TN Division of Health Care Finance & Administration

HCFA Eligibility Policy Consolidated

Eligibility Policy

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STATE RESIDENCE

Legal Authority: 42 CFR 435.403; TCA 71-5-120

1. Policy Statement

An individual must be a Tennessee resident to be eligible for TennCare Medicaid or CoverKids. An individual is considered a Tennessee resident if the individual attests to living in Tennessee, intends to reside in Tennessee and there is no information to indicate otherwise. Individuals will not be required to reside in Tennessee for a specific amount of time to claim residency. Individuals considered temporarily absent from Tennessee may retain their Tennessee residency under certain circumstances.

2. Residency

a. Individuals under age 21 who are not emancipated or married

For non-institutionalized individuals under age 21 who are not emancipated or married, and not receiving Title IV-E payments, the state of residence is:

- The state in which the individual is living, with or without a fixed address; or
- The state in which the parent or caretaker resides.

For institutionalized individuals under age 21, who are not emancipated or married, and not receiving Title IV-E payments, the state of residence is:

- The state in which the parent or legal guardian lives at the time of placement in an institution; or
- The state in which the parent or legal guardian who files the application is currently living if the individual is institutionalized in that state; or
- The state in which the party who files the application lives, if the institutionalized individual has been abandoned by his or her parents and does not have a legal guardian.

b. Individuals age 21 and over, or under age 21 and emancipated or married

For non-institutionalized individuals age 21 and over, or under age 21 who are emancipated or married, and capable of indicating intent, the state of residence is:

- The state in which they are living and intend to reside with or without a fixed address; or
- Where the individual lives and entered with a job commitment or seeking employment, whether or not they are currently employed.

c. Individuals over age 21 who are not capable of stating intent

For non-institutionalized individuals over 21 and not capable of stating intent, the state of residence is the state in which they live.

d. Individuals receiving federal payments for foster care, federal payments for adoption assistance or State Supplementary Payments (SSP)

An individual of any age receiving federal payments for foster care or adoption assistance under Title IV-E of the Social Security Act is a resident of the state in which the child lives. An individual of any age receiving a SSP is a resident of the state paying the SSP.

3. Incapable of Indicating Intent

An individual is considered incapable of indicating intent when tests, determined acceptable by the Department of Intellectual and Developmental Disabilities (DIDD), indicate an individual has an I.Q of 49 or less or a mental age of 7 or less. An individual is also considered incapable of indicating intent if found legally incompetent. Medical documentation from a physician, psychologist or other person licensed by the State in the field of intellectual disability may also be used if the documentation indicates that the individual is incapable of indicating intent.

4. Student

Individuals attending school out of state, but considered to be dependents of a Tennessee resident are temporarily absent while attending school. Individuals attending school in Tennessee, but considered to be dependents of a non-Tennessee resident will not be considered a resident of Tennessee.

5. Temporary Absence

A temporary absence from Tennessee does not preclude continued eligibility if the individual indicates his or her intent to return to Tennessee once the purpose for the visit is accomplished when:

- The absence is for a specific purpose such as a temporary work assignment, visit, hospitalization, participation in an educational or rehabilitation program not available in Tennessee; or
- The absence is for children in treatment centers.

If an individual indicates that they are temporarily out of state, he or she must provide an anticipated date of return. The individual's temporary absence status will be assessed within 10 days of the individual's anticipated date of return.

If at any time during the absence, the individual is determined no longer eligible for Medicaid or CoverKids benefits for any reason, the case must be closed. Application or receipt of Medicaid,

CHIP or Advanced Premium Tax Credits (APTCs) in another state indicates intent to reside elsewhere and results in the loss of Tennessee residency. If a redetermination is required during the period of absence, follow renewal procedures and secure assistance from the other state as necessary.

6. Disputed Residency

An individual's physical location determines the state of residence if two or more states are unable to resolve what state is the state of residence.

7. Verification

An individual is considered a Tennessee resident if the individual attests to living in Tennessee, and intends to reside in the state. HCFA will conduct post-eligibility verification of state residency to ensure program integrity using national and state electronic verification sources. If an individual's state of residence is questionable, he or she will have 10 days to provide documentary evidence supporting his or her claim. Evidence of residency may include, but is not limited to the following:

- A statement of intent to reside in Tennessee; and
- A current Tennessee rent or mortgage receipt or utility bill in the adult applicant's name; or
- A current Tennessee motor vehicle driver's license or identification card issued by the Tennessee Department of Safety in the adult applicant's name; or
- A current Tennessee motor vehicle registration in the adult applicant's name; or
- A document showing that the adult applicant is employed in Tennessee; or
- A document showing that the adult applicant has registered with a public or private employment service in Tennessee; or
- Evidence that the adult applicant has enrolled the applicant's children in a school in Tennessee;
- Evidence that the adult applicant is receiving public assistance in Tennessee; or
- Evidence of registration to vote in Tennessee; or
- Other evidence deemed sufficient by HCFA as proof of residency in Tennessee.

CITIZENSHIP AND IMMIGRATION

Legal Authority: 42 CFR 435.406; 42 CFR 435.407; 42 CFR 435.956; 42 CFR 457.320; 42 CFR 457.380

1. Policy Statement

In order to be eligible for TennCare Medicaid or CoverKids, an individual must be:

a. A U.S. citizen or a U.S. national, or
b. A qualified non-citizen who meets the eligibility conditions associated with specific immigration statuses. See the *Qualified Non-Citizens* policy.

Individuals declaring U.S. citizenship or immigration status must have such declarations verified by HCFA in order to receive TennCare Medicaid or CoverKids. Individuals that are not U.S. citizens, but have been granted the right to reside in the U.S. will have an immigration status. If HCFA is unable to verify a declaration of U.S. citizenship or immigration status using an electronic data source, then the individual must provide satisfactory documentary evidence of citizenship or immigration.

Declarations of citizenship or immigration status must be made by either the individual, an adult member of the individual's family or household, an authorized representative, or if the individual is a minor or incapacitated, someone actively responsible for the applicant provided that such individual attests to having a reasonable basis to make such a declaration of such status.

2. Definitions

U.S. Citizen: An individual who was born in either the:

- United States;
- Puerto Rico;
- Guam;
- Virgin Islands of the United States; or
- The Commonwealth of the Northern Mariana Islands.

U.S. National: An individual who was born in either the:

- American Samoa; or
- Swains Island.

Naturalized Citizen: An individual who becomes a U.S. citizen after birth. Aliens do not become citizens simply by marrying a U.S. citizen. Spouses, however, can apply for naturalization and, if eligible, become citizens through the court.

Derived Citizen: An individual who was adopted or born abroad to at least one U.S. citizen parent. Citizenship may be conveyed to children through the naturalization of parents, to foreign-born children adopted by U.S. parents, or through birth abroad to at least one U.S. citizen parent.

Child Citizenship Act of 2000: According to the Child Citizenship Act of 2000 a child born outside of the U.S. to citizen parents or adopted from abroad by U.S. citizen parents automatically

becomes a citizen of the U.S. when all of the following have been met on or after February 27, 2001:

- At least one parent of the child is a U.S. citizen, whether by birth or naturalization;
- The child is under 18 years of age;
- The child is lawfully admitted for permanent residence to the U.S. and is residing in the legal and physical custody of the citizen parent. The child will have either a permanent resident (e.g., green card) or an I-551 stamp on his or her passport. The child may or may not have a certificate of citizenship; and
- If adopted, the adoption is final.

Qualified Non-Citizen: An individual whose immigration status is included in one of the following groups:

- Qualified aliens, as defined by the Personal Responsibility and Work Opportunity Act of 1996 (8 USC 1641);
- U.S. Armed Services active duty members or veterans and their dependents;
- Certain American Indians born outside of the U.S.; or
- Aliens who have been granted a certain humanitarian immigration status.

3. Exempt Groups

HCFA accepts declarations of U.S. citizenship from the following individuals without verification:

- Individuals receiving Supplemental Security Income benefits;
- Individuals entitled to or enrolled in any part of Medicare;
- Individuals receiving Social Security Disability insurance benefits based on the individual's disability;
- Individuals to whom child welfare services are made available based on the child being in foster care, or receiving adoption assistance or foster care assistance; and
- Newborns who are eligible for Medicaid on the basis of being born to a mother who was eligible and receiving TennCare Medicaid at the time of birth. A newborn who is deemed eligible and enrolled in Medicaid is exempt from citizenship verification requirements for the rest of his or her life. This exemption applies to individuals enrolled as deemed newborns in other states.

Note: Pregnant women eligible for the CoverKids maternity benefits and pregnancy related services are not required to attest to citizenship or immigration status.

4. Verification of U.S. Citizenship and Immigration Status

a. Overview

Declarations of U.S. citizenship and immigration status must be, and then verified using an electronic data match with the Social Security Administration (SSA) or U.S. Department of Homeland Security. Federal law requires that the state first attempt to electronically verify citizenship and immigration status using the Federal Data Services hub (the Hub). When unable to electronically verify citizenship or immigration status of an individual, the individual must provide satisfactory documentary evidence to HCFA.

Verification of citizenship is a one-time requirement. Once citizenship has been verified, it will be recorded in the individual's case and the state cannot request verification again, even if there is a break in coverage. Verification of immigration is also a one-time requirement, unless the individual attests to a change in status.

b. Electronic Verification of U.S. Citizenship and Immigration Status

i. Federal Data Services Hub

A. Applicant Attesting to U.S. Citizenship (Citizenship by Birth)

Confirmation of citizenship status by the SSA via the Hub is considered primary evidence of citizenship. Applicants whose citizenship is confirmed via the Hub are not required to submit additional documentation of citizenship status.

B. Applicant Attesting to U.S. Citizenship (Naturalized and Derived Citizens)

Naturalized or derived citizens will have their citizenship status verified by the U.S. Department of Homeland Security via the Hub, if available. Applicants must provide their Alien Registration Number and information from their Naturalization Certificate or Certificate of Citizenship. Verification of citizenship status by the U.S. Department of Homeland Security via the Hub is considered primary evidence of citizenship, and applicants whose citizenship is confirmed via the Hub are not required to submit additional documentation of citizenship status.

C. Applicant Attesting to Eligible Immigration Status

Applicants who are able to provide a U.S. Department of Homeland Security Alien Registration Number and/or other immigrant documentation numbers may have their immigration status verified by U.S. Department of Homeland Security via the Hub. Electronic verification of immigration status by U.S. Department of Homeland Security is considered primary evidence, and applicants whose immigration status is verified via the Hub are not required to submit additional information.

c. Documentary Evidence of Citizenship

When unable to verify citizenship or immigration status using electronic data sources, the individual must promptly provide satisfactory documentary evidence of citizenship status. Section 1903(x) of the Social Security Act requires that specific documentation be used to verify citizenship status, according to the reliability of the document (42 USC 1396(b)(x)). Stand-alone evidence of citizenship is documentary evidence that may be accepted without any additional evidence of identity. Similar to the electronic verification, this documentary evidence is considered primary evidence of citizenship. The second level of citizenship evidence may be accepted if primary evidence is not available, but the applicant must also provide acceptable evidence of identity.

A photocopy, facsimile, scanned or other copy of a document must be accepted to the same extent as an original document under this section, unless information on the submitted document is

inconsistent with other information available or there is reason to question the validity of the document or information on the document.

i. Stand-alone Evidence of Citizenship

The following must be accepted as satisfactory evidence of citizenship:

A. A U.S. passport, including a U.S. Passport Card issued by the U.S. Department of State, without regard to any expiration date as long as such passport or Card was issued without limitation;
B. A Certificate of Naturalization;
C. A Certificate of U.S. Citizenship;
D. A valid Tennessee-issued driver's license; and
E. Documentary evidence issued by a federally recognized Indian Tribe, as published by the Bureau of Indian Affairs within the U.S. Department of the Interior, and including Tribes located in a state that has an international border, which –

    a. Identifies the federally recognized Indian Tribe issued in the document;
    b. Identifies the individual by name; and
    c. Confirms the individual's membership, enrollment, or affiliation with the Tribe.

    Documents described in subsection E, a-c of this section include, but are not limited to: a tribal enrollment card; a Certificate of Degree of Indian Blood; a Tribal Census Document; and documents on tribal letterhead, issued under the signature of the appropriate tribal official, that provide the required information.

ii. Evidence of Citizenship

If an applicant does not provide stand-alone documentary evidence, the following must be accepted as satisfactory evidence to establish citizenship if also accompanied by acceptable documentation of identity:

A. A U.S. public birth certificate showing birth in one of the 50 states, the District of Columbia, Puerto Rico (if born on or after January 13, 1941), Guam, the Virgin Islands of the U.S. (on or after January 17, 1917), America Samoa, Swains Island, or the Commonwealth of the Northern Mariana Islands (CNMI) (after November 4, 1986). The birth record document may be issued by the state, commonwealth, territory or local jurisdiction. If the document shows the individual was born in Puerto Rico, the Virgin Islands of the U.S. or the CNMI before these areas became part of the U.S., the individual may be a collectively naturalized citizen;
B. A cross match with State Vital Statistics documenting a record of birth;
C. A Certification of Report of Birth, issued to U.S. citizens who were born outside the U.S.;
D. A Report of Birth Abroad of a U.S. Citizen;
E. A Certification of Birth;
F. A U.S. Citizen I.D. card;
G. A Northern Marianas Identification Card, issued to a collectively naturalized citizen, who was born in the CNMI before November 4, 1986;

H. A final adoption decree showing the child's name and U.S. place of birth, or if an adoption is not final, a statement from a state-approved adoption agency that shows the child's name and U.S. place of birth;
I. Evidence of U.S. Civil Service employment before June 1, 1976;
J. U.S. Military Record showing a U.S. place of birth;
K. A data match with the SAVE program or any other process established by the U.S. Department of Homeland Security to verify that an individual is a citizen;
L. Documentation that a child meets the requirements of section 101 of the Child Citizenship Act of 2000;
M. Medical records, including, but not limited to, hospital, clinic or doctor records or admission papers from a nursing facility, skilled care facility, or other institution that indicate a U.S. place of birth;
N. Life, health or other insurance record that indicates a U.S. place of birth;
O. Official religious record recorded in the U.S. showing that birth occurred in the U.S.;
P. School records, including pre-school, Head Start and daycare, showing the child's name and U.S. place of birth;
Q. Federal or state census record showing U.S. citizenship or a U.S. place of birth; and
R. If the applicant does not have one of the documents listed in A-Q of this section, he or she may submit an affidavit signed by another individual under penalty of perjury who can reasonably attest to the applicant's citizenship, and that contains the applicant's name, date of birth, and place of U.S. birth. The affidavit does not have to be notarized.

iii. Evidence of Identity

A. HCFA must accept the following as proof of identity, provided such document has a photograph or other identifying information including, but not limited to, name, age, sex, race, height, weight, eye color, or address:

1. A driver's license issued by a state or territory;
2. A school identification card with a photograph;
3. A voter's registration card;
4. A U.S. military card or draft record;
5. An identification card issued by the federal, state or local government;
6. A military dependent's identification card;
7. American Indian tribal documents; and
8. A U.S. Coast Guard Merchant Mariner card.

B. For children under age 19, a clinic, doctor, hospital or school record, including preschool or day care records.

C. Two documents containing consistent information that corroborates an applicant's identity. Such documents include, but are not limited to, employer identification cards, high school and college diplomas (including high school equivalency diplomas), marriage certificates, divorce decrees, and property deed or titles.

D. Finding of identity from a Federal or State governmental agency. HCFA may accept as proof of identity – A finding of identity from a federal agency or another state agency, including, but not limited to, a public assistance, law enforcement, internal revenue or tax bureau, or corrections agency, if the agency has verified and certified the identity of the individual.

E. If the applicant does not have any documents listed in this section and identity is not verified by another agency, the applicant may submit an affidavit, under penalty of perjury, by another person who can reasonably attest to the applicant's identity. Such affidavit must contain the applicant's name and other identifying information. The affidavit does not have to be notarized.

iv. Verification of citizenship by a federal agency or another state

HCFA may rely, without further documentation of citizenship or identity, on a verification of citizenship made by a federal agency or another state agency, if such verification was done on or after July 1, 2006.

v. Assistance with obtaining documentation

The State must provide assistance to applicants who need assistance in securing satisfactory documentary evidence of citizenship in a timely manner.

d. Documentary Evidence of Immigration Status

When unable to verify immigration status using electronic data sources, the applicant must promptly provide satisfactory documentary evidence of immigration status. The United States Citizenship and Immigration Services (USCIS) has several types of documents that an alien might have to verify his or her status. These documents include, but are not limited to, the following:

- A Permanent Resident Alien Card (I-551) or "Green Cards": issued to eligible immigrants who enter the U.S. to permanently live;
- A Permanent Resident Re-entry Permit (I-327): when valid, allows permanent residents to leave and re-enter the U.S. ;
- A Refugee Travel Document (I-571): issued to refugees and asylees for travel purposes;
- A Temporary I-551 Stamp (on passport or I-94, I-94A). A temporary I-551 stamp will have a handwritten or stamped issue date and a "valid until" date. Temporary I-551 stamps can be used to attest to permanent resident status;
- A Foreign passport stamped by the U.S. Government indicating that the holder has been "Processed for I-551";
- A Machine Readable Immigrant Visa (with temporary I-551 language): indicates permanent resident status;
- An Arrival/Departure Record (I-94, I-94A) Form I-94 stamped with one of the following statuses: Asylee, Parolee or Parole, Refugee, Asylum, HP-humanitarian parolee or PIP-public interest parolee;
- A court order stating that documentation has been withheld pursuant to Section 243(h) of the Immigration and Nationality Act (8 US. 1253);
- A U.S. Passport Card issued by the U.S. Department of Homeland Security, which is an alternative to a traditional passport book. The Passport Card is acceptable documentation for citizenship and identity of the bearer; and
- A Notice of Action (I-797). This is a form of communication from USCIS about immigration benefits.

The alien may contact USCIS or otherwise obtain the necessary verification.

5. Reasonable Opportunity for Verification of Citizenship and Immigration

a. Overview

When an applicant's citizenship or immigration status cannot be promptly verified using an electronic data source or acceptable documentary evidence, HCFA will grant the applicant a period of reasonable opportunity to secure valid verification. The 90-day reasonable opportunity period begins from the date the applicant receives notices of reasonable opportunity. During the period of reasonable opportunity, HCFA must accept a declaration of citizenship or immigration. HCFA must not delay, reduce, or terminate benefits for an applicant who is otherwise TennCare Medicaid- or CoverKids-eligible during this period.

If an applicant must provide information in addition to verification of citizenship, for example, verification of residence, then an applicant has 10 days to return the additional information. If verification of residence is provided within the 10 days, but verification of citizenship remains outstanding, the application will be approved and the period of reasonable opportunity for verification of citizenship will be invoked.

b. Reasonable Opportunity Period

During the reasonable opportunity period, the State must assist the applicant with securing acceptable verification. This may include, but is not limited to, the following activities:

- Assisting the individual in obtaining a Social Security Number;
- Attempting to resolve any inconsistencies, including typographical or other clerical errors, between information provided by the individual and data from an electronic data source, and resubmit corrected information to the electronic data source;
- Providing the individual with information on how to contact the source of the electronic data so that he or she can attempt to resolve such inconsistencies; and
- Permitting the individual to provide other documentation of citizenship or immigration status, as listed in this section.

If satisfactory citizenship or immigration verification is received by the 90th day, the individual's eligibility will continue based on the initial application date and no additional action will be taken.

If satisfactory citizenship or immigration verification is not received by the 90th day, eligibility will be terminated.

QUALIFIED NON-CITIZENS

Legal Authority: 42 CFR 435.139; 42 CFR 435.406; 42 CFR 440.225; 42 CFR 457.320

1. Policy Statement

Non-citizen eligibility for TennCare Medicaid and CoverKids is limited to certain immigration statuses. In order to be eligible, an individual must be either:

- A qualified alien, as defined by Section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) at 8 USC 1641; or
- A U.S. Armed Services active duty member or veteran, or their dependent; or
- An American Indian born outside of the U.S.; or
- An alien who has been granted a certain humanitarian status.

Ineligible aliens are potentially eligible for Emergency Medical Services (EMS) only. Ineligible aliens are not required to provide information regarding citizenship, alien status or enumeration when applying for EMS.

2. Qualified Alien

The PRWORA created two general categories of alien status for the purpose of public assistance eligibility: qualified and non-qualified aliens. Alien status is based on an individual's date of entry into the U.S. and their immigration status with the United States Citizenship and Immigration Services (USCIS).

A qualified alien is an individual who belongs to one of several alien categories, each of which is tied to a specific section of the Immigration and Nationality Act (INA) at 8 USC. 1101, *et seq*. Qualified aliens are potentially eligible for full TennCare Medicaid and CoverKids benefits just like U.S. citizens. However, certain categories of qualified aliens have periods of program ineligibility or time limits placed on eligibility.

Qualified aliens are:

- Aliens lawfully admitted for permanent residence, a Lawful Permanent Resident (LPR), as an immigrant as defined in the INA (8 USC 1101);
- Refugees admitted under the INA (8 USC 1157);
- Asylees granted asylum under the INA (8 USC 1158);
- Aliens paroled in the U.S. under the INA (8 USC 1182(d)(5)) for a period of at least one year;
- Aliens whose deportation is withheld under the INA (8 USC 1253, or 8 USC 1231(b)(3), as amended;
- Battered immigrants and children who meet the conditions set forth in Section 431(c) of the PRWORA, (8 USC 1641(c));

- Cuban or Haitian entrants as defined in Section 501(e) of the Refugee Education Assistance Act of 1980; and
- Aliens granted conditional entry under the INA (8 USC 1153(a)(7)) in effect before April 1, 1980.

3. Other Eligible Immigration Statuses

The following immigration statuses are not statutorily defined as "qualified aliens" however, these groups are generally treated like qualified aliens for eligibility purposes:

- Aliens admitted as Amerasian immigrants under Section 584 of the Foreign Operations Export Financing and Related Programs Appropriation Act of 1988;
- Aliens who are members of a Federally-recognized Indian tribe as defined in the Indian Self-Determination and Education Assistance Act, (25 USC 450(b)(e));
- Aliens who are American Indians born in Canada to whom the INA (8 USC 1359) applies;
- Aliens who are honorably discharged veterans or active duty members of the U.S. Armed Forces, including spouses and dependent children;
- Afghan aliens granted Special Immigrant Status under Section 525 of Title V of the Consolidated Appropriations Act of 2008 as described in the INA (8 USC 1101(a)(27));
- Iraqi aliens granted Special Immigration Status under the National Defense Authorization Act for Fiscal Year 2008 as described in the INA (8 USC 1101(a)(27)); and
- Aliens who are victims of a severe form of trafficking, in accordance with Section 107(b)(1) of the Trafficking Victims Protection Act (TVPA) of 2000 (22 USC 7105(b)).

4. Ineligible Aliens

Ineligible aliens are not eligible to receive full TennCare Medicaid or CoverKids benefits, but they may be eligible to receive EMS or HealthyTNBabies, if all other eligibility requirements are met.

Ineligible aliens include:

a. Undocumented Aliens

These aliens are individuals who enter and reside in the U.S. without notification of or proper permission from the U.S. government.

b. Lawfully Present Aliens

Lawfully present aliens are a specific group of aliens who are eligible to receive health insurance coverage through the Federally Facilitated Marketplace (FFM), but who are unable to receive TennCare Medicaid or CoverKids benefits. Lawfully present aliens include:

- Aliens paroled into the U.S. in accordance with 8 USC 1182(d)(5) for less than 1 year, except for an individual paroled from prosecution, for deferred inspection or pending removal proceedings;
- Aliens granted temporary resident status in accordance with 8 USC 1160 or 1255a;
- Aliens granted Temporary Protected Status (TPS) in accordance with 8 USC 1254a and individuals with pending applications for TPS who have been granted employment authorization;
- Aliens granted employment authorization under 8 CFR 274a.12(c);
- Family Unity beneficiaries in accordance with 8 USC 1182;
- Aliens under Deferred Enforced Departure (DED) in accordance with a decision made by the President of the United States;
- Aliens granted Deferred Action status;
- Aliens granted an administrative stay of removal under 8 CFR 241;
- Beneficiaries of approved visa petitions who have a pending application for adjustment of status;
- An individual with a pending application for asylum under 8 USC 1158, or for withholding of removal under 8 USC 1231, or under the Convention Against Torture, who:
    - Has been granted employment authorization; or
    - Is under the age of 14 and has had an application pending for at least 180 days;
- Aliens who have been granted withholding of removal under the Convention Against Torture (8 USC 208.16);;
- Children who have a pending application for Special Immigrant Juvenile status as described in 8 USC 1101(a)(27)(J); and
- Aliens lawfully present in American Samoa under the immigration laws of American Samoa.

c. Aliens Admitted for a Temporary Purpose

These aliens may be lawfully admitted for a temporary or specified period of time. They include foreign students, visitors, foreign government representatives on official business, crewmen on shore leave, treaty traders and investors and families, temporary workers, including agricultural contract workers and members of the foreign press, radio, film and other media.

Listed below are examples of the types of documentation that a non-qualified or ineligible alien may possess:

- Form I-85, Canadian Border Crossing Card;
- Form I-186, Mexican Border Crossing Card;
- Form SW-434, Mexican Border Visitor’s Permit; and
- Form I-95A, Crewman’s Landing Permit.

5. Five Year Period of Ineligibility

a. Aliens Subject to the Five Year Period of Ineligibility

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) established a 5-year period of ineligibility for all federally-funded benefits, including Medicaid and CoverKids, for certain qualified aliens entering the U.S. on or after August 22, 1996.

The following qualified aliens are not eligible for TennCare Medicaid or CoverKids for a period of five (5) years from the date they are granted qualified alien status:

- LPRs admitted under the INA, 8 USC 1101, *et seq*., after August 22, 1996;
- Aliens granted parole for at least one year under the INA (8 USC 1182(d)(5)); and
- Battered immigrants and children who meet the conditions set forth in Section 431(c) of the PRWORA.

A qualified alien may apply for coverage once the 5-year period of ineligibility expires. The 5-year period of ineligibility expires on the 5-year anniversary of the date he or she was granted qualified status. Once the 5 year bar expires, a qualified alien may apply for benefits as if he or she was a U.S. citizen. No previous application is required. If the qualified alien meets the technical and financial eligibility criteria for a TennCare Medicaid or CoverKids category and the 5-year period of ineligibility has expired, then he or she is eligible to receive coverage in the appropriate category as of the date of application.

Qualified aliens who are subject to the 5-year bar are eligible to receive EMS and HealthyTNBabies during their period of ineligibility, if otherwise eligible.

b. Aliens Exempt from the Five Year Period of Ineligibility

The following qualified aliens are potentially eligible for benefits from the date they enter the U.S.:

- Aliens admitted to the U.S. as an LPR prior to August 22, 1996;
- Aliens who are victims of a severe form of trafficking;
- LPRs who first entered the country under another exempt category (i.e. as a refugee, asylee, Cuban or Haitian entrant, trafficking victim, or alien whose deportation is being withheld) and who later converted to LPR status;
- Aliens who also are:
  - An honorably discharged veteran; or
  - On active duty inside the U.S. military; or
  - The spouse or unmarried dependent child of an honorably discharged veteran or individual on active duty in the U.S. military;
- Members of a federally-recognized Indian tribe;

- American Indians born in Canada to whom the INA (8 USC 1359) applies; and
- Aliens granted a specific humanitarian entrance status by the USCIS, including:
  - Refugees and Asylees;
  - Cuban and Haitian Entrants;
  - Aliens whose deportation is being withheld;
  - Amerasian immigrants; and
  - Afghani and Iraqi aliens.

Note: Aliens granted a specific humanitarian entrance status by the UCSIS are exempt from the 5-year bar for TennCare Medicaid and CoverKids eligibility, but they are subject to a 7-Year eligibility time limit.

6. Seven Year Time Limit for Certain Aliens

a. General Rule

Aliens admitted into the U.S. by the USCIS under a specific section of the INA identified below are qualified non-citizens, and are potentially eligible for TennCare Medicaid and CoverKids for the first 7 years after refugee, asylee or other humanitarian status is granted.

b. Non-Citizens Subject to 7-Year Eligibility Time Limit

Non-citizens granted a specific humanitarian status and subject to the 7 year eligibility time limit include:

- Refugees, admitted under the INA (8 USC 1157);
- Aliens granted asylum under Section 208 of the INA (8 USC 1158);
- Cuban and Haitian Entrants, as defined in Section 501(e) of the Refugee Education Assistance Act of 1980;
- Aliens whose deportation is being withheld under the INA (8 USC 1253) as in effect prior to April 1, 1997; or 8 USC 1231(b)(3), as amended;
- Aliens admitted as an Amerasian Immigrant pursuant to Section 548 of the Foreign Operation, Export Financing and Related Programs Appropriations Act of 1988;
- Afghan aliens granted Special Immigrant Status under Section 525 of Title V of the Consolidated Appropriations Act of 2008 as described in the INA (8 USC 1101(a)(27));
- Iraqi aliens granted Special Immigrant Status under the National Defense Authorization Act for Fiscal Year 2008 of the INA (8 USC 1101(a)(27)); and
- Spouses and unmarried children under age 21 of Afghan and Iraqi Special Immigrants who accompany or later join the Special Immigrant are potentially eligible to receive TennCare Medicaid benefits.

  NOTE: The Defense Appropriations bill for fiscal year 2010 changed eligibility policy for Iraqi and Afghan Special Immigrants. Effective December 19, 2009, the day the bill was

signed into law, individuals admitted to the U.S. under an Afghan or Iraqi Special Immigrant Visa are to be treated like all other refugees. Afghan or Iraqi Special Immigrants are eligible for benefits through the first seven years after entry into the U.S., if all other Medicaid eligibility requirements are met. Any Afghan or Iraqi special immigrant whose coverage was cancelled after December 19, 2009 because of the prior 8-month time limit, is eligible for benefits if all other eligibility requirements continue to be met and the individual is within the 7-year time limit.

c. Expiration of 7-Year Time Limit

A non-citizen who is subject to the 7-year limit and does not have a change in immigration status or does not meet one of the exemptions listed in the following section, will lose eligibility the first month after the 7 year anniversary date of entrance into the U.S. (or date that deportation was withheld under the INA (8 USC 1231 and 1253)).

d. Continuing Eligibility After the 7-Year Limit

A non-citizen who is subject to the 7-year time limit can remain eligible beyond the 7-year period if at the time of filing or at any time during or after the 7-year period, the USCIS determines that the alien continues to be a qualified alien and that he or she is one of the following:

- Lawfully residing in the U.S. and was receiving Medicaid benefits on August 22, 1996; or
- Blind or disabled and was lawfully residing in the U.S. on August 22, 1996; or
- LPR with 40 qualifying quarters; or
- A veteran, or an active duty member of the U.S. Armed Forces, or a spouse of a veteran or active duty military personnel, or a child of a veteran or person in active duty in the U.S. Armed Forces.

e. Adjustment to LPR Status within 7-Year Eligibility Period

A qualified alien who is subject to the 7-year time limit can adjust his or her status to LPR within the 7-year period. Aliens who adjust to LPR status within the 7-year period are not subject to the 5-year bar and remain potentially eligible for benefits beyond the 7-year period of eligibility as an LPR.

7. Victims of Trafficking

The TVPA allows victims of human trafficking, to receive federally funded benefits and services to the same extent as refugees. Victims of human trafficking are non-citizens who are eligible to receive a special visa and benefits once they are identified.

a. Assistance Available to Victims of Human-Trafficking

Adult victims of human trafficking who are certified by the U.S. Department of Health and Human Services (HHS), who are otherwise eligible, may receive Medicaid in any Medicaid category available. Children under age 18 do not have to be certified by HHS to receive benefits. For an adult victim of trafficking to receive certification, he or she must:

- Be a victim of human trafficking as defined by the TVPA;
- Be willing to assist with the investigation and prosecution of traffickers; and
- Have completed a bona fide application for a T Visa or, have received continued presence status from the U.S. Department of Homeland Security.

b. The T Visa - Under the TVPA of 2000

The T Visa was established to allow victims of severe forms of trafficking to become temporary residents of the U.S. The Trafficking Victims Protection Act recognizes that returning victims to their country of origin is often not in the best interest of victims and those victims need the opportunity to rebuild their lives without the threat of deportation. A recipient of a T Visa, after three years, may be eligible for permanent residence status if he or she meets the following conditions:

- They are a person of good moral character;
- They have complied with any reasonable request for assistance in the investigation during the three-year period; and
- They will suffer extreme hardship if they are removed from this country.

c. The Certification Process

The Certification Process typically takes only a few days after HHS is notified that a person has made a bona fide T Visa application or has been granted continued presence status (both of these actions are completed by the U.S. Department of Homeland Security). If the status of a person who has received HHS certification changes so that they are no longer eligible, HHS may be required to decertify that individual.

d. Verification of Victim Certification

A toll-free number can be used to verify victims of trafficking: 1-866-401-5510. Before victims can receive benefits, the Eligibility Specialist must call the toll-free trafficking victim verification line to verify the validity of the certification letter and to also inform HHS that the individual has applied for program benefits.

8. Battered Immigrants and Children

a. Battered Immigrant Defined

Certain immigrants who have been subjected to battery or extreme cruelty in the U.S. by a family member with whom they reside are qualified aliens and are potentially eligible for TennCare Medicaid and CoverKids. The alien must be either:

- The individual battered; or
- The parent of a child who is battered; or
- A child whose parent has been battered.

A family member includes a spouse, parent, or member of the spouse or parent's family residing in the same household.

If admitted to the U.S. on or after August 22, 1996, a battered immigrant and/or child is subject to the 5-year period of ineligibility for TennCare Medicaid and CoverKids benefits. The 5-year period of ineligibility begins on the date he or she obtains qualified alien status.

b. Eligibility Conditions

In order to be considered as a qualified alien and become potentially eligible for TennCare Medicaid (subject to 5-year bar) or CoverKids (subject to 5-year bar), a battered immigrant must meet all of the requirements provided below.

- The immigrant has been approved or has a pending petition which sets forth a prima facie case for:
    - Immigrant status as a battered spouse or child of a U.S. citizen or LPR (Form I-360); or
    - Immediate Relative status (Form I-130); or
    - Suspension of deportation and adjustment to LPR status;
- The immigrant must show that there is a substantial connection between such battery or cruelty and the need for benefits; and
- The immigrant must no longer be residing in the same household as the abuser.

Battered immigrants may be granted good cause for non-cooperation with child support when cooperation requires the involvement of the abuser.

9. American Indians

An Indian born in Canada who is at least one-half American Indian blood may enter and reside lawfully in the U.S., but this does not extend to the spouse or child of the Indian unless they are at least one-half American Indian also. An Indian meeting the above criteria may be eligible for full TennCare Medicaid coverage if all other eligibility requirements are met.

The following documents may be used to verify an Indian is at least one-half American Indian blood:

- Birth or baptismal certificate issued on reservation;
- Tribal record;
- Letter from the Canadian Department of Indian Affairs; or
- School records.

ENUMERATION

Legal Authority: 42 CFR 435.910

1. Policy Statement

Enumeration is the procedure by which the Social Security Administration (SSA) assigns and verifies Social Security Numbers (SSNs). As a condition of eligibility for TennCare Medicaid and CoverKids, applicants who are eligible to receive an SSN must provide HCFA with:

- A valid SSN; or
- The SSN application date, if the individual's SSN is unknown or a number has never been issued.

Benefits will not be delayed or denied to otherwise eligible individuals pending issuance or verification of an SSN by the SSA.

By law, non-applicants are not required to provide their SSN. HCFA can request a non-applicant's SSN under the following conditions:

- When provision of the SSN is voluntary; and
- HCFA provides clear notice to the individual that provision of the non-applicant's SSN is voluntary and information about how the SSN will be used.

2. Notification of the Enumeration Requirement

Individuals will receive notification of the regulation requiring that they furnish an SSN when applying for TennCare Medicaid and CoverKids and how the SSN will be used. Individuals will be informed that:

- They are only required to furnish an SSN for the individuals in their household applying for benefits. Provision of a non-applicant's SSN is voluntary;
- Each applicant's SSN will be used to verify program eligibility, income and the amount of medical assistance payments received;
- This is a requirement of the state and federal government;
- Failure to furnish an SSN or proof that the individual has applied can result in that individual's ineligibility.

If an applicant does not have an SSN or the SSN is questionable, the agency will provide the individual with information about how to obtain an SSN through the SSA.

3. Children Less than 1 Year of Age

A newborn can be added to their mother's case without waiting for the enumeration process to conclude. In most situations, the enumeration process (completion of SS-5 application, which is the

application for a Social Security card) now occurs for newborns at the hospital. Newborns must be enumerated by age one, or before they can be approved in another TennCare Medicaid or CoverKids category, whichever occurs first.

4. Refusal to Obtain as SSN

If an applicant fails or refuses to provide an SSN, then that individual is not eligible to receive benefits, unless he or she meets an exception or is a legal alien who is not eligible for an SSN.

a. Exceptions

i. Religious Objection

An applicant may refuse to obtain an SSN because of a well-established religious objection. A well-established religious objection means that the applicant:

- Is a member of a recognized religious sect or division of that sect; and
- Adheres to the teachings of the sect or division of that sect and for that reason is opposed to applying for or using an SSN.

HCFA will provide a Medicaid identification number to an applicant who refuses to obtain an SSN due to a well-established religious objection. The Medicaid identification number will not be able to be used for eligibility verification purposes.

5. Enumeration of Legal Immigrants

The Affordable Care Act amended the enumeration requirement for individuals who are not eligible for a regular SSN. Legal immigrants who are ineligible for a work-related or regular SSN are not required to obtain a non-work SSN for the purpose of TennCare Medicaid or CoverKids eligibility. The SSA will continue to issue SSNs for people who do have work authorization when an SSN is required to obtain other program benefits. However, a non-work SSN cannot be used to obtain data from other programs or agencies to verify eligibility for TennCare Medicaid or CoverKids.

Legal immigrants who are not eligible for a regular SSN must still meet the citizenship and immigration requirements, as well as all other conditions of eligibility, in order to receive TennCare Medicaid or CoverKids benefits.

6. Verification

a. Individuals With an SSN

SSNs will be verified by the SSA via the Federal Data Services Hub (the Hub). If the Hub is unavailable, the state will verify the SSN using the State Verification Exchange System (SVES)

daily interface. If the Hub or another electronic data source, such as the State On-Line Query (SOLQ), is unable to verify an individual's SSN or validates the SSN as someone else's SSN, the state must first address any possible discrepancies with the SSN that was entered. If the individual's SSN cannot be verified, the state will notify the applicant and request a copy of the individual's Social Security card in order to verify the individual's SSN.

b. Individuals Without an SSN

Individuals who report not having an SSN, but who are eligible to obtain a work-related SSN must apply for an SSN prior to approval for TennCare Medicaid or CoverKids. Acceptable verification of an application for an SSN is a copy of Form SS-5.

c. Individuals Ineligible for a Work-Related SSN

If an individual attests that he or she is ineligible for a work-related SSN and the U.S. Department of Homeland Security has verified his or her immigration status, the Eligibility Specialist will make note of the exception in the individual's case record. Non-work SSNs should not be used when applying for TennCare Medicaid or CoverKids since these cannot be used for verification.

AGE

Legal Authority: 42 CFR 435.945; 42 CFR 435.952; 42 CFR 435.956

1. Policy Statement

In order to be eligible for TennCare Medicaid or CoverKids, an individual must meet the age requirement of the specific TennCare Medicaid or CoverKids category.

2. Verification

HCFA accepts self-attestation of the applicant's age, unless the HCFA has information that is not compatible with the attested information. If there is reason to believe that the attested age is incorrect, the state will attempt to verify the age of the individual using specific electronic data sources. If the individual's age is unable to be electronically verified, then acceptable documentary evidence of age must be provided.

a. Electronic Data Source

The following is a list of electronic data sources that may be used to verify the age of an applicant:

- Federal Data Services Hub (Hub);
- Social Security Administration interface; and
- Tennessee Vital Statistics.

b. Documentary Evidence

The following is a list of acceptable documentary evidence of age:

- A birth certificate;
- Birth verification;
- Census Bureau records;
- Immigration record;
- An insurance policy;
- A passport; and
- Proof of entitlement to Social Security benefits based on age.

If none of the examples of documentary evidence listed above can be provided, HCFA will accept a statement from the applicant which reasonably explains the discrepancy.

UNBORN STATUS

Legal Authority: 42 CFR 435.603; 42 CFR 435.956

1. Policy Statement

An unborn child is included in the household size of a pregnant woman when determining financial eligibility for TennCare Medicaid and CoverKids. An unborn child is not included in the household size when determining eligibility of family members of a pregnant woman, including the pregnant woman's spouse and other children in the household. When there is more than one fetus, each unborn child will be counted when determining the household size for the mother.

Unborn children are not eligible to receive TennCare Medicaid benefits. Once a child is born, he or she is eligible for benefits in the Deemed Newborn category up to age 1 from the date of birth as long as the mother was eligible for and receiving TennCare Medicaid at the time of the child's birth.

2. Verification

The State accepts self-attestation of pregnancy at application or as a reported change, unless the State has information that is not reasonably compatible with such attestation. If the state has information that is not reasonably compatible with an attested pregnancy, the state will contact the individual and may request written medical verification of the pregnancy.

Acceptable written medical verification of pregnancy has the following characteristics:

- Prepared and signed by medical personnel including but not limited to a physician, nurse, health clinic, or other medical paraprofessional; and
- The written verification bears a current date and includes at least an estimated date of delivery, if not a date of conception.
- If a woman attests that she is pregnant with multiple children, and the state has reason to believe that the woman has provided false information, then acceptable written medical verification of the pregnancy must also include confirmation of the number of fetuses.

COOPERATION WITH CHILD SUPPORT SERVICES

Legal Authority: 42 CFR 433.147

1. Policy Statement

To be eligible for TennCare Medicaid in the Caretaker Relative category, an individual must agree to cooperate with the state in establishing paternity of a child born out of wedlock and in obtaining medical support and payments for himself or herself and anyone for whom the individual can legally assign rights. Individuals who refuse to agree or fail to demonstrate cooperation with the state will no longer be eligible for TennCare Medicaid, unless the state has granted them good cause for failure to cooperate.

2. Definitions

Assignment of Rights: When an applicant or an authorized representative signs an application, he or she agrees to the following:

- His or her right to any medical support or payment for medical expenses is assigned or given to the state;
- The State may receive reimbursement from any third party for any medical expenditure made by HCFA on the enrollee's behalf; and
- The enrollee is required to return to the state any support or payments for medical expenses he or she received from a third party.

Cooperation with the State: The individual is required to provide the state any and all information necessary to establish paternity or obtain medical support or payment, if requested, unless good cause exists, and to attest to lack of information under penalty of perjury per 42 CFR 433.147(b)(3).

Medical Support: Medical support is financial support available to an individual for his or her medical expenses.

3. Exemptions from Cooperation Requirements

The following are exempt from child support cooperation requirements:

- Women eligible in the Pregnant Woman/Pregnancy MAGI category;
- A minor parent or caretaker who is eligible in a children's category;
- Single parent adoptions;
- The absent parent is deceased;
- A parent or caretaker whose only child receives Supplemental Security Income; and
- A parent or caretaker determined to have good cause for refusal to cooperate with Child Support Services.

4. Good Cause for Refusal or Failure to Cooperate with Child Support Services

Good cause can be granted for refusal or failure to cooperate with Child Support Services when the Department of Child Support Enforcement Services determines that cooperation is against the best interests of the child. Examples of when cooperation is not in the child's best interest include when:

- Cooperation may result in physical or serious emotional harm to the child; or
- Cooperation may result in physical or serious emotional harm to the caretaker; or
- A child was conceived as a result of incest or rape; or
- Adoption proceedings are pending for the child.

5. Refusal to Agree to Cooperate with Child Support Services

If an applicant refuses to agree to cooperate or an enrollee refuses to cooperate in establishing paternity or obtaining medical support and payments, the individual is not eligible for TennCare Medicaid and if enrolled, eligibility will be terminated.

6. Verification

Individuals are considered to be cooperating if, at the time of application, they agree to cooperate with Child Support Services.

DEATH

Legal Authority: 42 CFR 435.919; 42 CFR 431.213

1. Policy Statement

Eligibility for TennCare Medicaid and CoverKids will be terminated once an enrollee's death has been verified. Advance notice of action is not required if HCFA has factual information confirming the death of a beneficiary.

2. Verification

a. Notification of death from the enrollee's family or representative

If an enrollee's family member or representative reports the death, then verification of the death must be obtained. Verification can either be obtained electronically through Vital Statistics or State On-Line Query (SOLQ), or with a hard copy of the obituary or death certificate.

b. Notification of death through an electronic interface

If the State receives a date of death (DOD) through an electronic interface with the Social Security Administration (SSA), verification of death must be obtained. Verification can either be obtained electronically through Vital Statistics or SOLQ, or with a hard copy of the obituary or death certificate. Any DOD received electronically from Vital Statistics will be applied systematically.

OVERVIEW OF FINANCIAL ELIGIBILITY

1. Overview

The Affordable Care Act (ACA) requires that financial eligibility for certain TennCare Medicaid categories and CoverKids be determined using the Modified Adjusted Gross Income (MAGI) methodology. Implementation of the MAGI methodology eliminates former references to AFDC/TANF policies and procedures for the applicable MAGI categories. The MAGI methodology is based on federal tax rules for determining adjusted gross income.

In general, the MAGI methodology is defined by the following characteristics:

- Financial eligibility is based on current monthly household income and household size;
- Taxable income is countable income;
- Non-taxable income is excluded income;
- There is no asset or resource test;
- There is a 5% disregard applied to income calculations when the disregard matters for determinations of eligibility; and
- Household size is determined by the principles of tax dependency.

2. Purpose

The ACA amended federal laws so that one eligibility determination methodology is used across all Insurance Affordability Programs: Medicaid, Children's Health Insurance Programs (CHIP), referred to as CoverKids in Tennessee, and the Advance Premium Tax Credits (APTC) offered through the state and federal Exchanges. Minor differences exist between the Medicaid/CHIP and the APTC MAGI methodologies, but in general, the methodologies yield similar outcomes when determining financial eligibility.

3. Federally-Required MAGI Eligibility Categories

The ACA requires that the MAGI methodology, as written in federal regulations, be applied to the following categories:

- Child MAGI 0-1 (including Extended and Transitional);
- Child MAGI 1-5 (including Extended and Transitional);
- Child MAGI 6-18 (including Extended and Transitional);
- Presumptive Pregnancy;
- Pregnancy MAGI (including Extended and Transitional)
- Caretaker Relative MAGI (including Extended and Transitional);
- CoverKids; and
- HealthyTNBabies (CoverKids program).

INCOME OVERVIEW

1. The MAGI Methodology and Insurance Affordability Programs

The Affordable Care Act (ACA) requires that financial eligibility for all insurance affordability programs be determined using the Modified Adjusted Gross Income (MAGI) Methodology. This means that for certain Medicaid categories, the Children's Health Insurance Program (CoverKids) and the Advance Premium Tax Credits (APTCs) offered on the Exchange, household income determined using the MAGI methodology will apply across all three programs. The primary difference with income counting rules for the three programs is that Medicaid and CHIP determine eligibility based on monthly income, while the Exchange uses annual income to determine APTC eligibility.

MAGI methodology is based on federal tax rules. In general, when determining eligibility, taxable income is counted and non-taxable income is excluded. Expenses that are allowed under federal tax rules are allowed in Medicaid eligibility determinations. The MAGI methodology also eliminates the use of disregards based on household characteristics, e.g. the earned income disregard. A general 5% disregard of household income is permitted, but only if it impacts eligibility. See the *Expenses* and *The 5 Percent FPL Disregard for MAGI* policy.

2. General Income Types

Income types that are countable for TennCare Medicaid, TennCare Standard and CoverKids coincide with income types that are reported under the Income section on IRS Form 1040. Countable income under the MAGI methodology includes income included in any of the following 12 income types:

1. Job (Wages, tips, etc…)
2. Self-employment
3. Social Security benefits
4. Unemployment
5. Retirement
6. Pension
7. Capital Gains
8. Investment Income
9. Rental or Royalty Income
10. Farming or Fishing income
11. Alimony Received
12. Other income:
    a. Canceled debts
    b. Court awards
    c. Jury Duty pay
    d. Cash Support
    e. Gambling, prizes or awards

3. Exceptions

The MAGI methodology is used to determine income eligibility for all insurance affordability programs: Medicaid, CHIP (CoverKids) and the APTCs offered through the Exchange. The income counting rules are generally the same, except for 3 types of income (retained Medicaid policy):

- Amounts received as lump sums are counted as income only in the month received;
- Scholarships, awards or fellowship grants used for education purposes and not for living expenses are excluded from income; and
- American Indian/Alaska native exceptions.

4. Medicaid Safe Harbor

Legal Authority: 42 CFR 435.603(i)

If an individual is determined financially ineligible for a MAGI TennCare Medicaid category, and is then determined to have household income below 100 percent FPL by the Federally Facilitated Marketplace (FFM), Medicaid financial eligibility will be determined in strict accordance with the income counting rules in the FFM.

Income determinations for Medicaid Safe Harbor individuals is accepted as determined by the FFM and TennCare Medicaid eligibility is granted as long as the individual meets all non-financial requirements.

