similar items.

Trusts	Resource Type	A trust is any arrangement in which a grantor transfers real or personal property with the intention that it be held, managed, or administered by a trustee(s) for the benefit of the grantor or other beneficiary(ies). A trust and the income generated by a trust will be counted or excluded based on the nature of the trust, the date the trust was created, the source of funds used to create the trust and other factors, as addressed in this section. See *Trusts and Medically Needy Categories* policy.
Vehicle	Resource Type	**1. Vehicle Types** Vehicles include cars, trucks, motorcycles, campers, motor homes, aircraft, snowmobiles, watercraft, boats and all-terrain vehicles (ATVs). **2. Determining Ownership** Accept the individual's sworn statement regarding motor vehicle ownership. If ownership is questionable, the following are acceptable verifications: • Vehicle registration; • Bill of sale; or • Title (individual named on title is the undisputed owner). **3. CMV** The CMV of a vehicle is the average price that particular year, make, model and condition will sell for on the open market in the particular geographical area involved. **a. Cars and Trucks** Use the average loan value in a current National Automobile Dealers Association (NADA) Used Car Guide Book (or web site) to establish the CMV of a car or truck. If the vehicle is not listed in the Guide Book, request estimates of the vehicle's market value from two reputable dealers. Use the higher estimate to value the vehicle and make note of both estimates in Case Notes. **b. Other Vehicles** Contact a reputable dealer to obtain an estimate of the

		value of other types of vehicles, such as campers, motorcycles, etc. Document contact and estimate in Case Notes. The individual can substantiate a lower value by submitting written statements of the vehicle's value by from 2 reputable dealers. **c. Mobile or Motor Homes** Determine whether the motor or mobile home is attached or unattached to real property to develop its value. **i. Attached Mobile or Motor Home** Motor homes attached to a foundation, underpinned or connected to a utility, such as electricity, natural gas or water, are real property. Attached motor homes are considered improvements to the land on which they are located for tax assessments; and are listed on the tax notice as part of the landowner's real property regardless of whether the landowner owns the motor home. If the individual owns the land and the motor home to which it is attached, use the assessed value to determine the CMV. See Real Property, Section 2. If the individual is the landowner and claims that the motor home is owned by someone else, he or she must provide evidence to support the claim. If it is established that the individual does not own the motor home, it is not a countable resource. If he or she cannot present evidence to support the claim, assume that the motor home belongs to the individual. If the individual claims to only own the motor home, and not the land to which it is attached, verify the claim using the tax assessment information. Use the most recent tax assessment note to determine the assessed value of the motor home. Use the assessed value to determine the CMV. See Real Property, Section 2.

ii. Unattached Mobile or Motor Home

An unattached motor home is not affixed to a foundation, underpinned or connected to a utility. Use the average loan value in a current NADA RV or Mobile Home Guide Book (or web site) to establish the CMV of an unattached mobile home. If the vehicle is not listed in the Guide book, request estimates of the vehicle's market value from a reputable dealer.

4. Equity Value

The equity value of a vehicle is its Current Market Value minus any encumbrances.

5. Treatment as a Resource

Exclude from countable resources up to $4,600 of the equity value of one vehicle. If the vehicle's equity value is greater than $4,600, count the equity in excess of the limit. The exclusion should be applied in the manner most advantageous to the individual. In general, the exclusion will be applied to the vehicle with the greatest equity value.

The equity value of any other vehicles is countable, unless the vehicle can be excluded under another provision; including:

- Home (only applicable to cars, trucks, campers and motorhomes);
- Business or Self-Employment;
- PASS; or
- Tools of the Trade.

6. Recreational Vehicles

Boats, snowmobiles, jet skis, ATVs and aircraft are generally considered recreational vehicles. The entire amount of the individual's equity in this type of vehicle is a countable resource, unless the vehicle can be excluded under one of the vehicle exclusions listed in the Vehicle section above.

Accept the individual's attestation regarding ownership unless there is a reason to question his or her statement. Request the appropriate type of legal documentation of ownership is

		ownership is questionable. Contact a reputable dealer familiar with the type of asset in question to determine the item's market value. The individual may substantiate a lower market value than that determined by submitting written statements of the vehicle's value by two reputable dealers.

Document Title	Countable and Excluded Resources for Medically Needy				
First Published	08.11.2015				
Revision History					
Revision Date	Section	Section Title	Page Number(s)	Reason for Revision	Reviser
03.17.2017	Resource Characteristics and Types; 3.	ABLE Accounts	1-2	Policy Change	AJ

Legal Authority: 45 CFR 233.20
The Medically Needy TennCare Medicaid categories are the only TennCare categories that continue to use the AFDC financial methodology. Additional descriptions about specific income types may be found in the MAGI and ABD income chapters, but the Medically Needy treatment of income types may differ in these policies and income treatment should be guided by this document.

Countable Earned Income			
Income Type	**Treatment**	**Income Type**	**Treatment**
Bonus	Count in the month received.	**Rental Income**	Earned income when individually materially participates in the production of income, or bears some responsibility in earning income. Count in the month received. Count the amount of income remaining after expenses related to maintaining the property are applied.
Commission	Count in the month received.	**Royalties and Honoraria**	Count as earned income in the month received.
Contractual	Average the full amount of income paid over the number of months the contract covers.	**Self-Employment**	Count the annual NESE, and divide by the months in the taxable year.
Deferred Wages	If wages are deferred at employee's request, count wages when they normally would have been received. If wages are deferred by the employer, count wages when they are received.	**Severance**	Count in the month received.
Differential	Count payment made to an individual by an employer for a period during which he or she is performing service in the uniformed services while on active duty for a period of more than 30 days.	**Sick and Disability Pay**	Count as earned income if received within the first 6 months after individual stops work.
Farming and Fishing	Earned income when individual materially participates in the production of income. Count in the month received.	**Tips**	Count cash tips over $20/month.
In-Kind Income: Wages, Food, Shelter or other	Provided to the applicant by an employer or union. Countable when received, set aside for use or credited to an account.	**Wages and Salaries**	Count at the earliest of the following: 1) when they are received or paid; 2) when they are credited to the individual's account; or 3) when they are set aside for the individual's use.
Earnings of a Part-Time Student	Count the earnings of a student who attends school part time while working full-time.		

Working Full-Time			

Countable Unearned Income			
Income Type	**Treatment**	**Income Type**	**Treatment**
Alimony Received	Unearned income in the month of receipt.	**Life Insurance**	Proceeds of life insurance are unearned income in the month of receipt.
Annuity Payments	If annuity payment is being received, count in the month received.	**Lump Sum**	Count in the month received, if they are not from an excluded source.
Assistance from other States	Financial assistance provided by another state to help the household pay for necessary items. Assistance payments are countable.	**Military Allotments**	Certain allowances paid to service members and their families are countable unearned income. The Family Subsistence Supplemental Allowance (FSSA) and the Military Basic Allowance for Housing (BAH) are countable.
Capital Gains	Income an individual receives when a capital asset is sold and there is a profit from the sale. Count in the month received or when available for use.	**Pension**	If pension payments are made, count in the month received.
Cash Inheritance	Cash inheritance is counted in the month of receipt.	**Railroad Retirement Benefits**	Countable income in the month received.
Cash Support	Regular contributions made directly to the individual, unless excluded as infrequent income.	**Rental Income**	Unearned income when the individual is not actively engaged in producing the income, or bears no responsibility in earning the income.Count the amount of income remaining after expenses related to maintaining the property are applied.
Child Support and Child Support Arrearages	Child support is unearned income in the month of receipt. Child support received is subject to a $50 disregard. Arrearages received, whether on a regular basis or as a one-time payment, are countable in the month received. Arrear payments received by the household are not subject to any disregard.	**Retirement**	If retirement payments are made, count in the month received.
Court Awards	Settlement amounts received either by compromise or judgment, unless excluded by	**Sick and Disability Payments**	Unearned income when payments are being made 6 months or more after the individual

	federal law, are countable in the month received. Compensatory damages for personal physical injury or sickness are not countable income.		stopped working.
Death Benefits	Unearned income when the total amount exceeds the expense of deceased person's last illness and burial costs.	**Social Security Benefits (OASDI)**	Countable income in the month received.
FEMA Payment Not due to an Emergency	Count in the month received. These are FEMA payments made to a household when there is no major disaster or emergency declaration.	**Strike Benefits**	Unearned income in the month of receipt.
Farming and Fishing	Unearned income when the individual does not materially participate in the production of income. Gross farm income is subject to deductions.	**Temporary Disability**	Compensation received for loss of wages caused by temporary non-occupational disability is countable. These are payments an individual does not receive from an employer.
Gambling, Prizes and Awards	Unearned income in the month it is received.	**Trusts**	Money withdrawn from the body of a trust or interest/dividends accrued to the trust and paid to the individual is unearned income in the month of receipt.
Gifts	Cash gifts are counted in whole in the month of receipt, unless excluded as infrequent or irregular income. The value of in-kind gifts is equal to the gift's CMV.	**Unemployment Compensation**	Unearned income in the month of receipt.
Interest Income	Interest payments made to an applicant or household member on a note held by the applicant or household member. Notes may include a contract for deed, mortgage or promissory note.	**Veterans Affairs (VA) Benefits**	Countable VA benefits or payments include: VA Pension; VA Compensation; DIC; Augmented benefits, or Apportioned benefits paid directly to the dependent if dependent is the applicant.
Investment Income	Dividends and interest income are returns on capital investments such as stocks, bonds, mutual funds, CDs and savings accounts. Count in the month received or in the month when it is available for use.	**Worker's Compensation**	Gross amount of all benefits is unearned income in the month of receipt.
Jury Duty	Count in the month received. Any jury duty pay that is turned over to an individual's employer is excluded.		

Excluded Earned Income	
Income Type	**Treatment**
Domestic Volunteer Act	Compensation paid to volunteers under the Foster Grandparent Program and the Domestic Volunteer Service Act.
Earned Income Tax Credits (EITC)	Excluded.
Earnings of a Student Who Does Not Attend School Part-Time While Working Full-Time	Exclude the earnings of a full-time student who works part-time. Exclude the earnings of a full-time student who works full-time. Exclude the earnings of a part-time student who works part-time.
Infrequent or Irregular Income	Up to $30 of earned income received infrequently or irregularly per quarter may be excluded. Income is received infrequently if it is received only once during a calendar quarter and the individual did not receive that type of income in the month immediately preceding or following the month in which it was received. Income is considered to be received irregularly if an individual cannot reasonably expect to receive it. Source of income must be an employer, trade or business in order to be considered as earned income.
Plan for Achieving Self-Support (PASS)	Earnings received to fulfill a Plan to Achieve Self Support (PASS) Plan. PASS-enrolled individuals are SSI Medicaid recipients.
Rehabilitation	Monies associated with vocational rehabilitation services.
Workforce Investment Act (WIA)	WIA payments are excluded.

Excluded Unearned Income (Medically Needy categories only)	
Type	**Treatment**
ABLE Accounts	Tax-advantaged savings accounts for individuals with disabilities that are established under a qualified ABLE program. The funds within an ABLE account are intended to cover the individual's qualified disability expenses (QDEs) related to his or her blindness or disability. Contributions and earnings within a single ABLE account for an individual are excluded, except that contributions are not deducted from countable income of the individual making the contribution. Distributions from an ABLE account are not considered income, but are a conversion of one resource to another. See *Countable and Excluded Resources for Medically Needy Categories* policy.

Adoption Subsidies	Payments to an individual from state adoption assistance programs or Title IV-E funds for special needs children.
Cancelled Debts	Excluded.
Census Payments	Excluded.
Child/Spousal Support Transferred to IV-D Agency	Payments transferred by the household to DCS as assigned support are excluded.
CSIMA	If an applicant receives a CSIMA, and his or her spouse is not part of the applicant's household, the CISMA is considered derived and is excluded.
DIMA	If an applicant receives a DIMA, and the institutionalized individual is not part of the applicant's household, the DIMA is considered derived and is excluded.
Domestic Commercial Transportation Tickets	Excluded as long as tickets are not converted to cash.
Dwelling-related assistance in which HUD or FMHA is involved	Excluded.
Education Income Not Work Study	Includes: Pell Grant; SEOG Grant; National Direct Student Loan; Guaranteed Student Loan; State Student Initiative and any financial aid paid directly to the school and unavailable to the student.
Families First Payments	Excluded. Retroactive FF payments are also excluded.
Federal Emergency Management Agency (FEMA) Payments	Excluded, if due to a presidentially declared emergency or major disaster.
Foster Care Payments	Payments made for a child placed by a public or non-profit child placement or child care agency.
Fuel Assistance payments and allowances	Excluded
In Kind Support and Maintenance	Excluded
Infrequent or Irregular Income	Up to $30 of unearned income received infrequently or irregularly per quarter may be excluded. In order to be considered unearned, income must be received from an individual, a household, an organization or an investment.
Interest on excluded burial funds and burial spaces	Excluded
Low Income Home Energy Assistance Payments	LIHEAP benefits are excluded
Money received from a source outside the home designated for the care and maintenance of a person who is not included in the Medicaid household	Excluded
Protective Payee	Funds received by a protective payee and used for the care and maintenance of a third party beneficiary who may or may not be a member of the protective payee's household are excluded as income to the protective payee. If any part of the payment is retained by the protective payee for his or her own personal use, it is countable income.