5. Counting Income

Eligibility is determined based on monthly income. All income must be converted to a monthly figure. The following formulas are used to convert income to a monthly amount.

a. Hourly Work: Multiply the hourly wage by the number of hours the individual worked or is expected to work in a week to determine the weekly earnings figure.

b. Weekly Income: Multiply weekly income by 4.3 to determine monthly income.

c. Bi-Weekly Income: Multiply the amount received every two weeks by 2.15 to determine the monthly amount.

d. Semi-Monthly Income: Add the two semi-monthly amounts together to determine the monthly amount.

e. Annual Income: Divide the full amount of annual income by 12 to determine the average monthly amount.

HOUSEHOLD COMPOSITION FOR MAGI

Legal Authority: 42 CFR 435.603; 42 CFR 435.956

1. Policy Statement

Household composition for TennCare Medicaid (Child, Pregnant Women and Caretaker Relative categories) and the CoverKids categories will be determined using the Modified Adjusted Gross Income (MAGI) methodology. MAGI household composition methodology is based on federal tax rules and the principles of tax dependency, however the MAGI rules apply to both applicants who expect to file taxes or be claimed as a tax dependent, and to those applicants who do not file taxes or are not claimed as tax dependents. Each applicant has his or her own household size constructed under MAGI rules and it is permissible for applicants who live in the same household to have different household sizes.

MAGI household composition methodology allows for inclusion of individuals in an applicant's household who, under previous household composition rules, would have been excluded. Individuals who may be included in the applicant's household include: Supplemental Security Income (SSI) Recipients, IV-E Adoption Subsidy and Foster Care recipients, and individuals under the age of 19 who are legally married or have been emancipated.

2. Definitions

Custodial Parent and Non-Custodial Parent: The custodial parent and non-custodial parent are determined based on a court order, binding separation, divorce, or parenting plan establishing physical custody controls. The custodial parent, also known as the primary residential parent, is the parent with whom the child spends most nights.

Household Size: Household size includes the number of persons counted as members of an individual's household based on the tax household or non-filer household rules. Household size is a factor in determining what income standard is used.

Parent: Parent includes natural or biological, adopted or step parents.

Sibling: Sibling includes natural or biological, adopted, half or step siblings.

Tax Dependent: Individuals for whom another person, the tax filer, claims a deduction for a personal exemption in a taxable year. For eligibility purposes, tax dependents are individuals who expect to be claimed as such by another tax payer for the taxable year in which an eligibility determination is made.

Tax Filer: An individual who expects to file a tax return for the taxable year in which an eligibility determination is made. A tax filer does not expect to be claimed as a tax dependent by another person.

Tax Household: Tax filer (includes married couples filing jointly) and all claimed dependents.

Tax Filing Threshold: An annual income amount set by the Internal Revenue Service (IRS) that determines whether an individual is required to file income taxes. The threshold varies by age, marital status and the number of tax dependents claimed.

Non-Filer: An individual who does not expect to file a tax return or be claimed as a tax dependent for the taxable year in which an eligibility determination is made.

3. Household Composition

There are 2 sets of household composition rules under MAGI methodology. Tax filer rules are for applicants who file taxes or are claimed as tax dependents. Non-filer rules are for those applicants that do not file taxes, are not claimed as tax dependent or meet a tax dependent exception.

Note: Household composition is done on an individual basis from the perspective of each individual. It is possible for household members to have different household sizes when determining eligibility. It is also worth noting that for individuals included in the household size of his or her natural, adopted or step parents that do not meet the tax filing threshold should not have income included in household income whether or not the individual files a tax return.

4. Tax Filers

a. General Rule

For applicants who expect to file taxes, the household includes the tax filer and any dependents the tax filer expects to claim.

b. Tax Dependents

For applicants claimed as tax dependents, the household is the same as the tax filer claiming the tax dependent. Tax dependents may include individuals not otherwise eligible for TennCare Medicaid or CoverKids, and who are not applying for benefits. If a non-custodial parent claims a child as a dependent, the dependent child will be included in the non-custodial parent's household size.

c. Spouses

Spouses who file joint taxes are both considered tax filers. For married couples who live together, each spouse will always be included in the other spouse's household, regardless of the couple's tax filing status.

d. Tax Filer Household

The following would be included in the tax filer's household:

- The tax filer;
- All individuals whom the tax filer expects to claim as a tax dependent; and

- The tax filer's spouse if living in the home, regardless of whether the couple expects to file jointly or separately.

Reminder: The tax dependent's household is the same as the tax filer that claims the tax dependent.

e. Tax Dependent Exceptions

There are 3 exceptions to the general rule for applicants claimed as tax dependents. An applicant who meets any of the following is subject to the non-filer household composition rules:

1. The tax filer is someone other than the applicant's spouse, or natural, adopted or step parent; or
2. The applicant is under age 19, or 21 if a full-time student, and is claimed as a tax dependent by one parent, but his or her parents live together (and do not file a joint tax return); or
3. The applicant is under age 19, or 21 if a full-time student, and expects to be claimed as a tax dependent by a non-custodial parent.

5. Non-Filers and Applicants Not Claimed as Tax Dependents

Applicants who do not expect to file taxes and are not claimed as tax dependents by another tax payer or applicants that meet one of the three tax dependent exceptions are subject to non-filer household composition rules.

For applicants subject to the non-filer household composition rules, the household includes the applicant and if living with the applicant:

- The applicant's spouse;
- The applicant's natural, adopted and step children under age 19, or 21 if a full time student;
- For applicants under age 19, or 21 if a full time student, the applicant's natural, adopted or step parent; and
- For applicants under age 19, or 21 if a full-time student, the applicant's natural, adoptive and step siblings who are under age 19, or 21 if a full-time student.

6. Pregnant Women

When determining household size for a pregnant woman, the pregnant woman is counted as herself plus the number of children she is expected to deliver. When determining household size for other applicants in the household, the pregnant woman is counted as one person.

7. Joint Custody/Parenting Time

a. Joint Custody/Parenting Time

For the purpose of determining Medicaid eligibility, the custodial parent, often referred to as the primary residential parent in Tennessee, is established based on physical custody specified in a court order, binding separation, divorce, or parenting plan. If there is no court order or parenting plan, custody of a child born out of wedlock is with the mother. If there is a parenting plan, the primary residential parent is the parent with whom the child spends most nights.

b. Equally-Shared Joint Custody/Parenting Time

When an individual claims that equally-shared (50/50) joint physical and legal custody exists or provides a parenting plan that evenly divides the child(ren)'s living arrangement and parenting responsibilities, the parenting time situation must be carefully examined. Though a court order or parenting plan may evenly divide the care and control of the child(ren), the parents may not, in fact, be following the parenting plan.

In cases of alleged equal parenting time (50/50), the Eligibility Specialist must verify that:

- Both parents exercise parental guidance.

  Parental guidance may include issues such as which parent takes children to and from school and/or day care, which parent does the school and/or daycare consider the responsible relative, who exercises responsibility for consenting to major medical treatment for the child, etc.

- Parents equally share physical custody.

  If one parent has the child(ren) a majority of the time, this is not considered equally shared parenting time. Child(ren) must spend an equal amount of time living with each parent. The living arrangement may be based on days, weeks or months, but it must be equal (182.5 days per year with each parent) and parental functions of guidance and physical care cannot be substantially interrupted. (If equal time means 6 months at a time are spent with each parent, this will be considered extended visits. Eligibility for the parent ceases when the child is with the other parent.)

  If it is determined that equal (50/50) parenting time exists, the Eligibility Specialist should contact the Member Services Eligibility Policy Unit for additional guidance on processing the case.

8. Verification

The State accepts self-attestation of household members, relationship between the household members, and tax filing intentions.

The State will use Public Assistance Reporting Information System (PARIS) data post-enrollment to determine if any individuals are receiving benefits in another state, in order to identify children for whom non-custodial parents are applying for benefits through HCFA.

9. Household Composition Procedures

When determining household size, a household must be constructed for each applicant in the household. The applicant's household is based on the tax filing status of the applicant.

a. Does the applicant expect to file taxes?

i. If No – Continue to 9.b.
ii. If Yes – Does the applicant expect to be claimed as a tax dependent by another person?

A. If No – The household is the household of the tax filer.
B. If Yes – Does the applicant meet any of the tax dependent exceptions listed in 4.e.?

1. If No – The applicant's household is the same as the tax filer.
2. If Yes – The applicant's household is based on non-filer rules.

b. Does the applicant expect to be claimed as a tax dependent?

i. If No – The applicant's household is the based on non-filer rules.
ii. If Yes – Does the applicant meet any of the tax dependent exceptions listed in 4.e.?

A. If No – The applicant's household is the same as the tax filer.
B. If Yes – The applicant's household is based on non-filer rules.

10. **Household Composition Examples**

a. Mary's Family

Mary (35), Mary's son Jeff (15) and Mary's daughter Kayla (12) live in the household. Mary claims all as tax dependents.

i. Mary's household

Does Mary expect to file taxes? Yes

Does Mary expect to be claimed as a tax dependent? No
Mary's household is her tax household: Mary, Jeff and Kayla (Household = 3)

ii. Jeff's household

Does Jeff expect to file taxes? No
Does Jeff expect to be claimed as a tax dependent? Yes
Does Jeff meet any of the tax dependent exceptions? No
Jeff's household is same as the tax filer who claims him as a dependent: Mary, Jeff and Kayla (Household = 3)

iii. Kayla's household

Does Kayla expect to file taxes? No
Does Kayla expect to be claimed as a tax dependent? Yes
Does Kayla meet any of the tax dependent exceptions? No
Kayla's household is the same as the tax filer who claims her as a dependent: Mary, Jeff and Kayla (Household = 3)

b. John's Family

John (28), John's son Bill (8) and John's nephew Stephen (14) live the household. John claims all as tax dependents.

i. John's household

Does John expect to file taxes? Yes
Does John expect to be claimed as a tax dependent? No
John's household is the tax household: John, Bill and Stephen (Household = 3)

ii. Bill's household

Does Bill expect to file taxes? No
Does Bill expect to be claimed as a tax dependent? Yes
Does Bill meet any of the tax dependent exceptions? No
Bill's household is the same as the tax filer who claims him as a tax dependent: John, Bill and Stephen (Household = 3)

iii. Stephen's household

Does Stephen expect to file taxes? No
Does Stephen expect to be claimed as a tax dependent? Yes

Does Stephen meet any of the tax dependent exceptions? Yes – Stephen expects to be claimed by someone other than a spouse or a natural, adopted or step parent. Non-filer rules apply.
Stephen's household: Stephen (Household = 1)

c. Rose's Family

Rose (51), Rose's daughter Stephanie (26) and Stephanie's daughter Jill (3) live the household. Rose claims all as tax dependents.

i. Rose's household

Does Rose expect to file taxes? Yes
Does Rose expect to be claimed as a tax dependent? No
Rose's household is her tax household: Rose, Stephanie and Jill. (Household = 3)

ii. Stephanie's household

Does Stephanie expect to file taxes? No
Does Stephanie expect to be claimed as a tax dependent? Yes
Does Stephanie meet any of the tax dependent exceptions? No
Stephanie's household is the same as the tax filer who claims her as a dependent: Rose, Stephanie and Jill (Household size = 3)

iii. Jill's household

Does Jill expect to file taxes? No
Does Jill expect to be claimed as tax dependent? Yes
Does Jill meet any of the tax dependent exceptions? Yes – Jill is claimed as a tax dependent by someone other than a spouse or natural, adopted or step parent. Non-filer rules apply.
Jill's household: Stephanie and Jill (Household Size = 2)

d. Barbara's Family

Barbara (25), her son Alex (5) and her daughter Joy (1) live in the household. Barbara claims Joy as a tax dependent. Her son Alex is claimed as a tax dependent by his father (non-custodial).

i. Barbara's household

Does Barbara expect to file taxes? Yes
Does Barbara expect to be claimed as a tax dependent? No
Barbara's household is the same as her tax household: Barbara and Joy (Household = 2)

ii. Alex's household

Does Alex expect to file taxes? No
Does Alex expect to be claimed as a tax dependent? Yes
Does Alex meet any of the tax dependent exceptions? Yes – Alex is claimed as a tax dependent by his father. Non-filer rules apply.
Alex's household: Barbara, Alex and Joy (Household = 3)

iii. Joy's household

Does Joy expect to file taxes? No
Does Joy expect to be claimed as a tax dependent? Yes
Does Joy meet any of the tax dependent exceptions? No
Joy's household is the same as same as the tax filer who claims her as a dependent: Barbara and Joy (Household = 2)

Note: If Alex's father applies for TennCare Medicaid, his household under the MAGI methodology will include himself, Alex and any other individuals he claims as tax dependents.

e. Joe's Family

Joe (42), his girlfriend Sarah (39), his son Damon (14), her daughter Kate (9), and their son Ben (6) live in the household. Joe and Sarah file taxes separately. Joe claims Damon and Ben as tax dependents, and Sarah claims Kate as a tax dependent.

i. Joe's household

Does Joe expect to file taxes? Yes
Does Joe expect to be claimed as a tax dependent? No
Joe's household is his tax household: Joe, Damon and Ben (Household = 3)

ii. Sarah's household

Does Sarah expect to file taxes? Yes
Does Sarah expect to be claimed as a tax dependent? No
Sarah's household is her tax household: Sarah and Kate (Household = 2)

iii. Damon's household

Does Damon expect to file taxes? No
Does Damon expect to be claimed as a tax dependent? Yes
Does Damon meet any of the tax dependent exceptions? No

Damon's household is the same as the tax filer who claims him as a dependent: Joe, Damon and Ben (Household = 3)

iv. Kate's household

Does Kate expect to file taxes? No
Does Kate expect to be claimed as a tax dependent? Yes
Does Kate meet any of the tax dependent exceptions? No
Kate's household is the same as same as the tax filer who claims her as a dependent: Sarah and Kate (Household = 2)

v. Ben's household

Does Ben expect to file taxes? No
Does Ben expect to be claimed as a tax dependent? Yes
Does Ben meet any of the tax dependent exceptions? Yes – Ben is claimed as a tax dependent by one parent (Kate) but he lives with both of his parents. Non-filer rules apply.
Ben's household: Joe, Sarah, Damon, Kate and Ben (Household = 5)

f. Marcia's Family

Marcia (45), her husband George (50), her son Trent (16), his son Jack (22) and their daughter Beth (14) are in the household. Marcia files taxes and claims her son as a tax dependent. George files taxes and claims Jack and Beth as tax dependents.

i. Marcia's household

Does Marcia expect to file taxes? Yes
Does Marcia expect to be claimed as a tax dependent? No
Marcia's household is her tax household plus her spouse: Marcia, George and Trent (Household = 3)

ii. George's household

Does George expect to file taxes? Yes
Does George expect to be claimed as a tax dependent? No
George's household is his tax household plus his spouse: Marcia, George, Jack and Beth (Household = 4)

iii. Trent's household

Does Trent expect to file taxes? No
Does Trent expect to be claimed as a tax dependent? Yes

Does Trent meet any of the tax dependent exceptions? Yes. Trent is claimed as a tax dependent by one parent but he lives with both of his parents. Parent includes step-parent. Non-filer rules apply.

Trent's household is: Marcia, George, Beth and Trent (Household = 4)

iv. Jack's household

Does Jack expect to file taxes? No
Does Jack expect to be claimed as a tax dependent? Yes
Does Jack meet any of the tax dependent exceptions? No – Jack is over the age of 21 and not subject to the tax dependent exceptions.
Jack's household is the same as the tax filer that claims him as a dependent: Marcia, George, Jack and Beth (Household = 4)

v. Beth's household

Does Beth expect to file taxes? No
Does Beth expect to be claimed as a tax dependent? Yes
Does Beth meet any of the tax dependent exceptions? Yes – Beth is claimed as a tax dependent by one parent, but she lives with both parents. Non-filer rules apply.
Beth's household: Marcia, George, Trent and Beth (Household size = 4)

g. Julio's Family

Julio (27), his pregnant wife Gloria, expecting one baby, (24) and their daughter Anna (2) live in the household. Julio and Gloria file taxes and claim Anna as a tax dependent.

i. Julio's household

Does Julio expect to file taxes? Yes
Does Julio expect to be claimed as a tax dependent? No
Julio's household is the same as the tax household: Julio, Gloria and Anna (Household = 3)

ii. Gloria's household

Does Gloria expect to file taxes? Yes
Does Gloria expect to be claimed as a tax dependent? No
Gloria's household is the tax household plus her unborn child: Julio, Gloria and Anna plus unborn child (Household = 4)

iii. Anna's household

Does Anna expect to file taxes? No
Does Anna expect to be claimed as a tax dependent? Yes
Does Anna meet any of the tax dependent exceptions? No
Anna's household is the same as the tax household: Julio, Gloria and Anna (Household = 3)

h. Carol's Family

Carol (34), her son Jake (8) and her daughter Alice (3) are in the household hold. Alice receives SSI benefits. Carol's income is low enough such that she does not file taxes.

i. Carol's household

Does Carol expect to file taxes? No
Does Carol expect to be claimed as a tax dependent? No
Carol's household: Carol, Jake and Alice (Household = 3)

ii. Jake's household

Does Jake expect to file taxes? No
Does Jake expect to be claimed as a tax dependent? No
Jake's household: Carol, Jake and Alice (Household = 3)

iii. Alice's household – Alice receives SSI so she would not receive benefits in a MAGI category. This is for illustrative purposes only.

Does Alice expect to file taxes? No
Does Alice expect to be claimed as a tax dependent? No
Alice's household: Carol, Jake and Alice (Household = 3)

COUNTABLE AND EXCLUDED INCOME

Legal Authority: 26 USC 36B(d)(2)(B); 42 CFR 435.601; 42 CFR 435.949; 42 CFR 435.952

1. Policy Statement

Income eligibility for certain TennCare Medicaid categories and CoverKids is determined using the Modified Adjusted Gross Income (MAGI) methodology. In general, countable income includes income types that are taxable under federal tax law and excluded income includes income types that are non–taxable.

2. MAGI Income Types

Countable income under the MAGI methodology is based on the taxable income types reported to the Internal Revenue Service (IRS) as part of an individual or household's income tax return. In an effort to simplify income reporting under the MAGI methodology, the Centers for Medicare & Medicaid Services (CMS) and the IRS identified the 11 most often reported income types. These are the income types listed on federal application. Applicants are able to report several different sources of income under one income type.

a. Job

Wages	Wages includes all compensation from employment, and the term is generally defined to mean gross wages. Gross wages after pre-tax deductions are taken out by an individual's employer are countable. The pre-tax deductions may include funds for child care, health insurance or retirement plans that are not taxable. An individual's pay stub may list his or her "federal taxable wages", which subtracts the pre-tax amounts from gross wages. If this amount is provided on a pay stub, the individual should report that number. Wages are counted (considered available to the individual) at the earliest of the following: • When received or paid; or • When credited to the individual's account; or • When set aside for the individual's use. Deferred wage payment occurs when wages are paid at a time later than they normally would have been paid. If wage payments are deferred due to circumstances beyond the employee's control, consider the payment earned income when it is actually available to

	him or her. If payments are deferred at the employee's request, determine when the wages would normally have been paid and consider them earned income for that period.
Bonus	Countable. A bonus is a one-time payment that an individual receives in addition to his or her normal job wage or salary.
Commission	Countable. Income received by an individual for services performed. Commission income is often paid based on a percentage of a sale or a fixed amount per sale.
Contractual	Countable. Income paid to an individual based on a contractual agreement. To calculate contractual income, average the full amount of income paid on a contractual basis over the number of months the contract covers.
Tips	Countable. Money and goods received for services performed by food servers, baggage handlers, hairdressers, and others. Tips go beyond the stated amount of the bill and are given voluntarily. All tip income is countable, even if it is not reported to the employer.
Differential	Countable. 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. Payment represents all or a portion of the wages the individual would have received if he or she was performing services for the employer.
Older Americans Act	Countable. Title V of the Older Americans Act of 1965 provides part-time jobs for unemployed low-income people age 55 and older who have poor employment prospects. This income type includes wages and salaries paid to individuals as a result of their participation in a program funded under Title V of the Older Americans Act of 1965 as earned income.
Sick or Disability Pay	Countable. Income an employee receives during a temporary absence from work due to an injury, sickness or disability. Sick or disability pay is considered part of an individual's wages for tax purposes.
Volunteers In Service To America (VISTA)	Countable. Income paid to individuals in the VISTA program which may also include food and lodging allowances paid as wages.
Payment from Federal Emergency Management Assistance (FEMA)	Countable. FEMA funds made to a household to pay for rent, food and utility assistance when there is no major disaster or emergency declaration.

not due to a Disaster or Emergency	
Earned In-Kind Wages	Countable. Non-cash compensation received by an individual for work performed in place of, or in addition to, wages, profit or payment in cash. The value of in-kind wages is determined by the current market value of the item minus the amount of the outstanding balance due on the item, if any.
Earned In-Kind Food	Countable. Food received by an individual for work performed in place of, or in addition to wages, profit or payment in cash.
Earned In-Kind Food and Shelter	Countable. Food and shelter received by an individual for work performed in place of, or in addition to, wages, profit or payment in cash.
Earned In-Kind Shelter	Countable. Shelter received by an individual for work performed in place of, or in addition to, wages, profit or payment in cash.
Earned In-Kind Not Food or Shelter	Countable. Clothing or other goods received by an individual for work performed in place of, or in addition to, wages, profit or payment in cash.
Severance	Countable. Severance pay is countable earned income in the month received.

b. Self-Employment

i. Overview

Net earnings from self-employment are countable income when determining eligibility. Self-employment is the act of engaging in a trade or business. A trade or business is generally an activity carried on for a livelihood or in good faith to make a profit. Individuals may be contractors, franchise holders, owners, operators, partners, etc. An individual must meet all of the following criteria to be considered self-employed:

- Earns income directly from the business or trade, not from wages or salary from an employer;
- Responsible for the payment of their entire Social Security and federal withholding taxes;
- Does not have an employee/employer relationship with another individual and the services performed cannot be controlled by an employer; and
- Should file self-employment tax forms (Schedule F, C, C-EZ, SE, etc.).

Net income is the gross income from any trade or business minus allowable deductions for that trade or business. Allowable deductions include expenses paid to operate the business or participate in the trade, including:

- Car and truck expenses;
- Depreciation;
- Employee wages and fringe benefits;
- Property, liability or business interruption insurance;
- Interest on business loans;
- Legal and professional services;
- Rent or lease of business property and utilities;
- Commissions, taxes, licenses and fees;
- Advertising;
- Contract labor; and
- Repairs and maintenance.

There are different types of self-employment business structures. Some common structures include:

- Sole Proprietorships: A self-employment business that is not incorporated and has one or two owners. A Limited Liability company (LLC) is not a sole proprietorship;
- Independent Contractors: An individual who pays his or her own employment taxes and does not have an employee/employer relationship is considered self-employed, unless incorporated or an LLC; and
- Sharecroppers: If a sharecropper pays the costs of doing business and receives a portion of the net income in exchange for his or her labor, he or she is considered self-employed, unless incorporated or an LLC.

If an individual is self-employed and has a partner, the individual's self-employment net earnings will be based on his or her distributive share from the business.

ii. Federal Income Tax Return Forms

A. Net Earnings from Self-Employment (NESE)

Self-employed individuals report their NESE on the Schedule SE tax form. Other forms may be used to report income (Schedule C, Schedule F, etc.) but the amount listed on Schedule SE should be used to verify self-employment earnings whenever possible. The NESE is the gross income from any trade or business less allowable deductions for that trade or business. NESE also includes any profit or loss in partnership. For the purpose of determining eligibility, count the NESE on a taxable year basis and divide the total of these earnings equally among the months in the taxable year.

Verify net earnings from self-employment on Schedule SE. The amount of net earnings from self-employment that should be reported based on a Schedule SE may be found under: Section A, line 4 or Section B, line 4.c. If line 4 or 4.c. show a positive amount of less than $400, then line 3 is used even if the amount on line 3 is greater than $400.

Schedule SE may not be available or usable when:

- An individual has started a new business and was not self-employed in the prior tax year; or
- An individual has applied for or is receiving Title II (Social Security) benefits.

B. Schedule C

Used to report profit or loss from a Sole Proprietor business (general). Net profit or loss is listed on the Schedule C.

C. Schedule F

Used to report income and expenses from a farm operation. Net profit or less is listed on the Schedule F.

D. Business Records

When a federal income tax return is not available, or the individual has made changes, stopped or added to the business, business records may be used to determine net earnings. When business records are used, use the individual's gross income and allow the same deductions that are allowed by the IRS.

c. Rental or Royalty Income

Rental Income	Rental income is the amount an individual receives for use of his or her property after all property expenses are subtracted. Net rental income is countable when determining eligibility. **Gross Rental Income:** All rental income that an individual collects for the use of his or her property is included in gross rental income. **Rental Expenses:** Rental expenses that may be deducted from gross rental income include: • Pre-rental expenses (expenses related to managing, conserving and maintaining rental property from the time property is available to rent); • Advertising; • Cleaning and maintenance;

- Utilities;
- Fire and liability insurance;
- Taxes;
- Interest;
- Commissions for the collection of rent;
- Ordinary and necessary travel and transportation; and
- Legal and other professional fees.

Other considerations: If an individual only rents part of his or her property, expenses must be divided between the part of the property that is used for rental purposes and the part of the property that is used for personal purposes. This also applies if an individual has any use of a personal dwelling unit, such a vacation home, that he or she rents.

Counting Rental Income

1. Income Received on a Regular Basis.

   If an individual has a federal tax return available to verify the earnings from last year and the rental situation has not changed, prorate the reported annual profit over 12 months. Count the result as earned income, taking into account any changes for the prorated period.

   If the individual does not have a federal tax return available from the previous year, determine the monthly income based on the rental/lease agreement in effect and any expenses the individual has paid or expects to pay in that month.

2. Income Received Annually or Infrequently.

   If rental income is received on an annual or infrequent basis, prorate the annual amount including the anticipated changes over 12 months and count the monthly income as earned income.

Verification: If verification is required for rental income, request at least one of the following documents:

- A copy of the rental or lease agreement in effect during the period under consideration; or
- A copy of the receipt the individual prepared upon receiving rental income; or

	• A copy of the previous year's federal income tax return.
Royalty Income	Countable. Royalty income includes any payments an individual receives from a patent, copyright or any other natural resource owned by the individual. Royalties are countable unearned income when the individual receives payment based on the use of a natural resource for which he or she owns the usage rights.

d. Farming or Fishing Income

Farming or fishing income may be considered self-employment income, but should only be counted once.

i. Farming Income

Farming income is countable. Farming income is income received when an individual is in the business of farming if he or she cultivates, operates or manages a farm for profit, either as owner or tenant. A farm can include livestock, dairy, poultry, fish or fruit. It can also include plantations, ranches, ranges and orchards.

ii. Fishing Income

Fishing income is countable. Fishing income includes amounts an individual receives from catching, taking, harvesting, cultivating or farming fish, shellfish, crustacean, sponges, seaweeds or other aquatic forms of animal or vegetable life, as well as money from patronage dividends and fuel tax credits and refunds.

iii. Counting Farming or Fishing Income:

A. Income Received on a Regular Basis

If an individual has a federal tax return available to verify the earnings from last year and the business model remains the same, prorate the reported annual profit over 12 months. Count the result as earned income, taking into account any changes for the prorated period.

If the individual does not have a federal tax return available from the previous year, determine the monthly income received and any expenses the individual has paid or expects to pay in that month.

B. Income Received Annually or Infrequently

If farming or fishing income is received on an annual or infrequent basis, prorate the annual amount with anticipated changes over 12 months and count the monthly income as earned income.

iv. Verification

If verification is required for farming or fishing income, request at least one of the following documents:

- A copy of an agreement executed by the owner and the individual working the farm (the individual could be either the owner or the tenant); or
- A copy of the most recent profit or loss statement; or
- A copy of the previous year's federal income tax return.

e. Social Security Benefit

Income received from Social Security disability, retirement (Railroad Retirement Board income) or survivor's benefits each month is countable for individuals required to file taxes. Social Security is also countable for individuals when income other than Social Security is over the tax filing threshold. The individual must provide the amount of benefit prior to any deductions, such as Medicare premiums, income tax withholding, overpayments, child support or alimony.

Countable Social Security income types include:

- Social Security Disability Income;
- Railroad Retirement Board Income; and
- Survivor's Benefits.

Note: This is not Supplemental Security Income (SSI). SSI is not countable income.

Income received from Social Security each month is not counted for tax dependents who are not required to file taxes. Social Security income is also not counted for children included in a natural or biological, adopted or step parent's household when the child's income other than Social Security is under the tax filing threshold.

f. Unemployment

Count the full value of unemployment compensation benefits as available unearned income in the month of receipt. Unemployment compensation includes any amount receive under an unemployment compensation law of the United States or a state.

If verification is required, verify the amount of unemployment benefits received with one of the following:

- Documentary evidence from the Tennessee Department of Labor and Workforce Development; or
- Access through data matches available in the system; or
- Documentary evidence from the state of issuance showing unemployment benefits are from another state.

g. Retirement

Payments an individual receives from a retirement account may be countable depending on the type of account, how much was contributed to the account, and whether the amount contributed was already taxed. Qualified income from a designated Roth account is not countable.

The amount of distributions received from a pension account should be provided on the application, even if the individual is not retired. Retirement income may include the following:

- Qualified employee plan; or
- Individual Retirement Accounts (IRAs).

h. Pension

i. Pension

A pension is generally a series of definitely determinable payments made to an individual after retiring from active employment. Pension payments are made regularly and are based on such factors as years of service and prior compensation. Pension payments are generally made to an individual after retiring from active employment.

Pension income may be countable depending on the type of pension account, how much was contributed to the pension account, and whether the amount contributed was already taxed. Qualified income from a designated Roth account is not countable.

The amount of distributions received from a pension account should be provided on the application, even if the individual is not retired.

ii. Annuities

An annuity is a type of trust with periodic payments that are generated by a bank or insurance company from funds deposited by the individual either in a lump sum or installments to establish a source of income for a future period.

Annuity income is subject to the same treatment as pension income for the MAGI categories. The amount of distributions received from a pension account should be provided on the application, even if the individual is not retired.

i. Capital Gains

Countable. A capital gain is income an individual receives when a capital asset is sold and an individual makes a profit. 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 a capital gain or capital loss.

j. Alimony Received

Countable. Alimony received is money paid to an individual from a spouse that the individual no longer lives with, or a former spouse, if part of a divorce agreement, separation agreement or court order. Payments designated in the agreement or ordered as child support or as a non-taxable property settlement are not alimony.

k. Investment Income

Countable. Dividends and interest are returns on capital investments such as stocks, bonds, and savings accounts, included accrued interest on loans made by the individual.

Count income received on a monthly basis in the month the individual receives it, or the month it is available for his or her use. Convert interest payments received on other than a monthly basis to a monthly amount by prorating the payment over the accrued period.

Investment Income Types:

Stocks and Bonds	Income that an individual receives from stocks, bonds or mutual funds that he or she owns are countable.
Certificate of Deposit	The accrued interest, based on the individual's percentage of ownership, when the certificate of deposit has reached maturity is countable.
Checking Account	The interest an individual receives on their checking account, based on percentage of ownership, is countable.
Life Insurance	Interest income received as a result of life insurance proceeds is taxable income and countable for the purpose of determining eligibility. Life insurance proceeds paid to an individual because of the death of the insured person are not countable.
Retirement Account	Interest income received on a traditional IRA is countable when received.
Savings Account	The interest an individual receives based on the individual's percent of ownership of a savings account is countable.

Contract for Deed	Income paid to an individual from the repayment of property debt is countable.
Promissory Note	A promissory note is a promise in writing to pay an individual at a future date. Interest income an individual receives from a promissory note is countable.

l. Other Income

Canceled Debts	The amount of a debt that an individual is no longer required to pay, or that is forgiven, is countable as income in the month received.
Cash Support	If an individual is claimed as a tax dependent by someone other than a spouse or parent, any cash support provided by the tax filer in excess of $30 a month is countable as income in the month received. If an individual receives a Community Spouse Income Maintenance Amount (CSIMA) or a Dependent Income Maintenance Amount (DIMA) from an institutionalized individual who is receiving Medicaid in another state, the CSIMA or DIMA may be counted as cash support.
Court awards	Settlement amounts that are received, either by compromise or judgment, may be countable income based on the item that the settlement replaces. The following settlements or awards are countable income: • Interest on any award; • Compensation for lost wages or lost profits in most cases; • Punitive damages; • Amounts received in settlement of pension rights (if the individual did not contribute to the plan); • Damages for patent or copyright infringement, breach of contract, or interference with business operations; • Back pay and damages for emotional distress received to satisfy a claim under Title VII of the Civil Rights Act of 1964; and • Attorney fees and costs where the underlying recovery is included in gross income. Compensatory damages for personal physical injury or sickness are not countable income.
Gambling, prizes or awards	Gambling winnings, including lottery winnings, are countable income. In addition to cash winnings, an individual must include the fair market value of bonds, cars, houses or other noncash prizes won

	as part of his or her countable income. Prizes that are not taxable, such as academic scholarships, are excluded as income.
Jury Duty Pay	Jury duty pay is countable income. Any jury duty pay that is turned over to the individual's employer may be excluded. Individuals must enter the amount of jury duty pay received. Reimbursements or allowances received separately from jury duty pay for travel to and from courthouse, for meals and lodging are excluded.

m. Medicaid Exceptions to the MAGI Methodology

MAGI-based income for TennCare Medicaid and CoverKids uses the same financial methodologies defined in section 36B(d)(2)(B) of the Code (which defines countable income as taxable income), with the following 3 exceptions:

i. Amounts received as lump sums are counted as income only in the month received;

ii. Scholarships, awards or fellowship grants used for education purposes and not for living expenses are excluded; and

iii. All of following Indian/Alaska Native related income is excluded:

a. Distributions from Alaska Native Corporations and Settlement Trusts.

b. Distributions from any property held in trust, subject to federal restrictions, located within the most recent boundaries of a prior federal reservation, or otherwise under the supervision of the Secretary of the Interior.

c. Distributions and payments from rents, leases, rights of way, royalties, usage rights or natural resource extraction and harvest from:

1. Rights of ownership or possession in any lands described in paragraph (5)(iii)(b) of this section; or

2. Federally protected rights regarding off-reservation hunting, fishing, gathering or usage of natural resources.

d. Distributions resulting from real property ownership interests related to natural resources and improvements:

1. Located on or near a reservation or within the most recent boundaries of a prior reservation; or

2. Resulting from the exercise of federally-protected rights relating to such real property ownership interests.

e. Payments resulting from ownership interests in or usage rights to items that have unique religious, spiritual, traditional or cultural significance or rights that support subsistence or a traditional lifestyle according to applicable Tribal law or custom.

f. Student financial assistance provided under the Bureau of Indian Affairs education programs.

n. Excluded Income

The income types in the table below are excluded when determining income eligibility under the MAGI methodology for TennCare Medicaid and CoverKids.

Child Support	Child support payments made to a child under court order. Child support payments, including child support arrearages and lump sums, are excluded.
Adoption Subsidies	Payments to an individual from state adoption assistance programs or Title IV-E funds for special needs children are excluded.
Assistance Payment from Another State	Financial assistance provided by another state to help a family pay for necessity items such as food, clothing, housing, utilities and other basic needs. Payments from another state in the form of Food Stamps and TANF indicate that the individual is considered a resident of another state.
Community Spouse Income Maintenance Allowance (CSIMA)	If an individual has a spouse receiving institutionalized Medicaid, the individual may receive the CSIMA. The CSIMA is an allocation of income intended to keep the spouse of an institutionalized individual residing in the community. If the individual is receiving the CSIMA and the spouse is not part of the individual's household when determining eligibility, the CSIMA is excluded.
Dependent Income Maintenance Allowance (DIMA)	If the individual is a dependent of someone receiving institutionalized Medicaid, individual may receive a DIMA. The DIMA is an allocation of income from an institutionalized individual to a dependent residing in the community intended to cover living costs. If the applicant is receiving the DIMA and the institutionalized individual is not part of his or her household, the DIMA is excluded.
Earned Income Tax Credit	Earned income tax credit payments received as advance payments or as refunds are excluded.
Gifts	Occasional monetary gifts to the household, such as money received

	as a birthday, anniversary, graduation or Christmas present, are excluded. Irregular or infrequent gifts received are excluded.
Income Not Pursued	Income not pursued includes payments for which an individual could apply on an ongoing or one-time basis that could include annuities, pensions, retirement benefits or disability benefits. These payments are excluded. Note: The individual may be found not eligible due to failure to apply for other benefits.
Military Allotments	Military allotments are payments made to service members and their families for specific needs. Excluded military allotments include allowances such as the Family Subsistence and Supplemental Allowance or a Basic Allowance for Housing.
Payment from FEMA due to a Disaster or Emergency	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.
Plan to Achieve Self Support (PASS)	PASS is an agreement between an individual with a disability or blindness and the Social Security Administration (SSA) which allows the individual to set aside income or resources to pursue a work goal. Income an individual uses to pursue PASS is excluded. Individuals with PASS plans are SSI recipients.
Protective Payee Payment	A Protective Payee is someone designated by the SSA to help a beneficiary manage his or her benefits. Funds received by a protective payee and used for the care and maintenance of a third party beneficiary (adult or child), who may or may not be part of the protective payee's household, are excluded.
Social Services	Social Services payments, including governmental benefit programs that are based on need such as TANF and Food Stamps, are excluded.
SSI	SSI is non-taxable and excluded from countable income.
TANF Child Support Supplemental Payment (TANF)	State collected child support that is passed through to families receiving TANF assistance is excluded. TANF payments are issued to TANF families based on child support collected from a non-custodial parent.
Temporary Disability Insurance	Compensation received for loss of wages caused by temporary non-occupational disability is excluded. These are payments an individual does not receive from an employer. Payments received from an employer are considered Sick or Disability Pay.
Unearned In-Kind Food, Shelter	Unearned in-kind food or shelter is excluded.

Veterans Affairs Benefits	All VA payments are excluded.
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.
Education Income Not Work Study	Income received through federal student aid, such as grants and loans, except for income received through work study.
Education Income Work Study	Earned educational income directly contingent upon the individual attending an institution of higher education, including work study and stipends, is excluded.
Workforce Investment Act	The Workforce Investment Act (WIA) replaced the Job Training Partnership Act (JPTA). All WIA payments are excluded earned income.

EXPENSES

Legal Authority: 42 CFR 435.603

1. **Policy Statement**

   Individuals are allowed to deduct certain expenses from gross income when determining household income under the Modified Adjusted Gross Income (MAGI) methodology. The expenses allowed under the MAGI methodology correlate to the expenses or deductions permitted by the Internal Revenue Service (IRS) to determine an individual's adjusted gross income.

2. **Expense Types**

   a. **Legally Obligated Alimony:** Alimony is a payment to or for a spouse or former spouse under a divorce or separation instrument. Alimony expenses do not include voluntary payments. The payment must be in cash, including checks and money orders, to be considered alimony. Alimony is an expense to the payer of the alimony and is allowed when alimony is paid during the month of application.

      The following payments are not alimony: child support, noncash property settlements, and payments to keep up the payer's property.

   b. **Student Loan Interest Paid:** The Student Loan Interest Paid expense refers to the amount of interest an individual pays out on a qualified student loan payment made during the month of application. Student loan interest includes both required and voluntary interest payments.

      A qualified student loan is a loan that is taken out solely to pay qualified education expenses that are: for the individual, his or her spouse or a person who was a dependent when the individual took out the loan; paid or incurred within a reasonable period time before or after the loan was made; and for education provided during an academic period for an eligible student.

      A qualified student loan is a loan that pays for the following items: tuition and fees; room and board; books, supplies and equipment; and other necessary expenses such as transportation.

   c. **Other As Defined By Policy:** The Other As Defined By Policy expense refers the following expenses as defined by the IRS. The descriptions included in this section are general descriptions. Applicable expenses are those expenses for the month of application. If an individual reports one of these expenses, notify the Member Services Eligibility Policy Unit.

      - Educator expenses: Eligible educators may deduct up to $250, if spent during the month an application for benefits is filed, for ordinary and necessary expenses paid in connection with books, supplies, equipment (including computer equipment, software and services) and other materials used in the classroom. An eligible educator is a

kindergarten through grade 12 teacher, instructor, counselor, principal or aide who works in a school for at least 900 hours during a school year.

- Certain business expenses of reservists, performing artists and fee-based government officials.

- Health savings account deductions: Contributions to a health savings account (HSA), other than employer contributions, are a deductible expense.

- Moving expenses: An individual may deduct moving expenses if the move date is close to the date of commencement of work, the new job location is at least 50 miles further from his or her old residence than the prior main job location, and moving expenses are incurred within a year of the date the individual reports to work.

- Deductible part of self-employment tax

- Self-employed health insurance deduction

- Penalty on early withdrawal of savings

- IRA deduction: In general, an individual can deduct the lesser of the contributions to his or her traditional IRA for the year; or the general limit. The general limit is the lesser of $5,500 or 100% of his or her compensation.

- Tuition and fees: In general, tuition and fees for enrollment or attendance at an eligible postsecondary educational institution of up to $4,000, if spent during the month an application for benefits is filed, can be deducted for a student who is either the applicant, the applicant's spouse or the applicant's dependent.

- Domestic production activities deduction: A percentage deduction provided to certain small companies for production activities that are conducted in the United States.

THE 5 PERCENT FEDERAL POVERTY LIMIT DISREGARD FOR MAGI

Legal Authority: 42 CFR 435.603

1. Overview

The Affordable Care Act (ACA) requires that financial eligibility for certain TennCare Medicaid and CoverKids categories be determined using the Modified Adjusted Gross Income (MAGI) methodology. The MAGI methodology eliminates all characteristic-specific income disregards, such as the earned income disregard, dependent care disregard or child support disregard. Instead, a 5% Federal Poverty Level (FPL) disregard will be applied to any individual in a MAGI TennCare Medicaid, TennCare Standard or CoverKids category when the disregard would make the individual eligible. These individuals are those whose household income is within 5 FPL percentage points of the highest income standard for which they can obtain TennCare Medicaid, TennCare Standard or CoverKids eligibility under MAGI-based income rules. The 5% FPL disregard does not apply to the TennCare Medicaid Medically Needy categories.

2. Policy Statement

A 5% FPL disregard is applied to applicants' household income in the TennCare Medicaid, TennCare Standard and CoverKids categories that use the MAGI methodology to determine financial eligibility. The 5% disregard does not apply to TennCare Medicaid Medically Needy categories.

Children and pregnant women whose household income is within 5 percentage points of a TennCare Medicaid or TennCare Standard category will receive the 5% disregard in order to be determined eligible for TennCare Medicaid or TennCare Standard, rather than be determined eligible in CoverKids.

3. Application of the Disregard to TennCare Medicaid and TennCare Standard

The 5% FPL disregard is provided by converting 5% FPL to a dollar amount, based on household size. The dollar amount is subtracted from the applicant/enrollee's household modified adjusted gross income.

Example: A pregnant woman applies for TennCare Medicaid. She has no spouse or other children living in the home. The income standard for the Pregnancy MAGI category is $2,589 (195% FPL, household size of 2). The 5% FPL disregard equals $66.38 ($1327.50 x 0.05 = $66.38). The applicant's monthly household modified adjusted gross income is $2,600. The applicant will receive the disregard, $2,600-$66.38 = $2,533.62, making her eligible for the Pregnancy MAGI category.

Applicants whose household income is within the following ranges will be made eligible by applying the 5% FPL disregard:

- Children Aged 0-1 Years Old: Household income is between 195% and 200% FPL

- Children Aged 1-5 Years Old: Household income is between 142% and 147% FPL
- Children Aged 6-18 Years Old: Household income is between 133% and 138% FPL
- Pregnant Women: Household income is between 195% and 200% FPL
- TennCare Standard Uninsured: Household income is between 211% and 216% FPL*
- Caretaker Relatives: The 5% disregard is the individual's Modified Adjusted Gross Income amount minus the actual dollar amount of 5% of 100% FPL for the appropriate household size.

* Only children who are losing TennCare Medicaid are reviewed for TennCare Standard Uninsured or Medically Eligible eligibility. All new applicants who are ineligible in a MAGI Medicaid Child category are reviewed for Child Medically Needy, and if they are determined to be ineligible as Medically Needy, they will be reviewed for CoverKids eligibility.

Example: Mary and her two children Steven, age 4, and Carrie, age 9, apply for coverage. Mary is pregnant and expecting one baby. Mary pays taxes and claims Steven and Carrie as dependents. Since she is pregnant, Mary's household size is 4 and the two children's household sizes are 3. Mary earns $2,200 per month at her job. Mary is determined eligible in the Pregnancy MAGI category, Steven is determined eligible in the Child MAGI 1-5 category, but Carrie is ineligible for the Child MAGI 6-18 category because her income is over the income eligibility threshold. The 5% FPL disregard is applied to Carrie's household income, which brings her under the income eligibility threshold for the Child MAGI 6-18 category and she is determined eligible.

- Mary: Income eligibility threshold in the Pregnancy MAGI category for household size of 4 = $3,941. Household income is $2,300 which is less than $3,941, so she is eligible.
- Steven: Income eligibility threshold in the Child MAGI 1-5 for household size 3 = $2,378. Household income is $2,300 which is less than $2,378, so he is eligible.
- Carrie: Income eligibility threshold in the Child MAGI 6-18 for household size 3 = $2,227. Household income is $2,300.00 which is greater than $2,227. Carrie is determined ineligible due to being over income. However, because Carrie's household income is under 138% FPL ($2,311), she receives a 5% FPL disregard. We determine the disregard amount by taking 5% of $1674.17 (100% FPL for household size of 3), which is $83.71. The 5% disregard reduces her household income to $2,216.29 ($2,300-$83.71). Her household income is now less than the income eligibility threshold, so she is determined eligible.

4. Application of Disregard to CoverKids

Applicants whose household income is within the following ranges will be made income-eligible for CoverKids by applying the 5% FPL disregard:

- CoverKids Children: Household income is between 250% and 255% FPL.
- CoverKids HealthyTNBabies: Household income is between 250% and 255% FPL.

Note: Pregnant women and children with income in the ranges described above for TennCare Medicaid categories will receive the 5% FPL disregard so that they are eligible for TennCare Medicaid, rather than being determined eligible for CoverKids.

REASONABLE COMPATIBILITY AND VERIFICATION

Legal Authority: 42 CFR 435.948

1. Policy Statement

Eligibility determinations will be based, to the maximum extent possible, on self-attestation of income that is verified by information obtained from electronic data sources. When income information obtained through electronic data sources is reasonably compatible with an individual's attestation, the attestation is considered verified. Attestation and data sources are reasonably compatible when the difference or discrepancy between the two sources does not impact the eligibility of the application. If information is obtained through electronic data sources is not reasonably compatible with an individual's attestation, additional documentation may be required.

2. Reasonable Compatibility

The Affordable Care Act (ACA) requires states to accept self-attestation of income information when the individual's attestation and information obtained through an electronic data source are reasonably compatible. The reasonable compatibility test is only applied when an individual's attested income is below the income eligibility threshold, and information obtained through an electronic data source is above the income eligibility threshold. Table 1.1 *Reasonable Compatibility Test* illustrates when information is subject to the reasonable compatibility test, and when it is not.

Table 1.1 Reasonable Compatibility Test

Attested Income (including 5% disregard, if applicable)	**Electronic Data Source**	**Outcome**
Is below the income eligibility threshold	Is below the income eligibility threshold	Individual is financially eligible. The reasonable compatibility test is not required.
Is below the income eligibility threshold.	Is above the income eligibility threshold.	**Income is subject to reasonable compatibility test.**
Is below the income eligibility threshold.	Is not available	Request additional verification.
Is above the income eligibility threshold	Is above the income eligibility threshold	Individual is ineligible. The reasonable compatibility test is not required.
Is above the income eligibility threshold.	Is below the income eligibility threshold.	Attested income is used. The individual is ineligible. The reasonable compatibility test is not required.

Is above the income eligibility threshold.	Is not available.	Attested income is used. The individual is ineligible. The reasonable compatibility test is not required.

Reasonable Compatibility Calculation

a. Reasonable Compatibility Calculation with Reported Income from the Hub

Step 1: Individual has PASSED the Income Eligibility Determination.
Step 2: Modified Adjusted Gross Income (MAGI) from the Hub (converted to a monthly amount) is
available and:

- If the Hub value is less than the Category Income Standard, the individual is income-eligible and the reasonable compatibility test is NOT required.
- If the Hub value is greater than the Category Income Standard, the reasonable compatibility test is required. Continue to Step 3.

Step 3: Determine the Hub Reasonable Compatibility Maximum Amount:

MAGI from the Hub minus 10% of the MAGI from the Hub amount = the Hub Reasonable Compatibility Maximum

Step 4: Compare individual's attested income amount (prior to the 5% FPL disregard, if applied) to the Hub Reasonable Compatibility Maximum and:

- If the attested income is less than the Hub Reasonable Compatibility Amount, then income verification is required.
- If the attested income is greater than the Hub Reasonable Compatibility Amount, no verification is required and individual is considered to be income eligible.

Example: Mr. Jones is applying for coverage for himself, his wife and 2 children. Mr. Jones is the sole income earner and attests to earning $1,750 a month. The Caretaker Relative Income Standard for a family of 4 is $1,867, so Mr. Jones is income eligible for the Caretaker Relative category.

Income information from the Internal Revenue Service (IRS) is available from the Hub (MAGI from Hub), and it is reported that Mr. Jones' income on his last tax return was $1,900 per month. Given that the Hub data is greater than the Caretaker Relative Income Standard, the reasonable compatibility test is applied:

Attested Income: $1,750

Caretaker Relative Income Standard (household size of 4): $1,867
MAGI from Hub: $1,900

Hub Reasonable Compatibility Maximum: $1900 – (1900 x .10) = $1,710

Since Mr. Jones' attested income ($1,750) is GREATER THAN the Hub Reasonable Compatibility Maximum ($1,710). Attested income and income obtained from Hub are considered reasonably compatible and no further income verification is required.

b. Reasonable Compatibility Calculation with Reported Quarterly Wage Data

Quarterly Wage Data (QWD) will be subject to the reasonable compatibility test when there is no income information available from the Hub. The individual's attested income must still be less than the applicable category income standard, and QWD must be greater than the income standard before the Reasonable Compatibility is applied.

The reasonable compatibility test using QWD is calculated the same way as the reasonable compatibility testing using Hub data.

3. Verification

Income Type	Electronic Data Source	Paper Documentation
Wages	• IRS data from the Hub • Tennessee Department of Labor and Workforce Development (TDLWD) • Equifax/TALX data	• Pay stubs • Statement from employer • Signed statement for tips • Bank deposit slip • Statement from employer identifying an item paid in-kind, the date the in-kind wages were paid, any balance due on item
Self-Employment	• IRS data from the Hub	• Federal income tax return (Schedule SE) • Business Records • Individual's signed statement
Rental	• IRS data from the Hub	• Federal income tax return • Current Lease or Contract • Statement from renter including the amount and payment date of rental amount • Rent receipt indicating amount and payment date
Royalty	• IRS data from the Hub	• Written verification from the source of the royalty income

		• Business records • Bank deposit slip • Individual's signed statement
Farming or Fishing	• IRS data from the Hub	• Federal income tax return • Business Records • Bank deposit slips, receipts
Unemployment	• TDLWD	• Written verification from the TDLWD • Written verification from state of issuance if unemployment benefits are received from another state.
Retirement	• IRS data from the Hub • State On-Line Query System (SOLQ), if individual had previous SSI connection	• Written verification from the source of income • Copy of the most recent check and proof of deposit into the individual's bank account with date of deposit
Pension	• IRS Data from the Hub • SOLQ, if individual had previous Supplemental Security Income (SSI) connection	• Written verification from the source of income • Copy of the most recent check and proof of deposit into the individual's bank account with date of deposit
Social Security	• SOLQ	• Award letter from the Social Security Administration (SSA), Railroad Retirement Benefits
Capital Gains		• Receipt from sale • Sale agreement • Proof of deposit into the individual's bank account with amount and date of deposit
Investment Income	• IRS Data from the Hub	• Copy of the most recent check and date of deposit
Alimony Received	• IRS Data from the Hub	• Agreement awarding the individual alimony payments • Written statement from the individual paying the alimony and a copy of a recent alimony check or receipt
Cancelled Debts		• Signed statement from the individual who forgave the debt
Court Awards		• Court order or final judgment • Bank Statement
Jury Duty Pay		• Copy of check(s) received • Proof of deposit into the individual's

		bank account
Gambling, Prizes or Awards		• Award letter • Copy of the check • Contest advertisement • Income tax return for the year the prize/award was claimed

MEDICALLY NEEDY HOUSEHOLD COMPOSITION

Legal Authority: 42 CFR 435.301; 42 CFR 435.601; 42 CFR 435.602; 42 CFR 435.603; 45 CFR 233.20

1. Policy Statement

Household composition for the Medically Needy categories is governed by the principle of the Financially Responsible Relatives (FRR) rule. Financial responsibility is limited to spouse to spouse and parent to child.

The household size determined under Medically Needy household composition rules is the number of individuals counted for the purpose of determining which income standard to use.

2. Definitions

Custodial Parent and Non-Custodial Parent: The custodial parent and non-custodial parent are determined based on a court order, binding separation, divorce, or parenting plan establishing physical custody controls. The custodial parent, also known as the primary residential parent, is the parent with whom the child spends most nights.

Deeming: The term deeming identifies the process of considering another person's income and resources to be available for meeting a TennCare Medicaid applicant/enrollee's basic needs of food and shelter.

Household Size: Household size includes natural or biological and adoptive parents, and siblings that live with the child.

Major Parent: The parent of a parent under the age of 21 (the minor parent) applying for TennCare Medicaid. The major parent must live in the same household as the minor parent and his or her child.

Minor Parent: A parent under the age of 21 who is applying for TennCare Medicaid along with his or her child, and who lives in the same household as his or her parent (the major parent).

Parent: Parent only includes biological and adoptive parents.

Sibling: Siblings include biological, adopted, half or step siblings.

3. Financially Responsible Relatives (FRRs)

a. Overview

Financial responsibility is limited to spouse to spouse and parent to child. Do not use the needs or income in the budget of an FRR who receives Families First, Supplemental Security Income (SSI) or Veterans Affairs (VA) Benefits.

b. Spouse to Spouse

The income and resources of the individual's legally married spouse are considered available to him or her, whether or not they are actually contributed:

- While the couple live together, including temporary absences; AND
- During the first month of separation by one member's admission to a medical institution, unless the couple had been living apart for at least 6 months prior to their separation.

c. Determining Marital Relationship

Accept the individual's attestation regarding his or her marital status if he or she is married, unmarried or separated from his or her spouse, unless there is reason to doubt the self-attestation information.

d. Parent to Child

i. The income and resources of the legal parents of the child under age 21 are considered available to the child in determining his or her financial eligibility when:

- The child and parent(s) live together; and
- During the child's temporary absence from the home.

Note: The child's admission to a psychiatric facility is considered a temporary absence. Psychiatric care is not considered institutionalization for purposes of determining the under age 21 individual's separation from his or her FRR.

ii. Parental financial responsibility is limited to the natural or adoptive parent.

4. Joint Custody/Parenting Time

a. Joint Custody/Parenting Time

For the purpose of determining Medicaid eligibility, the custodial parent, often referred to as the primary residential parent in Tennessee, is established based on physical custody specified in a court order, binding separation, divorce, or parenting plan. If there is no court order or parenting plan, custody of a child born out of wedlock is with the mother. If there is a parenting plan, the primary residential parent is the parent with whom the child spends most nights.

b. Equally-Shared Joint Custody/Parenting Time

When an individual claims that equally-shared (50/50) joint physical and legal custody exists or provides a parenting plan that evenly divides the child(ren)'s living arrangement and parenting responsibilities, the parenting time situation must be carefully examined. Though a court order or parenting plan may evenly divide the care and control of the child(ren), the parents may not, in fact, be following the parenting plan.

In cases of alleged equal parenting time (50/50), the Eligibility Specialist must verify that:

- Both parents exercise parental guidance.

  Parental guidance may include issues such as which parent takes children to and from school and/or day care, which parent does the school and/or daycare consider the

responsible relative, who exercises responsibility for consenting to major medical treatment for the child, etc.

- Parents equally share physical custody.

  If one parent has the child(ren) a majority of the time, this is not considered equally shared parenting time. Child(ren) must spend an equal amount of time living with each parent. The living arrangement may be based on days, weeks or months, but it must be equal (182.5 days per year with each parent) and parental functions of guidance and physical care cannot be substantially interrupted. (If equal time means 6 months at a time are spent with each parent, this will be considered extended visits.)

  If it is determined that equal (50/50) parenting time exists, the Eligibility Specialist should contact the Member Services Eligibility Policy Unit for additional guidance on processing the case.

5. Stepparent or Major Parent in the Home

A stepparent or major parent living in the home with individuals applying for Medically Needy coverage is not included in the household. However, income belonging to a stepparent or major parent is deemed available to his or her spouse, under certain conditions. See *Child Medically Needy* policy.

6. Household Composition

a. Child Medically Needy

The following individuals are included in the household:

- Children who are under age 21 and are applying for TennCare Medicaid;
- Siblings who are under age 21 (including unborn children);
- The in-home parent(s) of the child(ren) applying for coverage; and
- The spouse of an individual who under age 21 and applying for coverage.

Do not count the applicant's parents in the household if the applicant is an emancipated minor.

A child with income may be excluded from the household if that child's income makes the applicant(s) ineligible, and the child with income is not the only eligible child.

Do not exclude any child identified by the parent/caretaker relative as having special medical needs without first discussing the situation with the parent/caretaker relative.

b. Qualified Pregnant Woman Medically Needy

The following individuals must be included in the applicant's household, if living in the same household as the applicant:

- The applicant (pregnant woman);
- The unborn child(ren);

- The applicant's spouse;
- The applicant's children under age 21

The parents of a qualified pregnant woman are not included in the applicant's household.

c. Verification

The State accepts self-attestation of household members and the relationship between the household members, unless there is reason to doubt the self-attestation information.

The State will use Public Assistance Reporting Information System (PARIS) data post-enrollment to determine if any enrollees are receiving benefits in another state, in order to identify children for whom non-custodial parents are applying for benefits through HCFA.

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. Count in the month received.
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.

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 a real estate dealer or property owner engaged in the business of buying, selling and renting property. Apply deductions for expenses necessary for production/collection of income to the gross rental income.
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 federal law, are countable in the month received.	**Sick and Disability Payments**	Unearned income when payments are being made 6 months or more after the individual stopped working.

	Compensatory damages for personal physical injury or sickness are not countable income.		
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	Exclude the earnings of a child who is a fulltime student, or a part-time student not employed fulltime.
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**
Adoption Subsidies	Payments to an individual from state adoption assistance programs or Title IV-E funds for special needs children.
Cancelled Debts	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	Exclude the portion of a grant, scholarship or fellowship used to pay tuition, fees of other necessary educational expenses.
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	Includes: Pell Grant; SEOG Grant; National Direct Student Loan; Guaranteed Student Loan; State Student Incentive; College Work Study; any financial aid paid directly to the school and unavailable to student.

MEDICALLY NEEDY SPEND DOWN

Legal Authority: 42 CFR 435.4; 42 CFR 435.301; 42 CFR 435.308; 42 CFR 435.602; 42 CFR 435.603; 42 CFR 435.831; TCA 49-4-902(18) and (29)

1. Policy Statement

Federal regulations provide that otherwise eligible individuals with net income greater than the Medically Needy Income Standard (MNIS) may achieve TennCare Medicaid eligibility if the applicant and his or her financially responsible relatives spend down the amount of the excess income on a monthly basis for medical expenses. Excess monthly income is the difference between total net income and the MNIS based on household size.

2. Spend Down Period

The spend down period is the month of application and the 3 preceding months.

3. Incurred Medical Expenses

a. New Applicants

Applicants may use the following medical and remedial expenses to satisfy the spend down requirement:

- Expenses incurred during the month of application, whether paid or unpaid;
- Expenses paid during the month of application, regardless of when such bills were incurred (only count the portion paid); and/or
  Expenses incurred during the 3 calendar months prior to the month of application, whether paid or unpaid.

b. Individuals with Continuous Medically Needy Eligibility

Medically Needy enrollees must continue to meet the spend down requirement at redetermination, if household income remains over the MNIS. Current Medically Needy individuals may use the following medical and remedial expenses to meet a Spend Down requirement:

- Expenses incurred during the month of application, whether paid or unpaid;
- Expenses paid during the month of application, regardless when such bills were incurred (only count the portion paid); and/or
- Expenses incurred during the 3 calendar months prior to the date of application, whether paid or unpaid.

Expenses paid during the 3 calendar months prior to the month of application will not be counted unless bills were also incurred during those calendar months.

Any expenses incurred before the 3 calendar months prior to the month of application will not be counted unless:

- Payment is made on those expenses during the month of application, and only the amount paid during the month of application is counted; or
- All of the following carryover conditions are met:
  - The expenses were previously verified in order to meet spend down criteria;
  - The individual has remained continuously eligible in a medically needy category since that time;
  - The individual has met a spend down during each period of eligibility in order to qualify; and
  - The expenses remain unpaid and have not been written off by a provider.

4. Whose Expenses May be Counted

Medical expenses that are incurred or paid within the spend down period for the following individuals may be used to meet the spend down requirement:

- The applicant;
- Members of the applicant's household;
- The applicant's FRRs or anyone for whom the applicant is financially responsible; and
- Individuals not living in the home or eligible for inclusion if a household member or their FRR is legally obligated to pay their medical expenses. This could include old bills of a child now over the age of 21 or bills a parent is obligated to pay due to a child support order. This may also include medical bills of an individual who is now deceased.

5. Allowable Expenses

a. General Rule

Allowable medical and remedial expenses include expenses that are incurred within the spend down period or payments made on medical bills during the application month regardless of when the bill was incurred. Allowable expenses are those for which the individual is still liable and that are:

- For medical or remedial care, including over the counter;
- Verifiable and for which the individual provides substantiation;
- Incurred by eligible individuals and are the legal responsibility of a household member and not subject to payment in full or part by a third party;
- Recognized under state law but not covered under the state's TennCare Medicaid plan or waiver (continuously eligible individuals); and/or
- Covered under TennCare Medicaid but incurred during the spend down period (new applicants).

Note: Medical expenses that will be covered by TennCare Medicaid during an eligible period are not allowable expenses.

b. Allowable Medical Expenses

The following are types of medical expenses considered Allowable Medical Expenses for the Medically Needy categories:

- **Acupuncture services**
- **Bed hold at a Long Term Care Facility (Medicaid rate)**
- **Dental expenses**
- **Doctor's fees** - Practitioners and others providing medical services, physicians, surgeons, dentists, optometrists, chiropractors, osteopaths, podiatrists, psychiatrists, psychologists, and Christian Science providers.
- **Drugs prescribed by a physician (prior to TennCare eligibility) -** Medicines and drugs prescribed by a doctor incurred prior to establishing TennCare Medicaid eligibility and which remained unpaid or paid in the month under consideration (i.e., Spend Down month).
- **Guide dogs** - Guide dogs for the blind or deaf and the costs of their maintenance.
- **Hospital charges**
- **Medical care charges included in tuition costs -** Charges for medical care included in the tuition fee of a college or private school which is paid on a monthly basis, provided that a breakdown of the charges is included in the bill or is furnished separately by the institution.
- **Nursing home costs**
- **Nursing services** - Nursing services include nursing care in a client's home, if for the purpose of treatment or alleviation of a physical, mental, or emotional disorder and ordered by a physician. The care needed must be medical, e.g., administering medication or therapy. Cost of services solely domestic in nature, such as, the preparation of meals and the performance of housework is not deductible.
- **Organ transplant expenses**
- **Prosthetic devises** – Artificial teeth, limbs, hearing aids and component parts, eyeglasses and crutches.
- **Psychiatric care -** Psychiatric care primarily for alleviating a mental illness or defect; the cost of maintaining a mentally ill individual at a specially equipped medical center where the individual receives continual medical care.
- **Special education for handicapped** - Special school for mentally or physically handicapped individuals if for the alleviation of handicap. Example: The costs of sending a blind child to school to learn Braille, or a deaf child to lip-reading classes, are medical expenses. The costs of meals and lodging, if supplied by the institution, and/or ordinary education furnished incidental to the special services are medical expenses.

- **Substance abuse treatment** - Treatment at a therapeutic center for drug addicts or alcoholics, including meals and lodging furnished as a necessary incident to the treatment.
- **Transportation for medical/remedial purposes** - Transportation essential to medical care, e.g., bus, taxi, train, or plane fares, and 47 cents for each mile that the client's car is used for medical purposes, in addition to parking fees and tolls.
- **Over the counter (non-prescription) medicine** - Over-the-counter (non-prescription) medicine. Deduct up to $10 per month for these expenses without verification, using only the client's statement. All of these expenses must be verified if the amount is more than $10 per month.

Expenses may be allowed if payment is made by a public program of a state or political subdivision that is other than a TennCare Medicaid program and there is cost for the service. Free service to the public cannot be deducted.

Medical expenses related to maternity care (e.g., global fee) are considered incurred the month the physician presents a bill once services have begun (i.e., initial examination by the physician at a minimum). All other medical expenses are considered incurred the date the service is provided.

New bills, if incurred within the spend down period, are deductible for the period in which they are incurred whether or not they have been paid with loan proceeds or a credit card. No carryover expense will be allowed at the next spend down review because the bill has been paid in full. The loan or credit card payments are not allowed as a medical expense at the next review.

If spend down is not met by the medical bills presented at application or redetermination, the daily countable medical expenses incurred during the application month will be added until spend down liability is reached. Use only the portion of the medical expense that is necessary to meet spend down. Document medical expense information clearly in the case notes, including:

- The name of the provider;
- The account number;
- The date of the service;
- The amount of the bill;
- How much was used for the current spend down; and
- How much of the bill remains for future spend down use (carryover).

c. Non-Allowable Expenses

The following incurred expenses cannot be deducted from income in order to meet the spend down requirement:

- Expenses incurred prior to the individual becoming eligible for TennCare Medicaid or in a prior period for charges that have been written off as uncollectible or have been forgiven by the provider;

- Expenses that are covered by the State's TennCare Medicaid plan and are incurred during a period of eligibility:
    - Costs incurred during a period of TennCare eligibility due to co-pays or services not covered such as dental, hearing and eye care for adults are allowable as a medical expense.
    - Bills incurred during TennCare eligibility which are subject to TennCare reimbursement are not considered outstanding for subsequent spend down periods even if not paid by TennCare.

d. Medical/Health Insurance Premiums

Health insurance premiums may be deducted as a spend down expense only when payment is due, even if paid in another month. Premiums are deducted for health insurance that share the following characteristics:

- It is reported to HCFA as a third party medical resource;
- Benefits are assignable and the eligible individual has agreed to assign them to the state; and
- The premiums are paid by the eligible individual, not a third party.

Note: The State pays the Medicare premiums for individuals eligible for SSI, Pickle/Pass Along, Disabled Adult Child (DAC) and Widow/Widower coverage. Do not deduct Medicare premiums for individuals in a household who are approved as Qualified Medicare Beneficiary (QMB), Special Low-Income Medicare Beneficiary (SLMB) or Qualifying Individual (QI).

e. Third Party Payments

If a medical expense is subject to partial payment by a third party, include only the portion for which the individual is liable in the determination of total incurred medical expenses.

Always verify, if possible, the reimbursement or medical expense by third parties before allowing a deduction. If verification of the reimbursement cannot be obtained within time limit constraints (application or change report processing period), determine from the third party the:

- Type of expense it will cover;
- Rate or percentage or anticipate amount of reimbursement; and
- Anticipated date of reimbursement.

If all possible efforts have been made and verification cannot be obtained about third party payment, allow the portion of the expense the individual/household states they are responsible for.

f. Budgeting Medical Expenses and Carryover

Regular recurring medical expenses (i.e., insurance premiums or installment payments) are counted as incurred on the date of application.

Only the portion of the medical expense that is necessary to meet spend down will be used.

Any remaining medical expenses to carryover for the next spend down period will be used if still owed or paid during the spend down reapplication month in question.

When carrying over unused medical expenses for use in another spend down period, do not allow any amount that HCFA or a third party will pay.

TREATMENT OF RESOURCES: OWNERSHIP, EQUITY VALUE AND ACCESSIBILITY FOR MEDICALLY NEEDY

Legal Authority: 42 CFR 435.840; 42 CFR 435.845; 45 CFR 233.20

1. Policy Statement

A resource is real or personal property which has economic value. Resources can include, but are not limited to cash, savings, investments, houses, land, vehicles, etc. The household's resources are evaluated for ownership, accessibility and equity value. All resources are countable unless specifically excluded by regulation.

2. Definitions

Resource: Cash or other liquid assets, or any real or personal property that an individual owns jointly or individually that can be converted to cash and used for medical support and maintenance.

Resources are those assets the individual has on hand at the beginning of the month as opposed to income, which is any cash, wages, pensions or other funds received during the month.

3. Liquid and Non-Liquid Resources

Liquid resources are cash and other resources that can be readily converted to cash. Examples of resources that are ordinarily liquid include (but are not limited to) stocks, bonds, mutual fund shares, promissory notes, mortgages, life insurance policies, financial institution accounts (savings, checking, time deposits/CDs) and similar items.

The value of countable liquid resources is typically based on the specific value of the resource, e.g., the amount in the financial account, the cash surrender value, or the value of the note held by the client.

Non-liquid resources are resources that cannot reasonably be immediately converted into cash.
A resource which has been determined to be non-liquid for any reason is not considered inaccessible or excluded simply because the value of the asset cannot be accessed at the time of application.

The value of countable non-liquid resources is based on the resource equity value.

4. Fair Market Value (FMV)

The FMV of a resource is determined based on the type of resource. For example, bank accounts are based on the amount of money in the account. Certificates of deposit and other time deposits are based on the amount of money that can be withdrawn after penalties for early withdrawal. Car values are based on National Automobile Dealers Association (NADA) values or statements from knowledgeable sources, such as area car dealers. Real estate is based on Total Market Appraisal, and can be found at http://www.assessment.state.tn.us/, which is the State of Tennessee's Comptroller of the Treasury's Real Estate Assessment Data listing. Nine counties do not provide property information through the Comptroller's listing. However, links to the property information for those nine counties can be found on the Comptroller's website.

Other types of resources are valued based on statements from knowledgeable sources or other means that are reasonable and appropriate to the type of resource being valued.

Fair market value is an estimate of the value of an asset, if sold at the prevailing price at the time it was actually transferred. Value is based on criteria you use in appraising the value of assets for the purpose of determining Medicaid eligibility.

5. Equity Value

The equity value of a resource is the FMV minus the debt or amount owed on the resource (equity = FMV – amount owed). Only the equity value of an accessible resource is counted toward the resource limit, for resources other than vehicles.

Only debts (amounts owed) that are secured by liens or other legal encumbrances against the resource can be subtracted from the FMV when determining equity.

6. Resource Accessibility & Availability

Resources are considered available either when actually available to the individual or when the individual has a legal or equitable interest in the property or asset, and has the legal or equitable ability to access funds or convert non-cash property into cash. If the individual has the legal or equitable ability to access his or her funds, the resource is considered available regardless of whether the individual has the practical ability to access the resource or convert non-cash property into cash.

The individual's incompetence, whether presumed or actual, does not bar the person's legal authority to withdraw his or her liquid resources in the situation where a conservator, guardian or someone acting on the person's behalf has not been legally appointed.

The resources belonging to an individual whose conservator, guardian, or legally appointed representative does not cooperate with TennCare during the facilitation of accessing resources, shall be considered inaccessible, assuming the methods to access the resources have been fully exhausted.

For applicants who do not have a conservator, guardian or legally appointed representative, or for applicants whose conservator, guardian or legally appointed representatives cannot or will not perform his or her duties on behalf of the individual, contact the Eligibility Policy Unit for assistance.

Consider jointly-owned resources accessible according to the information above, unless the individual rebuts ownership or accessibility, and can verify that the joint ownership does block accessibility of the resource.

7. Ownership

a. Determining Ownership

Ownership of a resource is determined by the:

- Name(s) on the account, title, deed, contract, etc.;
- Source of the funds in the account or used to purchase the resource;
- Purpose for which the account or investment was opened or made; and
- Activity and use of the account or investment.

If the title, deed, contract, account, etc., has only one name listed, the resource belongs to that individual. If more than one name is listed, it is considered a jointly owned resource. Once a resource has been determined to be jointly owned, the resource's accessibility must be evaluated.

b. Jointly Owned Resources

Resources owned jointly with someone outside the household must be evaluated to determine accessibility to the household.

i. General Policy

Count the pro rata share of any countable resource jointly owned by an individual in the household and another owner (non-household member), If the individual can demonstrate that he or she only has access to less than a pro rata share, only the portion to which he or she has access is a countable resource. See section 7c. Rebuttal of 100% Ownership or Accessibility of a Resource.

If an asset cannot be sold or converted due to the conditions of joint ownership, exclude the applicant's equity value in determining resource eligibility. The applicant's equity value in a jointly owned asset can be excluded under the following conditions:

- The joint owner of the resource, who is not a Financially Responsible Relative (FRR), refuses to consent to the sale of the asset or to purchase the applicant's interest; or
- The applicant is free to sell his or her own individual interest in the property, but is unable to find a buyer.

ii. Joint Financial Accounts (Checking, Savings, CD)

1. Unrestricted Access to Funds

An individual with unrestricted access to the entire amount in a joint account has his or her pro-rata share of the value of the account as his or her available asset. Access to an "and" account requires the signatures of all owners of the account. Determine the accessibility of the value of an "and" account when the other owner(s) is a person other than the individuals FRR. If the joint owner is an FRR, the individual's pro-rata share of the entire value of the "and" account is available to him or her as a countable asset.

If an individual has unrestricted access to the funds in a joint account, but does not consider himself or herself to be the owner of the funds either fully or partially, he or she may rebut the ownership presumption.

2. Restricted Access to Funds

An individual's access to the funds in an account may be restricted by the legal structure of the account. Review the terms of the account to determine if the individual has restricted access. If funds are held in trust for the individual, determine who generated the funds. If the funds in the account are the product of the individual's resources or effort, the amount in the account is a countable resource. If it is verified that the funds in the account were deposited by someone else, the value of the account is not a countable resource for the individual.

Example: The following language restricts access to an account to one of the owners: "In trust for John Jones and Mary Smith, subject to the sole order of John Jones, balance at death of either to belong to the survivor." Only John Jones has unrestricted access to the account.

c. Rebuttal of Ownership

i. Rebuttal of 100% Ownership or Accessibility of a Resource

Applicants who wish to rebut a determination that he or she has unrestricted access to a resource will have 30 days from the date of application to present rebuttal evidence. If the individual presents all required rebuttal evidence corroborating his or her allegation of partial or non-ownership and the initial determination is rebutted, count only that portion of the resource the individual owns as an available asset.

ii. Rebuttal Evidence

Rebuttal of resource ownership and accessibility must be submitted in writing, and must be signed by all co-owners. The rebuttal must explain and include verification of the following:

- The reason co-ownership was established;
- The names of individuals whose funds were used to establish the account or purchase the asset, and the amounts each invested;
- The names of individuals who made deposits or withdrawals from an account or who have used the resource; and
- How the funds were spent or what the resources have been used to purchase.

iii. Successful Rebuttal

If the individual successfully rebuts the presumption of 100% ownership or accessibility, action must be immediately taken by the applicant to separate commingled funds, remove his or her name from the account or resource, or restrict his or her access to the account, as applicable to the situation.

d. Verification of Jointly-Owned Resources

If a resource is jointly-owned, or an individual successfully rebuts a presumption of 100% ownership or accessibility, verification of ownership and accessibility are required. Verification

must include bank statements, agreements, deeds, titles or other collateral statements. The individual's statement is not sufficient verification.

8. Resource Time and Value Limits

A resource may be excluded for a limited period of time or excluded up to a certain amount. To determine applicable limits, see the specific resource type in the *Countable and Excluded Resources for Medically Needy Categories* policy. Time limits and value limits should be considered when assessing a commingled resource.

9. Commingled Resources

Excluded liquid resources must be kept separate from countable liquid resources in order retain their excluded status.

An excluded liquid resource that is commingled in an account with countable liquid resources will retain its excluded status for 6 months from the date the resources were commingled, unless the resource is specifically excluded for a longer period of time. See *Countable and Excluded Resources for Medically Needy* policy. After six months, for resources not specifically excluded for a longer period of time, the total amount of the commingled account is counted as a resource.

A resource that has been excluded because it is prorated income and has been commingled in an account with countable resources will not be counted as a resource for the period of time over which it has been prorated.

COUNTABLE AND EXCLUDED RESOURCES FOR MEDICALLY NEEDY CATEGORIES

Legal Authority: 42 CFR 435.840; 42 CFR 435.845; 45 CFR 233.20

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.

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	One burial plot for each member of the household is excluded.

	Type	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.

INACCESSIBLE RESOURCES FOR MEDICALLY NEEDY

Legal Authority: 42 CFR 435.840; 42 CFR 435.845; 45 CFR 233.20

1. Policy Statement

A resource may be considered inaccessible if:

- An individual cannot legally access the value of the resource beyond his or her control, unless undue hardship exists, and all legal avenues have been exhausted in order to access the value of the resource; or
- An individual is unable to sell an asset due to limited use rights, mental impairment or due to conditions of joint ownership; or
- The resource is jointly owned real property AND sale of the property would result in the joint owner being homeless; or
- An individual is unable to locate a buyer for the asset; or
- The value is unavailable due to a lien against the asset; or
- The asset's value is not accessible to the individual due to litigation.

2. Limited Use Rights

If the individual has only limited use rights to a piece of real property such as lifetime occupancy or dower rights, he or she is not able to sell the property; however, he or she can sell his use rights.

Exclude the equity value due to inaccessibility in determining countable resources if the individual can demonstrate unsaleability by providing written statements from two licensed real estate agents substantiating that, in their professional opinion, the life estate (or other use rights arrangement) is unsaleable.

Note: Record in case notes the verbal statements of those in a position to know if they refuse to give a written statement or to sign a written statement.

3. Mental Impairment (applicable to non-liquid resources only)

a. General Rule

If the individual has a guardian, conservator, power of attorney or durable power of attorney at the time of application or renewal, the assets of the individual are considered available to the individual. That person is legally appointed to act on behalf of the individual and is expected to make the individual's assets available use by or for the care of the individual.

If the applicant/enrollee's mental impairment precludes his negotiating the sale of an asset, and he or she has no guardian or conservator to act on his or her behalf, exclude the asset as unavailable under certain conditions. It is not necessary that the applicant/enrollee be adjudicated incompetent by a court of law. If, in the Eligibility Specialist's opinion or that of the responsible party or person in a position to know the facts of the applicant/enrollee's situation, the applicant/enrollee is mentally impaired, apply the provision of this policy.

b. Mental Impairment at Application

i. Temporary Exemption

Exclude the asset as unavailable for up to 3 months from approval date if the applicant or the person applying on his or her behalf agrees to:

- Take steps to be appointed guardian or to contact the applicant's friends and/or relatives regarding their willingness to serve as the applicant's guardian/conservator;
- See that the individual who agrees to serve takes immediate steps toward appointment; AND
- Provide HCFA with substantial documentation of his or her action and that of the guardian designee.

If the applicant or responsible party is unable to perform the above-cited tasks, he or she must provide the names and addresses of individuals who might be willing to serve as the applicant's guardian. The HCFA Eligibility Specialist accepts the responsibility for contacting the named individuals in an effort to locate someone willing to act as guardian.

Contact each of the individuals by telephone or by mail explaining the situation and requesting their assistance in securing a guardianship for the applicant for the purposes of making available assets needed to meet his or her medical needs. Document the case thoroughly.

ii. Long-Term Exemption

An asset may continue to be considered unavailable beyond the initial 3 month period until the next renewal under the following conditions:

A. No guardian is found

If after 3 months, the efforts of the Eligibility Specialist and the person acting in the applicant/enrollee's behalf have failed to locate a potential guardian, document the case record establishing the asset's inaccessibility.

If the applicant/enrollee is otherwise eligible, continue assistance. Extend benefits if all of the following conditions are met:

- The applicant/enrollee requested benefits for that period;
- The same conditions regarding the disputed asset existed at that time; and
- The individual is otherwise eligible.

B. Potential Guardian is Found

Exclude the asset for an additional 30 days from the date the potential guardian agrees to serve to allow him to file a petition for guardianship with the court. If after

30 days the potential guardian has not initiated guardianship procedures for any reason, exclude the resource per instruction above under "no guardian is found".

If after 30 days, the potential guardian has begun appointment procedures, continue to exclude the asset as unavailable until the next renewal.

Set an expected change at regular intervals (every 60 to 90 days) to follow up on the situation and to determine the court's instructions regarding the asset.

Note: If it becomes necessary to delay action on an application in order to determine an asset's availability as described in this item, secure the applicant's written permission to hold the application pending beyond the processing time limits.

c. Enrollee's Mental Impairment at Renewal

If the individual has a guardian, conservator, power of attorney or durable power of attorney at the time of application or renewal, the assets of the individual are considered available to the individual. That person is legally appointed to act on behalf of the individual and is expected to make the individual's assets available for use by or for the care of the individual.

If the applicant/enrollee's mental impairment precludes his negotiating the sale of an asset, and he or she has no guardian or conservator to act on his or her behalf, contact the Eligibility Policy Unit for further guidance.

4. Joint Ownership

a. General Rule

If an asset cannot be sold or converted due to the conditions of joint ownership, exclude the applicant's equity value in determining resource eligibility. The applicant's equity value in a jointly owned asset can be excluded under the following conditions:

- The resource is jointly owned with a person or persons who are not the applicant's financially responsible relative (i.e., spouse or parent); and
- The joint owner refuses to consent to the sale of the asset or to purchase the applicant's interest.
- Even though the applicant is free to sell his own individual interest in the property, he or she is unable to find a buyer.

Note: Any portion of real property owned through "tenancy-in-common" or "joint tenancy" arrangements is available to each owner for sale or transfer without the consent of the other (joint) owner(s).

b. Joint Ownership Policy Implementation at Application

Do not extend TennCare Medicaid benefits until the asset's inaccessibility to the applicant has been substantiated by the following:

- The co-owner(s) written refusal to consent to the sale of the asset and to purchase the applicant's share, if applicable; or
- Substantiation (by deed or the written statement of a licensed real estate agent or an attorney) that the applicant is unable to sell his interest in the asset without the consent of the co-owner(s) OR that his individual share is unsaleable.

Note: If it is necessary to hold the application pending beyond the processing time limits, secure the applicant's written permission to do so.

c. Joint Ownership Policy Application at Redetermination

If the asset has not previously been excluded as described in this item, do not continue to extend benefits at review until the asset has been demonstrated to be unavailable as described above.

Take steps to close the case observing standard adequate and advance notice requirements.

Once the asset's inaccessibility has been verified and the individual has reapplied, benefits may be extended retroactively to the date of closure provided the individual was otherwise eligible.

At least 30 days before the review is due, secure the joint owner's written statement regarding his position on the sale of the asset and the purchase of the individual's share, if applicable. Request that the individual present written substantiation of his inability to sell the asset as described above. Continue to exclude the value of the asset if the individual's claim of inaccessibility is supported by the joint owner's statement.

5. Ownership Interest in an Unprobated Estate

If the applicant/enrollee has inherited an interest in real property that is part of an estate still in probate, his interest is a countable asset because he can legally sell it. It may, however, be difficult to do so.

Exclude the value of the asset if the applicant/enrollee can demonstrate that he or she is unable to sell his interest by providing statements from two knowledgeable sources, e.g., an attorney or real estate agent, that his interest cannot be sold. The exclusion can be applied to the asset only while it remains in probate.

Extend benefits only after the inaccessibility of the asset is substantiated as described above. Secure the applicant/enrollee's written permission to hold the application pending beyond the processing time limits, if necessary. Do not continue to extend benefits until receipt of current verification that the asset is unavailable.

6. Inability to Locate a Buyer

a. Policy Statement

If an individual owns an asset for which he or she has full use rights and the unrestricted right to sell, and is making a bona fide effort to sell the resource, but is unable to locate a buyer, the individual's equity value may be excluded as a countable resource.

b. Defined Terms

Bona Fide Effort to Sell - Real estate: A bona fide effort to sell exists when one of the following conditions is met:

- The property is not saleable due to a specific condition substantiated by the written statement of at least two knowledgeable sources such as licensed real estate agents.
- The property has been offered for sale for at least 90 days (throughout a consecutive 120-day period) and there have been no legitimate offers.

Offered for sale - means listing the property with a licensed real estate agent, advertising the property for sale using at least two alternate methods such as a sign on the property and a newspaper ad in a newspaper that serves the area where the property is located, or placing the property on auction.

Reasonable asking price - means a price that is not inflated, i.e., not in excess of 100% of the real value.

Legitimate offer - means one that is at least equal to the reasonable asking price, does not require the client to extend credit, and does not result in a net loss to the client. No reasonable offer to buy may be refused by the client or his or her authorized representative.

Mortgage or Promissory Note - A bona fide effort to sell a mortgage or promissory note exists when all the following conditions are met:

- The client has made an effort to offer the instrument to a bank or other financial institution; AND
- The best offer he received is more than 10% below the actual value of the remaining principal; AND
- The client presents written verification from the representative of at least two financial institutions that the mortgage or note could only be sold if discounted by more than 10%.

c. Policy Implementation - At Application

i. Bona Fide Effort to Sell

Before the exclusion described can be applied to real property, the client must provide substantiation of his bona fide effort to sell for at least one consecutive 90 day period within the immediately preceding 120 days.

If the property has not been on the market for at least 90 days, obtain the client's written permission to hold the application pending beyond the processing time limit to allow him

to fulfill the 90 day requirement. If the property remains unsold at the end of the 90 day period, the asset is considered unavailable and to have been unavailable throughout the 90 day period.

If the same local economic conditions (or other conditions which prevented the sale) existed prior to the 90 day sale period and the client provides substantiation of these facts, extend the exclusion to include months prior to the first day of the 90 day period.

Once real property is exempt under the provisions of this policy, it must remain on the market at a reasonable asking price until it is sold OR the client is no longer eligible for and a recipient of TennCare Medicaid benefits.

d. At Redetermination - Bona Fide Effort to Sell

i. Initial Exclusion

If the asset has not previously been excluded for the reason described in this item, do not continue to extend benefits until inaccessibility has been substantiated as described here. Take steps to close the case observing standard adequate and advance notification procedures.

NOTE: Property cannot be exempt as homestead while it is being offered for sale. A property's exemption as homestead is voided by an attempt to sell the property.

ii. Real Estate

Once the asset has been proven unavailable, exclude the client's equity value in real estate effective the date it was placed for sale. This will allow any subsequent approval and include benefits retroactively to the date of closure. In order for the real property to continue in its exclusion status, it must remain on the market until it is sold or until the client's case is closed.

iii. Mortgage or Promissory Note

Exclude the value of a mortgage or note effective the date of the written verification or prior to that date if similar (documented) conditions existed, whichever is earlier.

iv. Asset Previously Excluded

At least 30 days before the redetermination is due, begin the review of asset availability. In order for real property to retain its exclusion under the terms of this item, it must remain on the market until sold or the client is no longer eligible. The client must provide current verification of the following regarding the property:

- The property is advertised for sale using at least two methods of advertisement OR is listed with a broker; AND
- Is listed with a reasonable asking price; AND
- The client has not declined any reasonable offers.

In order to continue exclusion of the unpaid principal on a mortgage or promissory note, the client must provide current (no older than 30 days) verification of his bona fide effort to sell as defined above.

7. Lien

Consider unavailable to the applicant/enrollee any portion of real or personal property against which a legal lien has been filed. The equity value in the remaining portion is an available asset. Do not exempt any portion of an asset under the provisions of this item until it is established that the lien is legal, i.e., filed, UNLESS the lien is one pending filing by the Department of Intellectual and Developmental Disabilities (DIDD). Deduct the amount of the legal (filed) lien from the individual's equity value in the asset to determine the portion that remains a countable asset.

Record the following information regarding the lien in the eligibility system:

- Name of the party filing the lien;
- Total amount of the lien;
- Filing date; and
- Place filed.

a. DIDD Liens

Exclude as unavailable an amount equal to the amount of the pending lien if written assurance from the DIDD that a claim will be filed within 90 days is received. Do not extend or continue benefits until confirmation of the DIDD's intent to file a lien is confirmed.

If a temporary 90 day exemption is extended, set up an expected change effective the 90th day. On the 91st day, secure a copy of the lien for the case record. If one has not been filed, discontinue the exemption and consider the entire amount of the individual's resources available to him.

8. Litigation

The equity value of any resource involved in litigation is considered to be unavailable to the individual. Litigation means involved in a lawsuit or some type of court action. Verify with the individual's attorney the fact of litigation or secure written documentation that substantiates the individual's allegation that the asset is involved in litigation. The asset is considered unavailable to the individual effective the date it became involved in the litigation action.

TRUSTS AND MEDICALLY NEEDY CATEGORIES

Legal Authority: 42 USC 1396p; State Medicaid Manual § 3257

1. Overview

A trust is a right of funds or property held by an individual (the trustee) for the benefit of another (the beneficiary) or for self-benefit. A trust is composed of the initial amount used to create the trust (the principal) and any income (usually interest) it may produce. The trustee holds legal title to the trust and manages it for the benefit or use of the beneficiary.

Determine whether a trust is a countable or excluded resource when the applicant or household member is either the trust's trustee or beneficiary.

2. Definitions

Trust: A right of funds or property held by an individual, the trustee, for the benefit of another individual, the beneficiary, or by an individual for self-benefit.

Legal Instrument or Device Similar to a Trust: Any financial instrument that resembles a trust which includes, but is not limited to: escrow accounts, pension funds, annuities and other similar financial tools managed by an individual or entity with fiduciary responsibilities.

Grantor/Trustor: The person who creates a trust, including a court or administrative body with legal authority to act in place of or on behalf of or at the request or direction of the individual or his or her spouse.

Trustee: An individual who holds the legal title to funds for the benefit or use of another individual.

Beneficiary: An individual for whose benefit a trust is created.

Self-Settled Trust or Grantor Trust: The grantor of the trust is the sole beneficiary of the trust (i.e., the grantor established a trust for himself or herself).

Mandatory Trust: Requires the trustee to pay to or for the beneficiary's benefit, the trust's earnings and principal at certain times in specified amounts or for a specified type of care. The trustee has no discretion on distribution from the trust.

Discretionary Trust: The trustee has discretion to use the trust for the beneficiary's needs as he or she deems appropriate. The beneficiary has no control over the trust.

Totten Trust: A trust in which the grantor makes himself or herself trustee of his or her own funds for the benefit of another. The trustee or grantor can revoke the trust at any time. If the trustee dies before revoking the trust, the beneficiary becomes owner of the trust. The terms of the trust will indicate how the trust is to be used or what limits are placed on the use of the funds by the trustee.

3. Accessibility

Trusts must be evaluated for accessibility. If a trust is accessible, and verification is received that only a portion of the trust is available to the individual, only the available portion will be considered in the resource determination. If such verification is not received, the full value of the trust will be considered available to each beneficiary.

a. Revocable Trust

A revocable trust is a trust that can be modified or terminated by the grantor, or someone else, according to the terms of the trust. A trust which is called irrevocable but which terminates if the grantor or someone else takes some action is also considered a revocable trust.

i. Revocable Trust Established prior to 8/11/1993

The full amount of the trust is a countable resource. Interest which accrues to the account is counted as unearned income. Withdrawals from the trust are not considered income, as they are a conversion of a resource.

ii. Revocable Trust Established on or after 8/11/1993

Any revocable trust or similar device established on or after 8/11/1993 is considered an accessible resource. If an individual's assets form part or all of the revocable trust, and it was established by the individual, his or her spouse, or an entity with legal authority to act in behalf or at the direction or request of the individual, the trust is subject to the following policy:

- The principal of the trust is a countable resource; and
- Any payments from the trust to or for the benefit of the individual are considered income for the individual;

b. Irrevocable Trust

An irrevocable trust is a trust that cannot be modified or terminated by the grantor or (in most cases) anyone else. A trust which is called irrevocable but which terminates if the grantor or someone else takes some action is considered a revocable trust. An irrevocable trust may be accessible and countable for eligibility purposes.

i. Irrevocable Trust Established prior to 8/11/1993

If the trust is legally irrevocable and the beneficiary is not a financially responsible relative (FRR) or one for whom the individual is not financially responsible, the individual does not have access to the funds unless he or she is also a beneficiary.

This policy does not apply to Medicaid Qualifying or Testamentary trusts.

ii. Irrevocable Trust Established on or after 8/11/1993

An irrevocable trust or similar device which contains an individual's own assets, forms all or part of the principal of a trust and is established (other than by will) by the individual or spouse, or by a person/entity with legal authority to act on behalf of or at the direction of the individual or spouse is subject to the policy outlined below. This policy applies to the portion

of the trust which includes the assets of the individual regardless of the purpose of the trust, whether the trustees have or exercise any discretion under the trust, or any restrictions on distributions or use of distributions:

- Any payments from the trust paid to or for the benefit of the individual for any purpose are considered income to the individual unless payment is made for medical care or other purposes not considered income.

- Income on the corpus (principal) of the trust or any portion of the principal which could be paid to or for the benefit of the individual is considered an available resource to the individual.

4. Medically Needy Trust Exclusion

This policy applies to inaccessible trusts that have been set up for a minor (under age 18). If the value of the inaccessible trust is $5,000 or less, the trust is an excluded resource.

If the value of the trust is greater than $5,000, the caretaker of the child beneficiary has 60 days from the date of application or redetermination to attempt to make the trust accessible or available. Exclude the value of the trust as an inaccessible asset during the 60-day period. At the expiration of the 60-day period, secure verification from the applicant's caretaker that action has been taken to make the trust accessible. If the trust has been made accessible, evaluate the resource based on the trust type. If the trust has not yet been made accessible, follow-up on the status of the trust at least every 60 days. Continue to exclude the trust while steps are being taken to make it accessible.

If the value of the trust is greater than $5,000 and the caretaker of the child beneficiary does not take action to make the trust accessible, remove the caretaker from the household size but continue to count his or her income in household income. The trust will not be a countable resource if it remains inaccessible.

5. Trusts Types

a. Burial Trust

A burial trust is a trust established by an individual for purposes of setting aside funds for payment of burial expenses for the individual or someone else. Burial trusts are not the same as funds held in trust by a funeral home in conjunction with a prepaid funeral arrangement or burial contract.

A burial trust is excluded for the TennCare Medicaid Medically Needy categories.

b. Living Trust

A "living trust" is usually a revocable, self-settled trust often created for tax and estate planning purposes. A living trust is a countable resource for the TennCare Medicaid Medically Needy categories.

c. Self-Settled Trust

A self-settled trust is a trust created by a person with his or her own funds for his or her own primary benefit. A self-settled trust is a countable resource.

d. Testamentary Trust (Trust Created by a Will)

Determining the countable value of a testamentary trust as a resource to the beneficiary depends on the terms of the will. The terms of the will may specify that only the income or both the income and the principal are available to the beneficiary. In addition, the terms may specify that the beneficiary has limited access to the funds or that only the trustee or the court has access to the trust amount. If the trustee has the discretion to use the trust principal for the applicant's support and maintenance and/or medical needs, the value of the trust is an unavailable asset, but the trust itself is a third party medical resource and must be reported as a third party liability.

e. Medicaid Qualifying Trust

A Medicaid Qualifying Trust is not a countable resource for the TennCare Medicaid Medically Needy categories. See the *ABD Trusts* policy.

f. Pooled Trust

A Pooled Trust is not a countable resource for the TennCare Medicaid Medically Needy categories. See the *Trusts* policy in the ABD Manual.

g. Special Needs Trust

A Special Needs Trust is not a countable resource for the TennCare Medicaid Medically Needy categories. See the *Trusts* policy in the ABD Manual.

h. Medicaid Qualifying Income Trust (QIT) or Miller Trust

Only individuals who are applying for Institutional Medicaid and long term services and supports may establish a QIT.

6. Trust Income

a. If the trust is a testamentary trust and/or it is producing regular income for the beneficiary, the value of the trust is not a countable asset as long as the terms of the trust specify the following,:

- The beneficiary does not have access to the trust principal and/or income; and
- Such access is limited to the trustee or to the court; and
- The trust does not contain the beneficiary's own assets.

Any payments an individual receives from the trust are considered unearned income. Income is counted in the month it becomes available to the individual.

b. Dividends, interest, rents and other income generated by a trust fund, unless otherwise excluded, that can be paid to or for the benefit of the beneficiary are considered countable income to the beneficiary in the month they become available, regardless of whether the income is actually paid out to the beneficiary.

c. Income earned by a trust that can be, but is not distributed to the beneficiary, and is instead retained in the trust becomes a countable resource in the months following the month the income was available for distribution. This provision applies even if the remainder of the principal of the trust is not a countable resource to the beneficiary.

d. Funds withdrawn from the principal of an inaccessible or excluded trust, unless otherwise excluded, are countable as income in the month received.

e. Funds withdrawn from the principal of an accessible or countable trust are excluded as income because an accessible trust fund is a countable resource. Money cannot be considered both income and resource in the same month.

f. If the trustee has the discretion to use the trust principal for the individual's support and maintenance of medical needs, the value of the trust is an unavailable asset, but the trust itself is a third party medical resource and must be reported to HCFA Third Party Liability Unit.

FORMER FOSTER CARE CHILDREN UP TO AGE 26

Legal Authority: 42 USC 1396(a)(10)(i)(IX); 42 CFR 435.406

1. Policy Statement

The Affordable Care Act (ACA) of 2010 requires states to provide Medicaid benefits to individuals under the age of 26 who were previously in foster care. Individuals under age 26 are eligible to receive TennCare Medicaid if they were under the responsibility of the Tennessee Department of Children's Services (DCS) and enrolled in TennCare Medicaid upon turning age 18.

Individuals under age 26 who were in foster care and receiving Medicaid benefits in another state upon turning 18, and who are now applying for TennCare Medicaid are not eligible in this category. The individual must have been under the responsibility of DCS and enrolled in TennCare Medicaid to be eligible as a former foster care child.

2. Enrollment Procedure

If an individual is not eligible for any other mandatory Medicaid category and the individual had TennCare Medicaid when they aged out of DCS custody, they will be considered for eligibility in this category. Individuals are able to maintain eligibility in this category up to age 26 as long as the individual is a Tennessee resident, and can provide verification of Tennessee residency at each redetermination period.