Refund of taxes on real property or food	Excluded
Reimbursements	Applies only to expenses an employee incurs in the performance of his or her duties for items other than normal living expenses.
Settlements and Restitutions	Settlement and restitution payments are excluded. See the *ABD Unearned Income* policy for a complete list of included programs.
Social Security Administration Educational Benefits	Exclude from the SSA benefit paid to a student up to age 18 the amount equal to the following costs of education: tuition and fees; required books and supplies; transportation to and from school; costs of child care necessary to attend school ($200 per month for child under age 2, $175 per month for child age 2 and over).
SSI Payments	Excluded. Retroactive SSI payments are also excluded.
Social Services	Excluded. Any service (other than medical) which is intended to assist a handicapped or socially disadvantaged individual to function in society on a level comparable to that of an individual who does not have such a handicap or disadvantage.
Value of SNAP benefit	Excluded
Value of free or reduced food under WIC or the National School Lunch Act	Excluded
Veterans Administration Payments	Includes: Educational benefits, VA Aid & Attendance; Augmented VA benefits; VA payments from Unusual Medical Expenses
VISTA Payments	Excluded.
Work Study	Exclude college work study income up to the amount necessary to pay for tuition and mandatory fees. Income in excess of tuition and fee costs is countable earned income.

Document Title	Medically Needy Countable and Excluded Income
First Published	06.05.2015

Revision History

Revision Date	Section	Section Title	Page Number(s)	Reason for Revision	Reviser
11.1.2016	Countable Earned Income	Bonus	1	Policy Clarification	NF
11.1.2016	Countable Unearned Income	Cash Support	2	Policy Clarification	NF
11.1. 2016	Excluded Unearned Income	ABLE Accounts	4	Policy Change	AJ
11.1.2016	Excluded Unearned Income	Census Payments	5	Policy Change	NF
11.1.2016	Excluded Unearned Income	Education Income Not Work Study	5	Policy Clarification	NF
11.1.2016	Excluded Unearned Income	Work Study	6	Policy Clarification	NF
12.1.2016	Countable Earned Income	Earnings of a Part Time Student Employed Full Time	1	Policy Clarification	RS
12.1.2016	Excluded Earned Income	Earnings of a Student Who Does Not Attend School Part-Time While Working Full-Time	4	Policy Clarification	RS

ABD COUNTABLE AND EXCLUDED RESOURCES

Legal Authority: 42 USC 1396p(f)(2)(a); 20 CFR 416 Subpart L; 42 CFR 483.10; Public Law 109-171 (Deficit Reduction Act of 2005); Public Law 113–295; Tenn. Code Title 71, Chapter 4, Part 8

1. Countable Resources

Countable resources are all those available assets whose value is considered in determining resource eligibility. The equity value of all resources (real and personal property) owned by the household are countable unless specifically excluded by regulation.

Count the resources of the following individuals:

- All individuals included in the household; AND
- The resources belonging to the financially responsible relative (FRR) of the household members, if the relative and household members are living together at the time.

HCFA does not review a Supplemental Security Income (SSI) recipient's resources when enrolling the individual in the SSI TennCare Medicaid category. However, if an SSI recipient applies for a Medicare Savings Program or Long-Term Services and Supports, his resource eligibility must be evaluated. If an individual's spouse receives SSI, the SSI recipient's resources will be evaluated during the eligibility determination.

2. Definitions

Resource Characteristic: A description of a resource's intended use, source or a more specific description of a particular kind of resource. The resource characteristic often determines how to treat the resource, i.e. count or exclude. Not all resource types have a particular resource characteristic. Examples of a resource characteristic include: burial, business or self-employment, personal and specific types of retirement plans.

Resource Type: A liquid or non-liquid asset that an individual owns jointly or individually. The resource type describes the asset itself, and not its intended use, source or other specific features. Examples of a resource type include: checking account, insurance, trusts, and real property.

3. Resource Characteristics and Types

To determine whether a resource is countable or excluded, factors that must be considered are: the nature of the resource, the date it was created, its intended use and the source of funds used to create the resource.

ABLE Accounts	Resource Type	ABLE accounts or 529A accounts are tax-advantaged savings accounts for individuals with disabilities that are established under a qualified ABLE program. The funds in an ABLE account are intended to cover an individual's Qualified Disability Expenses (QDEs) related to her blindness or disability. QDEs include, but are not limited to: education, housing, transportation, employment training and support, assistive technology and personal support services, health, prevention and wellness, financial management and administrative services, legal fees, and funeral and burial expenses, and basic living expenses. The balance within a single ABLE account for an individual, including contributions and earnings, is excluded as a resource. Distributions from an ABLE account are excluded if used or intended to be used for QDEs as long as the distributions are identifiable. Distributions from an ABLE account used for non-qualified expenses are excluded if spent in the month of receipt. Distributions from an ABLE account are countable when: • Distributions are retained past the month of receipt and are used for or intended to be used for non-qualified disability expenses; or • Distributions are retained past the month of receipt and were previously excluded because intended for a QDE, but used for a non-qualified expense. Count the amount of funds used as a resource the first of the month in which funds were spent; or • Distributions are retained past the month of receipt, have not been spent, and the intent to use the funds for a QDE has changed. Count the retained funds as a resource the first of the following month. Normal counting rules and exclusions apply to assets or other items purchased with funds from an ABLE account. Documentary evidence of an ABLE account should show the following information: • The name of the designated beneficiary or owner of the account;

		• The state ABLE program administering the account; • The name of the person who has signature authority (if different from the owner); • The unique account number assigned by the state to the ABLE account; • The date the account was opened; and • The first-of-the-month account balance.
Annuity	Resource Type	Annuities are contracts or agreements that, in exchange for a lump sum payment or series of payments, provide income at regular intervals (i.e., monthly, quarterly, annually). Annuities establish a source of income for a future period, and are often used in retirement planning. An annuity is a countable resource when it is revocable, assignable, or can be sold. The value of the annuity is the cash value, minus any surrender charges or penalty fees for early withdrawal. Any portion of an annuity payment held following the month of receipt is a countable resource except when the annuity is a State annuity. A State annuity is an annuity paid for by a state to an individual a state determined is a veteran who is aged, blind or disabled, or that individual's spouse. If an annuity is determined to be a countable resource, any payments from the annuity will be excluded unearned income. If the annuity is an excluded resource, the annuity payments received will be counted as unearned income according to policy. See the *ABD Unearned Income*. Annuities owned or purchased by individuals applying for LTSS are subject to additional requirements and should be reviewed according to transfer of assets policy. See *Transfer of Assets and Penalty Periods.* **i. Disclosure Requirements of Interest in an Annuity at Application** Individuals applying for LTSS must disclose information regarding any interest that the individual or his or her spouse may have in an annuity. This disclosure requirement applies regardless of whether

		the annuity is counted or excluded as a resource. If the individual or his or her spouse refuses to disclose information related to an annuity, the individual will be denied Medicaid eligibility based on the individual's failure to cooperate.
Burial	Resource Characteristic	Certain otherwise countable resources may be excluded for burial. These resources must be separately identifiable and set aside for burial expenses, and may not be commingled. See Burial Contracts, Burial Plot and Space, Burial Reserves, and Burial Trusts for a complete description of the various types of resources.
Burial Contracts	Resource Type	**Burial Contracts** Legal Authority: Tennessee Code Annotated 62-5-401 through 409 **a. Prepaid or Preneed Burial Contracts** A prepaid or preneed burial contract is an agreement under which an individual pays in advance for a burial that the seller agrees to furnish upon the death of the individual or another designated individual. Sellers of prepaid burial contracts are individuals and entities in the funeral industry, e.g. funeral homes. Prepaid burial contracts can be funded numerous ways, including cash payment to the funeral home or the purchase of an annuity or life insurance with assignment to the funeral home (See Section b. for additional information about life insurance funded burial contracts). The funeral home is then required by state law to place those funds into a preneed burial trust, or a preneed burial insurance product. NOTE: Installment payments on a prepaid burial contract are treated as countable funds subject to the burial reserve exclusion, until the contract is paid off in full. Once the contract has been paid in full, apply burial space and funds exclusions as provided below. This applies to contracts under which the buyer is not entitled to the spaces or services listed in the contract until paid in full; and the

seller is not obligated to provide spaces or services until the contract is paid in full.

i. Revocable Burial Contract

The value of a revocable prepaid burial contract is a countable resource.

ii. Irrevocable Burial Contract

The value of an irrevocable prepaid burial contract is an excluded resource, under the following conditions:

A. Agreements established prior to 7/1/1981

A prepaid contract that has been declared irrevocable by a court of law is an excluded asset. It is a countable asset if it has not been declared irrevocable by a court of law.

B. Agreements established between 7/1/1981 and 7/1/1995

The entire value of the prepaid contract is excluded as a resource if the contract contains the following statement: “This contract is irrevocable and the funds paid hereunder are not refundable.”

C. Agreements established 7/1/1995 or later

A prepaid burial contract under which is a trust or an insurance arrangement is established by the funeral provider is excluded if it meets the following conditions:

- Both the individual and the funeral home representative have signed the document;
- An itemized list of the services provided under the contract is provided;
- The price of all major services is specified;
- The total dollar amount of the agreement

is specified;

- The individual was neither a minor or legally declared incompetent when the agreement was signed; and
- The agreement specifies in writing that the money is not refundable under any circumstances.

Review an excluded irrevocable burial contract under the Transfer of Asset policy for individuals applying for Institutionalized Medicaid. If the individual is receiving FMV for all services specified under the contract, then the burial contract does not constitute a transfer of assets for less than FMV.

Note: If an individual enters into an irrevocable contract with a funeral home, but he establishes a revocable trust to fund the contract, evaluate the revocable trust under the Burial Trust policy. The burial contract is not a resource in this scenario.

iii. Ownership and Value

The owner of the burial agreement or contract is the individual who deposited the funds into the agreement, usually the beneficiary. Verify ownership by securing a copy of the burial contract. The current value of the contract is the sum of the amount of the initial deposit, any subsequent deposit and accrued interest, less any processing fees charged to the individual for dismantling or encroaching upon the trust. Verify the amount by reviewing the agreement, written verification from the funeral home or from the bank holding the funds.

b. Life Insurance Funded Burial Contract

A life insurance funded burial contract involves an individual purchasing a life insurance policy on her own life and then assigning, revocably or irrevocably, either the proceeds or ownership of the policy to a funeral provider.

The purpose of the assignment is to fund a burial contract.

Life insurance funded burial contracts are not burial insurance.

i. Revocable Assignment

The resource value of the burial contract is equal to the CSV of the life insurance policy, and is subject to the $1,500 burial reserve exclusion. The face value (FV) of the resource is not a factor in determining whether the $1,500 exclusion applies to the CSV of a life insurance-funded burial contract. Burial spaces included in the contract cannot be excluded because there is no obligation to provide any spaces until the individual dies.

Example: Mrs. White has a burial contract funded by the revocable assignment of a life insurance policy. The face value of both the burial contract and the life insurance policy is $3,000 and the CSV of the life insurance policy is $1,700. The total resource value of Mrs. White's burial contract is equal to the CSV of $1,700. The burial space exclusion does not apply to Mrs. White's burial contract, but $1,500 of the CSV can be excluded under the burial reserve. Mrs. White has no other resources to apply to the burial reserve. The remaining $200 is a countable resource.

ii. Irrevocable Assignment

The life insurance policy and the burial contract are excluded resources if the burial contract meets the criteria described in (a)(ii) of this section. If the burial contract includes a face value for services (not burial spaces/plots) included in the contract, that portion of the contract may offset the burial reserve.

Example: Mr. Jones has irrevocably assigned ownership of a life insurance policy to funeral home to fund a burial contract. The face value of the life insurance policy is $3,000. The burial contract

		includes the purchase of $1,300 of burial space/plot and $1,700 of burial funds. The contract is an excluded resource, and the $1,700 in burial funds will be counted against any possible burial reserve exclusion (limit of $1500), so Mr. Jones may not have any other excluded burial funds.
Burial Plot and Space	Resource Type	Exclude the value of one burial space for each family member, e.g. spouse, child, parent, sibling) whether living in the home or not. Burial plots and spaces include a burial plot, gravesite, crypt, mausoleum, niche or other repository for bodily remains. It also includes vaults, headstones, markers, plaques, containers and arrangements for opening and closing the gravesite. Burial plots are real property (if a single individual has two burial spaces, but no family member to which he may designate the second burial space).
Burial Reserves	Resource Type	**1. Burial Reserve** Individuals and their spouses are each allowed a $1,500 resource exclusion for funds set aside for burial expenses. This exclusion is separate from, and in addition to, the burial plot exclusion. Funds allowed to be excluded under this provision include certain otherwise countable resources. These resources must be separately identifiable and set aside for burial expense, and they may not be commingled. To determine the amount of the burial reserve, the maximum $1,500 that may be excluded is first reduced by: 1. Life insurance, if the total value of all life insurance owned by the individual is $1,500 or less; and 2. Funds in an irrevocable burial agreement or contract (see above for irrevocable burial contract definition). Any remaining amount of the reserve once the above reductions have been applied can be used to exclude other burial funds/expenses. Burial funds set aside for any relatives other than the individual and her spouse are not eligible for

exclusion.

Burial funds must not be commingled with other resources. At application and redetermination, burial funds that are commingled with other resources will be counted unless the individual takes action to separate the burial funds.

If an impediment exists that prevents the separation of burial funds, the existing burial funds may be excluded if the individual remains otherwise continuously eligible for the exclusion.

2. Determining the Amount of the Reserve

Example: John owns life insurance with a total face value (FV) of $1,000 and an $800 savings account for burial. The value of the life insurance is excluded, and there is $500 remaining as the burial reserve.

$1,500	Maximum Burial Reserve
– $1,000	FV of Life Insurance Policy
$500	Amount of Remaining Burial Reserve

The $500 burial reserve is applied to his burial savings account, and the remaining $300 in the designated burial savings account is a countable resource. The value of any burial funds in excess of the $1,500 maximum is a countable resource.

$1,800	Total Value of all Burial Assets
– $1,500	Maximum Burial Reserve
$300	Countable Asset

3. Treatment of Excluded Value

Interest earned on excluded burial funds is excluded as long as the individual remains continuously eligible for TennCare Medicaid. If an individual's eligibility is terminated, and she later applies for benefits, the full value of the asset (including interest) must be considered when evaluating for a burial exclusion.

		The value of the burial reserve loses its exclusion if any portion of the principal and accrued interest is used for any other purpose than to meet the individual's burial expenses.
Burial Trusts	Resource Type	A burial trust is a trust established by an individual for the purposes of setting aside funds or payment of burial expenses for the individual or someone else. A burial trust is a trust established with the individual's assets. It may be a revocable or irrevocable trust. Note: It is important to determine whether the trust was established with the individual's assets or with funds that have been irrevocable paid to the funeral provider. If it is the latter, then that trust is subject to the policies in Burial Contracts, section (a)(ii). All funds in a burial trust, established by an individual, including interest payments, are excluded if the value of the trust does not exceed $6,000 per individual. Interest payments and cost of transport which cause the trust value to exceed $6,000 are also excluded. This applies to both irrevocable and revocable burial trusts. Burial trusts, established by an individual, whose value exceeds $6,000 are subject to treatment according to the nature of the trust, including transfer of asset policy for Institutionalized Medicaid applicants.
Business or Self Employment	Resource Characteristic	Excluded as essential for the production of earned income either in trade, business or self-employment. Resources may include: • Tools/equipment; • Stock or raw materials; • Real property; • Personal property essential for income production; • Office equipment; • Business loans for the purchase of capital assets; • Inventory; • Machinery and equipment; • Business/commercial checking accounts; and • Life insurance. No exclusions listed in this section will be applied to property a

		household does not own, nor to use of such property except by owners who are members of the household. Property that represents the authority granted by a governmental agency to engage in an income-producing activity is also 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 and there is a reasonable expectation that the use will resume.
Cash	Resource Type	Cash is money on hand or available in the form of currency or coins is countable. Foreign currency or coins are cash to the extent that they can be exchanged for U.S. issue.
Certificate of Deposit	Resource Type	Certificates of Deposit (CDs) are countable if held in a personal account. The value of a CD is the net amount that could be received after penalties for early withdrawal, if applicable. Taxes are not deducted in determining net value. Determine the net value of a CD via a detailed breakdown from the institution holding the deposit. The breakdown must include the gross deposit and identify any and all deductions and penalties that would be deducted from the gross deposit if the funds were withdrawn. See the *ABD Treatment of Resources: Ownership, Equity Value & Accessibility* policy for treatment of jointly owned CDs.
Checking Account	Resource Type	A personal checking account is countable. Determine the countable portion of the account based on ownership. See the *ABD Treatment of Resources: Ownership, Equity Value & Accessibility* policy for treatment of jointly owned accounts. **1.** A checking account that is used for purposes other than personal use may be excluded on the terms of intended use. Other resource characteristics of a checking account include: • Burial needs • Educational Income • Individual Development Account (IDA) • Plan to Achieve Self Support (PASS) • Prorated as Income • Business or Self-Employment • Proceeds from the Sale of a House • Disaster/Settlement Funds, if Excluded by Policy

		SSI/Social Security Administration (SSA) Retroactive Payment
Continuing Care Retirement Community Entrance Fee or Deposit	Resource Type	**1. Description of Continuing Care Retirement Communities** Continuing Care Retirement Communities (CCRC), or life communities, provide living arrangements for individuals as they get older and who may require different levels of assistance. Many of these communities include independent living arrangements, memory support living arrangements and skilled nursing care. CCRCs provide various options to individuals who wish to live in their community. Most contracts require significant entrance and monthly fees, which are used to cover all aspects of their needs within the community. Potential residents must provide extensive information about their finances, prior to being accepted for admission, and sign detailed contracts regarding current and future needs and payments. **2. CCRC Entrance Fee and Spousal Impoverishment** The DRA amended the Social Security Act to require that CCRC contracts are subject to the Medicaid spousal impoverishment rules. CCRC contract provisions requiring the expenditure of resident entrance deposits must take into account the required allocation of resources and of the entrance or income to the CS before determining the amount of resources that a resident must spend on her own care. **3. CCRC Entrance Fees as a Countable Resource** Entrance fees paid to a CCRC may be a countable resource. The following three conditions must all be met in order for the entrance fee to be an available, countable resource: • The entrance fee can be used to pay for care under the terms of the entrance contract should other resources of the individual be insufficient; • The entrance fee (or remaining portion) is refundable when the individual dies or terminates the contract and leaves the CCRC; and • The entrance fee does not confer an ownership interest in the community.

		It is not necessary for the CCRC to provide a full, lump-sum refund of the entrance fee to the resident in order to satisfy the first condition. If portions of the fee can be refunded or applied to pay for care as required, the condition is met. • In order to meet the second condition listed above, it is not necessary for the resident to actually receive a refund of the entrance fee or deposit. This condition is met as long as the resident could receive a refund were the contract to be terminated, or if the resident dies.
Contract for Deed or Mortgage	Resource Type	The value of a contract for deed or mortgage may be a countable asset dependent on the circumstances of the loan, including the individual's role as lender or borrower and the accessibility of the asset. **1. Definition** A security held by the lender on a particular property for the repayment of debt by the borrower within a particular time period. A contract for deed, land contract, and deed of trust are all mortgages on real property. **2. Individual is the Lender** **a. Countable Value** When the individual is the lender for a contract for deed, he may sell or transfer the instrument to have immediate access to the unpaid loan principal. The value of the resource equity value is a countable asset. Any subsequent payments to the principal made by the debtor after approval are considered a resource because the unpaid loan principal is a resource. **b. Excluded as a Resource** The value of the contract may be excluded from countable resources if the individual can demonstrate that the contract cannot be sold without his realizing a net loss.

Evaluate the current status of the contract at redetermination. Do not extend benefits pending a demonstration of unsaleability.

c. Establishing Value

The amount of the unpaid balance of the property agreement (mortgage, contract for deed, etc.) is the value of the countable asset and must be verified at each application and redetermination.

3. Individual is the Borrower

If the individual is the borrower, the property agreement is not a resource. However, the property purchased may be a countable resource following the month of transaction.

4. Reverse Mortgage

a. Description

A reverse mortgage is a loan against the equity in an individual's home that provides cash advances but requires no mandatory monthly re-payment during the life of the loan. If the interest is unpaid, it is allowed to accrue against the value of the individual's home.

A reverse mortgage is similar to a conventional mortgage because the bank does not own the home but holds a lien on the property. The borrower continues to hold the title to the property. The bank cannot demand payment from any family member if there is not enough equity to cover paying off the loan and there is no penalty for paying off the mortgage early.

b. Policy Application

The proceeds received from a reverse mortgage are tax-free and available as a lump sum or fixed monthly payment for as long as the individual lives on the property. The loan is not due and payable until the borrower no longer occupies the home as a principal place of residence. When the owner no longer resides on the property, the balance of the borrowed funds is due and payable. After the amount received is repaid, any additional equity in the property belongs to the owners or their beneficiaries.

When an individual has money in a reverse mortgage line of credit, this money does not count as a loan, or as income or a resource for determining TennCare Medicaid eligibility. If the individual transfers the money to an investment or to a bank account, the amount transferred will become a countable resource.

In order to qualify for a reverse mortgage, an individual must be at least age 62 and the property must be the borrower's primary residence.

When money is received from a reverse mortgage:

- The money withdrawn is tax-free and can be used for any purpose;
- The money can be received as a lump sum, line of credit, a monthly payment or any combination of the 3;
- There are no mandatory monthly repayments and the loan can be repaid anytime without penalty;
- The title of the home does not change; and
- The lender sets the maximum loan amount.

5. Transfer of Asset Provisions

The purchase of a contract for deed or mortgage is subject to transfer of asset policy for Institutional Medicaid individuals. Funds used to purchase a mortgage on or after February 8, 2006 must meet the following conditions:

- The repayment terms must be actuarially sound;
- Payments must be made in equal amounts during the term of the loan with no deferral of payments and no balloon payments; and
- The promissory note, loan or mortgage must prohibit the cancellation of the balance upon the death of the

		lender. If an individual applying for long term services and support purchases a mortgage within the look back period that does not meet these conditions, the purchase will be treated as a transfer of assets. The value used to determine the penalty period is the outstanding balance due on the date of the individual's application for TennCare Medicaid.
Educational Income	Resource Characteristic	Educational income received under Title IV of the Higher Education Act of 1965, such as Pell Grants, Federal Educational Loans and Work-Study Programs, or Bureau of Indian Affairs (BIA) Grants should be excluded as a resource; there is no time limit. Grants (other than Title IV or BIA grants) scholarships, fellowships and gifts intended to pay for tuition, fees or educational expenses are excluded for 9 months beginning the month after received.
Farm, Business or other Equipment	Resource Type	The equity value of non self-employment income-producing real property, other than the homestead, is subject to the Rate of Return Test. See Income Producing (Resource Characteristic) below. If the property is used for self-employment, it is excluded as Business or Self-Employment. Rental property is a common form of income-producing property. Rental property is countable, subject to the Rate of Return Test, if the individual who owns the property is not 'in the business of' renting property. This means that the individual does not buy, sell and/or rent property for a profit and participate in the operation of the property less than 20 hours per week. Someone who is 'in the business of renting property' is someone who materially participates in the operation and decision making of the rental business for at least 20 hours per week.
Homestead Exclusion	This policy applies to resource type **Real Property**, with the resource characteristic	**1. General Rule** The entire value of the home, whether on land or water, all adjoining land not separated by property owned by others and any related outbuildings are excluded in determining resource eligibility, as long as: • The home is the principal place of residence for the

	of **Home**	applicant, spouse or dependent relatives; and • Intent to return to the home is established, if the individual resides in a long-term care facility. An individual must have lived in the home for it to be considered her home or principal place of residence. For an institutional individual, the individual is ineligible for payments of long term services and supports (CHOICES) when home equity exceeds $552,000, unless one of the following lawfully resides in the individual's home: • the spouse of such individual; • such individual's child who is under age 21; or • such individual's child who is blind or disabled according to 42 USC 1382c. If the individual's child is not receiving benefits from SSA, contact the Policy Unit for assistance. **2. Exclusion Based on Intent to Return** The value of the home and surrounding land will not be counted as a resource during the individual's absence from an unoccupied home when she intends to return to the property. • **Absence from the Home** An absence from the home can be necessary to accomplish a specific purpose such as hospitalization, confinement in a nursing home or receipt of services, such as nursing or personal care services not available to the individual in her home. • **Development of Intent to Return** When the individual is absent from her homestead, and it is not occupied by a spouse or dependent relative, verify the individual's intent to return home at each redetermination of eligibility. • **When the Exemption Period Ends** An intent to return home is nullified by any efforts to

sell or dispose of the property during the exemption period. The exemption based on the intent to return ends the first day of the month after the month efforts are made to sell or dispose of the homestead property.

Rental of a homestead which has been excluded because of intent to return does not nullify the exclusion. The homestead retains the exclusion as long as there is a clear, non-contradictory intent to return, and no efforts are made to sell or dispose of the property. The rent will be counted as unearned income in the month received.