3. Non-Financial Eligibility Requirements

a. **Age:** An individual eligible in this category may maintain eligibility up to age 26.
b. **Citizenship:** An individual must be a U.S. Citizen, U.S. National or eligible non-citizen. An individual is not required to provide documentary evidence of citizenship or national status if he or she was assisted under Title IV-B or received foster care maintenance or adoption assistance payments under Title IV-E.
c. **Enumeration:** An individual must possess and provide a valid Social Security Number, unless he or she meets an exception.
d. **Residency:** An individual must be a resident of the state of Tennessee.
e. **Former Foster Care Recipient:** An individual must have been in DCS custody and received TennCare Medicaid until aging out at age 18.

4. Financial Eligibility Requirements

There are no financial eligibility requirements for this category.

DEEMED NEWBORNS

Legal Authority: 42 CFR 435.4; 42 CFR 435.117; Section 1902(e)(4) of the Social Security Act

1. Policy Statement

Infants born to a mother eligible for and receiving TennCare Medicaid or Emergency Medical Services (EMS) at the time of birth are deemed automatically eligible (no income test) for TennCare Medicaid. Deemed Newborns remain eligible for one year from the date of birth. An application is not required to enroll a child as a Deemed Newborn.

Infants born to mothers eligible for TennCare Standard or CoverKids are not eligible as Deemed Newborns. A newborn or child under age 1 whose mother was not eligible for or receiving TennCare Medicaid at the time of birth is not automatically eligible and must apply for benefits.

2. Application

a. Mother Receiving TennCare Medicaid

No application is required to enroll an infant in the Deemed Newborn TennCare Medicaid category. Eligible infants are enrolled once TennCare is notified of the infant's birth.

b. Mother Receiving Emergency Medical Services

A pregnant woman cannot be approved for EMS until the child's birth. If HCFA receives an EMS application for a pregnant woman prior to the birth, the child should be enrolled as a Deemed Newborn at the time of birth. If HFCA receives an EMS application after the birth, the child should be approved as a Deemed Newborn immediately. If the mother is found to be ineligible for EMS, then the newborn will be tested for TennCare Medicaid eligibility in the open Medicaid categories.

3. Period of Eligibility

A Deemed Newborn's eligibility begins on the date of birth, and extends to the child's first birthday.

4. Non-Financial Eligibility Requirements

To be eligible for the Deemed Newborn category an infant must:

- Be under the age of 1; and
- Have been born to a mother eligible for and receiving TennCare Medicaid or EMS at the time of birth.

5. Financial Eligibility Requirements

There are no financial (income) requirements for the Deemed Newborn category. If the infant's mother was eligible for TennCare Medicaid or EMS, the mother met financial requirements at the time her own eligibility was determined.

CHILD 0-1 MAGI

Legal Authority: 42 CFR 435.4; 42 CFR 435.112; 42 CFR 435.115; 42 CFR 435.118; 42 CFR 435.603

1. Policy Statement

TennCare Medicaid benefits are available to infants age 0 to 1 year old whose household income is equal to or less than 195% of the Federal Poverty Level (FPL) based on household size, and who meet all non-financial eligibility requirements.

2. Non-Financial Eligibility

Children eligible for the Child 0-1 MAGI category must meet all non-financial eligibility requirements. Additional information about each condition of eligibility is available in the Non-Financial Eligibility chapters.

a. Age: A child must be from birth up to age 1.

b. Citizenship: A child must be a U.S. Citizen, U.S. national or eligible non-citizen.

c. Enumeration: A newborn child is not required to be enumerated until the age of 1.

d. State Residence: A child must be a resident of Tennessee.

e. Cooperation with Child Support Services: A child is not required to agree to cooperate with Child Support Services. If the parent or caretaker of a child who is applying for benefits refuses to cooperate, the child will not be penalized. The child will be reviewed for or maintain eligibility in this category.

3. Financial Eligibility Requirements

a. Household Composition

Household composition for this category uses Modified Adjusted Gross Income (MAGI) methodology. It is possible for household members to have different household sizes when determining eligibility. For additional information regarding household size see the *Household Composition for MAGI* policy.

b. Income Standard

The income standard for the Child 0-1 MAGI category is 195% FPL.

c. Budget Overview

i. Total Gross Income Computation (for each household member)

Household Member's Total Countable Income is the total countable income for each individual.

Question 1: Is the household member a child or tax dependent? Yes or No
Question 2: Is the household member's income below the tax threshold? Yes or No

These two questions determine whether the household member's income will be included in the Total Net Income Computation (Number 3). If both answers are yes and the individual is a child/tax dependent of their parent (natural, adopted or step), the Total Gross Income for that individual is $0.

Total Gross Income, when applicable, is used in the Modified Adjusted Gross Income Computation.

ii. Modified Adjusted Gross Income Computation (for each household member)

Total Gross Income
- Legally Obligated Alimony
- Student Loan Interest Paid
-Other Expenses
= Modified Adjusted Gross Income

iii. Total Net Income Computation (for household)

Modified Adjusted Gross Income (total of included household members' MAGI)
- 5% Disregard of FPL (5% FPL, based on household size and converted to a dollar amount, is deducted if the applicant's MAGI is greater than the Child 0-1 MAGI Income Standard)
= Total Net Income

Is Total Net Income less than or equal to the Child 0-1 Income Standard (based on household size)?

If Yes, Pass. If No, Fail.

d. Example Budget

The following budget is based on a household with a dependent child under age one and includes the child's mother. This budget example determines eligibility for the child. A 5% disregard is not applied for this particular case because the household income is below the income standard for the Child 0-1 MAGI category.

Total Gross Income Computation		**Child**	**Mother**
Household Member's Total Countable Income		$ 0.00	$2,050.00
Is the household member a child/tax dependent		Yes	No
Is income below the tax threshold?		Yes	No
Total: Gross Income	=	$ 0.00	$2,050.00
Modified Adjusted Gross Income Computation			
Total Gross Income		$ 0.00	$2,050.00
Legally Obligated Alimony	-	$ 0.00	$ 0.00
Student Loan Interest Paid	-	$ 0.00	$ 10.00
Other	-	$ 0.00	$ 0.00
Modified Adjusted Gross Income	=	$ 0.00	$2,040.00
Total Net Income Computation			
Modified Adjusted Gross Income		$ 2,040.00	
5% Disregard of FPL	-	$ 0.00	
Total: Net Income	=	$ 2,040.00	
Child 0-1 MAGI Income Standard		$ 2,589.00	
Income Eligibility Determination		PASS	

The above budget is current as of January 2015.

e. Resource Test

There is no resource test for the Child 0-1 MAGI category.

CHILD 1-5 MAGI

Legal Authority: 42 CFR 435.4; 42 CFR 435.112; 42 CFR 435.115; 42 CFR 435.118; 42 CFR 435.603

1. Policy Statement

TennCare Medicaid benefits are available to children aged 1 through 5 whose household income is equal to or less than 142% of the Federal Poverty Level (FPL) based on household size, and who meet all non-financial eligibility requirements.

2. Non-Financial Eligibility

Children eligible for the Child 1-5 MAGI category must meet all non-financial eligibility requirements. Additional information about each condition of eligibility is available in the Non-Financial Eligibility chapters.

a. Age: A child must be age 1 through 5.

b. Citizenship: A child must be a U.S. Citizen, U.S. national or eligible non-citizen.

c. Enumeration: A child must possess and provide a valid Social Security Number (SSN) or proof of application for a SSN, unless they meet an exception.

d. State Residence: A child must be a resident of Tennessee.

e. Cooperation with Child Support Services: A child is not required to agree to cooperate with Child Support Services. If the parent or caretaker of a child who is applying for benefits refuses to cooperate, the child will not be penalized. The child will be reviewed for or maintain eligibility in this category.

3. Financial Eligibility Requirements

a. Household Composition

Household composition for this category uses Modified Adjusted Gross Income (MAGI) methodology. It is possible for household members to have different household sizes when determining eligibility. For additional information regarding household size see the *Household Composition for MAGI* policy.

b. Income Standard

The income standard for the Child 1-5 MAGI category is 142% FPL.

c. Budget Overview

i. Total Gross Income Computation (for each household member)

Household Member's Total Countable Income is the total countable income for each individual.

Question 1: Is the household member a child or tax dependent? Yes or No
Question 2: Is the household member's income below the tax threshold? Yes or No

These two questions determine whether the household member's income will be included in the Total Net Income Computation. If both answers are yes and the individual is a child/tax dependent of their parent (natural, adopted or step), the Total Gross Income for that individual is $0.

Total Gross Income, when applicable, is used in the Modified Adjusted Gross Income Computation.

ii. Modified Adjusted Gross Income Computation (for each household member)

Total Gross Income
- Legally Obligated Alimony
- Student Loan Interest Paid
-Other Expenses
Modified Adjusted Gross Income

iii. Total Net Income Computation (for household)

Modified Adjusted Gross Income (total of included household members)
- 5% Disregard of FPL (5% FPL, based on household size and converted to a dollar amount, is deducted if the applicant's MAGI is greater than the Child 1-5 MAGI Income Standard)
= Total Net Income

Is Total Net Income less than or equal to the Child 1-5 MAGI Income Standard (based on household size)?

If Yes, Pass. If No, Fail.

d. Example Budget

The following budget is based on a household with a dependent 3 year old child and includes the child's mother. This budget determines eligibility for the child. This child does not meet the income standard to be eligible in this category. Application of the 5% disregard does not result in the child meeting the income standard for the Child 1-5 MAGI category.

Total Gross Income Computation		**Child**	**Mother**
Household Member's Total Countable Income		$ 0.00	$2,050.00
Is the household member a child/tax dependent		Yes	No
Is income below the tax threshold?		Yes	No
Total: Gross Income	+	$ 0.00	$ 2,050.00
Modified Adjusted Gross Income Computation			
Total Gross Income		$ 0.00	$ 2,050.00
Legally Obligated Alimony	-	$ 0.00	$ 0.00
Student Loan Interest Paid	-	$ 0.00	$ 0.00
Other	-	$ 0.00	$ 10.00
Modified Adjusted Gross Income	=	$ 0.00	$ 2,040.00
Total Net Income Computation			
Modified Adjusted Gross Income		$2,040.00	
5% Disregard of FPL (100% FPL for household of 2 = $1,327.50)(5% of $1,327.50 = $66.38)	-	$ 66.38	
Total: Net Income	=	$1,973.62	
Child 1-5 MAGI Income Standard		$1,886.00	
Income Eligibility Determination		FAIL	

The above budget is current as of January 2015.

e. Resource Test

There is no resource test for the Child 1-5 MAGI category.

CHILD 6-18 MAGI

Legal Authority: 42 CFR 435.4; 42 CFR 435.112; 42 CFR 435.115; 42 CFR 435.118; 42 CFR 435.603

1. Policy Statement

TennCare Medicaid benefits are available to children aged 6 through 18 whose household income is equal to or less than 133% of the Federal Poverty Level (FPL) based on household size, and who meet all non-financial eligibility requirements.

2. Non-Financial Eligibility Requirements

Children eligible for the Child 6-18 MAGI category must meet all non-financial eligibility requirements. Additional information about each condition of eligibility is available in the Non-Financial Eligibility chapters.

a. Age: A child must be ages 6 through 18 years.

b. Citizenship: A child must be a U.S. citizen, U.S. national or eligible non-citizen.

c. Enumeration: A child must possess and provide a valid Social Security Number (SSN) or proof of application for an SSN, unless they meet an exception.

d. State Residence: A child must be a resident of Tennessee.

e. Cooperation with Child Support Services: A child is not required to agree to cooperate with Child Support Services. If the parent or caretaker of a child who is applying for benefits refuses to cooperate, the child will not be penalized. The child will be reviewed for or maintain eligibility in this category.

3. Financial Eligibility Requirements

a. Household Composition

Household composition for this category uses the Modified Adjusted Gross Income (MAGI) methodology. It is possible for household members to have different household sizes when determining eligibility. For additional information regarding household size see the *Household Composition for MAGI* policy.

b. Income Standard

The income standard for the Child 6-18 MAGI category is 133% FPL.

c. Budget Overview

i. Total Gross Income Computation (for each household member)

Household Member's Total Countable Income is the total countable income for each individual.

Question 1: Is the household member a child or tax dependent? Yes or No
Question 2: Is the household member's income below the tax threshold? Yes or No

These two questions determine whether the household member's income will be included in the Total Net Income Computation. If both answers are yes and the individual is a child/tax dependent of their parent (natural, adopted or step), the Total Gross Income for that individual is $0.

Total Gross Income, when applicable, is used in the Modified Adjusted Gross Income Computation.

ii. Modified Adjusted Gross Income Computation (for each household member)

Total Gross Income
- Legally Obligated Alimony
- Student Loan Interest Paid
-Other Expenses
Modified Adjusted Gross Income

iii. Total Net Income Computation (for household)

Modified Adjusted Gross Income (total of included household members)
- 5% Disregard of FPL (5% FPL, based on household size and converted to a dollar amount, is deducted if the applicant's MAGI is greater than the Child 6-18 MAGI Income Standard)
= Total Net Income

Is Total Net Income less than or equal to the Child 6-18 MAGI Income Standard (based on household size)?

If Yes, Pass. If No, Fail.

d. Example Budget

The following budget is based on a household with a dependent 14 year old child, and includes the child's mother and father. This budget determines eligibility for the child. The child does not meet the income standard for the Child 6-18 MAGI category initially, but a 5% disregard of the child's income does allow the child to meet the income standard for the category.

Total Gross Income Computation		Child	Mother	Father
Household Member's Total Countable Income		$ 0.00	$1,000.00	$ 1,222.00
Is the household member a child/tax dependent		Yes	No	No

Is income below the tax threshold?		Yes	No	No
Total: Gross Income		$ 0.00	$1,000.00	$ 1,222.00
Modified Adjusted Gross Income Computation				
Total Gross Income		$ 0.00	$ 1,000.00	$ 1,222.00
Legally Obligated Alimony	-	$ 0.00	$ 0.00	$ 0.00
Student Loan Interest Paid	-	$ 0.00	$ 0.00	$ 0.00
Other	-	$ 0.00	$ 0.00	$ 0.00
Modified Adjusted Gross Income	=	$ 0.00	$ 1,000.00	$ 1,222.00
Total Net Income Computation				
Modified Adjusted Gross Income		$2,222.00		
5% Disregard of FPL (100% FPL for household of 3 = $1,674.17)(5% of $1,674.17 = $83.71)	-	$ 83.71		
Total: Net Income	=	$2,138.29		
Child 6-18 Income Standard (household size of 3)		$2,227.00		
Income Eligibility Determination		PASS		

The above budget is current as of January 2015.

e. Resource Test

There is no resource test for the Child 6-18 MAGI category.

PRESUMPTIVELY ELIGIBLE PREGNANT WOMEN

Legal Authority: 42 CFR 435.4; 42 CFR 435.603; 42 CFR 435.956; 42 CFR 435.1101-1103

1. Policy Statement

The Presumptively Eligible Pregnant Women category provides temporary TennCare Medicaid coverage for pregnant women applying for TennCare Medicaid. The Tennessee Department of Health (DOH) facilitates the application process for pregnant women applying for TennCare Medicaid (presumptive and regular benefits) at local health departments throughout the state, and at the Memphis Health Center, a Federally Qualified Health Center (FQHC). The Presumptively Eligible Pregnant Women category is intended to provide a pregnant woman with coverage while she completes her TennCare Medicaid application.

2. Eligibility Period

Eligibility in this category begins on the date on which a qualified entity determines that an individual is presumptively eligible and ends on the earlier of:

- In a case where a Medicaid application has not been filed, the last day of the month following the month in which the determination of presumptive eligibility was made; or
- In a case where a Medicaid application has been filed, the day on which a decision is made on a filed Medicaid application.

Only one period of presumptive eligibility is provided per pregnancy.

3. Non-Financial Eligibility Requirements

a. Age: There is no minimum or maximum age for the Presumptively Eligible Pregnant Women category.

b. Citizenship: A pregnant woman must be a U.S. Citizen, U.S. National or eligible non-citizen. Self-attestation of citizenship is accepted.

c. Enumeration: A pregnant woman that is eligible to have a Social Security Number (SSN) should provide an SSN, unless she meets an exception. Eligibility in the Presumptively Eligible Pregnant Women category should not be denied when an individual is unable to provide an SSN.

d. State Residence: A pregnancy woman must be a Tennessee resident. Self-attestation of residency status is accepted.

e. Child Support Cooperation: A pregnant woman is not required to cooperate with child support.

f. Pregnancy: A woman must be pregnant. Self-attestation of pregnancy is accepted.

4. Financial Eligibility Requirements

a. Income Standard

The income standard for this category is 195% Federal Poverty Level (FPL). Self-attestation of income is accepted when applying for presumptive eligibility.

b. Resource Test

There is no resource test.

5. Presumptive Eligibility Application Process

Staff at the DOH offices process eligibility for the Presumptively Eligible Pregnant Women category. DOH staff input the required eligibility information into the appropriate DOH system, which is then sent to interChange. Staff at the Memphis FQHC will complete a paper application and submit to the DOH state office for processing.

The DOH staff will also facilitate completion of a full TennCare Medicaid application when the woman is processed for presumptive eligibility.

PREGNANCY MAGI

Legal Authority: 42 CFR 435.4; 42 CFR 435.112; 42 CFR 435.115; 42 CFR435.116; 42 CFR 435.603; 42 CFR 435.952; 42 CFR 435.956

1. Policy Statement

TennCare Medicaid benefits are available to pregnant women whose household income is equal to or less than 195% of the Federal Poverty Level (FPL) based on household size, and who meet all non-financial eligibility requirements.

2. Coverage Period

Pregnant women remain eligible for TennCare Medicaid benefits through a 60 day postpartum period. The 60 day postpartum period is automatic and applicable to all pregnant women who have applied, been determined eligible for and received TennCare Medicaid benefits prior to the end of the pregnancy. The post-partum coverage period is applied regardless of any change in household income. The postpartum period is applied regardless of how the pregnancy ends.

3. Non-financial Eligibility Requirements

Women eligible for the Pregnancy MAGI category must meet all non-financial eligibility requirements. Additional information about each condition of eligibility is available in the Non-Financial Eligibility chapters.

a. Age: There is no minimum or maximum age for the Pregnancy MAGI category.

b. Pregnancy: HCFA accepts self-attestation of pregnancy at application or as a reported change, unless HCFA has information that is not reasonably compatible with such attestation. If HCFA has information that is not reasonably compatible with an attested pregnancy, HCFA will contact the individual and may request written medical verification of the pregnancy.

c. Citizenship: A pregnant woman must be a U.S. Citizen, U.S. National or eligible non-citizen.

d. Enumeration: A pregnant woman must possess and provide a valid Social Security Number (SSN) or proof of an SSN application, unless she meets an exception.

e. State Residence: A pregnant woman must be a resident of Tennessee.

f. Cooperation with Child Support Services: A pregnant woman is not required to agree to cooperate with Child Support Services for the unborn baby.

4. Financial Eligibility Requirements

a. Household Composition

The Pregnancy MAGI category uses the Modified Adjusted Gross Income (MAGI) methodology to determine household size. When determining household size for a pregnant woman, the pregnant woman is counted as herself plus the number of children she is expected to deliver. When determining household size for other applicants in the household, the pregnant woman is counted as one person. For additional information regarding household size see the *Household Composition for MAGI* policy.

b. Income Standard

The income standard for this category is 195% FPL.

c. Budget Overview

i. Total Gross Income Computation (for each household member)

Household Member's Total Countable Income is the total countable income for each individual.

Question 1: Is the household member a child or tax dependent? Yes or No
Question 2: Is the household member's income below the tax threshold? Yes or No

These two questions determine whether the household member's income will be included in the Total Net Income Computation. If both answers are yes and the individual is a child/tax dependent of their parent (natural, adopted or step), the Total Gross Income for that individual is $0.

Total Gross Income, when applicable, is used in the Modified Adjusted Gross Income Computation.

ii. Modified Adjusted Gross Income Computation (for each household member)

Total Gross Income
- Legally Obligated Alimony
- Student Loan Interest Paid
-Other Expenses
Modified Adjusted Gross Income

iii. Total Net Income Computation (for household)

Modified Adjusted Gross Income (total of included household members' MAGI)

- 5% Disregard of FPL (5% FPL, based on household size and converted to a dollar amount, is deducted if the applicant's MAGI is greater than the Pregnancy MAGI Income Standard)
= Total Net Income

Is Total Net Income less than or equal to the Pregnancy MAGI Income Standard (based on household size)?

If Yes, Pass. If No, Fail.

d. Example Budget

The following budget is based on a household with a pregnant woman and her dependent child. This budget determines eligibility for the mother. The household size for the mother is 3 (the pregnant woman, the unborn child and the dependent child). A 5% disregard is not applied because the household income is below the income standard for the Pregnancy MAGI category. She is eligible for the Pregnancy MAGI category.

Total Gross Income Computation		**Mother**	**Child**
Household Member's Total Countable Income		$2,050.00	$0.00
Is the household member a child/tax dependent		No	Yes
Is income below the tax threshold?		No	Yes
Total: Gross Income		$2,050.00	$0.00
Modified Adjusted Gross Income Computation			
Total Gross Income		$2,050.00	$0.00
Legally Obligated Alimony	-	$0.00	$0.00
Student Loan Interest Paid	-	$10.00	$0.00
Other	-	$0.00	$0.00
Modified Adjusted Gross Income	=	$2,040.00	$0.00
Total Net Income Computation			
Modified Adjusted Gross Income		$2,040.00	
5% Disregard of FPL	-	$ 0.00	
Total: Net Income	=	$2,040.00	
Pregnancy MAGI Income Standard (Household size 3)		$3,265.00	
Income Eligibility Determination		PASS	

The above budget is current as of January 2015.

e. Resource Test

There is no resource test for the Pregnancy MAGI category.

CARETAKER RELATIVE MAGI

Legal Authority: 42 CFR 435.4; 42 CFR 435.110; 42 CFR 435.112; 42 CFR 435.115; 42 CFR 435.603

1. Overview of Caretaker Relative MAGI category

The Caretaker Relative MAGI category is only available to parents and caretaker relatives of dependent children under age 18, or 18 and a full-time student. Although there are some similarities between the Caretaker Relative MAGI category and the former AFDC-MO Medicaid category, there are a number of important differences:

- Eligible parents and caretaker relatives must have a dependent child under age 18, or 18 and a full-time student, living in the home, but the child does not have to be deprived of parental support;
- Children are not eligible under the Caretaker Relative MAGI category, unless the child is considered the caretaker relative of another child;
- The MAGI financial methodology is used for the Caretaker Relative MAGI category;
- The dependent child of the parent or caretaker relative is not required to be eligible for or receive TennCare Medicaid; and
- The Caretaker Relative MAGI category has a more limited set of relatives who may gain eligibility as a caretaker relative.

2. Policy Statement

TennCare Medicaid benefits are available to parents and caretaker relatives of a dependent child under age 18, or 18 and a full-time student, whose household income is at or below the income eligibility standard, by household size, and who meet all non-financial eligibility requirements.

3. Non-Financial Eligibility Requirements

a. Age: There is no minimum or maximum age for the Caretaker Relative MAGI category.

b. Caretaker Relative Status: A caretaker relative of a child is a relative by blood, adoption, or marriage with whom a dependent child, under age 18 or 18 and full-time student, is living, who assumes primary responsibility for the child's care, and is one of the following:

- The child's father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece; or
- The spouse of such parent or relative, even after the marriage is terminated by death or divorce.

An assumption of primary responsibility may be apparent if the individual claims the child as a tax dependent, but it is not required.

c. **Citizenship:** A parent or caretaker relative must be a U.S. Citizen, U.S. National or eligible non-citizen.

d. **Enumeration:** A parent or caretaker relative must possess and provide a valid Social Security Number (SSN) or proof of an SSN application, unless he or she meets an exception.

e. **State Residence:** A parent or caretaker relative must be a resident of Tennessee.

f. **Cooperation with Child Support Services:** An eligible parent or caretaker relative must agree to cooperate with Child Support Services in establishing paternity of a child born out of wedlock and in obtaining medical support and payments for himself or herself and anyone for whom the individual can legally assign rights. Proof of non-compliance from the Department of Human Services Child Support Enforcement Office may lead to ineligibility.

4. Financial Eligibility Requirements

a. Household Composition

Household composition for this category uses MAGI methodology. It is possible for household members to have different household sizes when determining eligibility. For additional information regarding household size see the *Household Composition for MAGI* policy.

b. Income Standard

Household Size	Income Standard	Household Size	Income Standard
1	**$1,018**	**11**	**$3,259**
2	**$1,329**	**12**	**$3,431**
3	**$1,611**	**13**	**$3,601**
4	**$1,867**	**14**	**$3,770**
5	**$2,102**	**15**	**$3,935**
6	**$2,320**	**16**	**$4,098**
7	**$2,524**	**17**	**$4,257**
8	**$2,718**	**18**	**$4,411**
9	**$2,903**	**19**	**$4,557**
10	**$3,084**	**20**	**$4,693**
		Add on	**N/A**

Note: The Federally Facilitated Marketplace (FFM) could not program TennCare Caretaker Relative dollar figure thresholds into its eligibility processing functionality. The numbers above are contained within the TennCare State Plan. While applications are being processed through the FFM, the income standard for Caretaker Relatives is 104% of the Federal Poverty Level.

c. Budget Overview

i. Total Gross Income Computation (for each household member)

Household Member's Total Countable Income is the total countable income for each individual.

Question 1: Is the household member a child or tax dependent? Yes or No
Question 2: Is the household member's income below the tax threshold? Yes or No

These two questions determine whether the household member's income will be included in the Total Net Income Computation. If both answers are yes and the individual is a child/tax dependent of their parent (natural, adopted or step), the Total Gross Income for that individual is $0.

Total Gross Income, when applicable, is used in the Modified Adjusted Gross Income Computation.

ii. Modified Adjusted Gross Income Computation (for each household member)

Total Gross Income
- Legally Obligated Alimony
- Student Loan Interest Paid
-Other Expenses
Modified Adjusted Gross Income

iii. Total Net Income Computation (for household)

Modified Adjusted Gross Income (total of included household members)
- 5% Disregard of FPL (5% FPL, based on household size and converted to a dollar amount, is deducted if the applicant's MAGI is greater than the Caretaker Relative Income Standard)
= Total Net Income

Is Total Net Income less than or equal to the Caretaker Relative Income Standard (based on household size)?

If Yes, Pass. If No, Fail.

d. Example Budget

Example 1: The following budget is based on a household with an unmarried grandparent and grandchild. The grandparent meets the caretaker relative status requirements, but does not file taxes. This budget determines eligibility for the grandparent. The household size for the grandparent is 1 (the applying grandparent). The grandchild is not included in the household size based on non-filer rules. The grandparent is not eligible because his or her reported net income is above the income standard for this category.

Total Gross Income Computation		**Grandparent**	**Child**
Household Member's Total Countable Income		$2,050.00	$0.00
Is the household member a child/tax dependent		No	Yes
Is income below the tax threshold?		No	Yes
Total: Gross Income	=	$2,050.00	$0.00
Modified Adjusted Gross Income Computation			
Total Gross Income		$2,050.00	$0.00
Legally Obligated Alimony	-	$0.00	$0.00
Student Loan Interest Paid	-	$0.00	$0.00
Other	-	$0.00	$0.00
Modified Adjusted Gross Income	=	$2,050.00	$0.00
Total Net Income Computation			
Modified Adjusted Gross Income		$2,050.00	
5% Disregard of FPL (100% FPL for household of 1 = $980.83)(5% of $980.83 = $49.05)	-	$49.05	
Total: Net Income	=	$2,000.95	
Caretaker Relative Income Standard (household size 1)		$1,018.00	
Income Eligibility Determination		FAIL	

The above budget is current as of January 2015.

Example 2: The following budget is based on a household with a mother and father that have 3 dependent children. This budget is to determine eligibility for the mother. The children do not have income. The mother's income is $200 per month. The father's income is $2,010 per month. The couple files taxes jointly. The mother's income is below the tax threshold, but she is not a claimed dependent; therefore, the mother's income is included in the MAGI for the household.

The MAGI total for the household is $2,210. The mother's household income of $2,210 is over $2,102, the Caretaker Relative income standard for a household of 5. Applying a 5% disregard of $116.29 makes the mother eligible for this category. The mother is considered income eligible for the Caretaker Relative category.

Total Gross Income Computation		**Mother**	**Father**	**Child**	**Child**	**Child**
Household Member's Total Countable Income		$200.00	$2,010.00	$ 0.00	$ 0.00	$ 0.00
Is the household member a child/tax dependent		No	No	Yes	Yes	Yes
Is income below the tax threshold?		Yes	No	Yes	Yes	Yes
Total: Gross Income	=	$ 200.00	$ 2,010.00	$ 0.00	$ 0.00	$ 0.00
Modified Adjusted Gross Income Computation						
Total Gross Income		$200.00	$ 2,010.00	$ 0.00	$ 0.00	$ 0.00
Legally Obligated Alimony	-	$ 0.00	$ 0.00	$ 0.00	$ 0.00	$ 0.00
Student Loan Interest Paid	-	$ 0.00	$ 0.00	$ 0.00	$ 0.00	$ 0.00
Other	-	$ 0.00	$ 0.00	$ 0.00	$ 0.00	$ 0.00
Modified Adjusted Gross Income	=	$ 200.00	$ 2,010.00	$ 0.00	$ 0.00	$ 0.00

Total Net Income Computation						
Modified Adjusted Gross Income		$ 2,210.00	[redacted]	[redacted]	[redacted]	[redacted]
5% Disregard of FPL (100% FPL for household of 5 = $2,367.50)(5% of $2,367.50 = $118.38)	-	$ 118.38				
Total: Net Income	=	$ 2,091.62				
Caretaker Relative Income Standard (Household size 5)		$ 2,102.00				
Income Eligibility Determination		PASS				

The above budget is current as of January 2015.

e. Resource Test

There is no resource test for the Caretaker Relative MAGI category.

CHILD MEDICALLY NEEDY

Legal Authority: 42 CFR 435.4; 42 CFR 435.301; 42 CFR 435.308; 42 CFR 435.602; 42 CFR 435.603; 42 CFR 435.831; TCA 49-4-902(18) and (29)

1. Policy Statement

TennCare Medicaid benefits are available to children under age 21 who are not eligible for a MAGI category, who have resources under the Medically Needy resource limit based on household size, and who have countable income equal to or less than the Medically Needy Income Standard based on household size, or have met the spend down requirement. Eligible children must meet all of the Child Medically Needy non-financial eligibility requirements.

2. Definitions

Major Parent: The parent of a parent under the age of 21 (the minor parent) applying for TennCare Medicaid. The major parent must live in the same household as the minor parent and his or her child.

Minor Parent: A parent under the age of 21 who is applying for TennCare Medicaid along with his or her child.

Step-parent: The spouse of a parent under age 21 applying for assistance for both him or herself and his or her child.

3. Non-Financial Eligibility Requirements

Children eligible for the Child Medically Needy category must meet all non-financial eligibility requirements. Additional information about each condition of eligibility is available in the Non-Financial Eligibility chapters.

i. **Age:** A child must be under age 21.

ii. **Citizenship:** A child must be a U.S. citizen, U.S. national or eligible non-citizen.

iii. **Enumeration:** A child must possess and provide a valid Social Security Number (SSN) or proof of application for an SSN, unless they meet an exception.

iv. **State Residence:** A child must be a resident of Tennessee.

v. **Cooperation with Child Support Services:** A child is not required to agree to cooperate with Child Support Services. If the parent or caretaker of the child who is applying for benefits refuses to cooperate, the child will not be penalized and will be reviewed for eligibility in this category.

4. Financial Eligibility Requirements

a. Household Composition

Household composition is governed by the principle of FRRs. Financial responsibility is limited to spouse to spouse, and parent to child. For household composition details see the *Medically Needy Household Composition* policy.

Note: When a parent who is under age 21 applies for coverage with his or her child, and there is a stepparent or major parent living in the home, the parent's household composition and income is subject to financial rules specific to the Medically Needy category. See Section 4.c.ii.

b. Resources

i. Resource Limit

The resource limit for the Child Medically Needy category is $2,000 for one individual and $3,000 for 2 individuals. An additional $100 is added for each additional individual.

ii. Whose Resources are Counted

Count the individually owned and pro-rata share of jointly owned assets of children under age 21 and their FRR.

Do not include resources of a Families First, Supplemental Security Income (SSI) or needs-based Veterans Affairs (VA) Benefits recipient. See the *Treatment of Resources: Ownership, Equity Value & Accessibility* policy for additional information.

iii. Stepparent and/or Major Parent Deemed Resources

Resources owned by a stepparent when his or her spouse is applying for assistance, or a major parent when a minor parent is requesting assistance, are not deemed available to the spouse/minor parent. Resources owned by a stepparent or major parent cannot be deemed available to children for whom he or she is not financially responsible.

c. Household Income

i. General Rule

Countable and excluded income is determined using the 1996 Aid to Dependent Children and Families (AFDC) methodology. See the *Medically Needy Countable and Excluded Income* Policy.

The income (except income subject to an exclusion or disregard) of the following household members will be counted:

- Individuals under age 21 for whom assistance is requested; and
- Their FRRs.

Note: See income deeming rules from a stepparent or major parent living in the home. Section 4.c.ii.

Count the income (except that subject to exclusion or disregard) of the parent serving a sentence of unpaid public or community service work while living in the home, less an amount equal to the Medically Needy Income Standard (MNIS) for one to meet his or her needs.

Do not use the income in the budget of a FRR who receives Families First, Supplemental Security (SSI) or needs-based Veterans Affairs (VA) Benefits.

ii. Stepparent or Major Parent Living in the Home

1. Overview

The financial assets of a stepparent or major parent living in the home with a parent or minor parent who is applying for Medically Needy coverage are not available to the child(ren) for whom he or she has no financial responsibility.

A stepparent/major parent's income is available to his or her spouse or child. Income belonging to a stepparent/major parent is deemed to the parent/minor parent applying for coverage, and the amount of income available to deem determines whether the income is counted in the parent's/minor parent's budget.

2. Stepparent or Major Parent Deeming Budget

The stepparent or major parent's income is subject to the Medically Needy countable and excluded income policy. See the *Medically Needy Countable and Excluded Income* Policy.

a. Determine Net Unearned Income

Gross Unearned Income = Net Unearned Income

b. Determine Net Earned Income

Gross Earned Income
<u>- Earned Income Disregard ($90 work expense)</u>
Net Earned Income

c. Determine Net Total Income

Net Unearned Income
<u>+ Net Earned Income</u>
= Net Total Income

d. Apply Dependent Deductions

Net Total Income

- MNIS per number of in-home dependents, including the step parent/major parent/spouse. Do not include any individuals in the Medically Needy Household.
- Contributions to out-of-home dependents paid by the stepparent/major parent/spouse
- Child support and/or alimony to out-of-home dependents
= Deemed Income Amount

Note: Contributions to out-of-home dependents paid by the stepparent/major parent/spouse must be verified. Verification may include copies of checks or signed affidavits of support.

3. Deemed Income Amount Analysis

Once the amount of income to deem to the parent/minor parent is determined, apply the following rules:

- If the deemed income amount is equal to or less than the MNIS (based on the number of people that the stepparent or major parent is financially responsible for), then the deemed income is not counted in the parent/caretaker relative's household income.

- If the deemed income amount is greater than the MNIS (based on the number of people that the stepparent or major parent is financially responsible for), then the deemed income is counted in the parent/caretaker relatives budget.

If stepparent or major parent income is deemed available, it does not change the household composition of individuals applying for assistance, but the applicants' budgets will be different.

4. Stepparent Deeming Budget Example

A 20 year old woman applies for TennCare Medicaid. She has one child, age 3, by a previous marriage who receives $200 per month in child support. She also has one child, age 1, with her current husband. She earns $1,200 a month. Her husband earns $2,000 a month and has $1,600 in unearned monthly income. He is not applying for TennCare Medicaid. All 4 family members live together.

Deeming Budget from Husband to Wife and their Child

i. Gross Unearned Income = $1,600

ii. Net Earned Income

$2,000 Gross Earned Income
- $90 Earned Income Disregard
$1,910 Net Earned Income

iii. Determine Total Net Income

$1,600 Net Unearned Income

+ $1,910 Net Earned Income
$3,510 Total Net Income

iv. Apply Dependent Deductions

$3,510 Total Net Income
- $241 MNIS for 1 Person
$3,269 Deemed Income Amount

The deemed income amount is greater than the $258, the MNIS for 2 people (wife/mother and "their" child). The wife/mother's household will include their common child, and the deemed income will be counted in the budget. Her two children from the previous marriage will be in their own budget, and the deemed income will not be counted in their budget.

d. Medically Needy Income Standard (MNIS)

Household Size	Income Standard	Household Size	Income Standard
1	**$241**	**10**	**$625**
2	**$258**	**11**	**$683**
3	**$317**	**12**	**$733**
4	**$325**	**13**	**$792**
5	**$392**	**14**	**$842**
6	**$408**	**15**	**$900**
7	**$467**	**16**	**$950**
8	**$517**	**17**	**$1,008**
9	**$567**	**18**	**$1,058**

e. Disregards

i. Earned Income

The following situations specify disregards that are applied to an individual's earned income.

1. Earned Income Disregard

A $90 disregard for work expenses is permitted per month for each individual with earned income.

2. Payments on Behalf of Dependents within the Home

A day care expense of up to $175 per month per dependent age 2 or older is applied. A day care expense up to $200 per month per dependent under age 2 is applied.

3. Student Income

Exclude earnings of a child under age 21 who is either a full-time student or a part-time student, not employed full-time.

A student is defined as a child under age 21 attending primary or secondary school, college, university, or a course of vocational or technical training.

- A child retains his or her student status during official school vacations and breaks if the requirement prior to the vacation or break were met, and the student plans to return.
- A child who is receiving elementary/secondary or equivalent vocational/technical instruction from a homebound teacher meets student requirements.
- An elementary school is defined as a state-approved educational institution comprised of grade kindergarten through eighth grade.
- Participation in apprenticeships, correspondence courses, other courses of home study and rehabilitation programs other than academic, institutional, vocational or technical training do not qualify a child as a student.

A full-time student for college or university is an individual who is enrolled in at least 12 credit or semester hours per semester. A part-time student is an individual who in enrolled in at least 6 but less than 12 credit or semester hours per semester. (TCA 49-4-902(18) and (29)).

ii. Unearned Income

1. Child Support Disregard

If an applicant that receives Temporary Assistance for Needy Families (TANF)/Families First assistance also receives child support payments (current only), exclude up to $50 per month of child support payments received.

f. Income Budget

Income eligibility for the Medically Needy Child category is determined using a two-step process. The first step determines the applicant's total net income, and the second step determines whether the applicant must meet spend down. See the *Medically Needy Spend Down* policy for complete spend down policy and procedures.

If the applicant's total net income does not exceed the Medically Needy Income Standard (MNIS) by household size, and the applicant is otherwise eligible, the applicant will be approved for eligibility as Exceptionally Eligible.

If the applicant has total net income that exceeds the MNIS by household size, the applicant will have to spend down their net income to the MNIS using incurred or paid medical expenses.

i. Budget Overview

Countable and excluded income is determined using the AFDC methodology. See the *Medically Needy Countable and Excluded Income* Policy.

1. Net Unearned Income Computation (for each household member)

Gross Unearned Income = Net Unearned Income

2. Net Earned Income Computation (for each household member)

Gross Earned Income
- Earned Income Disregard ($90 work expense)
- Dependent Care Disregard ($175 for child age 2 and over; $200 for child under age 2)
Net Earned Income

3. Total Net Income Computation (for household)

Net Unearned Income for all household members
+ Net Earned Income for all household members
Total Net Income

4. Determine Exceptional Eligibility

Is Total Net Income less than or equal to the MNIS for the household size?

If Yes, Pass the household as Exceptionally Eligible.
If No, Continue processing eligibility. Go to Step 5.

5. Exclude Children with Sufficient Income

Determine whether any of the children in the household have countable income. A child with countable income may be excluded if his or her income makes the household ineligible, and this child is not the only eligible child in the household. Exclude the individually owned resources of any child excluded under this step during the resource determination. Children who are excluded from the household will group into their own case, along with their financially responsible relatives, if applying and eligible for TennCare Medicaid.

Do not exclude any children who have been identified by the caretaker as having special medical needs. Children with special medical needs should remain in the household and have eligibility determined under the spend down provision.

If a child with income has been removed, test the remaining household members for exceptional eligibility (Step 4).

6. Determine Eligibility under Spend Down Provision

Total Net Income
- MNIS, based on household size
Spend Down Amount (See Section 4. Spend Down)

ii. Example Budget

The following budget is based on a household with a dependent age 1 year and includes the child's mother. This budget example determines eligibility for the child. The mother's gross income is $2,600. A disregard for dependent expense paid within the home is applied. This child does have $100,000 in allowable medical expenses. This child does not meet the income standard until spend down with allowable medical expenses is applied. Only $2,052 of the $100,000 in allowable medical expenses is required to meet spend down. A carryover of $97,958 maybe used when the child is reviewed for eligibility in 12 months.

1. Net Unearned Income Computation

The household has $0 of unearned income.

2. Net Earned Income Computation

$2,600 Gross Earned Income
- $90 Earned Income Disregard (Work Expense)
- $200 Dependent Care Disregard (Daughter is under two years old)
= $2,310 Net Earned Income

3. Total Net Income Computation

$0 Net Unearned Income
+ $2,310 Net Earned Income
= $2,310 Total Net Income

4. Determine Exceptional Eligibility

Is Total Net Income ($2,310) less than or equal to the MNIS for 2 ($258)?

No. The household is not exceptionally eligible.

There is only one child in the household, and the child has no income, so no children can be excluded from the household.

5. Determine Eligibility Under Spend Down Provision

$2,310 Total Net Income
$258 MNIS for 2

= $2,052 Spend Down Amount

See the *Medically Needy Spend Down* policy for complete spend down policy and procedures.

QUALIFIED PREGNANT WOMAN MEDICALLY NEEDY

Legal Authority: 42 CFR 435.4; 42 CFR 435.301; 42 CFR 435.601

1. Policy Statement

TennCare Medicaid benefits are available to pregnant women who are not eligible for the MAGI Pregnant Woman category, who have resources within the Medically Needy resource limit based on household size, and who have countable income equal to or less than the Medically Needy Income Standard (MNIS) based on household size, or meet the spend down requirement. Eligible women must meet all of the Qualified Pregnant Woman Medically Needy non-financial eligibility requirements.

2. Coverage Period

Pregnant women remain eligible for TennCare Medicaid benefits through a 60 day postpartum period. The 60 day postpartum period is automatic and applicable to all pregnant women who have applied, been determined eligible for and received TennCare Medicaid benefits prior to the end of the pregnancy. The post-partum coverage period is applied regardless of any change in household income. The postpartum period is applied regardless of how the pregnancy ends.

3. Non-Financial Eligibility Requirements

Pregnant women eligible for the Qualified Pregnant Woman Medically Needy category must meet all non-financial eligibility requirements. Additional information about each condition of eligibility is available in the Non-Financial Eligibility chapters.

i. **Age:** There is no minimum or maximum age for this category.

ii. **Citizenship:** A pregnant woman must be a U.S. Citizen, U.S. National or eligible non-citizen.

iii. **Enumeration:** A pregnant woman must possess and provide a valid Social Security Number (SSN) or proof of application for an SSN, unless she meets an exception.

iv. **State Residence:** A pregnant woman must be a resident of Tennessee.

v. **Cooperation with Child Support Services:** A pregnant woman is not required to agree to cooperate with Child Support Services for the unborn baby.

vi. **Pregnancy:** A woman must be pregnant. Self-attestation of pregnancy is accepted and considered verified when determining eligibility.

4. Financial Eligibility Requirements

a. Household Composition

Household composition is governed by the principle of FRRs. Financial responsibility is limited to spouse to spouse and parent to child. For household composition details, see the *Medically Needy Household Composition* policy.

b. Resource Test

The resource limit for the Qualified Pregnant Women Medically Needy category is $2,000 for one person and $3,000 for two people. An additional $100 is added per additional individual.

Count the individually owned and pro-rata share of jointly owned assets of children under age 21 and their FRRs. Do not include resources of a Families First, Supplemental Security Income (SSI) or needs-based Veterans Affairs (VA) Benefits recipient. See the *Treatment of Resources: Ownership, Equity Value & Accessibility* policy for additional information.

c. Household Income

Countable and excluded income is determined using the 1996 Aid to Dependent Children and Families (AFDC) methodology. See the *Medically Needy Countable and Excluded Income* Policy.

Count the income (except income subject to an exclusion or disregard) of the following household members:

- The pregnant woman for whom assistance is requested;
- The applicant's children under age 21; and
- Her FRR (e.g., spouse).

The parents of a qualified pregnant woman are not included in the applicant's household.

Do not use the income in the budget of an FRR who receives Families First, Supplemental Security (SSI) or needs-based Veterans Affairs (VA) Benefits.

d. Medically Needy Income Standard

MNIS Standard by Household Size

Household Size	Income Standard	Household Size	Income Standard
1	**$241**	**10**	**$625**
2	**$258**	**11**	**$683**
3	**$317**	**12**	**$733**
4	**$325**	**13**	**$792**
5	**$392**	**14**	**$842**
6	**$408**	**15**	**$900**
7	**$467**	**16**	**$950**
8	**$517**	**17**	**$1,008**

9	**$567**	**18**	**$1,058**

e. Disregards

The following situations specify disregards that are applied to an individual's earned income:

i. Earned Income Disregard

A $90 disregard per month for work expenses is permitted for each individual with earned income.

ii. Payments On Behalf Of Dependents Within The Home

A day care expense of up to $175 per month per dependent age 2 or older is applied. A day care expense up to $200 per month per dependent under age 2 is applied (see *Expenses* policy).

f. Income Budget

Income eligibility for the Qualified Pregnant Women Medically Needy category is determined using a two-step process. The first step determines the applicant's total net income, and the second step determines whether the applicant must meet a spend down. The table below provides an overview of how the total net income is determined.

If the applicant has total net income that is less than the MNIS by household size, and is otherwise eligible, the applicant will be approved for eligibility as Exceptionally Eligible.

If the applicant has total net income that is at or greater than the MNIS by household size, the applicant will have to spend down her net income to the MNIS using incurred medical expenses.

Budget Overview

Countable and excluded income is determined using the AFDC methodology See the *Medically Needy Countable and Excluded Income* Policy.

1. Net Unearned Income Computation (for each household member)

Gross Unearned Income = Net Unearned Income

2. Net Earned Income Computation (for each household member)

Gross Earned Income
– Earned Income Disregard ($90 work expense)
– <u>Dependent Care Disregard ($175 for child age 2 and over; $200 for child under age 2)</u>

Net Earned Income

3. Total Net Income Computation (for household)

Net Unearned Income for all household members
+ Net Earned Income for all household members
Total Net Income

4. Determine Exceptional Eligibility

Is Total Net Income less than or equal to the MNIS for the household size?

If Yes, Pass the applicant as Exceptionally Eligible
If No, Continue processing eligibility. Go to Step 5.

5. Exclude Children with Sufficient Income

Determine whether any of the children in the household have countable income. A child with countable income may be excluded if his or her income makes the household ineligible, and this child is not the only eligible child in the household. Exclude the individually owned resources of any child excluded under this step during the resource determination.

Do not exclude any children who have been identified by the applicant as having special medical needs. Children with special medical needs should remain in the household and have eligibility determined under the spend down provision.

6. Determine Eligibility under Spend Down Provision

Total Net Income
– MNIS based on household size
= Spend Down Amount (See Section 4. Spend Down)

g. Example Budget

A pregnant woman (pregnant with one child) and her child, age 1 year, apply for coverage. The woman has no unearned income and $5,000 in monthly earned income. The woman pays $400 per week for childcare. The woman has $50,000 of incurred allowable medical expenses.

1. Net Unearned Income Computation

$0 Gross Unearned Income = $0 Net Unearned Income

2. Net Earned Income Computation

$5,000 Gross Earned Income
– $90 Earned Income Disregard (Work Expense)

– $200 Dependent Care Expense Within the Home Disregard
= $4,710 Net Earned Income

3. Total Net Income Computation

$0 Net Unearned Income
+ $4,710 Net Earned Income
= $4,710 Total Net Income

4. Determine Exceptional Eligibility

Is Total Net Income ($4,710) less than or equal to the MNIS for 3 ($317)?

No, the household is not exceptionally eligible. Proceed to Step 5.

5. Exclude Children with Sufficient Income

No child in the household has countable income, or can be excluded from the household.

6. Determine Eligibility under Spend Down Provision

$4,710 Total Net Income
– $317 MNIS for Household Size 3
= $4,393 Spend Down Amount

The woman has sufficient incurred medical expenses ($50,000) to satisfy spend down, and the household will be determined eligible.

TENNCARE STANDARD

Legal Authority: Tenn. Comp. R. & Reg's. Chapter 1200-13-14; March 2014 Amendment to the TennCare II section 1115 Demonstration Project

1. Policy Statement

Children under age 19 who are losing TennCare Medicaid eligibility will be reviewed for TennCare Standard eligibility. TennCare Standard is available to children losing TennCare Medicaid eligibility, whose family income is at or below 211% of the Federal Poverty Level (FPL) or are determined to be medically eligible, and who meet all other non-financial eligibility requirements. Children may only gain TennCare Standard eligibility when they are terminated from a TennCare Medicaid category in a process known as Medicaid Rollover.