The exemption based on residence of the enrollee's dependent relative ends the first day of the month after the relative last lived in the homestead, if the relative does not intent to return.

3. Homestead Located Outside of Tennessee

Real property located outside of Tennessee can be excluded from countable resources as homestead property, if there is substantiation of the individual's intent to return to the home OR the property is the principal residence of the individual's spouse or dependent relatives.

4. Dependent Relative (for purposes of Homestead Exclusion)

A homestead retains its exclusion if it is the principal residence for the individual, her spouse or relative within the specified degree below who is dependent on the individual. Dependency may be of any kind: financial, medical, residential, etc. Relatives include:

Aunt	Grandson	Son
Brother	Half brother	Stepbrother
Cousin	Half sister	Stepdaughter
Daughter	In-laws	Stepfather
Father	Mother	Stepmother
Granddaughter	Nephew	Stepsister
Grandfather	Niece	Stepson
Grandmother	Sister	Uncle

		Accept the signed statement by the individual's spouse or dependent relative regarding her relationship to the individual and residence in the homestead without question, unless it is contradictory.
Individual Development Account (IDA)	Resource Characteristic	IDAs may be established by or on behalf of an individual eligible for Families First assistance. An IDA is different from a regular savings account because funds deposited by a participant are matched by a separate entity and there are restrictions on the use of these funds. An IDA will provide an opportunity for a participant to build assets to further support the transition to self-sufficiency. Funds, including accrued interest, in the account are disregarded as a resource as long as the individual complies with the IDA eligibility rules and continue to maintain or make contributions into the account.
Income-Producing	Resource Characteristic	For property used in a trade or business (i.e. farming), see "Business or Self-Employment". Income-producing resources can be real or personal property. Income producing property is non-liquid property used in the passive production of income (i.e., not a business or trade). It may include such property as rental property (when the person is not in the business of managing rental properties), a non-working ownership in a business venture, or leased land in which the owner is not actively participating in the operation and decision-making of the business for at least 20 hours per week. If the owner is participating at least 20 hours per week throughout the year, claims the endeavor as self-employment, and, if filing taxes, reports the income on Schedule C, F or SE, the property is treated as property/equipment necessary for self-employment. Otherwise, the property is treated as income-producing property. Other income-producing resources include buildings, farm, business and other equipment and supplies, motor vehicles, livestock, oil and mineral rights and items of unusual value. **Rate of Return Test** Exclude up to $6,000 of an individual's equity in an income-producing resource if it produces a net annual income to the

		individual of at least 6 percent of the property's equity value. If the individual's equity value is greater than $6,000, the amount that exceeds $6,000 is countable towards the resource limit. If an income-producing resource does not produce a net annual income of at least 6 percent of the resource's equity value, the entire equity value of the resource is countable. If the individual owns more than one piece of income producing resource and each produces income, each is reviewed to determine whether the 6 percent test is met. Then the amounts of the individual's equity in all of those properties producing 6 percent are totaled to determine if the total equity of all properties is $6,000 or less. If the total equity value in the properties that meet the 6 percent rule is over the $6,000 equity limit, the amount exceeding $6,000 is counted as a resource.
Insurance	Resource Type	There are two types of insurance considered under this resource type: **1. Sick and Disability Insurance** Excluded. Sick and disability insurance primarily provides income to the insured if he becomes disabled. **2. Burial Insurance** Excluded. Burial insurance is a contract whose terms specifically provide that the proceeds can only be used to pay the burial expenses of the insured.
Items of Unusual Value Household Goods and Personal Effects	Resource Type	**Items of Unusual Value** An item of unusual value that generates income for the individual is countable. The countable value is determined by applying the Rate of Return test, see Income-Producing. A personal item of unusual value is excluded from resources. Items that an individual acquires or holds because of their value or as an investment. These items may meet the definition of personal effects. Examples of an item of unusual value include: gems, art collections, and animals owned for investment purposes. In general, an item may be considered an item of unusual value if

		the item is not excluded as a household good or personal effect, and the equity value of the item is greater than $500. **Household Goods and Personal Effects** Household good and personal effects are excluded from countable resources. Household goods are items of personal property, found in or near the home, which the individual uses on a regular basis. The individual needs household goods for maintenance, use and occupancy of the premises as a home. Examples of household goods include: furniture, appliances, and electronic equipment. Personal Effects are items of personal property ordinarily worn or carried by the individual, or items that have an intimate relation to the individual. Examples of personal goods include: personal jewelry, personal care items and clothing, pets, educational or recreational items, and items of cultural or religious significance to the individual. Items required because of an individual's physical or mental impairment, such as prosthetic devices or wheelchairs, are also personal effects.
Life Estates	Resource Type	**1. General Rule** A life estate is property right with a duration limited to the life of the party holding it or to the life of some other party. The holder of a life estate does not have title to the property and cannot sell the property. However, the holder of a life estate can sell his interest in the property, unless restricted by the terms of the contract, and is entitled to any income from the property. The income is deemed available to the holder, regardless of whether she actually receives the income. Upon the death of the owner of a life estate, full title and ownership usually passes to the individual named in the will or deed as entitled to the property. Property in which an individual holds a life estate is subject to the same exclusion rules as property the individual owns by title.

2. Life Estate Exceptions

- A life estate will be excluded as the home when the property meets the homestead exemption.

- If the property is used in the passive production of income, the life estate is subject to the Rate of Return test. See Income-Producing.

- A life estate will be excluded when ownership is necessary for the production of earned income. See Business or Self-Employment.

- The terms of the life estate contract prevent the holder from selling his interest in the property.

3. Countable Value

If the life estate is not excluded based on the criteria above, the entire value of the life estate is a countable resource. The life estate value is determined by multiplying the FMV of the property by the percentage listed in the "Life Estate Interest Table" for the age of the individual on whose lifetime the life estate is based.

If more than one person owns the life estate, the value is based on the owner with the longest life expectancy.

4. Purchase of a Life Estate under Transfer of Asset Rules

When an individual purchases or receives as compensation in a transaction a life estate in another individual's home, the purchase of the life estate is considered an asset transfer subject to penalty, unless the individual then lives in the home for a period of at least one year after receiving the life estate.

If the individual does live in the home for a period of one year after receiving or purchasing the life estate, the amount of the transfer is the entire amount used to purchase the life estate.

If an individual purchases a life estate in another individual's home and then does live there for one year after the purchase, the life estate is an excluded resource while being used as the individual's (or the individual's spouse's home). However, if payment for a life estate exceeds the FMV of the life estate as calculated below, the difference between the amount paid and the FMV should be treated as an asset transfer. In addition, if an individual makes a gift or transfer of a life estate interest, the value of the life estate should be treated as a transfer of assets.

a. **Calculation:** See the *Life Estate Interest Table* https://secure.ssa.gov/poms.nsf/lnx/0501140120 .

- Multiply the FMV of the property by the life estate factor that corresponds to the age of the individual at the time the life estate was established. The result is the life estate value at the time of the asset transfer.
- Determine the amount of the uncompensated asset transfer by subtracting the life estate value from the FMV.
- Use the uncompensated asset transfer value to determine the asset transfer penalty period.

b. Example

Mrs. Jones, age 70, owns a house with a small farm attached to it, worth $100,000 in total. She deeds the house and farm to her son but retains a life estate in the property. Under the terms of the life estate, Mrs. Jones is entitled to live in the house for the rest of her life and to any produce, income, etc. generated by the farm. To determine the value of Mrs. Jones' life estate, the current market value (CMV) of the property ($100,000) is multiplied by the life estate factor corresponding to her age in the table (0.60522), resulting in a life estate value of $60,522. The penalty is assessed for the difference between the value of the asset transferred ($100,000) and the value of the life estate ($60,522), or a penalty based on $39,478 of assets transferred for less than FMV.

Life Insurance	Resource Type	Life insurance is determined countable or excluded based on the type of life insurance owned by the individual and/or its intended use. **1. Definitions** **Insured**: The individual upon whose life insurance is affected. **Beneficiary**: The individual, entity or organization named in the contract to receive the policy's proceeds upon the death of the insured. **Owner:** The individual who has the right to change the policy and is typically the person who pays the premiums. **FV:** The amount that is contracted for at the time the life insurance policy is purchased (the amount to be paid out when the insured dies). The FV does not include any dividend additions or additional amounts paid in the event of an accidental death or other special provision. **Cash Surrender Value (CSV):** The amount, which increases with the age of the policy, the insurer will pay upon cancellation or surrender of the policy before the death of the insured or maturity date of the policy. **Dividends:** Any interest paid by the insurance company to its policy holders. If dividends are paid, they may be paid directly to the owner, added to the CSV of the policy, or to purchase additional coverage. **2. Types of Life Insurance** There are two groups of life insurance policies: those that accrue a CSV and those that do not. Count only the CSVs of the types of life insurance policies that accrue a CSV. **Life Insurance with a CSV** Whole life insurance is a contract for which the insured pays premiums during his lifetime or up to age 100 and the insurer

pays the FV of the policy to the beneficiary upon the death of the insured. The net CSV of whole life insurance is countable.

A limited payment policy is a contract for which the insured makes payments for a specific number of years rather than for his whole life. The insurer pays the FV of the policy to the beneficiary upon the death of the insured. The net CSV of limited payment life insurance is countable.

An endowment policy is a contract that promises payment of the FV of the policy either upon the death of the insured or within a specific period of time. The net CSV of an endowment policy is countable.

Life Insurance without a CSV

Term life insurance is a type of contract for which the insured receives temporary protection (for a specific period of time) or limited protection through a steadily decreasing FV. Term life insurance is excluded.

3. Life Insurance Limit

Exclude the CSV of all countable life insurance policies the individual owns if the total FV of those policies is equal to or less than $1,500. Exclude the CSV of all countable life insurance policies owned by each of the individual’s FRR(s) if the total FV of the policies owned by the FRR is less than $1,500.

Note: This exclusion of $1,500 may only be applied if no other funds have been excluded under the burial reserve provision. If the individual has a burial contract or burial trust, then the $1,500 burial reserve allowance is first reduced by the value of the burial contract or trust.

4. Countable Value

The total net CSV of life insurance policies owned by the individual is a countable resource if the total FV of those policies is greater than $1,500. The net value is equal to the total CSV less the amount of any outstanding loans made against the policy.

Count only the CSV of policies available to the individual. The CSV may be unavailable to the individual for the following reasons:

- The consent of the co-owner is required to surrender a policy for its CSV, the co-owner's consent cannot be secured, and he is someone other than the individual's FRR.

- When a policy has been assigned to another individual, that person's consent for surrender is required. If that person declines to consent, exclude the policy as an unavailable resource. If the individual is applying for long term care benefits and the assignment occurred within the look back period, examine the assignment under the *Transfer of Assets and Penalty Periods* policy.

5. Ownership

The owner of the policy is the person who has the right to change the policy. This is typically the same individual who pays the premiums. The owner of a life insurance policy is usually the insured individual and ownership can be verified by seeing the policy or written correspondence with the insurance company or the individual's insurance agent.

If the person alleges ownership of policies for which he is not the insured, verify ownership by determining whether the individual is listed on the policy or through written correspondence with the insurer or the individual's insurance agent.

6. Establishing Value

Consult the table of CSVs on the policy itself. The tables usually indicate CSV at one to five year intervals from the date the policy was issued. Use the CSV from the chart in determining the countable value of the policy unless the individual can provide written verification from the insurer of a lesser value. Document Case Notes if a lesser value is determined.

If the CSV table is not available, or the life insurance policy is paid up, the only acceptable verification of value is written correspondence from the insurer.

Verification of the following information must be obtained from the insurer or insurance agency:

- Full name of policy owner;
- Policy number;
- Status of policy;
- Date the policy was issued;
- FV;
- Paid-up cash value (if applicable);
- Amount of any outstanding loans;
- Current CSV; and
- Authorization to release information obtained by applicant or responsible party.

If verification cannot be provided in a timely manner, the Estimated CSV Method is used to estimate the life insurance policy's CSV.

Estimated CSV Method:

Use the following method to estimate the net CSV, unless it appears that dividends have been added to the basic CSV of the policy or the individual alleges that the policy is encumbered. If either of these conditions exist, accept only written verification of the CSV.

Estimated CSV Calculation:

- Determine the number of years the policy has been in effect.
- Consult the table entitled Presumed Valuation Table below to obtain the percentage amount that corresponds to the number of years in effect.
- Multiply the percentage amount by the life insurance policy's FV.

- The result is the Estimated CSV for the policy.

  Note: If the estimated value is used and later verification is received that the actual amount is greater, there is no penalty for using the estimated value for the time it took to secure verification.