Children under age 19 are not eligible to roll over into TennCare Standard if their TennCare Medicaid benefits were either:

- Based on presumptive eligibility; or
- For Emergency Medical Services (EMS) for undocumented and/or ineligible aliens.

2. Definitions

Medically Eligible: TennCare Standard Medically Eligible individuals are children under age 19 who meet all of the following criteria:

- Are losing TennCare Medicaid;
- Have no insurance or access to insurance;
- Have household income above 211% of the FPL; and
- Have a qualifying medical condition that would have prevented them from getting health insurance prior to the Affordable Care Act (ACA).

Medically Eligible (ME) Packet: A multi-page document that must be completed regarding the child applicant's physical or mental health, if there is no existing encounter data. Corroborating verification from the physician or mental health provider must be provided.

Tax Filing Threshold: An annual income amount set by the Internal Revenue Service that determines whether an individual is required to file income taxes. The threshold varies by age, marital status and the number of tax dependents claimed.

Qualifying Medical Condition: A medical condition which is included among a list of conditions established by HCFA and which will render a qualified uninsured applicant medically eligible.

Uninsured: For the purpose of TennCare Standard eligibility, an uninsured person is a child under age 19 losing Medicaid with no insurance or access to insurance, and whose household income is at or below 211% of the FPL.

3. Application Procedures

a. TennCare Medicaid Closures based on Reported Changes

New applicants are not eligible for TennCare Standard. Individuals are only eligible for this category if they are losing TennCare Medicaid eligibility and rollover into TennCare Standard. When a reported change results in closing of the current TennCare Medicaid category and ineligibility in any other category, processing for TennCare Standard as a Medicaid Rollover is required even if the child is not technically eligible. Although an actual application is not required, the individual must provide all required verifications to gain eligibility for TennCare Standard.

TennCare Standard rollover does not occur if:

- The individual requested his or her TennCare Medicaid closure; or
- TennCare Medicaid is closed because the individual left the state; or
- TennCare Medicaid closure is due to death; or
- TennCare Medicaid closure is due to the child becoming eligible for SSI Medicaid.

4. Co-Pay Responsibility

a. General Rule

TennCare Standard enrollees at or above 100% of the FPL pay co-pays for most TennCare covered services. Co-pays for pharmacy benefits for covered name brand and generic drugs are required for individuals with co-pay responsibility.

b. Aggregate Cost Sharing Cap

There are limitations on the amount of co-pays TennCare Standard children and their TennCare family members are obligated to pay. The aggregate cost-sharing cap is calculated by combining the TennCare cost sharing for all TennCare family members who have TennCare cost-sharing obligations, and may not exceed 5% of the family's annual income, prorated to a quarterly equivalent.

Family income will be calculated using the Modified Adjusted Gross Income (MAGI) methodology, and the family will be assigned to the corresponding income band to determine the standardized aggregate cap. The following income bands and corresponding aggregate annual caps will be used:

Income Band	Poverty Levels	Standardized Annual Aggregate Cap
1	0 – 99%	NA
2	100 – 149%	5% of the amount that corresponds to 100% FPL
3	150 – 199%	5% of the amount that corresponds to 150% FPL
4	200 – 249%	5% of the amount that corresponds to 200% FPL
5	250 – 299%	5% of the amount that corresponds to 250% FPL
6	300 – 349%	5% of the amount that corresponds to 300% FPL
7	350 – 399%	5% of the amount that corresponds to 350% FPL

8	400 – 449%	5% of the amount that corresponds to 400% FPL
9	500 – 599%	5% of the amount that corresponds to 500% FPL
10	600% and over	5% of the amount that corresponds to 600% FPL

c. Enrollee Responsibility

Families of TennCare Standard children are responsible for tracking their own incurred cost-sharing obligations, including keeping copies of receipts or similar documentation, and notifying HCFA when they believe they have reached their cap for a particular calendar quarter. The quarterly cap amount is provided to the family when a child becomes eligible for TennCare Standard.

5. Non-Financial Eligibility Requirements

Children eligible for TennCare Standard must meet all non-financial eligibility requirements. Additional information about each condition of eligibility is available in the Non-Financial Eligibility chapters.

a. Age: TennCare Standard is only available for children under age 19 who are losing TennCare Medicaid eligibility.

b. Citizenship: A child must be a U.S. Citizen, U.S. National or eligible non-citizen.

c. Enumeration: A child must provide a valid Social Security Number, unless they meet an exception.

d. State Residence: A child must be a resident of the State of Tennessee.

e. Child Support Cooperation: A child is not required to agree to cooperate with Child Support Services. If the parent of a child who is applying for benefits refuses to cooperate, the child will not be penalized and will be reviewed for eligibility in this category.

f. TennCare Medicaid Eligibility: The child must be losing eligibility and is no longer eligible for any TennCare Medicaid category.

6. Access to Insurance

a. Changes under the Affordable Care Act

To be eligible for TennCare Standard, a child must not have health insurance or access to health insurance in the group health insurance market. Health insurance market reforms under the ACA will affect an individual's ability to access insurance in the group market. However, the state is required by law to maintain all existing TennCare categories that cover children until September 30, 2019.

Note: Insurance policies offered on the Federally Facilitated Marketplace (FFM) are for the individual and small group insurance market. If an individual has purchased health insurance through the Exchange, then he or she is insured. However, for the purpose of TennCare Standard eligibility, the State does not consider the ability to purchase health insurance through the Exchange as access to insurance.

b. Current Access to Insurance Policy

i. In order to be eligible for TennCare Standard, an individual must:

- Not have insurance or access to insurance in the group health insurance market; OR
- Have a qualifying medical condition that would have made the individual uninsurable prior to the ACA. If the individual has a qualifying medical condition, he or she must also not have insurance or access to insurance.

ii. Common Issues Related to Access to Insurance Policy

- Children with Non-Custodial Parents:
    - A child for whom a non-custodial parent is court-ordered to provide health insurance but does not, does not have access to insurance; or
    - A child whose non-custodial parent has access to health insurance but does not add the child to his or her policy does not have access to insurance.
- If a stepparent in the home has health insurance and could cover his or her stepchild but does not, it is not considered access to insurance.
- If health insurance offered by a college to its students is comprehensive coverage, a student is considered to have access to health insurance.
- If a parent begins a new job and his or her employer-offered health insurance will not start for a specified time period, the children would be considered to not have access to health insurance for the specified time period.

7. Financial Eligibility Requirements

a. Household Composition

The TennCare Standard category uses MAGI methodology to determine household size. Tax filer rules are for applicants who file taxes or are claimed as tax dependents. Non-filer rules are for those applicants that do not file taxes, are not claimed as tax dependents, or meet a tax dependent exception. Refer to the *Household Composition for MAGI* policy regarding application of MAGI household composition for this category.

Note: If sibling income is over the tax filing threshold it is included in the applicant's budget, but if under the threshold it is removed as income to the applicant budget which is a change for this category.

b. Income Standard

For children that do not have access to insurance, the income standard for TennCare Standard is at or below 211% of the FPL.

For children with qualifying medical conditions and who are uninsured, the income standard is above 211% of the FPL.

c. Income Methodology

TennCare Standard uses the MAGI methodology to determine countable and excluded income.

d. Budget Overview

i. Total Gross Income Computation (for each household member)

Household Member's Total Countable Income is the total countable income for each individual.

Question 1: Is the household member a child or tax dependent? Yes or No
Question 2: Is the household member's income below the tax threshold? Yes or No

These two questions determine whether the household member's income will be included in the Total Net Income Computation. If both answers are yes and the individual is a child/tax dependent of their parent (natural, adopted or step), the Total Gross Income for that individual is $0.

Total Gross Income, when applicable, is used in the Modified Adjusted Gross Income Computation.

ii. Modified Adjusted Gross Income Computation (for each household member)

Total Gross Income
- Legally Obligated Alimony
- Student Loan Interest Paid
- Other Expenses
= Modified Adjusted Gross Income

iii. Total Net Income Computation (for household)

Modified Adjusted Gross Income (total of included household members)
- 5% Disregard of FPL (5% FPL, based on household size and converted to a dollar

amount, is deducted if the applicant's MAGI is greater than the TennCare Standard Income Standard)
= Total Net Income

Is Total Net Income less than or equal to the TennCare Standard Income Standard (based on household size)?

If Yes, Pass. If No, review for TennCare Standard.

e. Resources

There is no resource test for TennCare Standard.

f. Example Budget

The following budget is based on a household with a dependent 18 year old child that is losing TennCare Medicaid and includes the child's mother. This budget determines eligibility for the child. The child meets the income standard to be eligible in this category, so a 5% disregard is not applied.

Total Gross Income Computation		**Child**	**Mother**
Unearned Income		$ 0.00	$ 50.00
Earned Income	+	$ 0.00	$2,600.00
Subtotal	=	$ 0.00	$2,650.00
Is the household member a child/tax dependent		Yes	No
Is income below the tax threshold?		Yes	No
Total: Gross Income	+	$ 0.00	$2,650.00
Modified Adjusted Gross Income Computation			
Total Gross Income		$ 0.00	$ 2,650.00
Legally Obligated Alimony	-	$ 0.00	$ 0.00
Student Loan Interest Paid	-	$ 0.00	$ 10.00
Other	-	$ 0.00	$ 0.00
Modified Adjusted Gross Income	=	$ 0.00	$ 2,640.00
Total Net Income Computation			
Modified Adjusted Gross Income		$ 2,640.00	
5% Disregard of FPL	-	$ 0.00	
Total: Net Income	=	$ 2,640.00	
TennCare Standard Income Standard		$ 2,802.00	
Income Eligibility Determination		PASS	
Reasonable Compatibility Computation			
Modified Adjusted Gross Income from Hub		$ 2,600.00	
TennCare Standard Income Standard		$ 2,802.00	
Reasonable Compatibility Test Required		No	

The above budget is current as of January 2015.

g. Medically Eligible

When a reported income change causes an enrollee's household income to exceed 211% FPL, the child will be reviewed for TennCare Standard eligibility as Medically Eligible. See *TennCare Standard Medical Eligibility Procedures* policy.

h. Grandfathered Eligibility

There are individuals in TennCare Standard that have "grandfathered" eligibility. This refers to children enrolled in TennCare Standard since December 31, 2001, who have family incomes at or below 211% FPL and who have not purchased insurance even if they have access to it. Once an individual loses eligibility in this category, they are no longer considered to have this grandfathered eligibility status.

TENNCARE STANDARD MEDICAL ELIGIBILITY

Legal Authority: Tenn. Comp. R. & Reg's. Chapter 1200-13-14; March 2014 Amendment to the TennCare II section 1115 Demonstration Project

1. Overview

TennCare Standard Medically Eligible individuals are children under age 19 who are: losing TennCare Medicaid; have no insurance or access to insurance; have household income above 211% of the FPL; and have a qualifying medical condition.

To determine whether a child has a qualifying medical condition, HCFA either uses existing and current medical encounter data in the TennCare system or requests information and verification from the individual using the Medically Eligible (ME) packet.

2. Definitions

Access to Insurance: Access to health insurance in the group health insurance market. See section 6. in the *TennCare Standard* policy for additional information.

Medically Eligible (ME) Packet: A multi-page document that collects information about the child's physical and/or mental health. Corroborating verification from the physician or mental health provider must be provided.

Medically Eligible Encounter Data: Information in the TennCare system (interChange) identifying an individual as Medically Eligible. The information is based on claims data submitted by the TennCare MCOs.

Qualifying Medical Condition: A medical condition which is included among a list of conditions established by HCFA and which will render a qualified uninsured applicant medically eligible.

3. Determining Medical Eligibility

Children meeting the following requirements must be processed for Medical Eligibility:

- **Children losing TennCare Medicaid eligibility:** These children must be under age 19; must not have access to or have health insurance; and must have household income above 211% FPL (if at or below 211% FPL, review for TennCare Standard Uninsured).

- **Currently Eligible TennCare Standard Uninsured Children Whose Household Income Increases above 211% FPL:** These children must be under age 19; must not have access to or have health insurance; and must be no longer be eligible for TennCare Standard Uninsured based on a reported increase in household income.

  When a TennCare Standard child reports an increase in income above 211% FPL, determine whether the child is already open as ME. If so, then process the reported change as an income change only.

NOTE: If a child was previously open as a grandfathered child, and continues to have access to insurance, they are not eligible to be considered for ME. Closure is required in this situation.

a. ME Packet

Individuals initially denied TennCare Standard Uninsured (at or below 211%) will be mailed a denial for TennCare Standard Uninsured and a request for an ME packet to determine eligibility for TennCare Standard Medically Eligible.

An ME Packet is required when an individual does not have ME encounter data in interchange. The ME Packet is sent to the individual to be completed and returned within 60 days of the mail-out date. The ME Packet includes instructions to the individual as to what he/she must provide and the deadline for submitting the information. An additional 30 days may be granted by HCFA if an individual returns an incomplete packet within 60 days. Individuals failing to timely return the ME packet will be denied.

b. ME Packets Returned to HCFA

i. Member Services Medical Review Nurses

TennCare Medical Review Nurses review completed ME packets to determine whether the individual meets the Medically Eligible criteria. Upon receipt of the ME packet, the Medical Review Nurses determine ME eligibility by:

1. Accepting the physician's attestation that the individual's health problems are included in the approved list of diseases/conditions that constitute Medical Eligibility; or

2. For diseases or conditions that are not included in the approved list, reviewing submitted medical records attesting that the condition constitutes Medical Eligibility. The Medical Review Nurses will approve or deny ME accordingly.

Once the Medical Review Nurses have evaluated the ME packet and approved or denied ME eligibility, the application with the eligibility determination is finalized.

c. Tracking ME Packets

Eligibility Specialist will track ME packets by maintaining the following information:

- Return due date for the ME packet;
- Date the ME packet is received at HCFA;
- Incomplete packet status;
- Approval or denial status of medical eligibility; and
- Packet type: Renewal or application.

d. ME Replacement Packets

TNHC will mail replacement ME packets only when it has been verified that an original packet has already been issued to the individual. In no instance should these packets be provided if no original packet was ever issued by HCFA.

If an individual contacts TNHC for a replacement packet:

- Verify that an original packet was issued;
- Verify that the "cutoff" date has not yet passed (day 60 or less); and
- Document the date the packet is mailed to the individual.
- Inform the individual about the due date for the completed ME Packet. The ME Packet must be submitted to HCFA. If the individual obtains the packet on the 60th day, advise him/her to submit the packet, complete or incomplete, on that same day. HCFA will determine if the packet is received timely.
- Verify the individual's address is correct in interChange so that future mailings will be received.
- If the cut-off date has passed and HCFA caused the delay, contact the Eligibility Policy Unit. If TennCare did not cause the delay, advise the individual of their right to appeal the denial and/or to reapply. "Good cause" for failure to return a packet will be determined in the appeal.

e. Incomplete Packets Received at TennCare

The individual is automatically allowed additional time to provide the needed information. The 60-day deadline is extended for 30 additional days (for a total of 90 days) regardless of what day within the 60-day time frame the incomplete packet was received. The individual is informed:

- That the ME Packet is not complete;
- What portion is incomplete; and
- How to complete the packet.

Only necessary parts of incomplete packets are returned to the individual. For example, if the packet is missing the individual's signature, only that page of the packet will be returned for completion. If the enrollee does not complete the packet by the 90th day, HCFA sends a notice to the individual denying ME.

f. Failure to Return ME Packet

If an individual fails to return the ME packet by the 60th day, or by the 90th day if granted an extension, then he or she will be denied TennCare Standard Medical Eligibility.

Emergency Medical Services

Legal Authority: Social Security Act § 1903(v); 42 CFR 435.350, 42 CFR 440.255

1. Policy Statement

Individuals eligible for Emergency Medical Services (EMS) must meet all financial requirements and non-financial requirements for a TennCare Medicaid category, except for citizenship.

Federal law requires that state Medicaid programs cover EMS for undocumented and ineligible aliens when these individuals otherwise meet criteria for Medicaid eligibility.

An undocumented alien is a person who is not a citizen of the U.S. and who is not lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law. Undocumented aliens were either never legally admitted to the U.S. for any period of time or were admitted for a limited period of time and did not leave the U.S. when that period of time expired.

An ineligible alien is a person other than an undocumented alien who is not a citizen of the U.S. and whose alien status prevents qualification for Medicaid. Examples include the following:

- Certain qualified aliens arriving on or after August 22, 1996, that may have been lawfully admitted to the U.S. but may be prohibited from acquiring Medicaid during the first five years of their residence in the country. This period of time is referred to as the "five-year bar."

2. Non-Financial Eligibility Requirements

a. Qualifying Conditions

In order for an alien to be the recipient of EMS, the alien must incur a sudden onset of a medical condition, not related to an organ transplant procedure, manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:

- Placing the patient's health in serious jeopardy;
- Serious impairment to bodily functions; or
- Serious dysfunction of any bodily organ or part.

3. Financial Eligibility Requirements

Household composition for this category is based MAGI methodology or the Financially Responsible Relative (FRR) principle depending on the TennCare Medicaid category in which the applicant groups.

If an individual meets all financial and non-financial criteria for a TennCare Medicaid category except for citizenship then HCFA will determine if there is an emergency that qualifies them for EMS.

Note: An applicant for EMS is only potentially eligible for the following categories: Caretaker Relative MAGI; Child MAGI 0-1; Child MAGI 1-5; Child MAGI 6-18; Pregnancy MAGI, Child Medically Needy; and Qualified Pregnancy Woman Medically Needy. Undocumented and ineligible aliens are unable to meet all non-financial eligibility criteria for the other TennCare Medicaid categories.

4. Application Process

HCFA accepts applications from aliens requiring emergency medical services. Hospitals and birthing or women's centers, or others acting on behalf of these individuals have been advised to submit applications to HCFA on the first date of the emergency because no coverage will be granted prior to the date of application. Medical records must also be submitted to support the emergency.

HCFA Medical Review Nurses determine whether the service requested by an alien qualifies as an emergency service. If an individual qualifies for coverage of an emergency service, then that coverage would apply regardless of whether he receives the service in the Emergency Department or whether he is subsequently admitted to the hospital.

5. Eligibility Begin and End Dates

If an application is filed on the date of admission, and all factors for coverage are met, then coverage begins on the date of admission. Coverage will not begin prior to the date of application, and coverage will not begin prior to the date of admission.

Coverage will be limited to the length of time required to stabilize the emergent episode. Only the services involved in the emergency itself will be reimbursed and coverage is only provided for the single episode of care.

COVERKIDS

Legal Authority: 42 CFR 457.310; 42 CFR 457.315; 42 CFR 457.320; 42 CFR 457.330; 42 CFR 457.348; 42 CFR 457.310; 42 CFR 457.315; 42 CFR 457.320

1. Overview of the CoverKids Program

a. Overview

CoverKids is Tennessee's State Children's Health Insurance Program (CHIP). CHIP is a comprehensive health insurance program for children under age 19 without health insurance and whose household income is above Medicaid-eligibility levels. CHIP is authorized by Title XXI of the Social Security Act. Similar to Medicaid, CHIP is jointly-financed and administered by the federal and state governments.

CoverKids consists of two separate categories of eligibility:

- **CoverKids Children**: Children under age 19 without health insurance whose household income is above Medicaid-eligibility levels; and

- **HealthyTNBabies**: Available to unborn children of pregnant women who do not have maternity health benefits. It provides maternity benefits and pregnancy services.

Financial eligibility for CoverKids is now determined using the Modified Adjusted Gross Income (MAGI) methodology that is also used for some TennCare Medicaid categories of eligibility.

Effective January 1, 2014, there is no longer a 3-month "go bare" period for CoverKids. Children are not required to remain uninsured for 3 months before becoming eligible for CoverKids, when other eligibility requirements are met.

2. CoverKids Children

a. Policy Statement

CoverKids benefits are available to children who are under age 19, not eligible for TennCare Medicaid, whose household income is at or below 250% of the Federal Poverty Level (FPL), based on family size, and who meet all non-financial eligibility requirements.

b. Non-Financial Eligibility Requirements

Children eligible for the CoverKids Child category must meet all non-financial eligibility requirements. Additional information about each condition of eligibility is available in the Non-Financial Eligibility chapters.

i. **Age:** A child must be under age 19.

ii. **Citizenship:** A child must be a U.S. Citizen, U.S. National or eligible non-citizen.

iii. **Enumeration:** A child must possess and provide a valid Social Security Number (SSN) or proof of application for an SSN, unless they meet an exception.

iv. **State Residence:** A child must be a resident of Tennessee.

v. **Primary Health Insurance:** CoverKids must be the child's only health insurance plan.

vi. **Access to Health Insurance:** Access to group health insurance is not a factor in determining eligibility unless an applicant has access to State of Tennessee-administered insurance offered to state employees and some local education agencies (LEAs). Individuals with access to insurance administered by the State of Tennessee are not eligible for CoverKids.

c. Financial Eligibility Requirements

i. Household Composition

Household composition for CoverKids uses MAGI methodology. It is possible for household members to have different family sizes when determining eligibility. For additional information regarding household size see the *Household Composition for MAGI* policy.

ii. Income Standard

Children must have income above TennCare Medicaid income standards and at or below 250% FPL.

iii. Budget Overview

A. Total Gross Income Computation (for each household member)

Household Member's Total Countable Income is the total countable income for each individual.

Question 1: Is the household member a child or tax dependent? Yes or No

Question 2: Is the household member's income below the tax threshold? Yes or No

These two questions determine whether the household member's income will be included in the Total Net Income Computation (Number 3). If both answers are yes and the individual is a child/tax dependent (under age 26) of their parent (natural, adopted or step), the Total Gross Income for that individual is $0.

Total Gross Income, when applicable, is used in the Modified Adjusted Gross Income Computation.

B. Modified Adjusted Gross Income Computation (for each household member)

Total Gross Income
- Legally Obligated Alimony
- Student Loan Interest Paid
-Other Expenses
= Modified Adjusted Gross Income

C. Total Net Income Computation (for household)

Modified Adjusted Gross Income (total of included household members' MAGI)
- 5% Disregard of FPL (5% FPL, based on household size and converted to a dollar amount, is deducted if the applicant's MAGI is greater than the CoverKids Income Standard)
= Total Net Income

Is Total Net Income less than or equal to the CoverKids Income Standard (based on household size)?

If Yes, Pass. If No, Fail.

iv. Budget Example

The following budget is based on a household with a ten-year-old child that lives with his 30-year-old mother. This budget determines eligibility for the child. The household size is two. The TennCare Medicaid income standard for a ten year old child with a household of two is $1,766 (133% FPL). The child is not eligible for TennCare Medicaid. The child is eligible for CoverKids. A 5% disregard is not applied because it would not make the child eligible for TennCare Medicaid and the child is eligible for CoverKids without a 5% disregard.

Total Gross Income Computation		**Child**	**Mother**
Household Member's Total Countable Income		$ 0.00	$3,000.00
Is the household member a child/tax dependent		Yes	No
Is income below the tax threshold?		Yes	No
Total: Gross Income			$3,000.00
Modified Adjusted Gross Income Computation			
Total Gross Income		$ 0.00	$3,000.00
Legally Obligated Alimony		$ 0.00	$ 0.00
Student Loan Interest Paid		$ 0.00	$ 0.00
Other		$ 0.00	$ 0.00
Modified Adjusted Gross Income		$ 0.00	$3,000.00
Total Net Income Computation			
Modified Adjusted Gross Income		$3,000.00	

5% Disregard of FPL		$ 0.00	
Total: Net Income		$3,000.00	
CoverKids Income Standard (Household size 2)		$3,319.00	
Income Eligibility Determination		PASS	

The above budget is current as of January 2015.

v. Resource Test

There is no resource test for CoverKids applicants.

3. HealthyTNBabies

a. Policy Statement:

HealthyTNBabies is a CoverKids program available to the unborn babies of pregnant women that are not eligible for TennCare Medicaid and whose household income is at or below 250% of the Federal Poverty Level (FPL) based on family size. In order to be eligible for the HealthyTNBabies program, the pregnant woman must meet all non-financial eligibility requirements.

b. Non-Financial Eligibility Requirements

i. Age: Unborn babies of pregnant women are eligible for the HealthyTNBabies program. An 18 year old CoverKids pregnant woman with an expected delivery date after her 19th birthday will be allowed to obtain coverage for services rendered to her unborn baby and retain coverage 60 days postpartum.

ii. Citizenship: The unborn child is presumed to be a U.S. citizen, regardless of the citizenship or immigration status of the mother. The mother is not required to provide proof of citizenship or immigration.

iii. Enumeration: A pregnant woman eligible to receive an SSN must provide a valid SSN, or an SSN application date.

iv. State Residence: The pregnant woman must be a Tennessee resident.

v. Primary Health Insurance: HealthyTNBabies must be the pregnant woman's only health insurance plan. If the applicant is a pregnant woman with health insurance, she may be enrolled in HealthyTNBabies if her health insurance does not cover prenatal care.

vi. Access to Health Insurance: Access to group health insurance is not a factor in determining eligibility unless an applicant has access to State of Tennessee administered insurance offered

to state employees and some local education agencies (LEAs). Individuals with access to insurance administered by the State of Tennessee are not eligible for HealthyTNBabies.

c. Financial Eligibility Requirements

i. Household Composition

Household composition for HealthyTNBabies uses the MAGI methodology. When determining family size for a pregnant woman, the pregnant woman is counted as herself plus the number of children she is expected to deliver. For additional information regarding household composition, see the *Household Composition for MAGI* policy.

ii. Income Standard

Pregnant women must have income above TennCare Medicaid income standards and at or below 250% of FPL.

iii. Budget Overview

Refer to the CoverKids Budget Overview in section 2.c.iii.

iv. Budget Example

The following budget is based on a household with 30 year old pregnant woman. Her 5 year old child also lives in the home. This budget determines eligibility for the pregnant woman. Her household size is three (the pregnant woman, the unborn child and the five year old child). The TennCare Medicaid income standard for a pregnant woman with a household of three is $3,265 (195% FPL). She is not eligible for TennCare Medicaid. She is eligible for HealthyTNBabies. A 5% disregard is not applied because it would not make her eligible for TennCare Medicaid and she is eligible for HealthyTNBabies without a 5% disregard.

Total Gross Income Computation		**Mother**	**Child**
Household Member's Total Countable Income		$4,000.00	$ 0.00
Is the household member a child/tax dependent		No	Yes
Is income below the tax threshold?		No	Yes
Total: Gross Income		$4,000.00	$ 0.00
Modified Adjusted Gross Income Computation			
Total Gross Income		$ 0.00	$ 0.00
Legally Obligated Alimony		$ 0.00	$ 0.00
Student Loan Interest Paid		$ 0.00	$ 0.00
Other		$ 0.00	$ 0.00
Modified Adjusted Gross Income		$4,000.00	$ 0.00
Total Net Income Computation			

Modified Adjusted Gross Income		$4,000.00	
5% Disregard of FPL		$ 0.00	
Total: Net Income		$4,000.00	
HealthyTNBabies Income Standard (Household size 3)		$4,186.00	
Income Eligibility Determination		PASS	

The above budget is current as of January 2015.

v. Resource Test

There is no resource test for HealthyTNBabies applicants.

ABD STATE RESIDENCE

Legal Authority: 42 CFR 435.403; TCA 71-5-120

1. Policy Statement

An individual must be a Tennessee resident to be eligible for TennCare Medicaid. An individual is considered a Tennessee resident if the individual attests to living in Tennessee, intends to reside in Tennessee and there is no information to indicate otherwise. Individuals will not be required to reside in Tennessee for a specific amount of time to claim residency. Individuals considered temporarily absent from Tennessee may retain their Tennessee residency under certain circumstances.

2. Residency

a. Individuals under age 21 who are not emancipated or married

For non-institutionalized individuals under age 21 who are not emancipated or married, and not receiving Title IV-E payments, the state of residence is:

- The state in which the individual is living, with or without a fixed address; or
- The state in which the parent or caretaker resides.

For institutionalized individuals under age 21, who are not emancipated or married, and not receiving Title IV-E payments, the state of residence is:

- The state in which the parent or legal guardian lives at the time of placement in an institution; or
- The state in which the parent or legal guardian who files the application is currently living if the individual is institutionalized in that state; or
- The state in which the party who files the application lives, if the institutionalized individual has been abandoned by his or her parents and does not have a legal guardian.

b. Individuals age 21 and over, or under age 21 and emancipated or married

For non-institutionalized individuals age 21 and over, or under age 21 who are emancipated or married, and capable of indicating intent, the state of residence is:

- The state in which they are living and intend to reside with or without a fixed address; or
- Where the individual lives and entered with a job commitment or seeking employment, whether or not they are currently employed.

c. Institutionalized individuals age 21 and over

For institutionalized individuals age 21 and over who are capable of indicating intent and not receiving State Supplementary Payments (SSP), the state of residence is the state where the individual is living and intends to reside.

d. For institutionalized individuals age 21 and over that became incapable of indicating intent before the age of 21

For institutionalized individuals age 21 and over that became incapable of indicating intent before the age of 21, not receiving Title IV-E or SSP the state of residence is:

- That of the applying parent when the parents live in different states, or that of the applying legal guardian;
- The state in which the parent or legal guardian lives at the time of placement in an institution;
- The state in which the parent or legal guardian who files the application is currently living if the individual is institutionalized in that state;
- The state in which the party who files the application lives, if the institutionalized individual has been abandoned by his or her parents and does not have a legal guardian.

e. Institutionalized individuals age 21 and over that became incapable of indicating intent after the age of 21

For institutionalized individuals age 21 and over who became incapable of indicating intent after the age of 21, not receiving SSP, the state of residence is:

- The state where the individual is physically present, except where another state makes a placement.

f. Individuals over age 21 who are not capable of stating intent

For non-institutionalized individuals over 21 and not capable of stating intent, the state of residence is the state in which they live.

g. Out of State Institution

An individual placed out of state is considered a resident of the state that:

- Placed an individual in an out of state institution; or
- Arranged for placement of an individual in an out of state institution.

This is true even when the reason for initiating placement is due to a lack of resources.

Action beyond providing basic information to individuals about Medicaid in another state is considered making or arranging placement, but the following is not:

- Providing basic information about other states Medicaid programs, healthcare services and facilities; or
- Helping individuals locate a facility when he or she is capable of indicating intent and independently decides to move.

If a competent individual leaves a state placement the individual's state of residence is where the individual is physically located.

d. Individuals receiving federal payments for foster care, federal payments for adoption assistance or SSP

An individual of any age receiving federal payments for foster care or adoption assistance under Title IV-E of the Social Security Act is a resident of the state in which the child lives. An individual of any age receiving a SSP is a resident of the state paying the SSP.

3. Incapable of Indicating Intent

An individual is considered incapable of indicating intent when tests, determined acceptable by the Department of Intellectual and Developmental Disabilities (DIDD), indicate an individual has an I.Q of 49 or less or a mental age of 7 or less. An individual is also considered incapable of indicating intent if found legally incompetent. Medical documentation from a physician, psychologist or other person licensed by the State in the field of intellectual disability may also be used if the documentation indicates that the individual is incapable of indicating intent.

4. Student

Individuals attending school out of state, but considered to be dependents of a Tennessee resident are temporarily absent while attending school. Individuals attending school in Tennessee, but considered to be dependents of a non-Tennessee resident will not be considered a resident of Tennessee.

A temporary absence from Tennessee does not preclude continued eligibility if the individual indicates his or her intent to return to Tennessee once the purpose for the visit is accomplished when:

- The absence is for a specific purpose such as a temporary work assignment, visit, hospitalization, participation in an educational or rehabilitation program not available in Tennessee; or
- The absence is for children in treatment centers.

If an individual indicates that they are temporarily out of state, he or she must provide an anticipated date of return. The individual's temporary absence status will be assessed within 10 days of the individual's anticipated date of return.

If at any time during the absence, the individual is determined no longer eligible for TennCare Medicaid benefits for any reason, the case must be closed. Application or receipt of Medicaid or Advanced Premium Tax Credits (APTCs) in another state indicates intent to reside elsewhere and results in the loss of Tennessee residency. If a redetermination is required during the period of absence, follow renewal procedures and secure assistance from the other state as necessary.

5. Disputed Residency

An individual's physical location determines the state of residence if two or more states are unable to resolve what state is the state of residence.

6. Verification

An individual is considered a Tennessee resident if the individual attests to living in Tennessee, and intends to reside in the state. HCFA will conduct post-eligibility verification of state residency to ensure program integrity using national and state electronic verification sources. If an individual's state of residence is questionable, he or she will have 10 days to provide documentary evidence supporting his or her claim. Evidence of residency includes:

- A statement of intent to reside in Tennessee; and
- A current Tennessee rent or mortgage receipt or utility bill in the adult applicant's name; or
- A current Tennessee motor vehicle driver's license or identification card issued by the Tennessee Department of Safety in the adult applicant's name; or
- A current Tennessee motor vehicle registration in the adult applicant's name; or
- A document showing that the adult applicant is employed in Tennessee; or
- A document showing that the adult applicant has registered with a public or private employment service in Tennessee; or
- Evidence that the adult applicant has enrolled the applicant's children in a school in Tennessee;
- Evidence that the adult applicant is receiving public assistance in Tennessee; or
- Evidence of registration to vote in Tennessee; or
- Other evidence deemed sufficient by HCFA as proof of residency in Tennessee.

ABD CITIZENSHIP AND IMMIGRATION

Legal Authority: 42 CFR 435.406; 42 CFR 435.407; 42 CFR 435.956

1. Policy Statement

In order to be eligible for TennCare Medicaid, an individual must be:

a. A U.S. citizen or a U.S. national, or
b. A qualified non-citizen who meets the eligibility conditions associated with specific immigration statuses. See the *ABD Qualified Non-Citizens* policy.

Individuals declaring U.S. citizenship or immigration status must have such declarations verified by HCFA in order to receive TennCare Medicaid. Individuals that are not U.S. citizens, but have been granted the right to reside in the U.S. will have an immigration status. If HCFA is unable to verify a declaration of U.S. citizenship or immigration status using an electronic data source, then the individual must promptly satisfactory documentary evidence of citizenship or immigration.

Declarations of citizenship or immigration status must be made by either the individual, an adult member of the individual's family or household, an authorized representative, or if the individual is a minor or incapacitated, someone actively responsible for the applicant provided that such individual attests to having a reasonable basis to make such a declaration of such status.

2. Definitions

U.S. Citizen: An individual who was born in either the:

- United States;
- Puerto Rico;
- Guam;
- Virgin Islands of the United States; or
- The Commonwealth of the Northern Mariana Islands.

U.S. National: An individual who was born in either the:

- American Samoa; or
- Swains Island.

Naturalized Citizen: An individual who becomes a U.S. citizen after birth. Aliens do not become citizens simply by marrying a U.S. citizen. Spouses, however, can apply for naturalization and, if eligible, become citizens through the court.

Derived Citizen: An individual who was adopted or born abroad to at least one U.S. citizen parent. Citizenship may be conveyed to children through the naturalization of parents, to foreign-born children adopted by U.S. parents, or through birth abroad to at least one U.S. citizen parent.

Child Citizenship Act of 2000: According to the Child Citizenship Act of 2000 a child born outside of the U.S. to citizen parents or adopted from abroad by U.S. citizen parents automatically becomes a citizen of the U.S. when all of the following have been met on or after February 27, 2001:

- At least one parent of the child is a U.S. citizen, whether by birth or naturalization;
- The child is under 18 years of age;
- The child is lawfully admitted for permanent residence to the U.S. and is residing in the legal and physical custody of the citizen parent. The child will have either a permanent resident (i.e., green card) or an I-551 stamp on his or her passport. The child may or may not have a certificate of citizenship; and
- If adopted, the adoption is final.

Qualified Non-Citizen: An individual whose immigration status is included in one of the following groups:

- Qualified aliens, as defined by Section 431 of the Personal Responsibility and Work Opportunity Act of 1996 (8 U.S.C. § 1641);
- U.S. Armed Services active duty members or veterans and their dependents;
- Certain American Indians born outside of the U.S.; or
- Aliens who have been granted a certain humanitarian immigration status.

3. Exempt Groups

HCFA accepts declarations of U.S. citizenship from the following individuals without verification:

- Individuals receiving Supplemental Social Security benefits;
- Individuals entitled to or enrolled in any part of Medicare;
- Individuals receiving Social Security Disability insurance benefits based on the individual's disability;
- Individuals to whom child welfare services are made available based on the child being in foster care, or receiving adoption assistance or foster care assistance; and
- Newborns who are eligible for Medicaid on the basis of being born to a mother who was eligible and receiving TennCare Medicaid at the time of birth. A newborn who is deemed eligible and enrolled in Medicaid is exempt from citizenship verification requirements for the rest of his or her life. This exemption applies to individuals enrolled as deemed newborns in other states.

4. Verification of U.S. Citizenship and Immigration Status

a. Overview

Declarations of U.S. citizenship and immigration status must be accepted, and then verified using an electronic data match with the Social Security Administration (SSA) or U.S. Department of Homeland Security. Federal law requires that the state first attempt to electronically verify citizenship and immigration status using the Federal Data Services hub (the Hub). When unable to electronically verify citizenship or immigration status of an individual, the individual must provide satisfactory documentary evidence to HCFA.

Verification of citizenship is a one-time requirement. Once citizenship has been verified, it will be recorded in the individual's case and the state cannot request verification again, even if there is a break in coverage. Verification of immigration is also a one-time requirement, unless the individual attests to a change in status.

b. Electronic Verification of U.S. Citizenship and Immigration Status

i. Federal Data Services Hub

A. Applicant Attesting to U.S. Citizenship (Citizenship by Birth)

Confirmation of citizenship status by the SSA via the Hub is considered primary evidence of citizenship. Applicants whose citizenship is confirmed via the Hub are not required to submit additional documentation of citizenship status.

B. Applicant Attesting to U.S. Citizenship (Naturalized and Derived Citizens)

Naturalized or derived citizens will have their citizenship status verified by the U.S. Department of Homeland Security via the Hub, if available. Applicants must provide their Alien Registration Number and information from their Naturalization Certificate or Certificate of Citizenship. Verification of citizenship status by the U.S. Department of Homeland Security via the Hub is considered primary evidence of citizenship, and applicants whose citizenship is confirmed via the Hub are not required to submit additional documentation of citizenship status.

C. Applicant Attesting to Eligible Immigration Status

Applicants who are able to provide a U.S. Department of Homeland Security Alien Registration Number and/or other immigrant documentation numbers may have their immigration status verified by U.S. Department of Homeland Security via the Hub. Electronic verification of immigration status by U.S. Department of Homeland

Security is considered primary evidence, and applicants whose immigration status is verified via the Hub are not required to submit additional information.

c. Documentary Evidence of Citizenship

When unable to verify citizenship or immigration status using electronic data sources, the individual must promptly provide satisfactory documentary evidence of citizenship status. Section 1903(x) of the Social Security Act requires that specific documentation be used to verify citizenship status, according to the reliability of the document. Stand-alone evidence of citizenship is documentary evidence that may be accepted without any additional evidence of identity. Similar to the electronic verification, this documentary evidence is considered primary evidence of citizenship. The second level of citizenship evidence may be accepted if primary evidence is not available but the applicant must also provide acceptable evidence of identity.

A photocopy, facsimile, scanned or other copy of a document must be accepted to the same extent as an original document under this section, unless information on the submitted document is inconsistent with other information available or there is reason to question the validity of the document or information on the document.

i. Stand-alone Evidence of Citizenship

The following must be accepted as satisfactory evidence of citizenship:

A. A U.S. passport, including a U.S. Passport Card issued by the U.S. Department of State, without regard to any expiration date as long as such passport or Card was issued without limitation;
B. A Certificate of Naturalization;
C. A Certificate of U.S. Citizenship;
D. A valid Tennessee-issued driver's license; and
E. Documentary evidence issued by a federally recognized Indian Tribe, as published by the Bureau of Indian Affairs within the U.S. Department of the Interior, and including Tribes located in a state that has an international border, which –

    a. Identifies the federally recognized Indian Tribe issued in the document;
    b. Identifies the individual by name; and
    c. Confirms the individual's membership, enrollment, or affiliation with the Tribe.

Documents described in subsection E, a-c of this section include, but are not limited to: a tribal enrollment card; a Certificate of Degree of Indian Blood; a Tribal Census Document; and documents on tribal letterhead, issued under the signature of the appropriate tribal official, that provide the required information.

ii. Evidence of Citizenship

If an applicant does not provide stand-alone documentary evidence, the following must be accepted as satisfactory evidence to establish citizenship if also accompanied by acceptable documentation of identity:

A. A U.S. public birth certificate showing birth in one of the 50 states, the District of Columbia, Puerto Rico (if born on or after January 13, 1941), Guam, the Virgin Islands of the U.S. (on or after January 17, 1917), America Samoa, Swains Island, or the Commonwealth of the Northern Mariana Islands (CNMI) (after November 4, 1986). The birth record document may be issued by the state, commonwealth, territory or local jurisdiction. If the document shows the individual was born in Puerto Rico, the Virgin Islands of the U.S. or the CNMI before these areas became part of the U.S., the individual may be a collectively naturalized citizen;
B. A cross match with State Vital Statistics documenting a record of birth;
C. A Certification of Report of Birth, issued to U.S. citizens who were born outside the U.S.;
D. A Report of Birth Abroad of a U.S. Citizen;
E. A Certification of Birth;
F. A U.S. Citizen I.D. card;
G. A Northern Marianas Identification Card, issued to a collectively naturalized citizen, who was born in the CNMI before November 4, 1986;
H. A final adoption decree showing the child's name and U.S. place of birth, or if an adoption is not final, a statement from a state-approved adoption agency that shows the child's name and U.S. place of birth;
I. Evidence of U.S. Civil Service employment before June 1, 1976;
J. U.S. Military Record showing a U.S. place of birth;
K. A data match with the SAVE program or any other process established by the U.S. Department of Homeland Security to verify that an individual is a citizen;
L. Documentation that a child meets the requirements of section 101 of the Child Citizenship Act of 2000;
M. Medical records, including, but not limited to, hospital, clinic or doctor records, or admission papers from a nursing facility, skilled care facility or other institution that indicate a U.S. place of birth;
N. Life, health or other insurance record that indicates a U.S. place of birth;
O. Official religious record recorded in the U.S. showing that birth occurred in the U.S.;
P. School records, including pre-school, Head Start and daycare, showing the child's name and U.S. place of birth;
Q. Federal or state census record showing U.S. citizenship or a U.S. place of birth; and
R. If the applicant does not have one of the documents listed in A-Q of this section, he or she may submit an affidavit signed by another individual under penalty of perjury who can reasonably attest to the applicant's citizenship, and that contains the applicant's name, date of birth, and place of U.S. birth. The affidavit does not have to be notarized.

iii. Evidence of Identity

A. HCFA must accept the following as proof of identity, provided such document has a photograph or other identifying information including, but not limited to, name, age, sex, race, height, weight, eye color, or address:

1. A driver's license issued by a state;
2. A school identification card with a photograph;
3. A voter's registration card;
4. A U.S. military card or draft record;
5. An identification card issued by the federal, state or local government;
6. A military dependent's identification card;
7. American Indian tribal documents; and
8. A U.S. Coast Guard Merchant Mariner card.

B. For children under age 19, a clinic, doctor, hospital or school record, including preschool or day care records.

C. Two documents containing consistent information that corroborates an applicant's identity. Such documents include, but are not limited to, employer identification cards, high school and college diplomas (including high school equivalency diplomas), marriage certificates, divorce decrees, and property deed or titles.

D. Finding of identity from a federal or state governmental agency. HCFA may accept as proof of identity – A finding of identity from a federal agency or another state agency, including, but not limited to, a public assistance, law enforcement, internal revenue or tax bureau, or corrections agency, if the agency has verified and certified the identity of the individual.

E. If the applicant does not have any documents listed in this section and identity is not verified by another agency, the applicant may submit an affidavit, under penalty of perjury, by another person who can reasonably attest to the applicant's identity. Such affidavit must contain the applicant's name and other identifying information. The affidavit does not have to be notarized.

iv. Verification of citizenship by a federal agency or another state

HCFA may rely, without further documentation of citizenship or identity, on a verification of citizenship made by a federal agency or another state agency, if such verification was done on or after July 1, 2006.

v. Assistance with obtaining documentation

The State must provide assistance to applicants who need assistance in securing satisfactory documentary evidence of citizenship in a timely manner.

d. Documentary Evidence of Immigration Status

When unable to verify immigration status using electronic data sources, the applicant must promptly provide satisfactory documentary evidence of immigration status. The United States Citizenship and Immigration Services (USCIS) has several types of documents that an alien might have to verify his or her status. These documents include, but are not limited to, the following:

- A Permanent Resident Alien Card (I-551) or "Green Cards": issued to eligible immigrants who enter the U.S. to permanently live;
- A Permanent Resident Re-entry Permit (I-327): when valid, allows permanent residents to leave and re-enter the U.S. ;
- A Refugee Travel Document (I-571): issued to refugees and asylees for travel purposes;
- A Temporary I-551 Stamp (on passport or I-94, I-94A). A temporary I-551 stamp will have a handwritten or stamped issue date and a "valid until" date. Temporary I-551 stamps can be used to attest to permanent resident status;
- A Foreign passport stamped by the U.S. Government indicating that the holder has been "Processed for I-551";
- A Machine Readable Immigrant Visa (with temporary I-551 language): indicates permanent resident status;
- An Arrival/Departure Record (I-94, I-94A) Form I-94 stamped with one of the following statuses: Asylee, Parolee or Parole, Refugee, Asylum, HP-humanitarian parolee or PIP-public interest parolee;
- A court order stating that documentation has been withheld pursuant to Section 243(h) of the Immigration and Nationality Act (8 U.S.C. § 1253);
- A U.S. Passport Card issued by the U.S. Department of Homeland Security, which is an alternative to a traditional passport book. The Passport Card is acceptable documentation for citizenship and identity of the bearer; and
- A Notice of Action (I-797). This is a form of communication from USCIS about immigration benefits.

The alien may contact USCIS or otherwise obtain the necessary verification.

5. Reasonable Opportunity for Verification of Citizenship and Immigration

a. Overview

The reasonable opportunity period and procedures do not apply to individuals receiving TennCare Medicaid as a condition of receiving SSI benefits. Verification of citizenship and immigration status is handled by the SSA.

When an applicant's citizenship or immigration status cannot be promptly verified using an electronic data source or acceptable documentary evidence, HCFA must grant the applicant a

reasonable opportunity period of 90 days from the date the individual is notified of the reasonable opportunity period to secure or confirm verification. During the period of reasonable opportunity, HCFA must accept a declaration of citizenship or immigration and must not delay, deny, reduce or terminate benefits for an applicant who is otherwise Medicaid eligible during this period.

If an applicant must provide information in addition to verification of citizenship, for example, verification of residence, then an applicant has 10 days to return the additional information. If verification of residence is provided within the 10 days, but verification of citizenship remains outstanding, the application will be approved and the period of reasonable opportunity for verification of citizenship will be invoked.

b. Reasonable Opportunity Period

During the reasonable opportunity period, the State must assist the applicant with securing acceptable verification. This may include, but is not limited to, the following activities:

- Assisting the individual in obtaining a Social Security Number;
- Attempting to resolve any inconsistencies, including typographical or other clerical errors, between information provided by the individual and data from an electronic data source, and resubmit corrected information to the electronic data source;
- Providing the individual with information on how to contact the source of the electronic data so that he or she can attempt to resolve such inconsistencies; and
- Permitting the individual to provide other documentation of citizenship or immigration status, as listed in subsection c of this section.

If satisfactory citizenship or immigration verification is received by the 90th day, the individual's eligibility will continue based on the initial application date and no additional action will be taken.

If satisfactory citizenship or immigration verification is not received by the 90th day, eligibility will be terminated.

ABD QUALIFIED NON-CITIZENS

Legal Authority: 42 CFR 435.139; 42 CFR 435.406; 42 CFR 440.225; 42 CFR 457.320; SSA SI 00502

1. Policy Statement

Non-citizen eligibility for TennCare Medicaid is limited to certain immigration statuses. In order to be eligible, an individual must be either:

- A qualified alien, as defined by Section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) at 8 USC 1641; or
- A U.S. Armed Services active duty member or veteran, or their dependent; or
- An American Indian born outside of the U.S.; or
- An alien who has been granted a certain humanitarian status.

Ineligible aliens are potentially eligible for Emergency Medical Services (EMS) only.

2. Qualified Non-Citizen Status and ABD TennCare Medicaid Categories

All federal public benefit programs, including but not limited to Medicaid, Medicare, SSI, Social Security Retirement and Disability, are subject to similar citizenship and qualified non-citizen eligibility requirements. Therefore, if an applicant is enrolled and receiving another federal public benefit at the time of application for TennCare Medicaid, it can be presumed that the agency responsible for authorizing the other benefit has verified citizenship and non-citizenship status.

3. Qualified Alien

The PRWORA created two general categories of alien status for the purpose of public assistance eligibility: qualified and non-qualified aliens. Alien status is based on an individual's date of entry into the U.S. and their immigration status with the United States Citizenship and Immigration Services (USCIS).