PRESUMED VALUATION TABLE

Years in Effect	Percentage of FV
20 or more	60%
15 – 19	50%
11 – 14	45%
6 –10	30%
4 – 5	20%
3	10 %
2	5%
1	0%

7. Additional Life Insurance Topics

Encumbered or Lapsed Policies

Secure written verification from the insurance company or the individual's insurance agent for any life insurance policies that are either encumbered, i.e. the owner has borrowed against the CSV, or the policy lapsed when the owner stopped paying premiums.

Accelerated Life Insurance Payments

A life insurance company, or a privately owned business, may offer to pay the owner of a life insurance policy money that would normally go only to the named beneficiary after the insurer's death. Accelerated payments usually provide payments to cover costs related to long term care, a catastrophic illness or a terminal illness. Payments may be received in a lump sum or monthly amounts. Accelerated payment plans involve early payout of some or most of the proceeds of the policy to the insured. Accelerated payments are income in the month received, and a resource if retained into the following month. The receipt of an accelerated payment is not treated as a conversion of a resource.

		Accelerated payments are not considered benefits for the purpose of the eligibility requirement to apply for other benefits. Therefore, an individual is not required to file for accelerated payments as a condition of eligibility.
Livestock	Resource Type	The value of livestock necessary for self-employment, as a tool of the trade, or raised for home/personal consumption is an excluded resource. Income received is countable as self-employment income. Livestock that is used as non-business income-producing property is countable, and subject to the policy provided under Income Producing.
Oil and Mineral Rights	Resource Type	Oil and mineral rights may be included with land ownership or owned separately. If surface rights of the same property are excluded (for example, as a home) so are oil and mineral rights. Oil and mineral rights are countable when owned for personal use, or when the surface rights of the same property are countable (non-homestead, real property). Obtain verification of oil and/or mineral rights. Acceptable verifications are deeds, lease agreements, titles and homestead documents. If oil or mineral rights are producing income under a lease agreement, the owner may be constrained from selling or otherwise disposing of those rights. If the land is already excluded, the oil and mineral rights are excluded. If oil or mineral rights are producing income to the individual, and she is not actively engaged in the production of income, the equity value of the rights is subject to the Rate or Return test. See Income Producing.
Patient Trust Account	Resource Type	Countable. A patient trust account is a bank account set up by the nursing home for the convenience of the resident. An enrollee may deposit her PNA into the account, as well as other funds the enrollee receives, such as irregular or infrequent income or sheltered workshop earnings. This type of account is not a trust fund subject to trust fund policy. A patient trust account is typically an interest-bearing checking account. However, a NF holding a patient trust account with a balance of $50 or less is not required to pay interest on the

		account. Any earned interest on the account belongs to the patient/enrollee. The balance of the account at the time of application and redetermination is the countable amount. Verify the balance with the facility at every application, reapplication and redetermination. Document the contact with the facility and include the patient trust account number, date of contact, name of contact and the value of the trust account in case notes. If the amount in the account reaches $200 less than the SSI resource limit, the NF is required to notify the enrollee that if the amount reaches the SSI resource limit, he may lose Medicaid eligibility.
Personal	Resource Characteristic	A personal resource is typically for the use of the individual and his family. A personal resource is typically countable, unless excluded based on the terms of the resource.
Personal Consumption	Resource Characteristic	Up to $6,000 of the equity value of non-business property used to produce goods or services essential to daily activities is excluded from resources. Any portion of the property's equity value in excess of $6,000 is not excluded under this provision. Non-business property used for personal consumption can be real or personal property. It produces goods or services essential to daily activities if it is used, for example, to: • Grow produce or livestock solely for personal consumption in the individual's household; or • Perform activities essential to the production of food solely for home consumption. Note: This does not include any vehicle that is used for transportation. The property must be in current use or, if it is not in use for reasons beyond the individual's control, there must be a reasonable expectation that the required use will resume.
Plan to Achieve Self Support (PASS)	Resource Characteristic	PASS is an SSI provision to help individuals with disabilities return to work. Any income an SSI recipient places in an approved PASS account is excluded as a resource. The PASS account itself is also excluded. This exclusion expires when the PASS contract expires or ends, or when the individual is no longer an SSI

		recipient.
Prepayment of Rent	Resource Type	Prepayment of an individual’s mortgage is not considered a resource. Prepayment of rent, however, will be a countable resource unless the individual cannot receive the money back under any circumstances (i.e., the lease agreement includes a no refund policy, or the landlord provides a statement that the funds will not be returned to the renter).
Prepayment of Nursing Home Care	Resource Type	This resource type is only available to individuals who have entered Title XIX long-term care facilities. **1. Defined** Prepayment for care deposited by the individual upon admission to a TennCare Medicaid-participating long-term care facility. The value of the deposit is a countable resource for the individual who is subsequently approved for TennCare Medicaid benefits if the deposit was paid from the individual’s own funds. **2. Deposit Policy** A long term care facility (LTCF) may require a deposit or prepayment for the first month’s care upon admission. Federal Medicaid regulations provide for certain restrictions regarding these deposits based on the individual’s TennCare Medicaid eligibility status: • Deposits for the currently eligible individual are limited to the amount of her patient liability. The facility may not require the full amount of a month’s cost of care and may not require any deposit as a condition of admission. • The facility may require a deposit of any amount not to exceed whatever the facility “normally requires of all admitted patients” from any individual ineligible for TennCare Medicaid benefits at admission, including individuals applying for TennCare Medicaid. If the individual is subsequently approved for benefits, the facility must refund that portion of the deposit that was not used to pay for the individual’s care, i.e. the

amount paid by the TennCare Medicaid program. A refund is made after the facility is notified of the individual's TennCare Medicaid approval.

3. Refund as a Countable Resource

The individual who paid a deposit upon admission to a LTCF and who is subsequently approved for TennCare Medicaid is eligible for a refund of the deposit (in whole or in part) from the facility.

The amount of the anticipated refund is a countable resource during the first month for which the individual has applied for TennCare Medicaid coverage, if the deposit was paid from the individual's own funds. Refunds of deposits paid from the funds of someone else other than the individual and/or her FRRs are not a countable resource.

Use the following procedure to determine the amount of the deposit that is a countable resource:

- Determine the total amount of the deposit and from whose funds it was paid.
- Subtract the amount of the individual's patient liability effective the first month of her eligibility for TennCare Medicaid/CHOICES from the total deposit paid.
- The result is the amount of the anticipated refund and part of the individual's countable resources for the first month in which the individual has applied for TennCare Medicaid.

Use the following procedure to determine the individual's resource eligibility when part of or her countable resources is an anticipated deposit for prepaid institutional care:

- Add the amount of the anticipated refund from the deposit to the rest of the individual's countable resources beginning with the first month for which the individual requested coverage.
- If the amount of the individual's resources, including the anticipated refund, exceeds the resource reserve limit throughout the month, she is ineligible due to

		excess resources effective the first month for which coverage is requested. Assume the entire amount of the anticipated refund will be retained by the facility to cover the cost of care for the first month for which the individual requested TennCare Medicaid benefits and was determined to be resource ineligible. Beginning the first day of the following month, the anticipated refund is no longer a countable resource. • If the total amount of the individual's countable resources is within the appropriate resource limit, he is resource eligible. Do not verify or budget the refund as income in the month the individual actually receives it, because it has already been counted as an available resource. Beginning the month following the month in which the individual actually receives the refund, the value of the refund is considered a countable resource if retained. The value of the refund of a prepayment of institutional care belongs to the individual who paid the deposit. The facility can verify who paid the deposit upon the individual's admission. Resolve any discrepancies by requesting the individual or responsible party provide some verification of payment. Verify the full value of the deposit with the admitting facility or other verification of payment provided by the individual. Calculate the value of the anticipated refund of the item. The resultant amount is the value of the prepaid institutional care. It is not necessary to verify the actual amount of the refund.
Proceeds from the Sale of a Home	Resource Characteristic	The proceeds from the sale of a home are excluded to the extent that the funds are intended to be used to purchase another home subject to the homestead exclusion, and the funds are used for such a purpose within 3 months of the date of receipt of the proceeds.
Promissory Note and other Loans	Resource Type	**1. Promissory Notes: Personal Use** A promissory note or other loan given by the household is considered personal property and is countable, unless the note or loan balance is inaccessible or the promissory note is held for reasons other than personal use. The lender holds legal interest and has the legal ability to make available his share in the note or loan. The equity value of the note or loan is

countable.

2. Promissory Notes and Transfer of Asset Policy

If a household makes a loan that is considered inaccessible, or is shown to have a significantly lower market value than the unpaid balance of the loan, the loan will be considered to be an uncompensated transfer of assets. The uncompensated asset transfer will be considered to be the outstanding balance due on the loan as of the date of the lender's application for LTSS (nursing facility or HCBS services).

In addition, the Deficit Reduction Act of 2005 (DRA) provides that funds used to purchase a promissory note, loan or mortgage must meet the following criteria or the purchase will be treated as a transfer of assets for less than FMV:

- The repayment term must be actuarially sound;
- Payments must be made in equal amounts during the term of the loan with no deferral payment and no balloon payments; and
- The promissory note, loan or mortgage must prohibit the cancellation of the balance upon the death of the lender.

The actuarial standards used are those determined by the SSA. See the *SSA Period Life Expectancy Table* http://www.ssa.gov/oact/STATS/table4c6.html .

If the above criteria are not met, the purchase of the promissory note or loan must be treated as a transfer of assets. The amount used to calculate a penalty will be the outstanding balance of the loan due as the date of application for TennCare Medicaid.

Promissory Notes: Other Uses

Promissory notes that are made for purposes other than personal use are treated according to their use. Promissory notes may be made for the following purposes:

- Burial;

		• Business or Self-Employment; and Proceeds from the Sale of a Home.
Prorated as Income	Resource Characteristic	A resource that has been prorated as income is an excluded resource. • **Example:** Farmer Jones sells his crop in September for $12,000. The money from the sale is intended to support his family for a year. The $12,000 is prorated as income, $1,000 a month. The $12,000 is excluded as a resource.
Real Property	Resource Type	Real property is any building and/or land, improved or unimproved, including recreational, residential and/or commercial property. **1. Countable Value** The equity value in all real property the individual owns individually or jointly is a countable asset with the following exceptions: • Property excluded as homestead; • The inaccessible equity value of real property; • Equity value of income producing property (subject to the Rate of Return test); and • Real property necessary for the production of earned income (see Business or Self-Employment). **2. Ownership by Title** **a. Ownership Types** **Sole Ownership**: Individual is the only person who owns the property and its sale or transfer is not subject to the approval of others. **Tenancy-in-Common**: Each owner has an undivided interest in the whole property and can sell or her own interest without the consent of the other owner(s). Upon the individual owner's death, his share passes directly to her heir(s). **Joint Tenancy**: Each owner holds an individual interest in

the whole property and can sell her interest at any time without the consent of the other owner(s). If specifically stated in the deed, the interest of one owner upon her death will automatically pass to the other owner. This is the "right of survivorship."

Tenancy by the Entirety: This form of ownership can exist only between individuals validly married to each other. Any real property held jointly between a husband and wife is held as "tenants by the entirety" unless the deed explicitly states otherwise. The owners are treated as if they were one entity, requiring the consent of both owners before any interest can be sold. Upon the death of one owner, his interest passes directly to the other owner.

b. Verification

Verify ownership by accepting the individual's sworn statement as to property ownership, a copy of the deed or other public record AND telephone or personal contact with the county Register of Deeds who can verify ownership information.

3. Establishing Value

The countable value of real property is equal to the individual's equity value in it. The equity value is equal to the Total Market Appraisal, as known as the real value or Fair Market Value, of the property less any encumbrances, liens or other legal claims.

a. Total Market Appraisal

Total Market Appraisal is determined using the property's assessed value, which can be easily verified. Assessed value is expressed as a percentage of Total Market Appraisal and in Tennessee the ratios are in the chart below.

Type of Property	**Assessed Value: Real Value**
Farm/Residential	25%

Commercial/Industrial	40%

Use the following formula to determine a property's real value:

Farm/Residential: Assessed Value x 4.0 = Real Value
Commercial/Industrial: Assessed Value x 2.5 = Real Value

b. Assessed Value

Determine and verify the assessed value by reviewing a recent tax assessment notice, contact with the county assessor's office, or written documentation of assessed/real value from the agency responsible for property assessment in another state, if appropriate.

The individual has the right to rebut the assessed value. She must provide a written appraisal from a knowledgeable and disinterested source, such as a licensed real estate agent, or an appraiser for the Veterans Affairs (VA) or Federal Housing Administration (FHA) that substantiates the claim. If the property value is redetermined in this way, the individual must have the opportunity to present a current alternated valuation at every reapplication or redetermination.

c. Equity Value

To determine the individual's equity value in real property, subtract the following from the Total Market Appraisal:

- The unpaid mortgage principal, excluding interest;
- The value of any legal lien or claim filed against the property; and
- The amount of any unpaid taxes, excluding current taxes.

The remainder is the equity value and is a countable resource.