A qualified alien is an individual who belongs to one of several alien categories, each of which is tied to a specific section of the Immigration and Nationality Act (INA) at 8 USC. 1101, *et seq*. Qualified aliens are potentially eligible for full TennCare Medicaid benefits just like U.S. citizens. However, certain categories of qualified aliens have periods of program ineligibility or time limits placed on eligibility.

Qualified aliens are:

- Aliens lawfully admitted for permanent residence, a Lawful Permanent Resident (LPR), as an immigrant as defined in the INA (8 USC 1101);
- Refugees admitted under the INA (8 USC 1157);
- Asylees granted asylum under the INA (8 USC 1158);

- Aliens paroled in the U.S. under the INA (8 USC 1182(d)(5)) for a period of at least one year;
- Aliens whose deportation is withheld under the INA (8 USC 1253, or 8 USC 1231(b)(3), as amended;
- Battered immigrants and children who meet the conditions set forth in Section 431(c) of the PRWORA, (8 USC 1641(c));
- Cuban or Haitian entrants as defined in Section 501(e) of the Refugee Education Assistance Act of 1980; and
- Aliens granted conditional entry under the INA (8 USC 1153(a)(7)) in effect before April 1, 1980.

4. Other Eligible Immigration Statuses

The following immigration statuses are not statutorily defined as "qualified aliens." However, these groups are generally treated like qualified aliens for eligibility purposes:

- Aliens admitted as Amerasian immigrants under Section 584 of the Foreign Operations Export Financing and Related Programs Appropriation Act of 1988;
- Aliens who are members of a Federally-recognized Indian tribe as defined in the Indian Self-Determination and Education Assistance Act, (25 USC 450(b)(e));
- Aliens who are American Indians born in Canada to whom the INA (8 USC 1359) applies;
- Aliens who are honorably discharged veterans or active duty members of the U.S. Armed Forces, including spouses and dependent children;
- Afghan aliens granted Special Immigrant Status under Section 525 of Title V of the Consolidated Appropriations Act of 2008 as described in the INA (8 USC 1101(a)(27));
- Iraqi aliens granted Special Immigration Status under the National Defense Authorization Act for Fiscal Year 2008 as described in the INA (8 USC 1101(a)(27)); and
- Aliens who are victims of a severe form of trafficking, in accordance with Section 107(b)(1) of the Trafficking Victims Protection Act (TVPA) of 2000 (22 USC 7105(b)).

5. Ineligible Aliens

Ineligible aliens include:

a. Undocumented Aliens

These aliens are individuals who enter and reside in the U.S. without notification of or proper permission from the U.S. government.

b. Lawfully Present Aliens

Lawfully present aliens are a specific group of aliens who are eligible to receive health insurance coverage through the Federally Facilitated Marketplace (FFM), but who are unable to receive TennCare Medicaid benefits. Lawfully present aliens include:

- Aliens paroled into the U.S. in accordance with 8 USC 1182(d)(5) for less than 1 year, except for an individual paroled from prosecution, for deferred inspection or pending removal proceedings;
- Aliens granted temporary resident status in accordance with 8 USC 1160 or 1255a;
- Aliens granted Temporary Protected Status (TPS) in accordance with 8 USC 1254a and individuals with pending applications for TPS who have been granted employment authorization;
- Aliens granted employment authorization under 8 CFR 274a.12(c);
- Family Unity beneficiaries in accordance with 8 USC 1182;
- Aliens under Deferred Enforced Departure (DED) in accordance with a decision made by the President of the United States;
- Aliens granted Deferred Action status;
- Aliens granted an administrative stay of removal under 8 CFR 241;
- Beneficiaries of approved visa petitions who have a pending application for adjustment of status;
- An individual with a pending application for asylum under 8 USC 1158, or for withholding of removal under 8 USC 1231, or under the Convention Against Torture, who:
    - Has been granted employment authorization; or
    - Is under the age of 14 and has had an application pending for at least 180 days;
- Aliens who have been granted withholding of removal under the Convention Against Torture (8 USC 208.16);;
- Children who have a pending application for Special Immigrant Juvenile status as described in 8 USC 1101(a)(27)(J); and
- Aliens lawfully present in American Samoa under the immigration laws of American Samoa.

c. Aliens Admitted for a Temporary Purpose

These aliens may be lawfully admitted for a temporary or specified period of time. They include foreign students, visitors, foreign government representatives on official business, crewmen on shore leave, treaty traders and investors and families, temporary workers, including agricultural contract workers and members of the foreign press, radio, film and other media.

Listed below are examples of the types of documentation that a non-qualified or ineligible alien may possess:

- Form I-85, Canadian Border Crossing Card;
- Form I-186, Mexican Border Crossing Card; and
- Form SW-434, Mexican Border Visitor’s Permit;
- Form I-95A, Crewman’s Landing Permit.

6. Five Year Period of Ineligibility

NOTE: Applicants receiving SSI, OASDI or other public benefit program assistance are considered to have satisfied the five year period of ineligibility.

a. Aliens Subject to the Five Year Period of Ineligibility

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) established a 5-year period of ineligibility for all federally-funded benefits, including TennCare Medicaid, for certain qualified aliens entering the U.S. on or after August 22, 1996.

The following qualified aliens are not eligible for TennCare Medicaid or CoverKids for a period of five (5) years from the date they are granted qualified alien status:

- LPRs admitted under the INA, 8 USC 1101, *et seq*., after August 22, 1996;
- Aliens granted parole for at least one year under the INA (8 USC 1182(d)(5)); and
- Battered immigrants and children who meet the conditions set forth in Section 431(c) of the PRWORA.

A qualified alien may apply for coverage once the 5-year period of ineligibility expires. The 5-year period of ineligibility expires on the 5-year anniversary of the date he or she was granted qualified status. Once the 5 year bar expires, a qualified alien may apply for benefits as if he or she was a U.S. citizen. No previous application is required. If the qualified alien meets the technical and financial eligibility criteria for a TennCare Medicaid category and the 5 year period of ineligibility has expired, then he or she is eligible to receive coverage in the appropriate category as of the date of application.

b. Aliens Exempt from the Five Year Period of Ineligibility

The following qualified aliens are potentially eligible for benefits from the date they enter the U.S.:

- Aliens admitted to the U.S. as an LPR prior to August 22, 1996;
- Aliens who are victims of a severe form of trafficking;
- LPRs who first entered the country under another exempt category (i.e. as a refugee, asylee, Cuban or Haitian entrant, trafficking victim, or alien whose deportation is being withheld) and who later converted to LPR status;
- Aliens who also are:
  - An honorably discharged veteran; or
  - On active duty inside the U.S. military; or
  - The spouse or unmarried dependent child of an honorably discharged veteran or individual on active duty in the U.S. military;

- Members of a federally-recognized Indian tribe;
- American Indians born in Canada to whom the INA (8 USC 1359) applies; and
- Aliens granted a specific humanitarian entrance status by the USCIS, including:
  - Refugees and Asylees;
  - Cuban and Haitian Entrants;
  - Aliens whose deportation is being withheld;
  - Amerasian immigrants; and
  - Afghani and Iraqi aliens.

Note: Aliens granted a specific humanitarian entrance status by the UCSIS are exempt from the 5-year bar for TennCare Medicaid eligibility, but they are subject to a 7-Year eligibility time limit.

7. Seven Year Time Limit for Certain Aliens

a. General Rule

Aliens admitted into the U.S. by the USCIS under a specific section of the INA identified below are qualified non-citizens, and are potentially eligible for TennCare Medicaid for the first 7 years after refugee, asylee or other humanitarian status is granted.

b. Non-citizens Subject to 7-year Eligibility Time Limit

Non-citizens granted a specific humanitarian status and subject to the 7 year eligibility time limit include:

- Refugees, admitted under the INA (8 USC 1157);
- Aliens granted asylum under Section 208 of the INA (8 USC 1158);
- Cuban and Haitian Entrants, as defined in Section 501(e) of the Refugee Education Assistance Act of 1980;
- Aliens whose deportation is being withheld under the INA (8 USC 1253) as in effect prior to April 1, 1997; or 8 USC 1231(b)(3), as amended;
- Aliens admitted as an Amerasian Immigrant pursuant to Section 548 of the Foreign Operation, Export Financing and Related Programs Appropriations Act of 1988;
- Afghan aliens granted Special Immigrant Status under Section 525 of Title V of the Consolidated Appropriations Act of 2008 as described in the INA (8 USC 1101(a)(27));
- Iraqi aliens granted Special Immigrant Status under the National Defense Authorization Act for Fiscal Year 2008 of the INA (8 USC 1101(a)(27)); and
- Spouses and unmarried children under age 21 of Afghan and Iraqi Special Immigrants who accompany or later join the Special Immigrant are potentially eligible to receive TennCare Medicaid benefits.

  NOTE: The Defense Appropriations bill for fiscal year 2010 changed eligibility policy for Iraqi and Afghan Special Immigrants. Effective December 19, 2009, the day the bill was

signed into law, individuals admitted to the U.S. under an Afghan or Iraqi Special Immigrant Visa are to be treated like all other refugees. Afghan or Iraqi Special Immigrants are eligible for benefits through the first seven years after entry into the U.S., if all other Medicaid eligibility requirements are met. Any Afghan or Iraqi special immigrant whose coverage was cancelled after December 19, 2009 because of the prior 8-month time limit, is eligible for benefits if all other eligibility requirements continue to be met and the individual is within the 7-year time limit.

c. Expiration of 7-Year Time Limit

A non-citizen who is subject to the 7-year limit and does not have a change in immigration status or does not meet one of the exemptions listed in the following section, will lose eligibility the first month after the 7 year anniversary date of entrance into the U.S. (or date that deportation was withheld under the INA (8 U.S.C. §§ 1231 and 1253)).

d. Continuing Eligibility After the 7-Year Limit

A non-citizen who is subject to the 7-year time limit can remain eligible beyond the 7-year period if at the time of filing or at any time during or after the 7-year period, the USCIS determines that the alien continues to be a qualified alien and that he or she is one of the following:

- Lawfully residing in the U.S. and was receiving Medicaid benefits on August 22, 1996; or
- Blind or disabled and was lawfully residing in the U.S. on August 22, 1996; or
- LPR; or
- A veteran, or an active duty member of the U.S. Armed Forces, or a spouse of a veteran or active duty military personnel, or a child of a veteran or person in active duty in the U.S. Armed Forces.

e. Adjustment to LPR Status within 7-Year Eligibility Period

The TVPA allows victims of human trafficking, to receive federally funded benefits and services to the same extent as refugees. Victims of human trafficking are non-citizens who are eligible to receive a special visa and benefits once they are identified.

8. Victims of Trafficking

The Trafficking Victims Protection Act of 2000 (TVPA) allows victims of human trafficking to receive federally funded benefits and services to the same extent as refugees. Victims of human trafficking are non-citizens who are eligible to receive a special visa and benefits once they are identified.

a. Assistance Available to Victims of Human-Trafficking

Adult victims of human trafficking who are certified by the U.S. Department of Health and Human Services (HHS), who are otherwise eligible, may receive Medicaid in any Medicaid category available. Children under age 18 do not have to be certified by HHS to receive benefits. For an adult victim of trafficking to receive certification, he or she must:

- Be a victim of human trafficking as defined by the TVPA;
- Be willing to assist with the investigation and prosecution of traffickers; and
- Have completed a bona fide application for a T Visa or, have received continued presence status from the U.S. Department of Homeland Security.

b. The T Visa - Under the TVPA of 2000

The T Visa was established to allow victims of severe forms of trafficking to become temporary residents of the U.S. The Trafficking Victims Protection Act recognizes that returning victims to their country of origin is often not in the best interest of victims and those victims need the opportunity to rebuild their lives without the threat of deportation. A recipient of a T Visa, after three years, may be eligible for permanent residence status if he or she meets the following conditions:

- They are a person of good moral character;
- They have complied with any reasonable request for assistance in the investigation during the three-year period; and
- They will suffer extreme hardship if they are removed from the U.S.

c. The Certification Process

The Certification Process typically takes only a few days after HHS is notified that a person has made a bona fide T Visa application or has been granted continued presence status (both of these actions are completed by the U.S. Department of Homeland Security). If the status of a person who has received HHS certification changes so that they are no longer eligible, HHS may be required to decertify that individual.

d. Verification of Victim Certification

A toll-free number can be used to verify victims of trafficking: 1-866-401-5510. Before victims can receive benefits, the Eligibility Specialist must call the toll-free trafficking victim verification line to verify the validity of the certification letter and to also inform HHS that the individual has applied for program benefits.

9. Battered Immigrants and Children

a. Battered Immigrant Defined

Certain immigrants who have been subjected to battery or extreme cruelty in the U.S. by a family member with whom they reside are qualified aliens and are potentially eligible for TennCare Medicaid. The alien must be either:

- The individual battered; or
- The parent of a child who is battered; or
- A child whose parent has been battered.

A family member includes a spouse, parent, or member of the spouse or parent's family residing in the same household.

If admitted to the U.S. on or after August 22, 1996, a battered immigrant and/or child is subject to the 5-year period of ineligibility for TennCare Medicaid benefits. The 5-year period of ineligibility begins on the date he or she obtains qualified alien status.

b. Eligibility Conditions

In order to be considered as a qualified alien and become potentially eligible for TennCare Medicaid (subject to 5-year bar), a battered immigrant must meet all of the requirements provided below.

- The immigrant has been approved or has a pending petition which sets forth a prima facie case for:
  - Immigrant status as a battered spouse or child of a U.S. citizen or LPR (Form I-360); or
  - Immediate Relative status (Form I-130); or
  - Suspension of deportation and adjustment to LPR status;
- The immigrant must show that there is a substantial connection between such battery or cruelty and the need for benefits; and
- The immigrant must no longer be residing in the same household as the abuser.

Battered immigrants may be granted good cause for non-cooperation with child support when cooperation requires the involvement of the abuser.

10. American Indians

An Indian born in Canada who is at least one-half American Indian blood may enter and reside lawfully in the U. S., but this does not extend to the spouse or child of the Indian unless they are at least one-half American Indian also. An Indian meeting the above criteria may be eligible for full TennCare Medicaid coverage if all other eligibility requirements are met.

The following documents may be used to verify an Indian is at least one-half American Indian blood:

- Birth or baptismal certificate issued on reservation;

- Tribal record;
- Letter from the Canadian Department of Indian Affairs; or
- School records.

ABD ENUMERATION

Legal Authority: 42 CFR 435.910

1. Policy Statement

Enumeration is the procedure by which the Social Security Administration (SSA) assigns and verifies Social Security Numbers (SSNs). As a condition of eligibility for TennCare Medicaid, applicants who are eligible to receive an SSN must provide HCFA with:

- A valid SSN; or
- The SSN application date, if the individual's SSN is unknown or a number has never been issued.

Benefits will not be delayed or denied to otherwise eligible individuals pending issuance or verification of an SSN by the SSA.

By law, non-applicants are not required to provide their SSN. HCFA can request a non-applicant's SSN under the following conditions:

- When provision of the SSN is voluntary; and
- HCFA provides clear notice to the individual that provision of the non-applicant's SSN is voluntary and information about how the SSN will be used.

2. Notification of the Enumeration Requirement

Individuals will receive notification of the regulation requiring that they furnish an SSN when applying for TennCare Medicaid and how the SSN will be used. Individuals will be informed that:

- They are only required to furnish an SSN for the individuals in their household applying for benefits. Provision of a non-applicant's SSN is voluntary;
- Each applicant's SSN will be used to verify program eligibility, income and the amount of medical assistance payments received;
- This is a requirement of the state and federal government;
- Failure to furnish an SSN or proof that the individual has applied can result in that individual's ineligibility.

If an applicant does not have an SSN or the SSN is questionable, the agency will provide the individual with information about how to obtain an SSN through the SSA.

3. Children Less than 1 Year of Age

A newborn can be added to their mother's case without waiting for the enumeration process to conclude. In most situations, the enumeration process (completion of SS-5 application, which is the

application for a Social Security card) now occurs for newborns at the hospital. Newborns must be enumerated by age one or before they can be approved in another TennCare Medicaid category, whichever occurs first.

4. Refusal to Obtain an SSN

If an applicant fails or refuses to provide an SSN, then that individual is not eligible to receive benefits, unless he or she meets an exception or is a legal alien who is not eligible for an SSN.

a. Exceptions

An applicant may refuse to obtain an SSN because of a well-established religious objection. A well-established religious objection means that the applicant:

- Is a member of a recognized religious sect or division of that sect; and
- Adheres to the teachings of the sect or division of that sect and for that reason is opposed to applying for or using an SSN.

HCFA will provide a Medicaid identification number to an applicant who refuses to obtain an SSN due to a well-established religious objection. The Medicaid identification number will not be able to be used for eligibility verification purposes.

5. Enumeration of Legal Immigrants

The Affordable Care Act amended the enumeration requirement for individuals who are not eligible for a regular SSN. Legal immigrants who are ineligible for a work-related or regular SSN are not required to obtain a non-work SSN for the purpose of TennCare Medicaid eligibility. The SSA will continue to issue SSNs for people who do have work authorization when an SSN is required to obtain other program benefits. However, a non-work SSN cannot be used to obtain data from other programs or agencies to verify eligibility for TennCare Medicaid.

Legal immigrants who are not eligible for a regular SSN must still meet the citizenship and immigration requirements, as well as all other conditions of eligibility, in order to receive TennCare Medicaid benefits.

6. Verification

a. Individuals With an SSN

SSNs will be verified by the SSA via the Federal Data Services Hub (the Hub). If the Hub is unavailable, the state will verify the SSN using the State Verification Exchange System (SVES) daily interface. If the Hub or another electronic data source, such as the State On-Line Query (SOLQ), is unable to verify an individual's SSN or validates the SSN as someone else's SSN, the state must first address any possible discrepancies with the SSN that was entered. If the

individual's SSN cannot be verified, the state will notify the applicant and request a copy of the individual's Social Security card in order to verify the individual's SSN.

b. Individuals Without an SSN

Individuals who report not having an SSN, but who are eligible to obtain a work-related SSN must apply for an SSN prior to approval for TennCare Medicaid. Acceptable verification of an application for an SSN is a copy of Form SS-5.

c. Individuals Ineligible for a Work-Related SSN

If an individual attests that he or she is ineligible for a work-related SSN and the U.S. Department of Homeland Security has verified his or her immigration status, the Eligibility Specialist will make note of the exception in the individual's case record. Non-work SSNs should not be used when applying for TennCare Medicaid since these cannot be used for verification.

ABD AGE

Legal Authority: 42 CFR 435.945; 42 CFR 435.952; 42 CFR 435.956

1. Policy Statement

In order to be eligible for TennCare Medicaid, an individual must meet the age requirement of the specific TennCare Medicaid category.

2. Verification

HCFA accepts self-attestation of the applicant's age, unless the HCFA has information that is not compatible with the attested information. If there is reason to believe that the attested age is incorrect, the state will attempt to verify the age of the individual using specific electronic data sources. If the individual's age is unable to be electronically verified, then acceptable documentary evidence of age must be provided.

a. Electronic Data Source

The following is a list of electronic data sources that may be used to verify the age of an applicant:

- Federal Data Services Hub (Hub);
- Social Security Administration interface; and
- Tennessee Vital Statistics.

b. Documentary Evidence

The following is a list of acceptable documentary evidence of age:

- A birth certificate;
- Birth verification;
- Census Bureau records;
- Immigration record;
- An insurance policy;
- A passport; and
- Proof of entitlement to Social Security benefits based on age.

If none of the examples of documentary evidence listed above can be provided, HCFA will accept a statement from the applicant which reasonably explains the discrepancy.

ABD DEATH

Legal Authority: 42 CFR 435.919; 42 CFR 431.213

1. Policy Statement

Eligibility for TennCare Medicaid will be terminated once an enrollee's death has been verified. Advance notice of action is not required if HCFA has factual information confirming the death of a beneficiary.

2. Verification

a. Notification of death from the enrollee's family or representative

If an enrollee's family member or representative reports the death, then verification of the death must be obtained. Verification can either be obtained electronically through Vital Statistics or State On-Line Query (SOLQ), or with a hard copy of the obituary or death certificate.

b. Notification of death through an electronic interface

If the State receives a date of death (DOD) through an electronic interface with the Social Security Administration (SSA), verification of death must be obtained. Verification can either be obtained electronically through Vital Statistics or SOLQ, or with a hard copy of the obituary or death certificate. Any DOD received electronically from Vital Statistics will be applied systematically.

ABD INCOME OVERVIEW

Legal Authority: Social Security Administration Program Operations Manual System SI 008; CFR 435.120

1. Policy Statement

Income is any item an individual receives in cash or in-kind that can be used to meet his or her need for food or shelter. Income includes the receipt of any item which can be applied, either directly or by sale or conversion, to meet basic needs of food or shelter.

2. Types of Income

Income is either earned or unearned, and different rules apply to each. Either type may be cash or in-kind. Earned income is compensation an individual receives for the performance of services or as a result of his or her own efforts either as an employee or through self-employment. Income eligibility for the ABD TennCare Medicaid categories is determined using the Supplemental Security Income (SSI) treatment of income rules. 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.

a. Earned Income includes:

- Bonus;
- Commission;
- Contractual;
- Differential;
- Domestic Volunteer Act;
- Earned Income Tax Credit;
- Farming or Fishing;
- Irregular or Infrequent Income;
- Older American Act;
- Plan to Achieve Self-Support;
- Royalties and Honoraria;
- Severance;
- Sheltered Workshop Earnings;
- Sick or Disability Pay;
- Tips;
- Volunteers in Service to America/Americorps;
- Wages;
- Work Study;

- Workforce Investment Act;
- Earned In-Kind Wages;
- Earned In-Kind Food, Earned In-Kind Shelter, and Earned In-Kind Food and Shelter;
- Earned In-Kind Not Food or Shelter;
- Education Income Not Work Study; and
- Self-Employment

b. Unearned Income includes:

- Adoption Subsidies;
- Alimony Received;
- Annuity Payments;
- Assistance from Other States;
- Canceled Debts;
- Capital Gains;
- Cash Support;
- Care and Contribution in Exchange for a Transferred Asset;
- Child Support Arrearage;
- Child Support;
- Community Spouse Income Maintenance Allowance (CSIMA)/Dependent Income Maintenance Allowance (DIMA);
- Death Benefit;
- Federal Emergency Management Agency (FEMA)Payments;
- Gambling, prizes, and Awards;
- General Assistance;
- Gifts;
- Income Not Pursued;
- Income-Producing Resource;
- Interest-Bearing Resource;
- Cash Inheritance;
- In-Kind Unearned Income or In-Kind Support and Maintenance;
- In-Kind Unearned Not Food or Shelter;
- Interest Income;
- Irregular or Infrequent Income;
- Jury Duty Pay;
- Lump Sum;
- Long-Term Care Insurance Payout;
- Military Allotments;
- Pension;
- Plan for Achieving Self-Support
- Protective Payee;
- Rental or Lease Income;

- Railroad Retirement Benefits;
- Rehabilitation;
- Reimbursements;
- Royalties;
- Settlements and Restitutions;
- Sick and Disability Pay;
- Social Security Benefits;
- Supplemental Security Income (SSI);
- Temporary Disability Insurance;
- Trusts;
- Unemployment Compensation;
- Veterans Affairs (VA) Benefits; and
- Workers Compensation

3. When Income is Counted

Count income at the earliest of the following points:

- When it is received;
- When it is credited to an individual's account; or
- When it is set aside for his or her use.

An exception to this is when a regular periodic payment (such as wages, Social Security, or Veterans Affairs benefits) is received in a month other than the month of normal receipt. If there is no intent to interrupt the regular payment schedule, consider the funds to be income in the normal month of receipt.

When a payer advance dates a check because the regular payment date falls on a weekend or holiday, there is no intent to change the normal delivery date or to disrupt the existing relationship between the check receipt and SSI benefits.

When an individual's money goes to a bank by direct deposit, the funds may be posted to the account before or after the month they are payable. When this occurs, the funds count as income in the month of normal receipt.

When a third party payment results in an individual's receipt of in-kind support and maintenance (ISM), determine the month in which the individual receives the ISM.

4. Garnishment or Other Withholding

Unearned income includes amounts withheld from unearned income because of a garnishment or to make certain other payments (such as payment of Medicare premiums). Unearned income includes amounts withheld from income whether the withholding is:

- Purely voluntary;
- To repay a debt; or
- To meet a legal obligation.

Some items for which amounts may be withheld but considered received are:

- Federal, state, or local income taxes;
- Health or life insurance premiums;
- SMI premiums;
- Union dues;
- Penalty deductions for failure to report changes;
- Loan payments;
- Garnishments;
- Child support payments;
- Service fees charged on interest-bearing checking accounts;
- Inheritance taxes; or
- Guardianship fees if presence of a guardian is not a requirement for receiving the income.

5. Counting Income

Eligibility is determined based on monthly income. All income must be converted to a monthly figure. The following formulas are used to convert income to a monthly amount.

a. Hourly Work: Multiply the hourly wage by the number of hours the individual worked or is expected to work in a week to determine the weekly earnings figure.

b. Weekly Income: Multiply weekly income by 4.3 to determine monthly income.

c. Bi-Weekly Income: Multiply the amount received every two weeks by 2.15 to determine the monthly amount.

d. Semi-Monthly Income: Add the two semi-monthly amounts together to determine the monthly amount.

e. Annual Income: Divide the full amount of annual income by 12 to determine the average monthly amount.

ABD HOUSEHOLD COMPOSITION

Legal Authority: 20 CFR 416.1160 – 20 CFR 416.1165; 20 CFR 416.1202 – 20 CFR 416.1204; 42 CFR 435.601; State Plan Attachment 2.6-A

1. Policy Statement

The following individuals must be included in the applicant's household, if living in the same home:

- The applicant's spouse; and
- The applicant's children under 18 years of age or under 22 years of age if a student; and
- The applicant's parents, for children under 18 years of age or under 22 years of age if a student; and
- The applicant's siblings that are under 18 years of age or under 22 years of age if a student.

Step-children are included in the household when they live in the home and their natural parent is the spouse of the applicant and living in the home. Step-parents are included when they live in the home with the applicant and the natural or adopted parent, and are married to the natural or adopted parent. Step-siblings are included when their natural or adopted parent lives in the home and is considered the applicant's step-parent.

2. Defined Terms

Deeming: The term deeming identifies the process of considering another person's income and resources to be available for meeting a TennCare Medicaid applicant/enrollee's basic needs of food and shelter.

Child: Child as related to this policy includes individuals:

- Not Married; and
- Not the head of a household; and
- Under 18 years of age or under 22 years of age if a student regularly attending school.

Holding Out Spouse: A "holding out" relationship exists when an unrelated man and woman present themselves to the community as husband and wife in the absence of a legal marriage. The concept of a holding out relationship does not apply to the MSPs or Institutional Medicaid categories.

Parent: Parent as related to this policy includes natural and adopted parents. A parent is a natural, adoptive or, in certain situations, a step-parent. A step-parent is not included in the deeming budget if any of the following circumstances apply:

- The natural or adoptive parent to whom the individual was married has died;
- The natural or adoptive parent and the individual are divorced; or
- The natural or adoptive parent and the step-parent's marriage has been annulled.

Spouse: A spouse is:

- An individual's legally married spouse; or
- An individual determined by the Social Security Administration (SSA) as eligible to receive Social Security benefits as the spouse of another; or
- An individual's "holding out" spouse.

3. Household Size

Financial eligibility in the ABD TennCare Medicaid categories is determined based on a household size of one or two. Included household members are the applicant/enrollee and if applicable, his or her spouse. If there are additional household members, they will be considered in deeming budgets, if appropriate. For example, an ineligible spouse's income and resources will be deemed into the budget, and the applicant's eligibility will be determined as an individual. If the applicant is a child, then his or her parent's(s') assets and needs, e.g. financial responsibility to other children in the home, are considered in the deeming budget.

4. Medicare Savings Plan Household (MSP) Composition

MSP household composition is governed by the principle of Financially Responsible Relatives (FRR) and the applicant/enrollee's living arrangements. Financial responsibility is limited to spouse to spouse and parent to child. A parent may include the biological, adopted or step-parent of a minor Medicare beneficiary. The living arrangement of each MSP applicant and, if applicable, his or her spouse, must be considered in determining household composition and household size. The following potential household arrangements should be taken into consideration when creating households for MSP applicants:

- A married individual living alone in the community, separated from his or her spouse is treated as an individual for MSP.
- A single or widowed individual living in the community with anyone other than a deemed parent is treated as an individual for MSP.
- A couple living together in the community and who are both entitled to Medicare are treated as a couple for MSP, even if one or both spouses are eligible for HCBS. Both the applicant and the spouse will be included in the household.
- A married individual who lives with his or her spouse in the community, but only the applicant/enrollee is Medicare eligible, is treated as an individual for the MSPs. The ineligible spouse's income and resources will be deemed available to be applicant. Either or both spouses can be eligible for and receive HCBS.
- A couple who lives separately because one is in the community and one is in a nursing facility is treated as individuals for MSP because they do not reside together.
- A couple in which both spouses reside in a nursing facility is treated as individuals for MSP, even if they share the same room.

- Dependent children under 21 living in the household of the applicant will increase the household size (including the corresponding federal poverty level threshold) for the applicant.

5. Verification

The state accepts self-attestation of household members and relationships between the household members.

The state will use Public Assistance Reporting Information System (PARIS) data post-enrollment to determine if any enrollees are receiving benefits in another state, and to identify children for whom non-custodial parents are applying for benefits through HCFA.

ABD FINANCIALLY RESPONSIBLE RELATIVES

Legal Authority: 20 CFR 416.1160 – 20 CFR 416.1165; 20 CFR 416.1202 – 20 CFR 416.1204; 42 CFR 435.601

1. Policy Statement

A family member's financial responsibility for an applicant/enrollee's basic needs of food and shelter is recognized when determining eligibility for TennCare Medicaid. The following are considered financially responsible relatives (FRRs) for the purpose of TennCare Medicaid:

- A spouse is financially responsible for his or her spouse; and
- A parent is financially responsible for his or her child(ren).

The income and resources of the applicant/enrollee's FRR are considered part of the applicant/enrollee's available countable assets. Income and resources belonging to an FRR who receives Families First or SSI benefits are not deemed available to the applicant/enrollee.

2. Defined Terms

Deeming: The term deeming identifies the process of considering another person's income and resources to be available for meeting a TennCare Medicaid applicant/enrollee's basic needs of food and shelter.

Child: Child as related to this policy includes individuals:

- Not Married; and
- Not the head of a household; and
- Under 18 years of age or under 22 years of age if a student regularly attending school.

Holding Out Spouse: A "holding out" relationship exists when an unrelated man and woman present themselves to the community as husband and wife in the absence of a legal marriage. The concept of a holding out relationship does not apply to the MSPs or Institutional Medicaid categories.

Ineligible Spouse: A spouse who is not eligible for an Aged, Blind and Disabled TennCare Medicaid category.

Parent: Parent as related to this policy includes natural and adopted parents. A parent is a natural, adoptive or, in certain situations, a step-parent. A step-parent is not included in the deeming budget if any of the following circumstances apply:

- The natural or adoptive parent to whom the individual was married has died;
- The natural or adoptive parent and the individual are divorced; or
- The natural or adoptive parent and the step-parent's marriage has been annulled.

Spouse: A spouse is:

- An individual's legally married spouse; or
- An individual determined by the Social Security Administration (SSA) as eligible to receive Social Security benefits as the spouse of another; or
- An individual's "holding out" spouse.

3. Spousal Financial Responsibility

a. When Financial Responsibility Applies

The income and resources of the individual's legally married spouse are considered available to him or her, whether or not they are actually contributed:

- While the couple live together, including temporary absences; AND
- During the first month of separation by one member's admission to a medical institution, unless the couple had been living apart for at least six months prior to their separation.

A couple residing in a separate or the same room in a long-term nursing care facility is not considered to be sharing the same living arrangement and are each treated as individuals with no deeming of income or resources.

Financial responsibility by the ineligible or eligible spouse ends the month of separation for any reason such as:

- Admission to a medical institution when 30 days of continuous confinement is met; or
- Applying for Home and Community Based Services (HCBS); or
- The individual is determined to need and to be likely to receive services for a continuous period of at least 30 days going forward.

If an individual applies in the month of separation, his or her eligibility is determined as an individual only. At that point, only resources and income actually contributed to the individual are considered available to him.

b. Determining Marital Relationship

Accept the individual's attestation regarding marital status if he or she is married, unmarried or separated from his or her spouse.

c. Holding Out Spouse

A "holding out" relationship exists when an unrelated man and woman present themselves to the community as husband and wife in the absence of a legal marriage. The concept of a holding out relationship does not apply to the MSPs or Institutional Medicaid categories.

Exception: For a Spousal Impoverishment Allocation, the marriage must be legal.

4. Parental Financial Responsibility

a. When Parental Financial Responsibility Applies

The income and resources of the parents of the child are considered available to the child in determining his or her financial eligibility:

- When the child and parent(s) live together; and
- During the child's temporary absence from the home.

A child's admission to a psychiatric facility is considered a temporary absence. Psychiatric care is not considered institutionalization for purposes of determining the under age 21 individual's separation from his or her FRR.

b. Step-parents

The income and resources of a step-parent living in the home are considered available to the child when the step-parent is the spouse of the child's natural or adopted parent and the natural or adopted parent is living in the home with the child.

c. Joint Custody/Parenting Time

For the purpose of determining Medicaid eligibility, the custodial parent, often referred to as the primary residential parent in Tennessee, is established based on physical custody specified in a court order, binding separation, divorce, or parenting plan. If there is no court order or parenting plan, custody of a child born out of wedlock is with the mother. If there is a parenting plan, the primary residential parent is the parent with whom the child spends most nights.

i. Equally-Shared Joint Custody/Parenting Time

When an individual claims that equally-shared (50/50) joint physical and legal custody exists or provides a parenting plan that evenly divides the child(ren)'s living arrangement and parenting responsibilities, the parenting time situation must be carefully examined. Though a court order or parenting plan may evenly divide the care and control of the child(ren), the parents may not, in fact, be following the parenting plan.

In cases of alleged equal parenting time (50/50), the Eligibility Specialist must verify that:

- Both parents exercise parental guidance.

  Parental guidance may include issues such as which parent takes children to and from school and/or day care, which parent does the school and/or daycare consider the responsible relative, who exercises responsibility for consenting to major medical treatment for the child, etc.

- Parents equally share physical custody.

  If one parent has the child(ren) a majority of the time, this is not considered equally shared parenting time. Child(ren) must spend an equal amount of time living with each parent. The living arrangement may be based on days, weeks or months, but it must be equal (182.5 days per year with each parent) and parental functions of guidance and physical care cannot be substantially interrupted. (If equal time means 6 months at a time are spent with each parent, this will be considered extended visits. Eligibility for the parent ceases when the child is with the other parent.)

5. Other Relatives

There are no additional financial responsibilities for any other relatives other than the spouse to spouse and parent to child provisions set forth in this section.

The income and resources of the spouse or parent not living in the same household with the applicant are considered available only to the extent they are actually contributed.

ABD EARNED INCOME

Legal Authority: Social Security Act, Sections 1611 and 1612; 20 CFR 416.1100

1. Policy Statement

Earned income is compensation an individual receives for the performance of services or as a result of his or her own efforts either as an employee or through self-employment. Income eligibility for the ABD TennCare Medicaid categories is determined using the Supplemental Security Income (SSI) treatment of income rules.

2. Earned Income

Bonus	Countable. A bonus is a one-time payment that an individual receives in addition to his or her normal job wages or salary.
Commission	Countable. Commission is income received by an individual for services performed. Commission income often paid based on a percentage of a sale or a fixed amount per sale.
Contractual	Countable. Income paid to an individual based on a contractual agreement. To calculate contractual income, average the full amount of income paid on a contractual basis over the number of months the contract covers.
Differential	Countable. 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. Payment represents all or a portion of the wages the individual would have received if he or she was performing services for the employer.
Domestic Volunteer Act	Payments to volunteers from the following programs are excluded: • Title II Retired Senior Volunteer Program • Foster Grandparent Program • Title III Service Corps of Retired Executives, Senior Companion Program and Active Corps of Engineers
Earned Income Tax Credit	Excluded. Earned income tax credit payments received as advance payments or as refunds are excluded.
Farming or Fishing	Farming or fishing income may also be considered self-employment income.

1. Farming Income

Countable. An individual is in the business of farming if he or she cultivates, operates or manages a farm for profit, either as owner or tenant. A farm can include livestock, diary, poultry, fish or fruit. It can also include plantations, ranches, ranges and orchards.

2. Fishing Income

Countable. Fishing income includes amounts an individual receives from catching, taking, harvesting, cultivating or farming fish, shellfish, crustacean, sponges, seaweeds or other aquatic forms of animal or vegetable life, as well as money from patronage dividends and fuel tax credits and refunds.

3. Counting Farming or Fishing Income

a. Income Received on a Regular Business

If an individual has a federal tax return available to verify the earnings from last year and the business model remains the same, prorate the reported annual profit over 12 months. Count the result as earned income, taking into account any changes for the prorated period.

If the individual does not have a federal tax return available from the previous year, determine the monthly income received and any expenses the applicant has paid or expects to pay in that month.

b. Income Received Annually or Infrequently

If farming or fishing income is received on an annual or infrequent basis, prorate the annual amount with anticipated changes over 12 months and count the monthly income as earned income.

4. Verification

If verification is required for farming or fishing income, request at least one of the following documents:

- A copy of the agreement executed by the owner and the individual working the farm (the applicant could be either the

	owner or tenant); or • A copy of the most recent profit or loss statement; or • A copy of the previous year's Federal income tax return.
Irregular or Infrequent Income	Exclude up to $30 per calendar quarter of earned 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 reasonable 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 earned income is an employer, trade or a business. The $30 deduction from this income type should be documented in case notes.
Older American Act	Title V of the Older Americans Act of 1965 provides part-time jobs for unemployed low-income people age 55 and older who have poor employment prospects. Count only wages and salaries paid to individuals as a result of their participation in a program funded under Title V of the Older Americans Act of 1965 as earned income.
Plan to Achieve Self-Support	Income an individual uses to pursue PASS is excluded. PASS is an agreement between an individual with a disability or blindness and the Social Security Administration (SSA) which allows the individual to set aside income or resources to pursue a work goal. Individuals with PASS plans are SSI recipients.
Royalties and Honoraria	Countable. Royalties are earned income when they are either received as part of a trade or business or received by an individual in connection with any publication of his or her work. Royalties are counted as unearned income in all other situations. For example, an individual may receive payment for the use of a patent or natural resource that he or she owns. Honoraria are payment for services when fees are not legally or traditionally required. Honoraria are counted as earned income. For example, a professional who speaks at a meeting may receive an honorarium for his or her service and time.
Severance	Countable. Severance pay is countable earned income in the month received.

Sheltered Workshop Earnings	Excluded. Under some circumstances, income earned by enrollees in a nursing facility may be considered therapeutic. These individuals are recognized as having a greater need for a personal income, because of the nature of their activities. Retention of additional income derived from work is considered essential for achieving a degree of independence.
Sick or Disability Pay	Countable. Sick or disability pay is a payment made to or on behalf of an employee by an employer or private third party for sickness or accident disability. Sick or disability pay is counted as earned income when it is received within 6 calendar months after the individual has stopped work. Sick or disability pay received more than 6 months after stopping work is counted as unearned income.
Tips	Exclude the first $20 of cash tips received in a month. Any amount that exceeds $20 is countable.
Volunteers In Service To America (VISTA)/AmeriCorps	Volunteers in Service to America under Title I of the Domestic Volunteer Services Act of 1973 (VISTA) payments are excluded.
Wages	Countable. Wages include all payment from employment, and the term is generally defined to mean gross wages. Gross wages are the total amount paid to the individual before deductions. Wages are counted (considered available to the individual) at the earliest of the following: • When wages are received or paid; or • When wages are credited to the individual's account; or • When wages are set aside for the individual's use. Deferred wage payment occurs when wages are paid at a time later than the wages normally would have been paid. If wage payments are deferred due to circumstances beyond the employee's control, consider the payment earned income when it is actually available to him or her. If the wage payment(s) is deferred at the employee's request, determine when the wages would normally have been paid and consider them earned income for that period.
Work Study	Exclude educational income that is directly contingent upon the individual attending an institution of higher education, including work study and stipends.

Workforce Investment Act (WIA)	Excluded. The Workforce Investment Act (WIA) replaced the Job Training Partnership Act (JPTA). All WIA payments are excluded earned income.
Earned In-Kind Wages	Countable. Non-cash compensation by an individual for work performed in place of, or in addition to, wages, profit or payment in cash. The value of in-kind wages is determined by the current market value of the item(s) minus the amount of the outstanding balance due on the item, if any.
Earned In-kind Food, Earned In-kind Shelter, and Earned In-kind Food and Shelter	Earned in-kind food, clothing, shelter or other items received in lieu of cash wages are countable, unless provided to a person who meets an exception below. Earned in-kind food, clothing, shelter or other items that are considered wages should be entered into the eligibility determination system as Earned In-kind Wages, in order to be counted. Exceptions: In-kind payments of food or shelter to the following people, or under the following conditions, are treated as unearned income: • Certain agricultural employees (a farmer provides commodity payments—lodging, food, livestock, grain or milk products—to an employee and the commodity cannot be converted to cash or is equivalent to a cash payment); • Domestic employees; • Service not in the course of the employer's trade or business; • Service by certain home workers; • Members of the Uniformed Services; and • 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. Payments that meet one of these conditions should be entered into the system as Unearned In-kind Income.
Earned In-Kind Not Food or Shelter	Excluded. This includes clothing that is not considered part of an employee's wages.
Self-Employment	Net earnings from self-employment are countable. Self-employment is the act of engaging in a trade or business; which is an activity carried on for a livelihood or in good faith to make a profit. Individuals may be

contractors, franchise holders, owners, operators, partners, etc. An individual must meet all of the following criteria to be considered self-employed:

- Earns income directly from the business or trade, not from wages or salary from an employer;
- Is responsible for the payment of their entire Social Security and federal withholding taxes;
- Does not have an employee/employer relationship with another individual and the services performed cannot be controlled by an employer; and
- Should file self-employment tax forms (Schedule F, C, C-EZ, SE ETC).

Net income is the gross income from any trade or business less allowable deductions for that trade or business, Allowable deductions include expenses paid to operate the business or participate in the trade, including:

- Car and truck expenses;
- Depreciation;
- Employee wages and fringe benefits;
- Property, liability or business interruption insurance;
- Interest on loans for your business;
- Legal and professional services;
- Rent or lease of business property and utilities;
- Commissions, taxes, licenses and fees;
- Advertising;
- Contract labor; and
- Repairs and maintenance.

There are different types of business structures referred to as self-employment. Some of the common structures include:

- Sole Proprietorship: A self-employment business that is not incorporated and has one or two owners. A Limited Liability Company (LLC) is not a sole proprietorship.
- Independent Contractor: An individual who pays his or her own employment taxes and does not have an employee/employer relationship is considered self-employed, unless incorporated or an LLC.
- Sharecropper: If a sharecropper pays the costs of doing business and receives a portion of the net income in exchange for his or

her labor, he or she is considered self-employed, unless incorporated or an LLC.

If an applicant is self-employed and has a partner, the applicant's self-employment net earnings will be based on his or her distributive share from the business.

Federal Income Tax Return Forms

1. Net Earnings from Self-Employment (NESE)

   Self-employed individuals report their Net Earnings from Self-Employment (NESE) on the Schedule SE tax form. Other forms may be used to report income (Schedule C, Schedule F, etc.) but the amount listed on the Schedule SE should be used to verify self-employment earnings, whenever possible. The NESE is the gross income from any trade or business less allowable deduction for that trade or business. NESE also includes any profit or loss in partnership. For the purpose of determining eligibility, count the NESE on a taxable year basis and divide the total of these earnings equally among the months in the taxable year.

   Verify net earnings from self-employment on Schedule SE. The amount of net earnings from self-employment that should be reported based on a Schedule SE may be found under:

   - Section A, line 4; OR
   - Section B, line 4.c.

   If line 4 or 4.c. show a positive amount of less than $400, then line 3 is used even if the amount on line 3 is greater than $400.

2. Schedule SE may not be available or usable when:

   - An individual has started a new business and was not self-employed in the prior tax year; or
   - An individual has applied for or is receiving Title II (Social Security) benefits.

3. Other Tax Forms and Business Records

   IF an individual does not have a Schedule SE, then other tax forms may be used to determine and verify net self-employment earnings.

	Other forms include: • Schedule F: Used to report income and expense from a farm operation. Net profit or loss is listed on the Schedule F. • Schedule C: Used to report profit or loss from a Sole Proprietor business (general). Net profit or loss is listed on the Schedule C. • Business Records: When a federal income tax return is not available, or the individual has changed, stopped or added to the business, business records may be used to determine net earnings. When business records are used, use the individual's gross income and allow the same deductions that are allowed by the IRS.

ABD UNEARNED INCOME

Legal Authority: 20 CFR 416.1120; 20 CFR 416.1121; 20 CFR 416.1123; 20 CFR 416.1124

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

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 or she 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 provide for the payment of annuitized income at regular intervals. If an annuity is an excluded resource, the periodic payments are countable unearned income. If the annuity is a countable resource, payments are excluded. See the *ABD Countable and Excluded Resources* policy.
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. Verification 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 Resources section 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 he or 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 or she 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 he or she equally shares household expenses, it must be determined if he or she receives both support and maintenance in-kind. An individual's contributions towards household expenses cannot be a token amount. If his or her contributions are less than the current market value of an item or less than his or 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 or she 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 or her 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 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 or she 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 his or 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 or her own use is countable income to the protective payee. Even if the protective payee retains a fee for his or 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 he or 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 or she 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.

ABD INCOME DISREGARDS AND EXPENSES

Legal Authority: 20 CFR 416.1112

1. Policy

Certain types of income and expenses of the individual may be deducted or disregarded when determining financial eligibility.

2. Unearned Income Disregards and Expenses

a. Court Ordered Child Support Payments

A child support payment is a payment from a parent to or for the child to meet the child's needs for food and shelter. In order to be allowed as an expense, child support must court ordered.

When an individual verifies that he or she is paying court-ordered child support for a child who is not living in his or her household, the portion of his or her income that is used to make these payments is deducted from gross income. The amount excluded is the amount actually paid up to the full court-ordered obligation. Child support deductions are applied prior to applying any other income deductions or exclusions. Child support payments must be verified.

A child support arrearage payment is a payment that was past due, but not paid in a timely manner for the appropriate period. It is being paid to comply with an unfulfilled past obligation to support the child. If the individual is making a payment that includes both current support and an amount applied toward arrears, the entire amount may be allowed as an income deduction as long as the arrears were also part of the court-ordered support order when incurred.

A child support disregard will not be allowed for the same individual for whom a Community Spouse Income Maintenance Allowance or Dependent Income Maintenance Allowance is allowed in an Institutionalized Medicaid budget.

b. Legally Obligated Alimony Payment

Alimony is a payment to or for a spouse or former spouse under a divorce or separation instrument. Alimony expenses do not include voluntary payments. The payments must be in cash, including checks and money orders, to be considered alimony. Alimony is an expense to the payer of the alimony and is allowed when alimony is paid during the month of application.

The following payments are not alimony: child support, noncash property settlements, and payments to keep up the payer's property.

c. General Income Disregard

A $20 monthly General Income Disregard is allowed per household. The $20 monthly General Income Disregard is first applied to any of the applicant's unearned income. If any of the $20 disregard is not offset by unearned income, apply the remainder of the disregard to a spouse's unearned income and then to the applicant's earned income.

d. Child Support Disregard

If an applicant that receives Temporary Assistance for Needy Families (TANF)/Families First assistance also receives child support payments (current only), exclude up to $50 per month of child support payments received.

3. Earned Income Disregards and Expenses

a. Earned Income Disregard

The first $65 of the earned income of each aged, blind or disabled individual is disregarded when determining financial eligibility. This is also known as the work expense disregard.

b. Blind and Disability Related Work Expenses

The gross countable earned income of each blind or disabled individual, not living in a medical institution, may be reduced by the amount of expenses attributable to earning the income. The allowable Blind or Blind and Disabled Work Expenses (BWE) and allowable Disability Related Work Expenses (DRWE) are not the same.

BWE and DRWE apply only to earned income. In order to deduct either BWE or DRWE, the individual must be:

- Blind, blind and disabled, or disabled; and
- Under age 65.

OR

- Age 65 and older; and
- Received SSI payments due to blindness or disability the month before attaining age 65.

These expenses do not apply to the Institutional Medicaid categories.

Work expenses must be verified and documented with receipts, etc. Work expenses must not be payable or reimbursable by a third party, such as Medicaid, Medicare or other insurance.

i. Blind Work Expense (BWE)

BWE are expenses incurred by a blind person which are reasonably attributable to earning income. Allowable BWE are listed below under Allowable BWE and DRWE Types.

Items which are not BWE include:

- In-kind payments;
- Expenses deducted under other provisions (e.g., PASS);
- Life maintenance expenses (meals outside of work, self-care items, savings plans, health insurance premiums);
- Items furnished by others that are needed in order to work; and
- Expenses claimed on a self-employment tax return.

ii. Disability Related Work Expense (DRWE)

DRWE are expenses for items or services which are directly related to enabling a person with a disability to work and which are necessarily incurred by that individual because of a physical or mental impairment.