4. Descent of Homestead/Right to Elective Share (TCA 31-4-101)

The surviving spouse of an intestate (without a will) decedent who elects against taking an intestate share, or a surviving spouse who elects against a decedent's will, has the right of election (unless limited by subsection (c) of this same title, to take an elective share amount equal to the value of the decedent's net estate as defined in subsection (b) of this title. The elective share is determined by the length of time the surviving spouse and the decedent were married to each other.

Share of Surviving Spouse and Heirs (TCA 31-2-104)

The intestate share of the surviving spouse is:

- If there are no surviving descendants of the decedent, the entire intestate estate; or
- If there are surviving heirs of the descendants, either one-third or a child share's of the entire intestate estate, whichever is greater.

5. Ownership Interest in Unprobated Estate

An individual may inherit an interest in property which he may sell or transfer even though the estate is still in probate, i.e. the inheritance has not been legally distributed.

Ownership interest in an unprobated estate is substantiated by the will which granted the individual her interest:

- Deceased died Testate (with a will): Review a copy of the will or request that the individual provide a written statement from her attorney itemizing the property in which the individual has an interest. Value each item as is appropriate for its classification, i.e. real estate, personal property, vehicle, etc. The value is a countable resource unless the individual alleges it to be inaccessible and it is determined the availability of the asset provisions apply.
- Deceased died intestate (without a will): Collect the following information and submit it to the TennCare Eligibility Policy Unit with a request for assistance in determining the value and availability of the individual's interest in unprobated property:

		o Copies of deeds or titles to all properties owned by the deceased; o Description of other items owned by the deceased, e.g. motor vehicles; o The individual's relationship to the deceased; o The date of the deceased's death; and o The number of surviving relatives and their relationship to the deceased.
Retirement Accounts and Pension Plans	Resource Type	A retirement account or pension plan is an investment account intended to provide income at retirement. The equity value is the CSV less any early withdrawal penalty. If retirement benefits are being received out of such accounts, the principal is not considered a resource. Determine the net value of a retirement account/IRA via documentation from the institution holding the deposit. The documentation must include the gross deposit, and individually identify all deductions and penalties that would be deducted from the gross deposit if the funds were withdrawn. Individuals are required to exercise any available options to receive periodic payments from retirement accounts. **Employment-Related Retirement Accounts** Most employment-related retirement accounts cannot be accessed until the employee is no longer employed with that particular business or entity. While an individual continues employment, the funds are inaccessible when termination of employment is necessary to withdraw funds completely. The funds become accessible upon termination of employment. The funds are then countable, even though the funds may not be issued immediately. Retirement accounts owned by either spouse are countable resources (if available) for resource assessments, but are excluded resources when owned by a deemed spouse or by a deemed parent. **401(k)**

		Funds held in a 401(k) retirement account are countable when the individual or his spouse is no longer job-attached because the funds are accessible after employment terminates. If the individual is still job-attached, the value of the 401(k) is excluded if termination of employment is required to withdraw the funds. A 401(k) retirement account owned by a deemed spouse or a deemed parent is excluded as a resource. **Individual Retirement Account (IRA)** Funds held in an IRA are considered accessible to the individual or community spouse. Count the equity value of an accessible IRA when determining eligibility. IRA funds owned by a community spouse are also considered countable and accessible when determining a Community Spouse Resource Maintenance Allowance (CSRMA). IRA funds owned by a deemed spouse (for non-institutional categories) or deemed parent are excluded from the resource determination. **Keogh Plan** Keogh plans are considered accessible and counted as resources to the individual or community spouse even if the household is not actually accessing the funds. Keogh funds are countable resources in determining the CSRMA. Keogh plans owned by a deemed spouse (non-institutional Medicaid) or deemed parent are excluded as resources.
Savings Account	Resource Type	Countable. If the current month's income has been deposited into the account it must be excluded when determining the current value of the account. See the *ABD Treatment of Resources: Ownership, Equity Value & Accessibility* policy for treatment of jointly owned accounts. A savings account may be excluded if it is used for one of the following purposes: • Burial funds;

		• Business or Self-Employment; • Educational Income; • Individual Development Account; • PASS; • Proceeds from the Sale of a Home (subject to time limits); • Prorated as Income; • Settlement or Disaster Payment, If Excluded By Policy; and SSI/SSA Retroactive Payment (subject to time limits).

Settlement or Disaster Payment	Resource Characteristic	Payments or benefits provided under certain federal statutes are excluded. Excluded settlement and/or disaster payments include:
		
		• Agent Orange Settlement Payments;
		• Disaster Relief Assistance received under the Disaster Relief Act of 1974;
		• Distribution of perpetual judgment funds to Indian tribes under the following:
		  o Indian Judgment Funds Distribution (P.L 93-134)
		  o Black Feet and Gros Ventre Tribes (PL 92-254)
		  o Grand River Band of Ottawah Indiana in Indian Claims Commission Docket No. 40-K;
		  o Tribes of groups under PL 93-134;
		  o Yakima Indian Nation or the Apache Tribe of the Mescalero Reservation (PL 94-433); and
		  o Receipts from land held in trust by the Federal government and distributed to certain Indian tribes under PL 94-114.
		• Factor VIII or IX Concentrate Blood Products Litigation. The settlement payments made as a result of the class action lawsuit to hemophilia patients infected with HIV through blood plasma products;
		• Filipino Veterans Compensation Fund Payments: Lump sum payments made to certain veterans and spouses of veterans who served in the military of the Government of the Commonwealth of the Philippines during WWII;
		• Japanese-American and Aleutian Restitution Payments;
		• Payments made to individuals because of their status as victims of Nazi persecutions;
		• Payments to children born of Vietnam veterans diagnosed with spina bifida;
		• Payments made under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (state

		and local payments are only excluded for 9 months); • Revenues from the Alaska Native Fund paid under section 21(a) of the Alaska Native Claims Settlement Act; and • State funds paid to crime victims (excluded for 9 months).
SSI/SSA Retroactive Payment	Resource Type	SSI retroactive payments are benefits issued in any month after the calendar month for which they are paid. SSA retroactive payments are benefits issued in any month that is more than a month after the calendar month for which they are paid. • SSI/SSA retroactive payments are excluded for 9 months after the payment is received and counted after that 9 month exclusion period.
Stocks/Bonds	Resource Type	**Stocks** Countable. Shares of stock represent ownership in a corporation or business. For incorporation purposes, stock is assigned a “par value”, but a stock’s value as an asset is based on the market value. The market value of a stock is a countable asset. Accept the individual’s attestation or a copy of the stock certificate, if available. The stock may be counted at a lower value than the market value of a stock if the individual can substantiate the lower value by providing written confirmation of the lower value from a local securities broker. **Bonds** Countable. A U.S. Savings Bond is document issued by the government acknowledging that the money has been loaned to it and will be repaid to the owner with interest. The current value of a bond, which is its countable value, depends on the length of time elapsed since the date of issue and is subject to fluctuations in the interest rate. The name of the bond owner is printed on its face. Some bonds have conversion or “cash-in” restrictions. Consult a bank to determine the current value of a U.S. Savings Bond and document the date the contact was made, the name of the institution contacted and the quoted value in the Case Notes. **Mutual Funds**

		1. Personal Personal mutual fund shares are countable. A mutual fund is a company that buys and sells securities and other property. The CMV of the shares in the mutual fund owned by an individual is a countable asset unless the individual can establish a lesser value. Determine the CMV by consulting a stockbroker or newspaper to verify the closing price of the stock market for the date of application or redetermination. Document the case record with the following information: • Date contact was made or date of newspaper; • Name of individual or newspaper consulted; and • Price quoted. The individual can substantiate a lower value by presenting written confirmation of a lower price from a local securities broker. Accept written verification of ownership from the mutual fund company or by viewing the shares themselves. **2. Mutual fund shares owned for other purposes** Mutual fund shares held for purposes other than personal use are subject to different treatment. Mutual funds shares may be owned for the following purposes: • Burial; • Business or Self-Employment; • Educational Income; • Proceeds from the Sale of a Home; • Prorated as Income; or • Settlement or Disaster Payment, If Excluded By Policy.
Tools of the Trade	Resource Characteristic	Excluded as essential for the production of earned income. Personal property required by the individual's employer for work is not counted regardless of the value while the individual is employed. An employer-employee relationship must exist between the owner of the resource and the employer that requires the individual to furnish a resource as a condition of employment.

		Examples of this type of personal property include tools, safety equipment, uniforms and similar items. Tools of the trade that are not in current use may retain their excluded status if the tools have been in use AND there are reasonable plans to resume use of the property within 12 months of the last use. The 12 month period may be extended for an additional 12 months, if it is in non-use due to a disability condition. Case Notes must include the date of last use, the reason(s) for non-use at the current time, and when the individual expects to resume the activity, if at all.
Trusts	Resource Type	A trust is any arrangement in which a grantor transfers real or personal property with the intention that it be held, managed, or administered by a trustee(s) for the benefit of the grantor or other beneficiary(ies). A trust and the income generated by a trust will be counted or excluded based on the nature of the trust, the date the trust was created, the source of funds used to create the trust and other factors, as addressed in this section. See *ABD Trusts* policy.
Vehicle	Resource Type	**1. Vehicle Types** Vehicle includes cars, trucks, motorcycles, campers, motor homes, aircraft, snowmobiles, watercraft, boats and all-terrain vehicles (ATVs). **2. Determining Ownership** Accept the individual's sworn statement regarding motor vehicle ownership. If ownership is questionable, the following are acceptable verifications: • Vehicle registration; • Bill of sale; or • Title (individual named on title is the undisputed owner). **3. CMV** The CMV value of a vehicle is the average price that particular year, make, model and condition will sell for on the open

market in the particular geographical area involved.

Use the average loan value in a current National Automobile Dealers Association (NADA) Used Car Guide Book (or web site) to establish the CMV of a car or truck. If the vehicle is not listed in the Guide Book, request estimates of the vehicle's market value from two reputable dealers. Use the higher estimate to value the vehicle and make note of both estimates in Case Notes.

Contact a reputable dealer to obtain an estimate of the value of other types of vehicles, such as campers, motorcycles, etc. Document contact and estimate in Case Notes.

The individual can substantiate a lower value be submitting written statements of the vehicle's value by from two reputable dealers.

4. Equity Value

The equity value of a vehicle is the price it can reasonably be expected to sell for on the open market in the particular geographic area involved less any encumbrances.

5. Exclusion of One Vehicle Regardless of Value

One vehicle of any of the types listed above is excluded regardless of its value if it's used for transportation of the individual or a member of her household.

Assume that a vehicle is used for transportation, absent evidence to the contrary.

6. Applying the Exclusion When Individual Owns More than One Vehicle

When an individual owns more than one vehicle that is used for transportation of household members, apply the exclusion in the manner most advantageous to the individual. In general, the total exclusion will be applied to the vehicle with the greatest equity value.

		7. Countable Value The equity value of any vehicle, other than the one wholly excluded, is a resource when it: a. Is owned by the individual or a deemed household member; and b. It cannot be excluded under another provision, including: • Home (only applicable to cars, trucks, campers and motor homes); • Business or Self-Employment; • Income-Producing; • PASS; or • Tools of the Trade (only applicable to cars, trucks, campers and motorhomes and only one vehicle may be excluded).
Recreational Vehicles	Resource Type	Boats, motorcycles, snowmobiles, jet skis, ATVs and aircraft are generally considered recreational vehicles. The entire amount of the individual's equity in this type of vehicle is a countable resource, unless the vehicle can be excluded under one of the vehicle exclusions listed above. Accept the individual's attestation regarding ownership unless there is reason to question his statement. Request the appropriate type of legal documentation of ownership if ownership is questionable. Contact a reputable dealer familiar with the type of asset in question to determine the item's market value. The individual may substantiate a lower market value than that determined by submitting written statements of the vehicle's value by two reputable dealers.

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5.17.2016	Resource Characteristics and Types; 3.	Retirement Accounts and Pension Plans-Employment-Related Retirement Accounts	45	Policy Change	LW
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	Characteristics and Types; 3.			Clarification	

ABD UNEARNED INCOME

Legal Authority: 20 CFR 416.1120; 20 CFR 416.1121; 20 CFR 416.1123; 20 CFR 416.1124; Public Law 113–295; Tenn. Code Title 71, Chapter 4, Part 8

1. Policy Statement

Unearned income is money an individual receives that is not the result of current work efforts, but accrues to an individual as the result of investment, inheritance, previous work efforts, etc. Unearned income for the ABD TennCare Medicaid categories is counted according to the Social Security Administration (SSA) Supplemental Security Income (SSI) financial methodology.