A payment for a service or item is excludable as a DRWE when:

- The individual is disabled and under age 65, or received SSI as a disabled person for the month before attaining age 65; and
- The severity of the impairment requires the individual to purchase or rent items and services in order to work; and
- The expense is reasonable; and
- The cost is paid in cash (cash, check, money orders or credit cards) by the individual; and
- The payment is made in a month the individual receives earned income for a month in which he or she both worked and received the services or used the item, or
- The individual is working but makes a payment before the earned income is received.

DRWE apply only to earned income and are deducted after the General Income Disregard and the Earned Income Disregard, but before deducting the One-Half Disregard (see 3.c. below).

iii. Allowable BWE and DRWE Types

Expense	**Blind Only**	**Blind and Disabled**	**Disabled Only**
Attendant Care	X	X	X
Drugs/Medical Services	X	X	X
Expendable Medical Supplies	X	X	X
Guide Dog	X	X	X
Medical Devices	X	X	X
Non-Medical Equipment Services	X	X	X
Federal, State and Local Income Taxes	X	X	
Social Security Taxes	X	X	
Fees	X	X	
Mandatory Contributions	X	X	
Meals Consumed During Work Hours	X	X	
Other Work-Related Equipment Services	X	X	X
Physical Therapy	X	X	X
Prosthetic Devices	X	X	X
Structural Modifications to the Home	X	X	X
Training to Use an Impairment-Related Device	X	X	X
Transportation To and From Work	X	X	X
Vehicle Modifications	X	X	X

c. One-Half Disregard

The following disregards are applied to an individual's gross income: child support/alimony remainder, General Income Disregard ($20) remainder, Earned Income Disregard ($65), disability-related work expenses, one-half (1/2) remainder disregard, and blindness-related work expenses. If the remainder before the one-half disregard is $0 or less, this disregard will not be displayed in the budget.

4. Student Earned Income Exclusion

NOTE: This exclusion type is also referred to by the following titles:

- **Disabled Student Under age 22 Earned Income Exclusion**
- **Dependent Child Under age 18 or Student Between Ages 18 and 21 Earned Income Exclusion**

The Student Earned Income Exclusion (SEIE) applies to the earnings of the student who is under age 22 and regularly attending school. The exclusion may apply to an eligible or ineligible child, spouse,

or parent(s). The SEIE monthly amount is determined by the SSA. The monthly exclusion for 2015 is $1,780. The maximum annual exclusion for 2015 is $7,180.

The SEIE does not apply to children attending elementary school.

A student is regularly attending school if he or she is:

- In a college or university for at least 8 hours per week under a semester or quarter system; or
- In grades 7-12 for at least 12 hours per week; or
- In a training course preparing him or her for a paying job for at least 12 hours per week (if the course involves shop practice the hour minimum is 15); or
- For less than the amount of time indicated above for reasons beyond the student's control, such as illness, if circumstances justify a reduced credit load or attendance.

A home-schooled student if he or she is:

- In grades 7-12 for at least 12 hours per week; and
- In accordance with state or jurisdictional home school laws.

A homebound individual is a student regularly attending school when he or she:

- Must stay at home because of a disability;
- Studies a course or courses given by a school (grades 7-12), college, university or government agency; and
- Has a home visitor or tutor from school who directs the studying or training.

A child retains his or her student status during official school vacations and breaks if the individual met the conditions required to be considered a student prior to the vacation or break, and he or she plans to return to school after the break.

ABD DEEMING OF INCOME AND RESOURCES

Legal Authority: 20 CFR 416.1101; 20 CFR 416.1102; 20 CFR 416.1160; 20 CFR 416.1161; 20 CFR 416.1163; 20 CFR 416.1165; 20 CFR 416.1166; 20 CFR 416.1167; 20 CFR 416.1202; 20 CFR 416.1205; 20 CFR 416.1802; 20 CFR 416.1806; 20 CFR 416.1870; 20 CFR 416.1856; 20 CFR 416.1870; 20 CFR 416.1872; 20 CFR 416.1881

1. Policy Statement

Countable income and resources belonging to individuals other than the TennCare Medicaid applicant/recipient may be deemed available when determining eligibility. The deeming provisions recognize the family responsibility of parents and spouses for meeting an applicant's basic needs of food and shelter. The deeming concept applies only to the Financially Responsible Relatives (FRRs) of applicants and enrollees in the following aged, blind and disabled (ABD) TennCare Medicaid categories:

- Medicare Savings Programs (QMB, SLMB, QI and QDWI);
- Pickle and Pass Along; and
- Institutional Medicaid.

Income and resources belonging to an FRR (spouse or parent) who receives Families First (TANF) or SSI benefits are not deemed available to the applicant/enrollee.

2. Defined Terms

Deeming: The term deeming identifies the process of considering another person's income and resources to be available for meeting a TennCare Medicaid applicant/enrollee's basic needs of food and shelter.

Dependent Child Under Age 18 or Student Between Ages 18 and 21 Earned Income Exclusion: Ineligible students under 22 years of age and regularly attending school are allowed a monthly exclusion up to the yearly maximum for a given calendar year. The monthly exclusion amount for 2015 is $1,780 up to a maximum of $7,180 for the year. This exclusion may apply to a child, spouse or parent who is considered a student. See Student Earned Income Exclusion (SEIE) in *ABD Income Disregards and Expenses* policy.

Child: Child as related to this policy includes individuals:

- Not married; and
- Not the head of a household; and
- Under 18 years of age or under 22 years of age if a student regularly attending school.

Federal Benefit Rate (FBR): The FBR is the maximum monthly Supplemental Security Income (SSI) benefit amount for a couple or an individual. For 2015 the FBR amount is:

- $1,100 for a couple; and

- $733 for an individual.

The difference of the FBR for a couple and an individual for 2015 would be $367 ($1,100 - $733).

Holding Out Spouse: A "holding out" relationship exists when an unrelated man and woman present themselves to the community as husband and wife in the absence of a legal marriage. The concept of a holding out relationship does not apply to the MSPs or Institutional Medicaid categories.

Ineligible Spouse: A spouse who is not eligible for an ABD TennCare Medicaid category.

Ineligible Child: A child that is not eligible for SSI.

Parent: Parent as related to this policy includes natural and adopted parents. A parent is a natural, adoptive or, in certain situations, a step-parent. A step-parent is not included in the deeming budget if any of the following circumstances apply:

- The natural or adoptive parent to whom the individual was married as died;
- The natural or adoptive parent and the individual are divorced; or
- The natural or adoptive parent and the step-parent's marriage has been annulled.

Spouse: A spouse is:

- An individual's legally married spouse; or
- An individual determined by the Social Security Administration (SSA) as eligible to receive Social Security benefits as the spouse of another; or
- An individual's "holding out" spouse.

3. Parent to Child Deeming

a. Overview

When a blind or disabled child is living with his or her parents(s), a portion of the parents' income and resources may be deemed available to the child and counted as unearned income to the child in determining his or her TennCare Medicaid eligibility.

b. Income Deeming

When deeming applies, the parent(s) receives income disregards and allocations in order to meet his or her own needs and the needs of other children that live in the household. Child and parental allocations are deducted from the parents' income before any income is deemed to the applicant/enrollee.

i. Ineligible Child Allocation

A. Who May Receive the Allocation

When deeming from parent to child, the parent receives an ineligible child allocation for each ineligible child residing in his or her home. An ineligible child is a child who meets the definition of a child, lives in the parent's home and is ineligible for SSI benefits, Families First cash assistance or general assistance.

Changes in family composition, such as birth, death, entering or leaving the household or no longer meeting the definition of a child, are effective following the month the change occurs. All changes must be timely reported to HCFA.

B. Ineligible Child Allocation Calculation

The ineligible child allocation is equal to the difference between the FBR for a couple and the FBR for an individual ($367). The allocation is then reduced by the any of the child's own countable income.

If there is more than one ineligible child in the household, the following budget will be completed for each ineligible child. When the ineligible child allocation is deducted from parental income, that amount will be the total of all ineligible child allocations, if applicable.

Step I:	Ineligible Child's Total Earned Income		
	1.		Child's Total Countable Earned income
	2.	+	Child's Total Countable Self-Employment Income
	3.	-	Dependent Child Under Age 18 or Student Between Ages 18 and 21 Earned Income Exclusion – (SEIE)
	4.	=	Total Earned Income
Step II:	Ineligible Child's Total Unearned Income		
	5.		Child's Total Countable Unearned Income (other than child support)
	6.	+	Child Support Received For That Child
	7.	=	Total Unearned Income
Step III:	Ineligible Child Allocation		
	8.		SSI FBR Difference
	9.	-	Child's Total Countable Income (Earned Plus Unearned)
	10.	=	Ineligible Child Allocation

The allocation is deducted from the parent's unearned income first, then from the parents earned income. If a child is a student, his or her countable earned income that is under the SEIE does not reduce the amount of the child allocation.

ii. Parental Allocation

Parents of an ABD TennCare Medicaid applicant/enrollee will receive the ABD disregards listed below prior to determining the deemed income amount. Parents receiving SSI are not included in deeming.

- $20 unearned income disregard (any remainder will be applied to earned income);
- SEIE
- $65 earned income disregard;
- ½ of the remaining earned income amount; and
- The FBR for an individual or couple, depending on the number of parents in the home.

c. Parent to Child Income Deeming Budget

Step I:	Parent's Unearned Income		
	1.	+	Total countable unearned monthly income (other than child support)
	2.	+	Gross Child Support
	3.	-	Total Ineligible Child Allocation
	4.	=	Remaining Unearned Income
Step II:	Parent's Earned Income		
	5.	+	Total countable earned income
	6.	+	Self-Employment Income
		-	Student Between Ages 18 and 21 Earned Income Exclusion – (SEIE)
	7.	-	Earned Income Disregard ($65)
	8.	=	Total Earned Income
	9.	-	Remaining Ineligible Child Allocation
	10.	=	Remaining Earned Income
Step III:	Parent's Income to be Deemed to Child		
	11.		Remaining Unearned Income
	12.	-	General Income Disregard ($20)
	13.	=	Countable Unearned Income
	14.		Remaining Earned Income
	15.	-	Remaining General Income Disregard
	16.	-	Earned Income Disregard
	17.	-	½ Disregard

	18.	=	Countable Earned Income
Step IV:	Deemed Income Computation		
	20.		Countable Unearned Income
	21.	+	Countable Earned Income
	22.	-	SSI FBR (based on number of parents)
	23.	/	Number of Disabled Minor Children (i.e. Number of TennCare Medicaid ABD-Eligible Children)
	24.	=	Deemed Income from Parent(s)

4. Spouse to Spouse Deeming

a. Overview

The countable income and resources of an applicant/enrollee's TennCare Medicaid ineligible spouse living in the home may be deemed available to the applicant/enrollee. Spousal deeming applies to the following TennCare Medicaid categories:

- Medicare Savings Programs (QMB, SLMB, QI and QDWI);
- Pickel and Pass Along; and
- Institutional Aged and Blind/Disabled*.

*Note: Spousal deeming in the Institutional Medicaid categories is processed differently due to Spousal Impoverishment policy. See *Post Eligibility Treatment of Income* and *Resource Assessment* policy.

b. When Deeming Applies

Spousal deeming only applies when the spouses share a living arrangement; i.e. live in the community or home together. An FRR's responsibility ends the month that the individual and his or her spouse are separated for any reason such as institutionalization or enrollment in HCBS. Once an individual applies or is enrolled in an Institutional Medicaid category, spousal impoverishment policy dictates the treatment of income.

Income may be allocated from the HCBS spouse to the community spouse who applies for TennCare Medicaid when they reside together; however, no income is deemed from the community spouse to the HCBS spouse whose eligibility is determined as an institutionalized individual. See *Post Eligibility Treatment of Income* policy.

c. Spousal Deeming Budget

The Spouse to Spouse Deeming Budget determines both the amount of income available to the applicant/recipient, and whether deeming applies based on that amount. Spouse to spouse

deeming only occurs when the amount available to the eligible spouse is greater than the difference between the FBR for a couple and the FBR for an individual.

Step I:	Unearned Income Computation		
	1.		Total countable unearned income for ineligible spouse
	2.	-	Total Ineligible Child Allocation (see allocation budget above)
	3.	=	Remaining Unearned Income
Step II:	Net Earned Income Computation		
	4.		Total countable earned income for the ineligible spouse
	5.	+	Self-employment income for the ineligible spouse
		-	Student Between Ages 18 and 21 Earned Income Exclusion – (SEIE)
	6.	-	Remaining Ineligible Child Allocation
	7.	=	Remaining Earned Income
Step III:	8.		Remaining Unearned Income
	9.	+	Remaining Earned Income
	10.	-	SSI-FBR Difference ($367)
	11.	=	Total
	12.	Deeming Applies/ Deeming Does Not Apply	Result of Deeming Test: If Total in Step III is greater than zero then spousal deeming applies and the household size is two.
	13.		The deemed unearned amount is the amount in Step III. 8.
	14.		The deemed earned amount is the amount in Step III.9.

5. Temporary Absence

During a temporary absence, deeming continues to apply to an individual. When deeming income, a temporary absence exists if an individual leaves the household, but intends to return home, and does, the same month the individual left or the month after the individual left the home. When an individual returns the same month or the month after the individual left the household it can be assumed that the individual intended to return to the household.

a. Medical Confinement

Individuals that enter a medical treatment facility and are eligible for SSI benefits are considered temporarily absent through the last month of SSI benefits. If an individual is discharged the

month after SSI benefits end he or she is considered temporarily absent from the home through the date of discharge.

b. Child at School

If a child is away at school in an educational or vocational training program, but returns to the household on some weekends or holidays, and the child is under parental control, the child is considered temporarily absent and parent to child deeming may occur. Parents that have the authority to make decisions on a child's behalf have parental control. If a child is away at school, but the parents do not have parental control the absence is not temporary.

c. Absent Military Spouse or Parent

Any spouse or parent that is absent from the household solely for a military duty assignment, while an on active duty as a member of the Armed Forces, will still be considered to be living in the household for deeming purposes, as long as the intent to return home remains. Members of the Army, Navy, Air Force, Marine Corps or Coast Guard are considered members of the Armed Forces. The length of absence is not a factor in determining if the spouse or parent is included in the household.

6. Income Deeming Example

a. Spouse to Spouse Deeming

The example below is for Medicare Savings Programs (MSPs), which also consider living arrangements when determining whether deeming applies. See the *Medicare Savings Program Overview* and *ABD Household Composition* policy.

A 65 year old married man is applying for an MSP. He lives in his home with his wife, age 59. The applicant is entitled to and receiving Medicare benefits, but his wife is not yet eligible for Medicare. Since he is married, living at home with his spouse, but she is not entitled to Medicare, her income may be deemed available to him. The deeming budget below calculates whether the spouse's income should be deemed to the applicant. The budget determines that the spouse's income is greater than the FBR difference, and it will be deemed to the applicant when determining his income eligibility.

SSI FBR Difference Computation		
SSI FBR for a couple		$ 1,100.00
SSI FBR for an individual	-	$ 733.00
SSI FBR Difference	=	$ 367.00
Unearned Income Computation		
Unearned Income for the Ineligible spouse		$ 0.00

Total Ineligible Child Allocation (all children)	-	$ 0.00 (There are no children)
Remaining Unearned Income	=	$ 0.00
Total Net Earned Income Computation		
Earned Income for the ineligible spouse		$ 1,200.00
Self-Employment Income for the ineligible spouse	+	$ 0.00
Student Between Ages 18 and 21 Earned Income Exclusion – (SEIE)	-	0.00
Total: Earned Income	=	$ 1,200.00
Remaining Ineligible Child Allocation	-	$ 0.00 (There are no children)
Remaining Earned Income	=	$ 1,200.00
Deeming Test		
Remaining Unearned Income		$ 0.00
Remaining Earned Income	+	$ 1,200.00
SSI FBR Difference	-	$ 367.00
Total	=	$ 833.00
Result of Deeming Test		Spousal Deeming Applies
Deemed Unearned Income		$ 0.00
Deemed Earned Income		$ 1,200.00

7. Resource Deeming

a. Overview

Resources may be deemed from FRRs when determining financial eligibility for applicants.

The pension funds belonging to an ineligible spouse or parent are excluded from resources for deeming purposes in order for the spouse or parent to provide for his own future support.

b. Parent To Child Resource Deeming

i. Policy

The resources of the child include the value of the countable resources of the parent(s) or spouse of the parent, to the extent that the resources of the parent(s) or spouse of the parent exceed the resource limit of:

- An individual, if one parent lives in the household; or
- A couple, if two parents live in the household.

If there is more than one disabled child under age 18 in the household, equally divide the value of the deemed resources among those children.

ii. Budget Procedures

Parental Resource Deeming Budget		
1. Resource of Parent 1		Total countable resources for first parent
2. Resource of Parent 2	+	Total countable resources for second parent, if applicable
3. Total Parental Countable Resources	=	Sum of countable parental resources
4. Resource Limit	-	The resource limit for an individual ($2,000) or couple ($3,000) as appropriate
5. Subtotal of Deemed Resources	=	
6. Number of Disabled Children	/	Total number of disabled minor children in the household
7. Parent Deemed Resources	=	Amount of resources deemed to each disabled minor child

c. Spouse to Spouse Resource Deeming

i. Policy

Total countable resources are the combination of the resources of the applicant/enrollee and the spouse after all applicable resource exclusions are applied.

Total countable resources are compared with the resource limitation for a couple. If the amount of the resources does not exceed the limit, the applicant/enrollee is resource eligible.

ii. Spouse to Spouse Deeming Budget

Ineligible Spouse Resource Deeming Budget		
1. Resource of Ineligible Spouse	+	Total countable resources that may be deemed from a spouse
2. Total Ineligible Spousal Resources	=	Total Countable resources that may be deemed from the spouse (same amount as Number 1)
3. Increase Resource Household Size by One	Y/N	The household size should increase by one if the spouse is eligible to have his or her resources deemed. If resources are not deemed, the household size will not increase.

ABD TREATMENT OF RESOURCES: OWNERSHIP, EQUITY VALUE & ACCESSIBILITY

Legal Authority: 20 CFR 416.1201; 20 CFR 416.1208

1. Policy Statement

A resource is real or personal property which has economic value. Resources can include, but are not limited to, cash, savings, investments, houses, land and vehicles. The household's resources are evaluated for ownership, accessibility and equity value. All resources are countable unless specifically excluded by regulation.

2. Definitions

Resource: Cash or other liquid asset or any real or personal property that an individual owns jointly or individually that could be converted to cash and used for medical support and maintenance.

Resources are those assets the individual has on hand at the beginning of the month as opposed to income, which is any cash, wages, pensions or other funds received during the month.

3. Liquid and Non-Liquid Resources

Liquid resources are cash and other resources that can be readily converted to cash. Examples of resources that are ordinarily liquid include (but are not limited to) stocks, bonds, mutual fund shares, promissory notes, mortgages, life insurance policies, financial institution accounts (savings, checking, time deposits/CDs) and similar items.

The value of countable liquid resources is typically based on the specific value of the resource, e.g., the amount in the financial account, the cash surrender value, or the value of the note held by the individual.

Non-liquid resources are resources that cannot reasonably be immediately converted into cash. A resource which has been determined to be non-liquid for any reason is not considered inaccessible or excluded simply because the value of the asset cannot be accessed at the time of application.

The value of a countable non-liquid resource is based on the resource equity value.

4. Fair Market Value (FMV)

The FMV of a resource is determined based on the type of resource. For example, bank accounts are based on the amount of money in the account. Certificates of deposit and other time deposits are based on the amount of money that can be withdrawn after penalties for early withdrawal. Car values are based on National Automobile Dealers Association (NADA) values or statements from knowledgeable sources, such as area car dealers. Real estate is based on Total Market Appraisal,

which can be found at http://www.assessment.state.tn.us/, which is the State of Tennessee's Comptroller of the Treasury's Real Estate Assessment Data listing. Nine counties do not provide property information through the Comptroller's listing. However, links to the property information for those nine counties can be found on the Comptroller's web-site.

Other types of resources are valued based on statements from knowledgeable sources or other means that are reasonable and appropriate to the type of resource being valued.

Fair market value is an estimate of the value of an asset, if sold at the prevailing price at the time it was actually transferred. Value is based on criteria you use in appraising the value of assets for the purpose of determining Medicaid eligibility.

5. Equity Value

The equity value of a resource is the FMV minus the debt or amount owed on the resource. (Equity = FMV – amount owed). Only the equity value of an accessible resource is counted toward the resource limit, other than for vehicles.

Only debts (amounts owed) that are secured by liens or other legal encumbrances against the resource can be subtracted from the FMV when determining equity.

6. Resource Accessibility & Availability

Resources are considered available either when actually available to the individual or when the individual has a legal or equitable interest in the property or asset, and has the legal or equitable ability to access funds or convert non-cash property into cash. If the individual has the legal or equitable ability to access his or her funds, the resource is considered available regardless of whether the individual has the practical ability to access the resource or convert non-cash property into cash.

The individual's incompetence, whether presumed or actual, does not bar the person's legal authority to withdraw his or her liquid resources in the situation where a conservator, guardian or someone acting on the person's behalf has not been legally appointed.

The resources belonging to an individual whose conservator, guardian, or legally appointed representative does not cooperate with TennCare during the facilitation of accessing resources, shall be considered inaccessible, assuming the methods to access the resources have been fully exhausted.

For applicants who do not have a conservator, guardian or legally appointed representative, or for applicants whose conservator, guardian or legally appointed representatives cannot or will not perform his or her duties on behalf of the individual, contact the Eligibility Policy Unit for assistance.
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Consider jointly-owned resources accessible according to the information above unless the individual rebuts ownership or accessibility, and can verify that the joint ownership does block accessibility of the resource.

7. Ownership

a. Determining Ownership

Ownership of a resource is determined by the:

- Name(s) on the account, title, deed, contract, etc.;
- Source of the funds in the account or used to purchase the resource;
- Purpose for which the account or investment was opened or made; and
- Activity and use of the account or investment.

If the title, deed, contract, account, etc., has only one name listed, the resource belongs to that individual. If more than one name is listed, it is considered a jointly-owned resource. Once a resource has been determined to be jointly owned, the resource's accessibility must be evaluated.

b. Jointly-Owned Resources

Resources owned jointly with someone outside the household must be evaluated to determine accessibility to the household.

Consider 100% of the resource as available to the household **unless** the:

- Household can demonstrate it only has access to a portion of the resource (count the value of the proportional interest owned by the household member), or;
    - The accessible portion of jointly-owned real estate or other titled or deeded property is the percent owned by the applicant;
    - The accessible portion of a bank account or other liquid resource is considered to be 100% unless otherwise restricted.
- The resource cannot be practically subdivided and the household's access to the resource is dependent on the agreement of a joint owner who refuses to comply. This provision does not apply to real property or
- The resource is a joint bank account. When two or more eligible individuals have unrestricted access as joint owners of a bank account (savings, checking and time deposits) with or without other ineligible owners, each eligible individual is presumed to own an equal share of the total funds in the account regardless of the source of the funds. The eligible individual(s) and/or his responsible party have the right to rebut the ownership presumption.

If an asset cannot be sold or converted due to the conditions of joint ownership, exclude the applicant's equity value in determining resource eligibility. The applicant's equity value in a jointly-owned asset can be excluded under the following conditions:

- The joint owner of the resource (who is not a Financially Responsible Relative) refuses to consent to the sale of the asset or to purchase the applicant's interest; or
- The applicant is free to sell his or her own individual interest in the property, but is unable to find a buyer.

c. Rebuttal of Ownership

i. Rebuttal of 100% Ownership or Accessibility of a Resource

Applicants who wish to rebut a determination that the he or she has unrestricted access to a resource will have 30 days from the date of application to present rebuttal evidence. If the individual presents all required rebuttal evidence corroborating his or her allegation of partial or non-ownership and the initial determination is rebutted, count only that portion of the resource the individual owns as an available asset.

ii. Rebuttal Evidence

Rebuttal of resource ownership and accessibility must be submitted in writing, and must be signed by all co-owners. The rebuttal must explain and include verification of the following:

- The reason co-ownership was established;
- The names of individuals whose funds were used to establish the account or purchase the asset, and the amounts each invested;
- The names of individuals who made deposits or withdrawals from an account or who have used the resource; and
- How the funds were spent or what the resources have been used for.

If the individual successfully rebuts the presumption of 100% ownership or accessibility, action must be immediately taken by the applicant to separate commingled funds, remove his or her name from the account or resource, or restrict his or her access to the account, as applicable to the situation.

d. Verification of Jointly-Owned Resources

If a resource is jointly-owned, or an individual successfully rebuts a presumption of 100% ownership or accessibility, verification of ownership and accessibility are required. Verification must include bank statements, agreements, deeds, titles or other collateral statements. The individual's statement is not sufficient verification.

8. Inaccessible Resources

A resource is not considered inaccessible simply because it is non-liquid. The practical inability to access the resource also does not make it inaccessible. See the *ABD Inaccessible Resources* policy.

9. Resource Time and Value Limits

A resource may be excluded for a limited period of time or excluded up to a certain amount. To determine applicable limits, see the specific resource type in the *ABD Countable and Excluded Resources* policy. Time limits and value limits should be considered when assessing a commingled resource.

10. Identifying Excluded Funds in Commingled Resources

Otherwise excludable resource funds must be identifiable to remain excluded when commingled with non-excludable funds. Funds are generally not required to be maintained separately to be considered identifiable, see the specific resource type in the *ABD Countable and Excluded Resources* policy to see if commingling is specifically prohibited. When assessing withdrawals from commingled funds, the withdrawal should be deducted from non-excluded funds first. Interest from excluded funds may also be excluded, see the specific unearned income type in the *ABD Unearned Income*.

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)

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 or her 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.

Annuity	Resource	**1. General Rule**

	Type	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. Annuities owned or purchased by individuals applying for LTSS are subject to additional requirements. The Deficit Reduction Act of 2005 (DRA) provides that any individual applying for LTSS must: • Disclose any interest that he or she or a spouse has in an annuity; • Name the State of Tennessee as the remainder beneficiary on all annuities; and • Demonstrate that the purchase or conversion of any annuity on or after February 8, 2006 was not a transfer of assets for less than fair market value (FMV). **2. Definitions** **Actuarially Sound:** An annuity is actuarially sound when the purchase price of the annuity is expected to be paid back in full during the actual or expected lifetime of the annuitant. **Conversion:** Transactions made to an annuity purchased prior to February 8, 2006 that make the annuity subject to the DRA requirements. These transactions include additions to principal, elective withdrawals, requests to change the distribution of the annuity and elections to annuitize the contract. Routine changes—changes of

address or notification of death or divorce of a remainder beneficiary—are not considered conversions.

3. Treatment of Annuities as a Resource

a. Countable Resource

Annuities are countable resources under the following conditions:

- It is revocable;
- It is assignable;
- It can be sold to someone else;
- It is owned by the applicant/enrollee or an ABD-eligible spouse, but the annuity payments are made to someone else;
- The applicant and/or his or her spouse do not own 100% of the annuity;
- The annuity is owned by an ABD ineligible spouse or a community spouse; or
- It is owned by a deemed parent and it is not an employment-related annuity.

NOTE: If an annuity meeting any of the above conditions is found to be legally inaccessible, it must be reviewed under the transfer of asset policy for individuals applying for LTSS.

b. 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. 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 http://www.ssa.gov/oact/STATS/table4c6.html . 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. The calculated value of an annuity may be rebutted by providing 2 credible statements of FMV amounts.

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.

4. Treatment of Annuities under Transfer of Asset Policy

The following policy only applies to individuals applying for or receiving LTSS.

The DRA provides that individuals applying for LTSS must comply with certain requirement related to annuities that are purchased on or after February 8, 2006. In addition, conversions occurring on or after February 8, 2006 made to annuities purchased prior to the date will make the annuity subject to the DRA provisions.

a. Requirements at Application

i. Disclosure of Interest in an Annuity

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.

ii. Requirement to Name the State as the Remainder Beneficiary

An annuity owned by the applicant/enrollee or his or her spouse must name the State of Tennessee as the remainder beneficiary. The State must be named as the remainder beneficiary, in the following order:

1. Community spouse;
2. A minor child;
3. A blind or disabled adult child;
4. State of Tennessee.

No individual or entity other than those mentioned above may be mentioned as a beneficiary in a position superior to the State. A community spouse cannot name the institutionalized spouse as a remainder beneficiary of the annuity in a position superior to that of the State.

NOTE: An annuity must meet the requirement to name the State as remainder beneficiary, regardless of its resource status.

As a remainder beneficiary, the State may receive up to the total amount of medical assistance paid on behalf of the individual, including both LTSS and home and community based services. The State must notify the issuer of the State's right as the preferred remainder beneficiary and the issuer must notify the State if there are any changes in the amount of income or principal being withdrawn.

If an annuity is not amended to meet these criteria, the annuity purchase will be treated as a transfer of asset for less than FMV.

b. Treatment of Annuity under Transfer of Asset for Less than FMV Policy

The following policy only applies to annuities owned by the applicant/enrollee. It does not apply to annuities held by the applicant/enrollee's spouse.

Annuities that are determined to be excluded resources must meet the criteria below, in addition to the requirements Section 4.a., in order to not be considered a transfer of asset for less than FMV.

NOTE: If an annuity is determined to be a countable resource, but it does not name the State as the remainder beneficiary, the annuity must also be evaluated as an uncompensated transfer of assets. It is unlikely that the individual will be sanctioned with a penalty period, as the countable value of the annuity will make him or her ineligible due to excess resources.

The annuity will not be treated as a transfer of assets for less than FMV if the following conditions are met:

i. The annuity is considered either:

- An individual retirement annuity (Section 408(b) of the Internal Revenue Code of 1986 (IRC)); or
- A deemed Individual Retirement Account (IRA) under a qualified employer plan (Section 408(q) of the IRC).

OR

ii. The annuity is purchased with the proceeds from one of the following:

- A traditional IRA (Section 408a of the IRC);
- Certain accounts or trusts which are treated as traditional IRAs (Section 408(c) of the IRC);
- A simplified retirement account (Section

408(p) of the IRC);

- A simplified employee pension (Section 408(k) of the IRC); or
- A Roth IRA (Section 408A of the IRC).

OR

iii. The annuity meets all of the following requirements:

- The annuity is irrevocable;
- The annuity is non-assignable;
- The annuity is actuarially sound;
- The annuity provides payments in approximately equal amounts, with no deferred or balloon payments; and
- Periodic payments are provided to the annuitant.

c. Determining Whether an Annuity is Actuarially Sound

An annuity is actuarially sound when the purchase price of the annuity is expected to be paid back in full during the actual of expected lifetime of the annuitant.

To determine whether an annuity is actuarially sound, multiply the annual amount scheduled to be paid out by the remaining period of the annuity. If the period of the annuity is based on the annuitant's lifetime, the annual payments are multiplied by the individual's life expectance, see *SSA Period Life Table* http://www.ssa.gov/oact/STATS/table4c6.html . 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. The calculated amount is the amount the annuity is expected to pay out. If this amount is equal to or greater than the annuity purchase price, the annuity is actuarially sound.

When the purchase price of the annuity is greater than

		the amount that is expected to be paid out during the individual's lifetime, the difference between the two is an uncompensated transfer of assets. **d. Annuity is a Transfer of Asset for Less than FMV** If the purchase or conversion of an annuity is determined to be an uncompensated transfer of assets, the applicant will be sanctioned and a penalty period will be applied. See Institutional Medicaid *Transfer of Assets and Penalty Periods* policy. The amount used to calculate the penalty period is the full purchase price of the annuity, with one exception. When an annuity is determined to not be actuarially sound, the penalty period is determined using the difference between the purchase price and the amount expected to be paid out.
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.
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 Contract for a complete description of the Burial Contracts, Accounts and Exclusions.
Burial Contracts	Resource Type	**Burial Contracts, Trusts, Insurance and Exclusions** Legal Authority: Tennessee Code Annotated 62-5-401 through 409 **1. Burial Contract** **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 1.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 or she 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 his or 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 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 reduced by the amount of the burial reserve ($1500) so that Mr. Jones may not have any other excluded burial funds.

2. Burial Trusts

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 Section 2.a.

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.

3. 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 his or 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.

4. 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. $1,500 Maximum Burial Reserve – $1,800 Total Value of all Burial Assets – $300 (Absolute value) Countable Asset **5. 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 he or 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 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).
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 his or 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 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 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	**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:

	characteristic of **Home**	• The home is the principal place of residence for the applicant, spouse or dependent relatives; and • Intent to return to the home is established, if the individual resides in a long-term care facility. For an institutional individual, the individual is ineligible for payments of long term services and supports (CHOICES) when home equity exceeds $552,000.00, unless one of the following is true: • the spouse of such individual, or • such individual's child who is under age 21 or blind or disabled is lawfully residing in the individual's home. An individual must have lived in the home for it to be considered his or her home or principal place of residence. **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 he or 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 his or her home. • **Development of Intent to Return** When the individual is absent from his or 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, his or 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	Stepbrothe
Cousin	Half sister	Stepdaught
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 his or 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 or she 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 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 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 or her 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 FVs 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.

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 or she 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 he or 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 his or 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 or she may lose Medicaid eligibility.
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 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 his or 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 his 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 his or 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 his 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, he or 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 or she 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 or her 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 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."

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 or her 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. He or 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 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:
    - 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. 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 or her 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. 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:
		  ○ Indian Judgment Funds Distribution (P.L 93-134)
		  ○ Black Feet and Gros Ventre Tribes (PL 92-254)
		  ○ Grand River Band of Ottawah Indiana in Indian Claims Commission Docket No. 40-K;
		  ○ Tribes of groups under PL 93-134;
		  ○ Yakima Indian Nation or the Apache Tribe of the Mescalero Reservation (PL 94-433); and
		  ○ 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** Vehicles 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 his or 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 or her 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.

ABD TRUSTS

Legal Authority: Deficit Reduction Act of 2005; State Medicaid Manual 45 § 3259

1. Overview

A trust is a right of funds or property held by an individual (the trustee) for the benefit of another (the beneficiary) or for self-benefit. A trust is composed of the initial amount used to create the trust (the principal) and any income (usually interest) it may produce. The trustee holds legal title to the trust and manages it for the benefit or use of the beneficiary. Determine whether a trust is a countable or excluded resource when a household member is either the trust's trustee or beneficiary.

2. Definitions

Legal Instrument or Device Similar to a Trust: Any financial instrument that resembles a trust which includes, but is not limited to: escrow accounts, pension funds, annuities and other similar entities managed by an individual or entity with fiduciary responsibilities.

Grantor Trust: A trust in which the grantor of the trust is the sole beneficiary of the trust (i.e. the grantor establishes a trust for himself or herself).

Mandatory Trust: Requires the trustee to pay to or for the beneficiary's benefit, the trust's earnings and/or principal at certain times in specified amounts or for a specified type of care. The trustee has no discretion on distribution from the trust.

Discretionary Trust: The trustee has discretion to use the trust for the beneficiary's needs as he or she deems appropriate. The beneficiary has no control over the trust.

Trustee: An individual who holds the legal title to funds for the benefit or use of another individual.

Beneficiary: The person for whose benefit the trust is created.

Grantor/Trustor: The person who creates a trust, including a court or administrative body with legal authority to act in place of, on behalf of, or at the request or direction of the individual or spouse.

Totten Trust: A tentative trust in which the grantor is trustee of his or her own funds for the benefit of another. The trustee or grantor can revoke the trust at any time. If the trustee dies before revoking the trust, the beneficiary becomes owner of the trust. The terms of the trust will indicate how the trust is to be used or what limits are in place for the use of the funds by the trustee.

3. Accessibility

Trusts must be evaluated for accessibility. If a trust is accessible, and verification is received that only a portion of the trust is available to the individual, only the available portion will be considered in the

resource determination. If such verification is not received, the full value of the trust will be considered available to each beneficiary.

a. Revocable Trust

A revocable trust is a trust or similar legal device, which can be modified or terminated by the grantor or someone else according to the terms of the trust. A trust may be considered revocable if proof is provided that it can only be modified or terminated by a court. An irrevocable trust which terminates if some action is taken by the grantor is considered a revocable trust.

For revocable trusts created prior to 8/11/1993, the full amount of the trust is a countable resource. Interest which accrues to the account is counted as unearned income. Withdrawals from the trust are not considered income, as they are a conversion of a resource.

Revocable trusts created on or after 8/11/1993 which was established by the individual, a spouse, or a person/entity with legal authority to act on behalf of, at the direction of or by request of the individual or spouse, and the trust contains an individual's assets (assets form part or all of the trust), the following policy applies:

- The principal of the trust is considered an available resource for all TennCare Medicaid categories;
- Any payments from the trust to or for the benefit of the individual are considered income to the individual in all TennCare Medicaid categories; and
- Any other payments from the trust for any other purpose must be considered under the *Transfer of Assets and Penalty Periods* policy (institutionalized TennCare Medicaid categories only).

b. Irrevocable Trust

An irrevocable trust is a trust or similar device which the grantor cannot revoke or modify in any way or under any circumstances.

Irrevocable trusts created prior to 8/11/1993 are excluded as resources if:

- The trust is legally irrevocable;
- The beneficiary is not a financially responsible relative (FRR) or one for whom the individual is financially responsible; and
- The individual does not have access to the funds, unless he or she is also a beneficiary.

Review the terms of an irrevocable account, the principal amount and the income generated by such trust at every redetermination.

Irrevocable Trust and Similar Devices Established on or after 8/11/1993:

An irrevocable trust or similar device which contains an individual's own assets, forms all or part of the principal of a trust and is established (other than by will) by the individual or spouse, or by a person/entity with legal authority to act on behalf of or at the direction of the individual or spouse is subject to the policy outlined below. This policy applies to that portion of the trust which includes the assets of the individual regardless of the purpose of the trust, whether the trustees have or exercise any discretion under the trust, or any restrictions on distributions or the use of distributions:

- Any payments from the trust paid to or for the benefit of the individual for any purpose are considered income to the individual, unless payment is made for medical care or other purposes in which it is not considered income under Supplemental Security Income (SSI) policy; and
- Income on the corpus (principal) of the trust or any portion of corpus which could be paid to or for the benefit of the individual is considered an available resource to the individual.

For institutionalized individuals, the following additional policy requirements apply:

- Any other payments from the trust for any other purpose will be considered a transfer of assets for individuals subject to the transfer of assets policy;
- If any portion of the trust containing the individual's assets cannot be considered as income or a resource, it is considered a transfer of assets from the date the trust is established or payment to the individual is foreclosed.
- The look-back period for trust transfers of assets is 60 months if no payment can be made to or for the benefit of the individual, or 36 months if payment can be made to or for the benefit of the individual.
- The corpus (principal) of the trust is the value of the transferred asset. Any additions to the irrevocable trust in which no payments can be made will be considered a transfer of assets at the point the addition is made.

c. Value of an Accessible Trust

If a trust is accessible, and verification is received that only a portion of the trust is available to the individual, only that portion will be considered in the resource determination. If such verification is not received, the full value of the trust will be considered available to each beneficiary.

4. Trust Types

a. Burial

A burial trust is a trust established by an individual for purposes of setting aside funds for payment of burial expenses for the individual or someone else (typically a spouse or family

member). Burial trusts under this provision are not the same as funds held in trust by a funeral home in conjunction with a prepaid funeral agreement/burial contract.

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.

A burial trust, established by an individual, with funds in excess of $6,000 will be treated under the normal trust provisions.

The owner of the trust is the individual whose assets were used to create the trust. Verify ownership by securing a copy of the burial trust. The current value of the trust is the sum of the amount of the initial deposits, any subsequent deposits and accrued interest.

b. Testamentary Trust (Trust created by a will)

The countable value of a testamentary trust depends upon the terms of the will. The terms of the will may specify that only the income or both the income and principal are available to the beneficiary. In addition, the terms may specify that the beneficiary has limited access to the funds or that only the trustee and the court has access to the trust. The principal of the trust is a countable asset, if it is accessible to the beneficiary.

If the trustee has the discretion to use the trust principal for the individual's support and maintenance or medical needs, the value of the trust is an unavailable asset, but the trust itself is a third party medical resource and must be reported to HCFA. Send a copy of the trust document and a brief written summary of the circumstances to the HCFA Third Party Liability Unit.

c. Living Trust

A living trust is usually a revocable, self-settled trust often created for tax and estate planning purposes. The principal of a living trust is a countable resource.

d. Self-Settled Trust

A self-settled trust is a trust created by a person with his or her own funds for his or her primary benefit. A self-settled trust is a countable resource.

e. Special Needs Trust

A Special Needs Trust is a trust:

1. Established for the sole benefit of a disabled individual (as defined by the Social Security Act) who is under age 65 by:

- The disabled individual;
- A parent;
- A grandparent;
- A legal guardian; or
- The court.

2. Established with assets of the disabled individual under age 65; and

3. Provides that upon the death of the disabled individual, the State of Tennessee will receive all amounts remaining in the trust up to the total amount of medical assistance paid on behalf of the individual during his or her lifetime.

   Note: This trust exclusion continues after the individual reaches age 65. However, the trust cannot be added to or otherwise augmented after the beneficiary reaches age 65.

   Funds contained in a Special Needs Trust are excluded as resources. Income of a Special Needs Trust is not counted as income to the disabled individual (beneficiary of the trust) unless actually distributed in the form of cash or in-kind payments for food or shelter.

   The Estate Recovery Unit must be notified of the existence of a Special Needs Trust, as well as when a TennCare Medicaid individual with a Special Needs Trust passes away. When the individual passes away, the closure notice will remind the family to contact the Estate Recovery Unit.

f. Pooled Trust

A pooled trust is a trust:

1. Established for the sole benefit of a disabled person (as defined by the Social Security Administration (SSA)) by:

   a. The disabled individual;
   b. A parent;
   c. A grandparent;
   d. A legal guardian; or
   e. The court.

2. Established with assets of the disabled individual;

3. Established and managed by a non-profit association with a separate account maintained for each trust beneficiary, but multiple trust accounts are pooled for investment purposes and management of funds; and

4. Provides that upon the death of the disabled individual, any amount remaining in the account that is not retained by the trust will be paid to HCFA, up to the total amount of medical assistance paid on behalf of the individual during his or her lifetime.

   Note: Contact the Policy Unit regarding assets transferred into a pooled trust for individuals age 65 and over.

g. Income-Producing Trusts (Applies to trusts created on or after 8/11/1993)

- If a trust fund is producing regular income for the beneficiary and the terms of the trust specify that the beneficiary does not have access to the trust principal or income, that such access is limited to the trustee or court, and the trust does not contain any of the beneficiary's own assets, then the value of the trust is an excluded asset. Any payments the individual receives from the trust are considered unearned income.

- Dividends, interest, rents and other income generated by a trust fund, unless otherwise excluded, that can be paid to or for the benefit of the beneficiary are considered countable income to the beneficiary in the month they become available, regardless of whether the income is actually paid out to the beneficiary.

- Income earned by a trust that can be distributed, but is not distributed to the beneficiary and is instead retained in the trust becomes a countable resource to the beneficiary in the months following the month the income was available for distribution.

- Funds withdrawn from the principal of an inaccessible or excluded trust, unless otherwise excluded, are considered countable income in the month received.

- Funds withdrawn from the principal of an accessible or countable trust fund are excluded as income because an accessible trust fund is a countable resource. Money cannot be considered as income and a resource in the same month.

- If an individual is receiving regular payments from an inaccessible trust fund, and the trustee has the discretion to use the trust principal for the beneficiary's support and maintenance or medical needs, the value of the trust is an unavailable asset, but the trust itself is a third party medical resource and must be reported to the HCFA Third Party Liability Unit.

h. Qualified Income Trust (QIT) or Miller Trust

A QIT is a trust that is created specifically for the purpose of becoming eligible for TennCare Long-Term Services and Supports (LTSS). For individuals seeking LTSS whose gross income is over the Medicaid Income Cap (MIC) (300% of the SSI Federal Benefit Rate), the state allows the individual to create a QIT into which he or she directs certain income. This may enable an individual to qualify financially for Institutional Medicaid.

i. QIT Defined

A QIT is a trust consisting only of the individual's pension income, Social Security income and other monthly income that is created for the purpose of establishing income eligibility for TennCare Medicaid in order to receive Medicaid coverage when an individual is or soon will be confined to a nursing facility or Home and Community Based Services (HCBS) Waiver program.

ii. QIT Policy

Individuals applying for or receiving TennCare Medicaid LTSS, whose income is over the MIC, may still qualify for Medicaid coverage if some or all of his or her income is placed in a valid QIT. This applies to both individuals who are or who will be confined to a nursing facility or enrolled in an HCBS waiver. Individuals who are eligible to create a QIT must also meet all other TennCare Medicaid and CHOICES eligibility requirements.

Income placed in a valid QIT will be treated as unavailable in accordance with federal standards. For the QIT to be considered valid, the individual's gross monthly income must be above the MIC. Any income that is not placed in the QIT must be below the MIC. If income not placed in the QIT is over the MIC, the individual is not financially eligible regardless of the income placed in the QIT. An individual whose income is placed in a QIT and who is subsequently found to be eligible for Medicaid will be considered eligible on the first day of the month in which eligibility is established, or the date of admission to the nursing home or HCBS program, whichever is later.

iii. Income Test

The amount of income placed in a QIT cannot be limited nor can it be counted when testing income against the MIC. However, it is used in determining patient liability during post-eligibility treatment of income. Income that is not placed in the QIT is tested against the MIC. If the individual's income that is not placed in a QIT is over the MIC, the individual is not income-eligible for nursing home Medicaid.

iv. Criteria for a Valid Trust

The Trust must be irrevocable and cannot be modified or amended in whole or in part by the grantor at any time. However, the trustee or a court of competent jurisdiction shall have the right and jurisdiction to modify any provision of the Trust to the extent necessary to maintain the eligibility of the grantor for medical assistance.

Each month the trustee shall distribute the entire amount of income transferred into the Trust except for an amount not to exceed $20 for expenses of the Trust.

The sole beneficiaries of the Trust are the individual for whose benefit the Trust is established and the State of Tennessee. The Trust terminates upon the death of the individual, or when the Trust is no longer required to establish TennCare Medicaid eligibility in the State of Tennessee, or if nursing facility care or HCBS is no longer medically necessary for the individual, or if the individual is no longer receiving such services.

The Trust must provide that upon the death of the individual or termination of the Trust, whichever occurs sooner, the State of Tennessee shall receive all amounts remaining in the Trust up to the total amount of medical assistance paid by the State on behalf of the individual.

Amounts remaining in the Trust that are owed to the State must be paid to HCFA within three months after the death of the individual or termination of the Trust, whichever is sooner, along with an accounting of the payments from the Trust. HCFA may grant an extension if a written request is submitted within two months of the termination of the Trust.

This policy applies to an income trust established on or after July 1, 2005, and under hardship provision in Section 1613 (e) of the Social Security Act. Hardship may be considered to exist when the institutionalized individual or his or her spouse would have resources in excess of the resource limit, is otherwise eligible, and for whom TennCare Medicaid ineligibility would result in loss of essential nursing care which is not available.

v. Allowable Monthly Payments for Long-Term Care Facilities

Allowable payments from the Trust include:

- Personal Needs Allowance (PNA) the amount the individual is allowed to retain for his or her personal needs under Tennessee's TennCare Medicaid policies. As of January 1, 2005, this amount is $50 for confinement in a nursing facility or ICF/MR and 300% of the SSI-FBR for HCBS enrollees and Self-Determination Waiver; and 200% for the Arlington and Statewide Waivers.
- A deduction of up to $20 for expenses necessary for managing the trust (i.e. bank charges).
- Community Spouse Income Maintenance Allowance/Dependent Income Maintenance Allowance, if applicable.
- Health Insurance Premiums – allowed when the individual has health insurance other than TennCare Medicaid (for example, Medicare premium or a Medicare supplement policy).
- Item D deductions - payment for types of medical or remedial care recognized under state law, but not covered as medical assistance under TennCare Medicaid.

vi. Payment for Nursing Facility Care, HCBS, and other TennCare Medicaid-Covered Services

Any available income not placed in the QIT and any Trust income remaining after allowable deductions are made shall be paid monthly to the facility by the individual or from the Trust in an amount not to exceed the Medicaid reimbursement rate. Any excess income not distributed from the Trust shall accumulate in the Trust monthly.

vii. Restrictions on Other Expenses

No other deductions or expenses may be paid from the Trust. Expenses which cannot be paid from the Trust, except as specifically provided herein include, but are not limited to, trustee fees, attorney fees and costs (including attorney fees and costs incurred in establishing the trust), accountant fees, court fees and costs, fees for guardians ad litem, funeral expenses, past due medical bills and other debts.

viii. Home and Community Based Services (HCBS)

For an individual with a valid Trust receiving HCBS, the following methodology will be used to determine the financial liability of the individual for the cost of care.

1. Determine the amount of the individual's gross monthly income. Based on federal regulations and guidance, all of the individual's income is counted, including the amount placed in the Trust.
2. Deduct the individual's Personal Needs Allowance (PNA). The PNA for HCBS is 300% of the SSI/FBR for HCBS enrollees and Self-Determination Waiver; and 200% for the Arlington and Statewide Waivers.
3. A deduction up to $20 for trust expenses, i.e. bank charges is allowed.
4. A deduction may be made for spousal allocation, health insurance or any approved non-covered medical or remedial care expense (Item D). Approved non-covered services are listed in HCFA State Rules.
5. The remainder, after the above deductions, is the individual's financial liability amount.