2. Unearned Income

Achieving a Better Life Experience (ABLE) Accounts	ABLE accounts or 529A accounts are tax-advantaged savings accounts for individuals with disabilities that are established under a qualified ABLE program. The funds within an ABLE account are intended to cover the individual's Qualified Disability Expenses (QDEs) related to her blindness or disability. All contributions and ABLE account earnings in an ABLE account are excluded as income, except that contributions are not deducted from countable income of the individual making the contribution. Distributions from an ABLE account are not income of the designated beneficiary in any month regardless of whether the distribution is for non-housing QDEs, housing QDEs or non-qualified expenses. Distribution from an ABLE account is the conversion of a resource from one form to another. QDEs include, but are not limited to: education, housing, transportation, employment training and support, assistive technology and personal support services, health, prevention and wellness, financial management and administrative services, legal fees, and funeral and burial expenses, and basic living expenses.
Adoption Subsidies	Title IV adoption subsidies are intended to pay for general living expenses and are countable unearned income to the child. When the adoption subsidy is a reimbursement for child care while the adult responsible for the child is at work or seeking employment, or is for medical expenses, it is excluded. Document the excluded reimbursement amount in case notes.
Alimony Received	Countable. Payments an individual receives from a spouse that he no

	longer lives with, or a former spouse, if paid as part of a divorce agreement, separation agreement or court order.
Annuity Payments	Annuities are contracts or agreements that, in exchange for a lump sum payment or series of payments, provide income at regular intervals (i.e., monthly, quarterly, annually). Annuities establish a source of income for a future period, and are often used in retirement planning. Annuity payments count as unearned income the month received when the annuity is an excluded resource, except when the payments are from a State annuity. Payments to an individual or spouse from a State annuity are excluded if the annuity is paid by a state based on a determination that the individual is a veteran who is aged, blind or disabled. If an annuity is an excluded resource, the periodic payments are countable unearned income, unless specifically excluded by under this policy. See the *ABD Countable and Excluded Resources* policy for resource treatment of an annuity.
Assistance from Other States	Financial assistance provided by another state to the household to help pay for necessary items such as food, clothing, housing, utilities and other basic needs. Financial assistance is countable. However if a household is receiving assistance from another state benefit program, Tennessee residency must be verified.
Canceled Debts	Excluded. The amount of a debt an individual is no longer required to pay or that is forgiven.
Capital Gains	Countable. Income an individual receives when a capital asset is sold and an individual makes a profit from the sale. Capital assets include a home, household furnishings and stocks and bonds held in a personal account. When a capital asset is sold, the difference between the amount paid for the asset and the amount it is sold for is the capital gain or loss.
Cash Support	Count regular contributions made directly to the individual as unearned income unless they can be excluded as irregular or infrequent income.

Care and Contribution in Exchange for a Transferred Asset	If the individual has transferred an asset and part or all of the compensation he received included a provision for lifetime total care and support, the value of the care and support contribution is unearned income, and is countable.
Child Support Arrearage	Child support arrearages received, whether received on a regular monthly schedule or as a one-time payment, are countable.
Child Support	Child support payments are countable to the child(ren) the payments are intended to support. If the support order does not indicate the amount per child, assume the amount received is equally distributed among all of the non-custodial parent's children for whom the payment is made. When determining eligibility for a disabled child under age 18, and the child support payment is countable to the child, exclude 1/3 of the child support amount. The remaining 2/3 value is counted as unearned income in the month of receipt. The value of support payments is counted in its entirety for individuals age 21 and older as unearned income in the month of receipt. If child support is being paid for a child under age 21 who is in the home, exclude up to $50 per month per family. If support is paid out of a benefit (e.g., VA, SSA) it does not retain its benefit status and the $50 deduction is allowed. If the support is paid directly to the child or to a representative payee who turns it over to the court, it is not considered Child Support. Verification Use one of the following to verify the value and frequency of support payments: • Copy of the child support award agreement; or • Written statement from the individual paying the support and a copy of the most recent support check or receipt.
CSIMA/DIMA	The Community Spouse Income Maintenance Allowance (CSIMA) and the Dependent Income Maintenance Allowance (DIMA) are income allocations made to certain spouses and dependents of individuals eligible in an Institutional Medicaid category. When an institutionalized individual has a community spouse or dependent

	living in the home, a portion of the individual's income is allocated to the community spouse or dependent in order to cover the necessary costs of living in the home. The CSIMA and/or DIMA are countable unearned income for applicants ONLY when the institutionalized individual is NOT in the community spouse's or dependent's household. If the applicant is a deemed member of the institutionalized individual's household, the CSIMA and/or DIMA is excluded.
Death Benefit	A death benefit is received as the result of another's death. Examples of death benefits include: • Proceeds of life insurance policies received due to the death of the insured; • SSA, Veterans Affairs (VA) or Railroad retirement lump sum death benefits; • Inheritances in cash or in-kind; and • Cash or in-kind gifts given by relatives, friends or a community group to "help out" with expenses related to the death, etc. Recurring survivor benefits such as those received under Social Security Title II, private pension programs, etc. are not death benefits. Death benefits are income to an individual if the total amount exceeds the expense of the deceased person's last illness and burial paid by the individual to whom the death benefit is issued.
Education Income Not Work Study	Excluded. Income received through Federal Student Aid, such as grants and loans, except for income received through Work Study programs.
Federal Emergency Management Agency (FEMA) Payments	**Payment from FEMA due to a Disaster or Emergency** Excluded. FEMA payments issued as a result of a presidentially declared emergency or major disaster are excluded. Payments made by comparable disaster assistance programs by states, local governments and disaster assistance organizations are also excluded. **Payment from FEMA NOT due to a Disaster or Emergency**

	Countable. FEMA payments which are made to a household to pay for rent, food and utility assistance when there is NO major disaster or emergency declaration are countable.
Gambling, Prizes and Awards	The value of a prize or award is unearned income in the month the individual receives it and is countable. A prize is something won in a contest, lottery or game of chance. If the individual is offered a choice between an in-kind prize or cash, the cash offered is counted as unearned income even if the individual chooses the in-kind item and regardless of the value of the in-kind item. An award is received as the result of a decision by a court, board of arbitration, etc. Secure from the applicant any of the following types of verification: • Award letter; or • Copy of the check received; or • Contest advertisement; or • Income tax return for the year the prize or award was claimed.
General Assistance	Countable. General assistance, or income based on need, is assistance provided under a program which uses income as a factor of eligibility, and is funded wholly or partially by the federal government or a nongovernmental agency. General assistance is counted, unless it is totally excluded by statute (e.g., SNAP payments) or excluded under PASS.
Gifts	A gift is received by a household member without the giver's legal obligation or as repayment for goods or services. The value of a gift, either cash or in-kind, is counted as unearned income in the month of receipt. The cash gifts value is counted in whole the month of receipt, unless it can be excluded as infrequent or irregular income. The value of in-kind gifts is equal to the item's current market value. A gift of a house which is used as shelter is not counted as income and is exempted as a homestead. A gift of a house which is not used as shelter is not counted as income and is valued as a resource at its current market value. Gifts of commercial travel tickets for domestic travel are excluded from income if they are not converted to cash.

	Use any of the following methods to verify the type, amount and date of receipt of a gift: • Photocopy of the check; or • A written or verbal statement from the donor regarding the gift's value and date given; or • In the absence of the first two verification types listed, the individual's sworn statement.
Income Not Pursued	Countable. Income not pursued includes payments for which an individual could apply on an ongoing or one-time basis and may include annuities, pensions, retirement benefits or disability benefits. Note: This may decrease household size for other individuals in the household and the applicant may be found not eligible due to failure to apply for other benefits.
Income Producing Resource	Income earned off of an income-generating resource is counted or excluded based on the treatment of the resource. Income generating resources include: • Annuities; • Contract for Deeds; and • Promissory Notes. Income generated by a resource that is excluded is countable unearned income. Income generated by a resource that is countable is excluded as income.
Interest Bearing Resource	An interest bearing resources includes any of the following: • Certificate of Deposit; • Checking Account; • Life Insurance Policy; • Mutual Funds; • Retirement Account; • Savings Account; and • Stocks and Bonds. In general, the interest earned on a countable resource is excluded as unearned income. Interest earned on an excluded resource is countable as income. See the *ABD Countable and Excluded Resources* policy for determining when a resource is countable or excluded.

Cash Inheritance	The value of inherited cash is counted as income in the month of receipt and if the individual retains it, as a resource in the months thereafter. The month of receipt for an inheritance composed of cash is the month the individual receives that money.

In-Kind Unearned Income or In-Kind Support and Maintenance	Unearned in-kind income in the form of food and/or shelter is referred to as In-kind Support and Maintenance (ISM). ISM may be countable or excluded and is subject to certain rules that determine the countable or excluded value.
	
	Unearned in-kind income that is not in the form of food or shelter, e.g. clothing, is excluded.
	
	ISM is only considered unearned income in the following categories: SSI Cash Recipients; Pickle Passalong; Disabled Adult Child (DAC); and Widow/Widowers.
	
	1. The following policy applies to:
	
	• Unearned in-kind payments of food and shelter outside of an employee/employer relationship; and
	• In-kind payments of food and shelters:
	    o To certain agricultural employees;
	    o To domestic employees;
	    o For service not in the course of the employer's trade or business;
	    o For service by certain home workers;
	    o For Members of the Uniformed Services; and
	    o Provided on the employer's business premises, for the employer's convenience, and in the case of shelter received, its acceptance by the employee is a condition of employment.
	
	See Earned In-Kind Income for more information on the individuals listed above.
	
	2. Definitions
	
	In-kind Support and Maintenance (ISM): ISM is counted as unearned income or used to reduce the income standard for an individual when she receives food and/or shelter from sources inside or outside the household.
	
	Maintenance: Maintenance is shelter. Shelter means living

quarters for an individual and any shelter items such as mortgage payments, property insurance, rent, utilities and real property taxes.

Support: Support is food items received by the individual for which he has no liability.

Presumed Maximum Value (PMV): The PMV is the highest value that can be assigned to the ISM when an individual receives either food **or** shelter. It is equal to one third of the full SSI-FBR, based on household size, plus $20.

Value of One-Third Reduction (VTR): The VTR is equal to one-third of the full FBR for an individual or a couple. The VTR is used to reduce the income standard for an individual who lives in another person's house and receives both food and shelter from others living in that household.

3. Establishing the Existence of ISM

If an individual cannot establish ownership interest, rental liability, or that she equally shares household expenses, it must be determined if she receives both support and maintenance in-kind. An individual's contributions towards household expenses cannot be a token amount. If her contributions are less than the current market value of an item or less than her share of the items the expenses is intended to cover, ISM must be determined.

Example: An individual shares a house with another person and pays $10 a month towards rent and utilities, which average $150 per month. The individual's contribution does not cover his share and ISM must be determined.

4. Value of ISM: When to use PMV and when to use VTR

Presumed Maximum Value: The PMV is equal to one-third of the SSI-FBR, plus $20. Use the PMV when an individual receives:

- Both food and shelter from a source outside the household; or
- Food or shelter from a source either inside or outside the household.

Use the PMV to value in-kind income unless the individual can substantiate that:

- The CMV of the item received, minus any payment the individual makes for them, is less than the PMV; or
- The actual amount someone else pays for the food and shelter is less than the PMV.

Determine the countable value of the in-kind income by dividing the CMV by the number of people who received the ISM. The result is the individual's share of the ISM. Reduce the ISM by any contribution that he made to the item. Compare to the PMV and use the lesser amount as the ISM.

Value of One-Third Reduction: When an individual or couple lives in another person's home and receives both food **AND** shelter from others living in that household, use the VTR as the income standard instead of the SSI-FBR. To obtain the VTR, subtract 1/3 of the FBR for an individual/couple from the full FBR for an individual/couple.

The VTR is not counted as unearned income, and it is not subject to the $20 income exclusion.

The VTR does not apply in the following situations:

- Individual lives in his own house;
- Individual is an owner, renter or pays equal share of the household's foods and shelter expenses;
- Individuals lives in another's house, but does not receive both food and shelter;
- Individual is homeless or lives in an residential institution (ISM will not count while someone is confined to a medical institution);
- Individual does not live in another person's home throughout the month; or
- Individual lives alone.

If any of the above conditions are met, use the PMV to assign value to the ISM and use the full SSI-FBR as the income standard.

5. Exceptions to Charging ISM

Do not charge ISM to an applicant/enrollee when he receives food

	or shelter that: • Is specifically excluded by Federal law (excluded income); • Can be excluded as infrequent or irregular income; • Has no current market value; • Is provided under a governmental medical or social service program; • Is assistance based on need from a state or political subdivision; • Is provided by someone in the household whose income is deemed available to the applicant; • Is received at school by a child under age 22, who receives food or shelter only at school and is temporarily absent from her parental household. • Is provided during a temporary absence; • Replaces lost, damaged or stolen resources; • Is excluded under PASS; • Is received because of payments made under the terms of a credit life or credit disability policy; or • Is received during medical confinement in an institution.
In-kind Unearned Income Not Food or Shelter	Unearned in-kind payments to the household for any goods or services that are not food or shelter are excluded. An unearned in-kind payment may occur when an individual or organization outside of the household makes a direct payment to a person or organization providing a service to the household.
Interest Income	Interest income and dividends are a return on a capital investment such as stocks, bonds, mutual funds or savings accounts. A cash gift or incentive payment to open an account is considered interest income. Interest income and dividends can be countable or excluded, depending on the treatment of the source of the interest or dividend. If the interest-bearing resource is counted, the interest income is excluded. If the interest-bearing resource is excluded, the interest income is counted. Interest bearing resources include the following: • Certificate of Deposit; • Checking Account; • Life insurance; • Mutual Funds; • Retirement account;

	• Savings account; and • Stocks and Bonds. If interest income is countable, count it at the earliest of the following: • Income is credited to an individual's account and is available for use; or • Income is set aside for the individual's use; or • When the income is actually received by the individual.
Irregular or Infrequent Income	Exclude up to $60 per calendar quarter per household of unearned income that is received either irregularly or infrequently. In order to be excluded, the income need only be irregular or infrequent. Income is considered to be irregularly received if an individual cannot reasonably expect to receive it. Income is received infrequently if an individual receives it only once during a calendar quarter from a single source and the individual did not receive that type of income in the previous month or in the month following the month in which the money was received. A single source of unearned income is an individual, a household, an organization or an investment (single financial account, life insurance policy, rental property or other resource providing a return to its owner). The $60 deduction from this income type should be documented in case notes.
Jury Duty	Jury duty is countable unearned income in the month it is received. Any jury duty pay that is turned over to an individual's employer is excluded. Countable jury duty pay does not include expense money provided during jury duty participation.
Lump Sum	Lump sum payments are countable income in the month received, if they are not from an excluded source.
Long Term Care Insurance Payout	Long-Term Care (LTC) insurance policies are treated as Third Party Liability. The LTC policy must be assigned to the nursing home or the HCBS lead agency and any payments received must be assigned to the nursing home or the lead HCBS agency. Payments made to either the nursing home or HCBS agency are not treated as income. If an individual receives an LTC Insurance payout, and does not use the benefit to pay the nursing facility or the Managed Care Organization, the payout will be counted as unearned income in the

	month received.
Military Allotments	Certain allowances paid to service members and their families are countable as unearned income. The Family Subsistence Supplemental Allowance (FSSA) and the Military Basic Allowance for Housing (BAH) are counted as unearned income.
Pension	Recurring pension payments are countable unearned income.
Plan for Achieving Self Support (PASS)	A PASS is an agreement between a person with a disability or blindness and the SSA which allows the individual to set aside income and resources to reach a work goal. The income the individual uses to pursue the PASS is excluded. Individuals with PASS plans are SSI cash recipients during the PASS contract period.
Protective Payee	Funds received by a protective payee (conservator, authorized representative or representative payee) and used for the care and maintenance of a third party beneficiary (adult or child) who may or may not be a member of the protective payee's household are excluded as income to the protective payee. Any part of the payment that is retained by the protective payee for his own use is countable income to the protective payee. Even if the protective payee retains a fee her services, the entire payment issued to the beneficiary is countable income to the beneficiary. As a condition of eligibility, applicants and enrollees must take necessary steps to obtain all countable income to which they may be entitled. Therefore, the total amount intended for the beneficiary is counted to the beneficiary even if she is not actually receiving the income from the protective payee.
Rental or Lease Income	Rent is payment for the use of real or personal property, such as land, housing or machinery. Rental income is considered unearned when the individual is not a real estate or property owner in the business of buying, selling and/or renting property for a profit. Count the net rental income in determining income eligibility. Gross income from rent is subject to deductions for paid expenses necessary for the production or collection of income. See Self-Employment.
Railroad Retirement Benefits	Railroad Retirement Board benefits are countable unearned income in the month received.
Rehabilitation	Count rehabilitation payments made under Services to the Blind,

	Vocational Rehabilitation (VR) or other such programs as unearned income. Deduct the costs of expenses (specified by the rehabilitation agency) from the gross amount of the rehabilitation payment used by an individual for expenses required to participate in the program. The expenses are usually designated by the VR agency and include, but are not limited to, the following: • Transportation costs to and from the training facility, doctor or clinic based on current state mileage rate; • Books, tools, equipment, etc. not furnished by the facility; • Supplies such as pens, pencils, notebooks, etc. not furnished by the facility; • Required occupational clothing, noon meals (within a set limit); • Laundry and cleaning expenses related to training; • Incidental expenses; and • Initial outlay items (e.g., suitcase) not furnished by VR when the training facility is located in a different town.
Reimbursements	Reimbursements are any payments to reimburse past or future expenses that do not exceed the actual expenses and are excluded income to the extent that they do not exceed actual expenses. Examples of excluded reimbursements include: • Reimbursements for job or training-related expenses (travel, per diem, transportation); • Reimbursements for out-of-pocket expenses of volunteers incurred during the course of volunteer work; and • Medical and dependent care reimbursements.
Royalties	Royalties are countable unearned income when the individual receives payment based on the use of a natural resource for which he owns the usage rights.
Settlements and Restitutions	The following settlements and restitution payments are excluded as unearned income: • Agent Orange Settlement Payments (payments and interest are excluded as unearned income but counted when determining patient liability for institutionalized individuals); • Disaster Relief Assistance received under the Disaster Relief Act of 1974;

	• Distribution of perpetual judgment funds to Indian tribes under the following:
	  o Indian Judgment Funds Distribution (P.L 93-134)
	  o Black Feet and Gros Ventre Tribes (PL 92-254)
	  o Grand River Band of Ottawah Indiana in Indian Claims Commission Docket No. 40-K;
	  o Tribes of groups under PL 93-134;
	  o Yakima Indian Nation or the Apache Tribe of the Mescalero Reservation (PL 94-433); and
	  o Receipts from land held in trust by the Federal government and distributed to certain Indian tribes under PL 94-114.
	• Factor VIII or IX Concentrate Blood Products Litigation. The settlement payments (and interest from payments) made as a result of the class action lawsuit to hemophilia patients infected with HIV through blood plasma products;
	• Filipino Veterans Compensation Fund Payments: Lump sum payments (and interest from payments) made to certain veterans and spouses of veterans who served in the military of the Government of the Commonwealth of the Philippines during WWII;
	• Japanese-American and Aleutian Restitution Payments (and interest from payments);
	• Payments made to individuals because of their status as victims of Nazi persecutions (and interest from payments);
	• Payments to children born of Vietnam veterans diagnosed with spina bifida (and interest from payments);
	• Payments made under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (interest is not excluded);
	• Revenues from the Alaska Native Fund paid under section 21(a) of the Alaska Native Claims Settlement Act; and
	• State funds paid to crime victims.

Sick and Disability Pay	Sick or disability payments made by an employer 6 months or more after the last month the individual worked are considered unearned income in the month of receipt. Verify the amount and date of receipt of these payments using one of the following documents: • Secure recent check stubs; or • Secure written statement from the employer or insurer indicating the amount of the payment, date paid, and related

	information concerning continued payments.
Social Security Benefits	Old Age and Survivor Disability Income (OASDI) or "Social Security" payments are countable unearned income in the month received. The applicant must provide the amount of benefit prior to any deductions, such as Medicare premiums, income tax withholding, overpayments, child support or alimony.
SSI	SSI is excluded unearned income.
Social Services	A social service is any service (other than medical) which is intended to assist a handicapped or socially disadvantaged individual to function in society on a level comparable to that of an individual who does not have such a handicap or disadvantage. Cash received in conjunction with a social service is typically excluded unearned income. Social service programs include programs authorized under: • Title XX of the Social Security Act; • Title IV-B of the Act (Child Welfare); • Title V of the Act (Maternal and Child Health and Crippled Children's Services); and • The Rehabilitation Act of 1973.
Temporary Disability Insurance	Income is countable as unearned income to the extent it is not a reimbursement for specific costs and is paid directly to the household.
Trusts	Dividends, interests, rents and other income generated by a trust fund, unless otherwise excluded, that can be paid to the beneficiary or to a third party on the beneficiary's behalf are countable income to the beneficiary for the period the fund is intended to cover, beginning the month the funds become available, regardless of whether the income is actually paid out to the beneficiary. When funds are withdrawn irregularly, the payments are countable in the month received. Monies withdrawn from the principal of an accessible (countable) trust fund are excluded as income to the beneficiary, because an accessible trust fund is a countable resource. Money cannot be considered income and a resource in the same month. Monies disbursed from the principal of an inaccessible trust fund are

	counted as income because an inaccessible trust fund is an excluded resource. Monies received by the trustee of a trust and used for the care and maintenance of a third party beneficiary (adult or child) are excluded as income for the trustee.
Unemployment Compensation	Count the full value of unemployment compensation benefits as available unearned income in the month of receipt. Unemployment compensation includes any amount you receive under an unemployment compensation law of the United States or a state. Verification If verification is required, verify the amount of unemployment benefits received with one of the following: • Documentary evidence from the TN Department of Labor; • Access through data matches available in the system; or • Documentary evidence from the state of issue of unemployment if benefits are from another state.
Veterans Affairs (VA) Benefits	The Department of Veteran's Affairs (VA) has numerous programs that make payments to individuals and their families. Treatment of VA payments depends on the nature of the payment. Potentially eligible VA payment recipients include: • Veterans; • The child or spouse of a disabled or deceased service person or veteran; • The unmarried widow/widower of deceased service person or veteran; and • Certain parents of a deceased service person or veteran. The most common types of VA payments are: a. VA Pensions Payments made to wartime veterans age 65 and older, or veterans under age 65 who are permanently disabled. VA pension payments are based on financial need, and not on a service-connected disability.

The VA may take dependents' needs into account in determining a pension. However, the VA does not typically make a pension payment directly to a dependent during the lifetime of the veteran. Instead, the amount of the veteran's basic pension is increased based on the number of dependents. This is called an augmented payment. A VA pension payment made directly to the dependent of a living veteran is called an apportioned benefit.

VA pension payments are countable unearned income, with the following exceptions:

- Aid and attendance allowances;
- Payments resulting from unreimbursed medical expenses; and
- Medal of Honor pension payments.

Note: Any part of a veteran's pension that is attributable to aid and attendance (A&A) is excluded as income for the purpose of eligibility determinations. However, any portion of VA Aid and Attendance that exceeds $90.00 will be considered for post eligibility treatment of income; i.e. the amount in excess of $90.00 will be considered available income.

VA pension payments are not subject to the $20 general income exclusion, with the exception of pensions that are provided under a special act of Congress.

Verifying VA Pension Payments

Assume that a VA pension is needs-based unless there is an indication that the pension was provided under a special act of Congress. Use an award letter or other document in the individual's possession to verify the payee and the gross amount of the payment. Verify frequency of the payment using an award letter or bank statement. If the individual is unable to provide an award letter or other proof of payment, contact the Regional VA office for assistance.

The VA Regional Office for Tennessee is located at 110 Ninth Avenue South, Nashville, TN 37203. Telephone: 1-800-827-1000.

If the individual is unable to provide an award letter or other proof of payment, and the Regional VA office has been contacted but unable to provide assistance or verification, count the gross VA Pension payment. For institutionalized individuals, if counting the gross VA pension payment results in income ineligibility, advise the applicant to establish a QIT. See QIT policy in *ABD Trusts* policy.

b. VA Compensation

Veteran's Compensation payments are paid to veterans who are at least 10% disabled as a result of their military service. Compensation can potentially be paid to any veteran, regardless of age.

Compensation payments are countable as unearned income.

c. VA Dependency and Indemnity Compensation (DIC)

Dependency and Indemnity Compensation (DIC) is a benefit paid to eligible survivors of military service members who died in the line of duty or eligible survivors of Veterans whose death resulted from a service-related injury or disease.

DIC payments are countable as unearned income.

d. VA Death Benefit

A VA Death Benefit is countable as unearned income to an individual if the total amount exceeds the expense of the deceased person's last illness and burial paid by the individual to whom the death benefit is issued. Last illness and burial expenses include, but are not limited to:

- Related hospital and medical expenses; and
- Funeral, burial plot and internment expenses.

e. Augmented and Apportioned VA Benefits

The VA may consider the number of dependents a veteran has in determining the amount of the VA benefit. Benefits which are increased because of dependents in VA or SSA records do not necessarily mean the VA payment will be augmented. When a benefit is augmented, the benefit may be included in

	the payment to the veteran or widow, or a payment may be made by apportionment (i.e., separate check to the dependent). Count as income to the individual only that portion of a countable VA benefit attributable to that individual. Pensions, compensation and educational assistance payments may be augmented. Count income based on the nature of the payment.
Workers Compensation	Payments an individual receives for occupational sickness or injury, and that are paid under a workers' compensation act or statute in the nature of the worker's compensation act, are excluded.

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