ABD INACCESSIBLE RESOURCES

Legal Authority: 20 CFR 416.120; 20 CFR 416.1245

1. Policy Statement

A resource may be considered inaccessible if:

- An individual cannot legally access the value of the resource beyond his or her control and, unless undue hardship exists, all legal avenues have been exhausted in order to access the value of the resource; or
- An individual is unable to sell an asset due to limited use rights, mental impairment or due to conditions of joint ownership; or
- The resource is jointly owned real property AND sale of the property would result in the joint owner being homeless; or
- An individual is unable to locate a buyer for the asset; or
- The value is unavailable due to a lien against the asset; or
- The asset's value is not accessible to the individual due to litigation.

2. Limited Use Rights

If the individual has only limited use rights to a piece of real property such as lifetime occupancy or dower rights, he or she is not able to sell the property; however, he or she can sell his use rights.

Exclude the equity value due to inaccessibility in determining countable resources if the individual can demonstrate unsaleability by providing written statements from two licensed real estate agents substantiating that, in their professional opinion, the life estate (or other use rights arrangement) is unsaleable.

Note: Record in case notes the verbal statements of those in a position to know if they refuse to give a written statement or to sign a written statement.

3. Individual's Mental Impairment (applicable to non-liquid resources only)

a. General Rule

If the individual has a guardian, conservator, power of attorney or durable power of attorney at the time of application or renewal, the assets of the individual are considered available to the individual. That person is legally appointed to act on behalf of the individual and is expected to make the individual's assets available for use by or for the care of the individual.

If the individual's mental impairment precludes his negotiating the sale of an asset, and he or she has no guardian or conservator to act in his or her behalf, exclude the asset as unavailable under certain conditions. It is not necessary that the individual be adjudicated incompetent by a court of

law. If, in the Eligibility Specialist's opinion or that of the responsible party or person in a position to know the facts of the individual's situation, the individual is mentally impaired, apply the provision of this policy.

b. Individual's Mental Impairment at Application

i. Temporary Exemption

Exclude the asset as unavailable for up to 3 months from approval date if the individual or the person applying on his or her behalf agrees to the following:

- Take steps to be appointed guardian or to contact the individual's friends and relatives regarding their willingness to serve as the individual's guardian/conservator;
- See that the individual who agrees to serve takes immediate steps toward appointment; AND
- To provide HCFA with substantial documentation of his or her action and that of the guardian designee.

If the individual or responsible party is unable to perform the above-cited tasks, he or she must provide the names and addresses of individuals who might be willing to serve as the individual's guardian. The HCFA Eligibility Specialist accepts the responsibility for contacting the named individuals in an effort to locate someone willing to act as guardian.

Contact each of the individuals by telephone or by mail explaining the situation and requesting their assistance in securing a guardianship for the individual for the purposes of making available assets which the applicant needs to meet his medical needs. Document the case thoroughly.

ii. Long-Term Exemption

An asset may continue to be considered unavailable beyond the initial 3 month period until the next renewal under the following conditions:

A. No guardian is found

If after 3 months, the efforts of the Eligibility Specialist and the person acting on the individual's behalf have failed to locate a potential guardian, document the case record establishing the asset's inaccessibility.

If the individual is otherwise eligible, continue assistance. Extend benefits if all of the following conditions are met:

- The individual requested benefits for that period;

- The same conditions regarding the disputed asset still exist; and
- The individual is otherwise eligible.

B. Potential Guardian is Found

Exclude the asset for an additional 30 days from the date the potential guardian agrees to serve to allow him to file a petition for guardianship with the court. If after 30 days the potential guardian has not initiated guardianship procedures for any reason, exclude the resource per instruction above under No Guardian is Found section.

If after 30 days, the potential guardian has begun appointment procedures, continue to exclude the asset as unavailable until the next renewal.

Set an expected change at regular intervals (every 60 to 90 days) to follow up on the situation and to determine the court's instructions regarding the asset.

Note: If it becomes necessary to delay action on an application in order to determine an asset's availability as described in this item, secure the applicant's written permission to hold the application pending beyond the processing time limits.

c. Individual's Mental Impairment at Renewal

i. Exclusion Previously Granted

If an asset has previously been excluded as unavailable as described in this item, at least 30 days before the renewal is due, secure current information to substantiate that the asset remains inaccessible because:

- A guardian has not been located; or
- Guardianship proceedings have begun but are not complete or the court has issued no instruction regarding the asset.

ii. Initial Exclusion

If the asset has not been previously excluded as inaccessible as described, but since the last renewal its equity value along with other countable assets results in the individual's ineligibility, and the individual cannot dispose of the asset due to his mental condition, do not continue to extend TennCare Medicaid benefits until the asset's inaccessibility has been substantiated as described above.

Take action to close the case observing the adequate and advance notice requirements. Once the asset's inaccessibility is verified and the individual has reapplied, benefits may be extended retroactively to the date of closure provided the individual is otherwise eligible.

4. Joint Ownership

a. General Rule

If an asset cannot be sold or converted due to the conditions of joint ownership, exclude the individual's equity value in determining resource eligibility. The individual's equity value in a jointly owned asset can be excluded under the following conditions:

- The resource is jointly owned with a person or persons who are not the individual's Financially Responsible Relative (i.e., spouse or parent); and
- The joint owner refuses to consent to the sale of the asset or to purchase the individual's interest.
- Even though the individual is free to sell his own individual interest in the property, he or she is unable to find a buyer.

Note: Any portion of real property owned through "tenancy-in-common" or "joint tenancy" arrangements is available to each owner for sale or transfer without the consent of the other (joint) owner(s).

b. Joint Ownership Policy at Initial Application

Do not extend TennCare Medicaid benefits until the asset's inaccessibility to the individual has been substantiated by the following:

- The co-owner(s) written refusal to consent to the sale of the asset and to purchase the individual's share, if applicable; or
- Substantiation (by deed or the written statement of a licensed real estate agent or an attorney) that the individual is unable to sell his interest in the asset without the consent of the co-owner(s) OR that his individual share is unsaleable.

Note: If it is necessary to hold the application pending beyond the processing time limits, secure the individual's written permission to do so.

c. Joint Ownership Policy at Redetermination

If the asset has not previously been excluded as described in this item, do not continue to extend benefits at review until the asset has been demonstrated to be unavailable as described above.

Take steps to close the case observing standard adequate and advance notice requirements. Once the asset's inaccessibility has been verified and the individual has reapplied, benefits may be extended retroactively to the date of closure provided the individual was otherwise eligible.

At least 30 days before the review is due, secure the joint owner's written statement regarding his position on the sale of the asset and the purchase of the individual's share, if applicable. Request that the individual present written substantiation of his inability to sell the asset as described above. Continue to exclude the value of the asset if the individual's claim of inaccessibility is supported by the joint owner's statement.

5. Ownership Interest in an Unprobated Estate

If the individual has inherited an interest in real property that is part of an estate still in probate, his interest is a countable asset because he or she can legally sell it. It may, however, be difficult to do so.

Exclude the value of the asset if the individual can demonstrate that he or she is unable to sell his interest by providing statements from two knowledgeable sources, e.g., an attorney or real estate agent, that his interest cannot be sold. The exclusion can be applied to the asset only while it remains in probate.

Extend benefits only after the inaccessibility of the asset is substantiated as described above. Secure the individual's written permission to hold the application pending beyond the processing time limits, if necessary. Do not continue to extend benefits until receipt of current verification that the asset is unavailable.

6. Inability to Locate a Buyer

a. Policy Statement

If the individual owns an asset for which he has full use rights and the unrestricted right to sell, and he is making a bona fide effort to sell the resource, but he is unable to locate a buyer, his equity value may be excluded as a countable resource.

b. Defined Terms

Bona Fide Effort to Sell -

Personal property, such as vehicles: A bona fide effort to sell exists the following condition is met:

- The property has been offered for sale for at least 90 days (throughout a consecutive 90-day period), and there have been no legitimate offers.

Real estate: A bona fide effort to sell exists when one of the following conditions is met:

- The property is not saleable due to a specific condition substantiated by the written statement of at least two knowledgeable sources such as licensed real estate agents.

- The property has been offered for sale for at least 90 days (throughout a consecutive 90-day period) and there have been no legitimate offers.

Offered for sale - means listing the property with a licensed real estate agent, advertising the property for sale using at least two alternate methods such as a sign on the property (real or personal) and a newspaper ad in a newspaper that serves the area where the property is located, or placing the property on auction.

Reasonable asking price - means a price that is not inflated, i.e., not in excess of 100% of the real value.

Legitimate offer - means one that is at least equal to the reasonable asking price, does not require the individual to extend credit, and does not result in a net loss to the individual. No reasonable offer to buy may be refused by the individual or his/her authorized representative.

Mortgage or Promissory Note - A bona fide effort to sell a mortgage or Promissory note exists when all the following conditions are met:

- The individual has made an effort to offer the instrument to a bank or other financial institution; AND
- The best offer he received is more than 10% below the actual value of the remaining principal; AND
- The individual presents written verification from the representative of at least two financial institutions that the mortgage or note could only be sold if discounted by more than 10%.

c. <u>Policy Implementation - At Application</u>

i. **Bona Fide Effort to Sell**

Before the exclusion described can be applied to property (real or personal), the individual must provide substantiation of his/her bona fide effort to sell for at least one consecutive 90 day period within the immediately preceding 120 days.

If the property has not been on the market for at least 90 days, obtain the individual's written permission to hold the application pending beyond the processing time limit to allow him to fulfill the 90 day requirement. If the property remains unsold at the end of the 90 day period, the asset is considered unavailable and to have been unavailable throughout the 90 day period.

If the same local economic conditions (or other conditions which prevented the sale) existed prior to the 90 day sale period and the individual provides substantiation of these facts, extend the exclusion to include months prior to the first day of the 90 day period.

Once property is exempt under the provisions of this policy, it must remain on the market at a reasonable asking price until it is sold OR the individual is no longer eligible for and a recipient of TennCare Medicaid benefits.

ii. Mortgage or Promissory Note

Before excluding the value of a mortgage or promissory note, entered into on or after February 8, 2006, the repayment terms must be actuarially sound. The actuarial standards to be applied are those determined by the Office of the Chief Actuary of the Social Security Administration (SSA, the table called the Period Life Table can be found on Sosa's Actuarial Publications Standard Table and can be assessed at (http//:www.ssa.gov/OACT/STATS/table4c6.html). The agreement must provide for payments to be made in equal amounts during the term of the loan and with no deferral or balloon payments. It must prohibit the cancellation of the balance upon the death of the lender. If the required criteria are not met, the purchase of the promissory note, loan or mortgage's outstanding balance that is owed at the time of application must be treated as a transfer of assets.

EXAMPLE: Ms. Jones made an application for nursing home Medicaid on November 8, 2006. She sold her home to her daughter that same day, for $80,000. Her daughter agrees to pay $100 per month for 19 years and 11 months with a balloon payment in the last month of the term loan. Their agreement was notarized by a notary republic. Because this loan was not actuarially sound and had a balloon payment on the end, this loan must be treated as a transfer of asset.

Exclude the value of the mortgage or note effective the date of application unless the individual can establish that the same conditions existed in the retro period. On excluded notes, any payments made by the debtor towards the principle or interest are counted as unearned income to the individual in the month of receipt.

If a buyer cannot be found, before excluding the value of the loan or promissory note, the individual must provide written substantiation from two knowledgeable sources that the note could be sold only if discounted by more than 10%.

The importance of timely reporting any change of status regarding the sale of the property must be discussed and emphasized with the individual or his/her authorized representative. An Expected Change must be scheduled to review the progress of the sale no later than three months from the date the property is placed for sale or from the date of approval if the case continues to be active.

d. At Redetermination - Bona Fide Effort to Sell

i. Initial Exclusion

If the asset has not previously been excluded for the reason described in this item, do not continue to extend benefits until inaccessibility has been substantiated as described here. Take steps to close the case observing standard adequate and advance notification procedures.

NOTE: Property cannot be exempt as homestead while it is being offered for sale. A property's exemption as homestead is voided by an attempt to sell it.

ii. Real Estate

Once the asset has been proven unavailable, exclude the individual's equity value in real estate effective the date it was placed for sale. This will allow any subsequent approval and include benefits retroactively to the date of closure. In order for the real property to continue in its exclusion status, it must remain on the market until it is sold or until the individual's case is closed.

iii. Mortgage

Exclude the value of a mortgage or note effective the date of the written verification or prior to that date if similar (documented) conditions existed, whichever is earlier.

iv. Asset Previously Excluded

At least 30 days before the redetermination is due, begin the review of asset availability. In order for property to retain its exclusion under the terms of this item, it must remain on the market until sold or the individual is no longer eligible. The individual must provide current verification of the following regarding the property:

- The property is advertised for sale using at least two methods of advertisement OR is listed with a broker; AND
- Is listed with a reasonable asking price; AND
- The individual has not declined any reasonable offers.

In order to continue exclusion of the unpaid principal on a mortgage or promissory note, the individual must provide current (no older than 30 days) verification of his bona fide effort to sell as defined above.

7. Lien

Consider unavailable to the individual any portion of real or personal property against which a legal lien has been filed. The equity value in the remaining portion is an available asset. Do not exempt any portion of an asset under the provisions of this item until it is established that the lien is legal, i.e., filed, UNLESS the lien is one pending filing by the Department of Intellectual and Developmental Disabilities (DIDD). Deduct the amount of the legal (filed) lien from the individual's equity value in the asset to determine the portion that remains a countable asset.

Record the following information regarding the lien in the eligibility system:

- Name of the party filing the lien;
- Total amount of the lien;
- Filing date; and
- Place filed.

a. DIDD Liens

Exclude as unavailable an amount equal to the amount of the pending lien if there is written assurance from the DIDD's Office of General Counsel that a claim will be filed within 90 days is received. Do not extend or continue benefits until confirmation of the DIDD's intent to file a lien is confirmed.

If a temporary 90 day exemption is extended, set up an expected change effective the 90th day. On the 91st day, secure a copy of the lien for the case record. If one has not been filed, discontinue the exemption and consider the entire amount of the applicant's resources available to him.

8. Litigation

The equity value of any resource involved in litigation is considered to be unavailable to the individual. Litigation means involved in a lawsuit or some type of court action. Verify with the individual's attorney that litigation is ongoing or secure written documentation that substantiates the individual's allegation that the asset is involved in litigation. The asset is considered unavailable to the individual effective the date it became involved in the litigation action.

BREAST OR CERVICAL CANCER

Legal Authority: 1902(a)(10)(A)(ii)(XVIII) of the Social Security Act

1. Overview of the Breast and Cervical Cancer Early Detection Program

The Center for Disease Control and Prevention's (CDC) National Breast and Cervical Cancer Early Detection Program (NBCCEDP) provides funding to all 50 states to provide low-income individuals with screening services for breast and cervical cancer. The Department of Health (DOH) Tennessee Breast and Cervical Cancer Early Detection Program (TBCCEDP) provides these screening services to individuals at DOH local offices throughout the state.

The TBCCEDP provides clinical breast exams, mammograms and Pap tests for eligible individuals free of charge. In order to receive these services free of charge, an individual must be:

- Under a certain income level based on family size; and
- Uninsured, or insured by a health policy that does not cover these screening tests.

All eligible individuals requesting an annual exam with cancer screening services are examined, and individuals of any age who report a suspicious symptom will be examined and referred for follow-up care as needed. An individual under the age of 50 and who is asymptomatic will receive a screening, but may have to cover an income-based nominal cost for the services.

The Breast and Cervical Cancer Prevention and Treatment Act of 2000 allows states to offer individuals in the NBCCEDP access to treatment through the Medicaid Program. In Tennessee, eligible individuals receive Medicaid benefits in the Breast or Cervical Cancer (BCC) category. The CDC and CMS provide matching funds to the program, equal to the state's Medicaid Federal Medical Assistance Payment (FMAP).

2. Policy Statement

TennCare Medicaid benefits are available to individuals who receive breast or cervical cancer diagnoses, including for precancerous conditions, through the TBCCEDP. Eligible individuals must require ongoing treatment for the cancer, meet all non-financial and financial eligibility requirements, and not be eligible in any other TennCare Medicaid or TennCare Standard category. Individuals diagnosed with breast or cervical cancer by the DOH may receive presumptive eligibility for the TennCare Medicaid program, if they are otherwise eligible. Presumptive eligibility provides coverage through the end of the month after the eligibility determination is made.

3. Presumptive Eligibility

Presumptive eligibility for the BCC category is determined by the DOH.

a. Primary Screening Providers and Locations

All DOH offices are expected to provide assistance to individuals who are diagnosed with breast or cervical cancer, or who have suspicious symptoms related to these two forms of cancer. Participating statewide providers, including local DOH offices and certain primary care clinics provide screening services.

The program also works with the following community health centers:

- Matthew Walker Community Health Center – Davidson County
- Meharry Medical Services – Nashville
- Franklin Road Women's Center – Nashville
- Memphis Health Center
- Christ Community Health Center – Memphis
- Rural Medical Services – East and Northeast Tennessee
- Memorial Hospital sites – Chattanooga
- East Jackson Family Medical Center - Jackson

A list of participating Community Health Centers is available on the DOH Breast and Cervical Cancer Screening Program web site: http://tn.gov/health/topic/MCH-cancer

b. Presumptive Eligibility Requirements

To be eligible for presumptive eligibility, an individual must:

- Have a verified diagnosis of breast or cervical cancer, including pre-cancerous conditions;
- Be under age 65;
- Be uninsured or lack creditable health insurance coverage;
- Participate in the TBCCEDP program; and
- Have income under 250% of the FPL, based on family size.

  NOTE: Self-attestation of income is accepted by TBCCEDP when determining presumptive eligibility.

c. Presumptive Eligibility Benefits

Presumptive eligibility benefits include TennCare Medicaid coverage not limited to the treatment of breast and/or cervical cancer, but it does not include experimental treatments.

Presumptive eligibility extends through the end of the month following the month in which presumptive eligibility is established. If an individual files a HCFA application or applies through the FFM during that period, the individual's presumptive eligibility will remain open until final disposition of the application.

d. DOH Responsibilities

i. Establishing Presumptive Eligibility

Once the TBCCEDP determines presumptive eligibility, DOH staff complete the Presumptive Eligibility Form and fax it to HCFA. DOH staff will instruct the individuals eligible for presumptive coverage to apply for Medicaid through the FFM.

HCFA staff will enter the individual's presumptive eligibility into the eligibility system. An approval notice is sent to the individual that confirms the 45 days of presumptive eligibility coverage, requests a plan for the individual's ongoing cancer treatment (see Section 5.g. below), and instructs the individual to apply for Medicaid through the FFM.

ii. Services and Treatment-Related Expenses

The DOH TBCCEDP provides all screening tests necessary to make a cancer diagnosis, as well as post-screening diagnostic services, such as surgical consultations and biopsy, to ensure that all individuals with abnormal results receive timely and adequate referrals.

4. Coverage under the BCC Category

a. Applicants with Presumptive Eligibility

Individuals who file a HCFA application or apply through the FFM during their presumptive eligibility period may receive continuous eligibility (i.e., no interruption between presumptive eligibility and TennCare Medicaid coverage) in the BCC category if they meet all non-financial and financial eligibility requirements. See all non-financial and financial eligibility requirements listed below.

b. Applicants who Require a Referral to DOH TBCCEDP

If TennCare Medicaid applicants indicate that they have breast or cervical cancer, and they are not eligible in an open TennCare Medicaid category, they must be referred to the DOH TBCCEDP program. If DOH diagnoses such an individual with breast or cervical cancer, or a pre-cancerous condition, the individual's presumptive eligibility may begin the date the initial HCFA application was received, if the date of the PE application is within 10 days of receiving the referral to DOH. When a referral is made, the case information should be e-mailed to Frances Neal at frances.neal@tn.gov.

5. Non-Financial Eligibility Requirements

a. Age

Eligible individuals must be under the age of 65.

b. Citizenship

Eligible individuals must be U.S. citizens, U.S. nationals or eligible non-citizens.

c. Residency

Eligible individuals must be residents of Tennessee.

d. Enumeration

Eligible individuals must possess and provide a valid Social Security Number (SSN) or proof of application for an SSN.

e. TBCCEDP Participant

Eligible individuals must be participants of the TBCCEDP program. They must have received a cancer diagnosis from the TBCCEDP and be approved for presumptive eligibility.

f. Cancer Diagnosis and Ongoing Treatment

Eligible individuals must have a diagnosis of breast or cervical cancer, including cancerous or pre-cancerous conditions, and require on-going treatment. In order to be continuously eligible in the BCC category after presumptive eligibility is established, individuals must submit a treatment plan to HCFA. The treatment plan is also submitted at each redetermination.

Once a treatment plan is received by HCFA, it is reviewed by HCFA Member Services. Coverage in the BCC category provides full TennCare Medicaid benefits; however, TennCare Medicaid does not cover experimental treatments.

g. Lacks Creditable Coverage

Eligible individuals must be uninsured. An individual who lacks "creditable coverage" is considered to be uninsured. "Creditable coverage" includes:

- Other health insurance, including individual plans;
- Group health insurance plans;
- Medicare;
- Medicaid (Individuals applying for coverage will be screened for all open TennCare Medicaid categories prior to being determined eligible in the BCC category);
- Military health plans;
- Medical care programs of the Indian Health Services or tribal organizations;
- State risk pools;

- Public health plans;
- Health plans under Section 5(e) of the Peace Corps Act.

h. TennCare Medicaid Eligibility

An eligible individual cannot be eligible for any other open TennCare Medicaid category.

6. Financial Eligibility Requirements

Income and resources are not taken into account by HCFA when providing continuing eligibility in the BCC category after presumptive eligibility is approved. However, this information is required for processing the eligibility determination of other open TennCare Medicaid categories.

7. Coverage in another TennCare Medicaid Category

If an individual receiving coverage in the BCC category gains eligibility in another TennCare Medicaid category, BCC coverage will close. This policy applies to all categories, except Emergency Medical Services (EMS) and both Presumptive Pregnancy and BCC.

8. Case Closure

a. Presumptive Eligibility

If an individual is diagnosed with breast or cervical cancer and is approved for presumptive eligibility, and the diagnosis is determined to be benign or the individual fails to provide necessary information for ongoing coverage in the BCC category (or other TennCare Medicaid category), the presumptive eligibility coverage will end the last day of the month following the month in which presumptive eligibility was established.

b. BCC Eligibility

Once an oncologist determines that the enrollee is cancer-free or in remission, the BCC category coverage will be terminated. Individuals losing eligibility in the BCC category will be reviewed for coverage in an open TennCare Medicaid category prior to termination.

Disabled Adult Children

Legal Authority: 42 USC 1838c; Social Security Act 1634(c)

1. Policy Statement

Medicaid benefits are extended to individuals who would be eligible for Supplemental Security Insurance (SSI) payments but for entitlement to OR increase in the amount of the Disabled Adult Child's (DAC) Social Security benefits. When SSI recipients lose SSI eligibility because of entitlement to or increase in Social Security DAC benefits, they remain eligible for Medicaid as long as they would meet SSI income guidelines but for their initial entitlement to or increase in DAC payments and any other non-COLA Social Security increase.

This coverage applies to an individual who is:

- at least 18 years of age; AND
- is receiving Social Security benefits as a DAC on the basis of blindness or disability which began before age 22; AND
- SSI was terminated after July 1987.

2. Non-Financial Eligibility Requirements

a. Age

This coverage applies to an individual who is at least 18 years of age AND is receiving Social Security benefits as a DAC on the basis of blindness or disability which began before age 22.

b. Citizenship

Individuals must be U.S. citizens, U.S. nationals or eligible non-citizens. Individuals are not required to provide documentary evidence of citizenship or national status if they are entitled to or enrolled in any part of Medicare.

c. Residency

Individuals must be residents of Tennessee.

d. Enumeration

Individuals must possess and provide a valid Social Security Number (SSN) or proof of application for an SSN.

e. DAC Status

This coverage applies to an individual who is at least 18 years of age AND is receiving Social Security benefits as a DAC. A DAC must be unmarried, age 18 or older, and have a disability that started before age 22. The DAC benefit is considered a "child's benefit" because the recipient is paid on a parent's Social Security earning record. DAC benefits typically begin when the parent begins receiving OASDI or dies.

f. Marital Status

In order to be eligible for Social Security benefits as a DAC, the individual must be unmarried. However, individuals may continue to be DAC eligible if they marry a Social Security beneficiary who is also eligible for DAC benefits, OASDI benefits or widow/widower benefits. Individuals will not continue to be DAC eligible if they marry a Social Security beneficiary under the age of 19 or an individual who is not a Social Security beneficiary.

The SSA will determine whether a married individual remains eligible for the DAC- Social Security benefit.

g. SSI Termination Date

Eligible individuals must have had their SSI terminated after July 1987.

h. DAC-OASDI Coverage

For any individual who lost SSI since July 1987, and who is receiving DAC-OASDI, the eligibility specialist must contact the State Office Buy-In Unit. The Buy-In Unit staff will determine whether the SSI was terminated due to initial entitlement or a non-COLA increase in the DAC OASDI. The Buy-In Unit can be reached via e-mail at David.Erwin@tn.gov and Connie.Swann@tn.gov. The e-mail's subject line should contain the phrase BUY-IN UNIT, as well as the name of the individual the e-mail regards. The Unit's fax number is 615-253-0013.

3. Financial Eligibility Requirements

a. Household

To receive DAC Social Security benefits, an individual must be unmarried. However, if a DAC beneficiary marries another Social Security beneficiary, with certain limits, his or her DAC eligibility will continue. See Marital Status above. If a DAC individual is married to another Social Security beneficiary, include both spouses in the household and budget as a couple.

b. Income Limit

Income limits for individuals in this category are equivalent to the 2015 SSI Federal Benefit Rate: $733 for an individual and $1,100 for a couple.

c. Resource Limit

Resource limits for individuals in this category are $2,000 for an individual and $3,000 for a couple.

4. Budget

a. DAC Increase

An individual must present an entitlement/benefit increase letter from SSA verifying the benefit amount. If the applicant cannot present the SSA letter, contact the Buy-In Group for assistance with determining the DAC increase or entitlement amount.

i. Initial DAC Entitlement

If the initial entitlement to the DAC benefit caused SSI ineligibility, the entire initial entitlement is disregarded from the applicant's income. Follow the steps below to determine the amount of the disregard:

- Verify the date SSI was terminated;
- Verify the current DAC benefit amount and enter it into the eligibility determination system as the DAC increase and disregard from unearned income.

  Note: Any Social Security COLAs or non-COLA increases received by the individual after the SSI was terminated will be disregarded separately.

ii. Increase in DAC Benefit

If an increase in the DAC benefit caused SSI ineligibility, the amount of the increase is disregarded from the applicant's income. Follow the steps below to determine amount of the disregard:

- Verify the date SSI was terminated;
- Verify the DAC benefit amount in the month after SSI termination and the DAC benefit amount in the month prior to SSI termination; and
- Once it is verified that the DAC increase caused the SSI to terminated, subtract the DAC benefit amount prior to SSI termination from the DAC benefit amount in the month after SSI termination. Enter the difference, or the amount of the increase, into the eligibility determination system and disregard from unearned income.
- Any Social Security COLAs or non-COLA increases received by the individual after the SSI was terminated will be disregarded separately.

b. Budget Overview

1. Total Gross Unearned Income Computation

Unearned Income (includes current DAC benefit; excludes child support)
+ Total Countable Child Support
= Gross Unearned Income

2. Total Gross Earned Income Computation

Total Countable Earned Income
+ Self-Employment Income
– Disabled Student Under Age 22 Earned Income Exclusion
= Gross Earned Income

3. Total Net Unearned Income Computation

Gross Unearned Income
– DAC Increase or Initial Entitlement Amount
– General Unearned Income Disregard ($20)
– Child Support Disregard ($50)
= Net Unearned Income

4. Total Net Earned Income Computation

Gross Earned Income
– General Income Disregard Remainder
– Earned Income Disregard
– Disabled Work Expense
– ½ Disregard
– Blind Work Expense
= Net Earned Income

5. Countable Income Computation

Net Unearned Income
+ Net Earned Income
= Total Countable Income

If Total Countable Income is less than the current SSI-FBR ($733 for one; $1,100 for two), then the individual is income eligible in the DAC category. If Total Countable Income is greater than the current SSI-FBR determine whether there are any Social Security COLAs or non-COLA increases to disregard., the individual is ineligible.

6. COLA Disregard and Eligibility Determination

Total Countable Income
– COLA Disregard
– Social Security non-COLA Increase
= Total Adjusted Income

If Total Adjusted Income is greater than the current SSI-FBR, the individual is ineligible. If the Total Adjusted Income is less than the current SSI-FBR, then the individual is income eligible in the DAC category.

c. Example Budget

Steve Black is an SSI recipient. While his father works, he receives a monthly SSI payment of $498. When his father retired and began receiving $1,000 a month in Social Security, Steve began receiving a DAC payment of $500 a month (50% of his father's social security payment). This lowered his SSI monthly benefit to $198. Steve's father passes away in January 2014, which increases his monthly DAC benefit to $750 and results in the loss of SSI eligibility. Steve has earned income of $200 per month. Steve presents proof of $50 in disabled work expenses per month.

1. DAC Increase Computation

$750 Current DAC Benefit
– $500 DAC Benefit Amount Received n Last SSI Payment Month
$250 DAC Increase Amount

2. Total Gross Unearned Income Computation

= $750 Gross Unearned Income

3. Total Gross Earned Income Computation

= $200 Gross Earned Income

4. Total Net Unearned Income Computation

$750 Gross Unearned Income
– $250 DAC Increase Amount
– $20 General Income Disregard
$480 Net Unearned Income

5. Total Net Earned Income Computation

$200 Net Earned Income

– $65 Earned Income Disregard
– $50 Disabled Work Expense
– $42.50 (1/2 Disregard)
= $42.50 Net Earned Income

6. Countable Income Computation

$480 Net Unearned Income
+ $42.50 Net Earned Income
= $522.50 Total Countable Income

Since $522 is less than the current $733 SSI-FBR, the individual is income eligible in the DAC category.

INSTITUTIONAL MEDICAID

Legal Authority: 42 CFR 435.236; 42 CFR 435.1005; 42 CFR 435.1008; 42 CFR 435.1009; 42 CFR 435.520

1. Policy Statement

Medicaid benefits and potentially Long-Term Services & Supports (LTSS) payments are available to eligible individuals receiving nursing facility (NF) care (regardless of age) provided they are not:

- An inmate of a public institution; or
- A patient in an Institution for Mental Disease (IMD), unless he or she is
    - Under age 22 and receiving inpatient psychiatric services; or
    - At least 65 years of age.

LTSS payments are available for individuals receiving nursing facility (NF) care and approved for CHOICES. Individuals in a NF approved for Institutional Medicaid based on 30 day continuous confinement will not receive LTSS payments. Medicaid benefits and LTSS payments are available for aged adults and physically disabled adults (age 21 and older) when approved for and receiving CHOICES HCBS services.

2. Definitions

a. Aged: Individuals age 65 or older.

b. Blind: Individuals who have been determined to be legally blind by the Social Security Administration (SSA).

c. Disabled: Individuals who have been determined to be disabled by the SSA. An individual is considered to be disabled when he or she is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to last for a continuous period of not less than 12 months. For the institutional category, the person does not have to be disabled according to the SSA, they just need to meet PAE criteria.

3. Non-Financial Eligibility Requirements

a. Age

To be eligible as aged, an individual must be age 65 or older. There is no age limit for individuals who are eligible on the basis of disability or blindness.

b. Citizenship

An individual must be a U.S. Citizen, a U.S. National or eligible immigrant. Individuals are not required to provide documentary evidence of citizenship or national status if they are entitled to or enrolled in any part of Medicare, entitled to or receiving SSI or Social Security disability benefits.

c. Enumeration

An individual must possess and provide a valid Social Security Number (SSN) or proof of application, unless he or she meets an exception.

d. State Residence

An individual must be a resident of Tennessee. Individuals placed by an agency of the State of Tennessee in an institution out of state are still considered Tennessee residents. See the *ABD State Residence* policy.

e. Institutional Status

An individual must have an institutional status to be eligible for the Institutional Medicaid category. See the *Institutional Status* policy.

4. Financial Eligibility Requirements

a. Household Composition

Household composition for the Institutional Medicaid category is based on the principal of the financially responsible relative (FRR). See the *ABD Financially Responsible Relatives* policy.

b. Resources

Eligible individuals must have countable resources below the Institutionalized Medicaid Aged, Blind and Disabled resource standard. The resource standard is $2,000.

The resources of an individual's spouse or of an institutionalized child's parent(s) may be deemed available to the individual. See the *ABD Deeming of Income and Resources* policy.

All individuals with a spouse must have a Resource Assessment made prior to receiving an eligibility determination in the Institutional Medicaid category. Resources owned individually or jointly by members of a married couple are considered in the Resource Assessment, and will determine the community spouse's resource maintenance amount. See the *Resource Assessment* policy.

Countable and excluded resources are determined using the ABD resource methodology as defined in the legal authority that governs Supplemental Security Income (SSI) eligibility. See the *ABD Countable and Excluded Resources* policy.

c. Income

i. General Rule

Individuals must have countable income below the Medicaid Income Cap (MIC). The MIC is 300% of the SSI Federal Benefit Rate (SSI-FBR), a number which is annually updated by the SSA.

Income eligibility is determined by comparing the individual's gross income to the MIC. If gross income is equal to or less than the MIC, the individual is income-eligible in the Institutional Medicaid category. If gross income is greater than the MIC, the individual will be provided with the opportunity to establish a Qualified Income Trust (QIT). A QIT is a specific type of trust used only to establish Medicaid eligibility, in which an individual places certain types of monthly income. Once a QIT is established, the individual's income eligibility is tested again to determine income eligibility. See the *Qualified Income Trust (QIT) or Miller Trust* section in the *ABD Trusts* policy.

ii. MIC

The MIC is $2,199, effective 1/1/2015.

iii. Budgeting Process, based on Household Composition

- **Adult Individual with No Spouse or Spouse is Institutionalized**

  Income eligibility for an adult individual with no spouse, or who has a spouse who is already institutionalized, is determined based on the individual's income only.

- **Adult Individual with a Community Spouse**

  Income eligibility for an adult individual with a community spouse is determined based on the applying individual's income only. The community spouse's income is considered post-eligibility when determining the appropriate Community Spouse Income Maintenance Allowance and Dependent Income Maintenance Allowance.

- **Individual is a Dependent Child and Lives with Parents (prior to institutionalization)**

  If the individual is a dependent child (under age 18), then income from the individual's FRRs is deemed available to him or her when determining income eligibility.

d. Income Budget

i. Income Eligibility Budget without Consideration of a QIT

Income eligibility is first determined for the individual without consideration of a QIT. This is necessary in order to determine if the individual needs to establish a QIT to become income-eligible. If the individual passes the initial budget, it is not necessary for him or her to establish a QIT.

A. Total Gross Unearned Income Computation

Total Countable Unearned Income (other than Child Support)
+ Deemed Income from Parent(s)
+ Countable Child Support (Child Support received by and for the applicant)
= Total Gross Unearned Income

B. Total Gross Earned Income Computation

Total Countable Earned Income
+ Self-Employment Income
= Total Gross Earned Income

C. Countable Income Computation

Total Gross Unearned Income
+ Total Gross Earned Income
= Total Gross Countable Income

If Total Countable Income is less than the MIC ($2,199), then the individual is income eligible in the Institutional Medicaid category. If Total Countable Income is greater than the MIC, the individual is ineligible.

ii. Individual Fails the Income Eligibility Determination

If the individual fails the income eligibility determination, then the individual must be provided with the opportunity to establish a QIT. If the individual is able to establish a QIT, his or her income eligibility will be tested again using the budget below.

Income Eligibility Determination with a QIT

Total Gross Countable Income
– QIT Allocation (Total of all monthly income placed in QIT)
= Result

If the result is less than the MIC, then the individual is income eligible in the Institutional Medicaid category. If the result remains greater than the MIC, the individual is ineligible or must allocate additional income into the QIT, if possible.

5. Example Budgets

a. Income Eligibility Budget Without Consideration of a QIT

Jerry Mason is 70 years old and lives in a nursing home. He earns $700 in Social Security per month, as well as $300 per month in royalties. Since his monthly income total is below MIC, he does not need a QIT.

i. Total Gross Unearned Income Computation

Total Gross Unearned Income = $700

ii. Total Gross Earned Income Computation

Total Gross Earned Income = $300

i. Countable Income Computation

$700 Gross Unearned Income
+ $300 Gross Earned Income
= $1,000 Total Gross Income

Mr. Mason's total gross income is less than the MIC, so he is income-eligible for Institutional Medicaid.

b. Income Eligibility With Consideration of a QIT

Jerry Miller is 70 years old and lives in a nursing home. He earns $3,200 in Social Security per month, as well as $2,000 in pension and $180 in wages from activities related to Title V of the Older Americans Act of 1965.

i. Total Gross Unearned Income

$3,200 Social Security income
+ $2,000 Pension
= $5,200 Total Gross Unearned Income

ii. Total Gross Earned Income

Total Gross Earned Income = $180 Wages

iii. Countable Income Computation

$5,200 Total Gross Unearned Income
+ $180 Total Gross Earned Income
= $5,380 Total Gross Countable Income

Mr. Miller's income is greater than the MIC, so he must establish a QIT in order to become income-eligible for Institutional Medicaid. Mr. Miller places all of his Social Security benefit in a QIT ($3,200).

$5,380 Total Gross Countable Income
– $3,200 Monthly QIT Allocation
= $2,180 Total Countable Income

Mr. Miller's income is under the MIC, so he is income eligible for Institutional Medicaid.

PICKLE PASSALONG

Legal Authority: 42 CFR 435.135

1. Overview

The Pickle Passalong Medicaid category is named in honor of US Congressman J.J. Pickle, and was established in 1977. To be eligible in the Pickle Passalong category, an individual must have been receiving both Supplemental Security Income (SSI) and Social Security benefits. The individual must have then lost SSI eligibility based on an income increase, but would remain SSI-eligible if the Social Security cost of living adjustments (COLAs) received since the SSI termination were disregarded.

The increase in income that causes SSI eligibility to terminate can be due to either a Social Security COLA or other change in monthly income (e.g., pension).

2. Policy Statement

TennCare Medicaid benefits are available to individuals who would be eligible for SSI payments if increases in their Social Security benefits due to COLAs were disregarded. Individuals who meet all other non-financial and financial eligibility requirements remain eligible for TennCare Medicaid if they:

- Were eligible for and received both Social Security and SSI benefits for the same month at some time since April 1977. The SSI recipient who receives Social Security retroactive benefits is considered for TennCare Medicaid purposes to have received SSI and Social Security benefits in the same month, if Social Security eligibility overlaps a month the individual also received SSI benefits;
- Lost eligibility for SSI since April 1977;
- Currently receive Social Security benefits authorized under Title II of the Social Security Act; and
- Have countable income (including in-kind income) equal to or less than the current SSI-FBR, once all applicable COLAs have been deducted.

3. Non-Financial Eligibility Requirements

a. Age

An individual must have attained at least age 65 or meet the Social Security Administration (SSA) requirements of blindness or disability. Individuals are not required to provide documentary evidence of age if they are entitled to or enrolled in any part of Medicare.

b. Citizenship

Individuals must be U.S. citizens, U.S. nationals or eligible non-citizens. Individuals are not required to provide documentary evidence of citizenship or national status if they are entitled to or enrolled in any part of Medicare and/or receiving Social Security disability benefits.

c. Residency

Individuals eligible for this category must be residents of Tennessee.

d. Enumeration

Individuals must possess and provide a valid Social Security Number (SSN) or proof of application for an SSN.

e. Eligible For and Receiving Social Security Benefits

Individuals must be eligible for and receiving Social Security benefits as authorized under Title II of the Social Security Act.

4. Financial Eligibility Requirements

a. Household Composition

Household composition is governed by the principle of Financially Responsible Relatives (FRR). Financial responsibility is limited to spouse to spouse and parent to child. See the *ABD Financially Responsible Relatives* policy.

b. Couples

A Pickle Passalong eligible couple must both meet all Pickle Passalong eligibility criteria to qualify as a Pickle Passalong eligible couple.

c. Income

i. Income Eligibility

An individual is income eligible if his or her net countable income less all appropriate Social Security COLAs is less than the appropriate SSI-FBR.

ii. COLA Disregards

Disregard the following, if applicable:

- All Social Security COLAs that caused or have occurred since the applicant's SSI eligibility was terminated;
- The spouse's Social Security COLAs that caused or have occurred since the SSI termination, if the spouse's income is deemed to the applicant; or
- The parents' Social Security COLAs which occurred since the applicant's SSI termination, if the applicant is a child.

iii. Determining the Amount of the COLA Disregard

Determine the amount of the COLA disregard by multiplying the applicant's current Social Security benefit by the appropriate conversion factor. Follow the steps below:

- Verify the current Social Security benefit amount;
- Verify the SSI termination date;
- Locate the appropriate conversion factor based on the month and year of SSI termination; and
- Multiply the current Social Security benefit by the conversion factor.

The result is the amount of COLA disregard to be deducted from net countable income.

Pickle Conversion Factor Table

Timeframe	Factor	Timeframe	Factor
May-June 1997	.245	Jan-December 1996	.641
July 1977-June 1978	.260	Jan-December 1997	.660
July 1978-June 1979	.276	Jan-December 1998	.674
July 1979-June 1980	.304	Jan-December 1999	.683
July 1980-June 1981	.347	Jan-December 2000	.700
July 1981-June 1982	.386	Jan-December 2001	.724
July 1982-Dec 1983	.415	Jan-December 2002	.743
Jan-December 1984	.429	Jan-December 2003	.753
Jan-December 1985	.444	Jan-December 2004	.769
Jan-December 1986	.458	Jan-December 2005	.790
Jan-December 1987	.464	Jan-December 2006	.822
Jan-December 1988	.484	Jan-December 2007	.849
Jan-December 1989	.503	Jan-December 2008	.868
Jan-December 1990	.526	Jan 2009-Dec 2011	.919
Jan-December 1991	.555	Jan-December 2012	.953
Jan-December 1992	.575	Jan-December 2013	.969
Jan-December 1993	.593	Jan-December 2014	.983
Jan-December 1994	.608		
Jan-December 1995	.625		

d. Resource Limit

Resource limits for this category are $2,000 for an individual and $3,000 for a couple.

5. Budget

a. Budget Overview

1. Child Support Calculation

Gross Child Support
– 1/3 Reduction if Recipient is under age 18
= Total Countable Child Support

NOTE: The child support reduction only occurs when the child receiving support is the applicant.

2. Total Gross Unearned Income Computation

Deemed Income from Parent(s)
+ Deemed Unearned Income from Spouse
+ Unearned Income (includes current OASDI benefits; excludes child support)
+ Total Countable Child Support
= Gross Unearned Income

3. Total Gross Earned Income Computation

Total Countable Earned Income
+ Self-Employment Income
+ Deemed Earned Income from a Spouse or Parent
– Disabled Student Under Age 22 Earned Income Exclusion
= Gross Earned Income

4. Total Net Unearned Income Computation

Gross Unearned Income
– General Unearned Income Disregard ($20)
– Child Support Disregard ($50)
= Net Unearned Income

5. Total Net Earned Income Computation

Gross Earned Income
– General Income Disregard Remainder

– Earned Income Disregard ($65)
– Disabled Work Expense
– ½ Disregard
– Blind Work Expense
= Net Earned Income

6. Countable Income Computation

Net Unearned Income
+ Net Earned Income
= Total Countable Income

If Total Countable Income is less than the current SSI-FBR, refer the individual back to the SSA. If Total Countable Income is greater than the SSI-FBR, proceed to Step 7.

7. COLA Disregard and Eligibility Determination

Total Countable Income
– COLA Disregard
= Total Adjusted Income

If the Total Adjusted Income is less than the current SSI-FBR, then the person is income-eligible for the Pickle Passalong category.

b. Example Budget

Sally was an SSI and OASDI benefit recipient until 10/2013, when her SSI eligibility ended due to an OASDI COLA. Sally is married to Jim, and they live together with no children. Jim is ineligible for SSI or TennCare Medicaid, and $270 of his unearned income and $500 of his earned income is deemed available to Sally. Sally has $155 in monthly earned income and $550 in OASDI benefits. Sally applies for TennCare Medicaid effective 6/2014.

i. Total Gross Unearned Income Computation

$270 Unearned Income from Spouse
+ $550 OASDI benefits
= $820 Gross Unearned Income

ii. Total Gross Earned Income Computation

$155 Earned Income
+ $500 Deemed Earned Income from Spouse
= $655 Gross Earned Income

iii. Total Net Unearned Income Computation

$820 Gross Unearned Income
- $20 General Unearned Income Disregard
$800 Net Unearned Income

iv. Total Net Earned Income Computation

$655 Gross Earned Income
- $65 Earned Income Disregard
- $295 ½ Disregard ($655-65=$590/2 = $295)
$295 Net Earned Income

v. Countable Income Computation

$800 Net Unearned Income
+ $295 Net Earned Income
$1095 Countable Income

vi. COLA Disregard and Eligibility Determination

$1095 Countable Income
- $532.95 COLA Disregard
$563 Total Adjusted Income

$563 is less than the current SSI-FBR, $733, so the applicant is income eligible.

SSI CASH RECIPIENT

Legal Authority: 20 CFR 416.260; 20 CFR 416.903; 20 CFR 416.974; 42 CFR 435.120; Title XVI of the Social Security Act

1. The SSI Program and Medicaid Eligibility

The Social Security Act, as amended, established a national program, effective January 1, 1974, to provide Supplemental Security Income (SSI) to individuals who have attained age 65 or are blind or disabled, and meet financial requirements. The program is intended to assure a minimum level of income for individuals who are aged, blind or disabled that have insufficient income and resources to maintain a standard of living at the established federal minimum income level.

Individuals who are eligible for SSI are entitled to Medicaid. SSI eligibility is determined by the Social Security Administration (SSA) in Tennessee. Applications for SSI benefits may be filed at the Social Security office.

HCFA does not conduct an independent evaluation of income and resource eligibility before issuing regular TennCare Medicaid benefits to an SSI recipient. However, a separate full eligibility determination must be made before Medicare Savings Program (MSP) benefits are granted to an SSI recipient.

2. Policy Statement

TennCare Medicaid is provided to aged, blind or disabled individuals eligible for SSI under Section 1602 of the Social Security Act. Tennessee residents determined eligible for SSI benefits are automatically enrolled in TennCare Medicaid.

SSI recipients who are enrolled in TennCare Medicaid also receive automatic buy-in for Medicare Parts A & B, regardless of whether they are also open for a MSP.

3. Date of TennCare Medicaid and SSI Eligibility

TennCare Medicaid coverage for SSI cash recipients begins according to data HCFA receives from the SSA regarding SSI eligibility.

4. SSI Benefit and TennCare Medicaid Termination

SSA alerts HCFA when an SSI recipient's SSI payments end. At that time, HCFA will review the enrollee for eligibility in all other categories prior to determination.

5. Financial Eligibility Requirements

a. Income Standard

The SSA uses the Federal Benefit Rate. For 2015 the income standard is:

- $733 for an individual; or
- $1,100 for a couple.

b. Resource Test

Resource limits used by the SSA are:

- $2,000 for an individual; or
- $3,000 for a couple.

6. Additional Criteria for TennCare Medicaid Coverage

As a condition of receiving TennCare Medicaid coverage, SSI cash recipients are subject to the following additional requirements:

a. Cooperation with Third Party Liability

SSI cash recipients must provide HCFA with any and all information necessary to obtain medical support or payment including, but not limited to, names of parties responsible for payment, address, and policy, account or claim numbers. See *Assignment of Third Medical Liability* policy.

b. Long Term Services and Supports (LTSS) Requirements

SSI recipients who are requesting LTSS, either in a nursing facility or through Home and Community Based Services (HCBS), must have an approved Preadmission Evaluation (PAE) or meet continuous confinement requirements. In addition, SSI recipients requesting LTSS in a nursing facility must complete a resource assessment and have asset transfers made within the look back period evaluated. In order to comply with the resource assessment requirements, SSI cash recipients seeking LTSS may be required to submit additional information to HCFA.

***7. Cluster Daniels* and SSI Terminations SSI Medicaid Only**

SSI Medicaid Only recipients, also known as the Cluster Daniels individuals, are those individuals that remain eligible for TennCare Medicaid because they received a minimum of one SSI check in Tennessee since November 1987 and had their SSI terminated while a resident of Tennessee. The Daniels injunction was lifted on January 8, 2009 and reverification of this group of enrollees began in June 2009. Any SSI Medicaid Only recipients who have not yet been processed are reviewed for eligibility in open categories of Medicaid.

8. SSI Cash Recipient Enrollment Procedure

HCFA receives a file directly from the SSA that contains all SSI eligibility determinations. HCFA automatically loads the State Data Exchange (SDX) file to interChange to enroll SSI cash recipients in TennCare Medicaid.

State On-Line Query (SOLQ) data may also be used as needed for verification of SSI benefit information.

WIDOW/WIDOWER CATEGORIES

Legal Authority: Social Security Act §1634(d); 42 CFR 435.137; 42 CFR 435.138; 1990 OBRA § 5103

1. Policy Statement

TennCare Medicaid benefits are available to certain widows/widowers who would be eligible for Supplemental Security Income (SSI) payments if initial entitlement to and/or increases in their Social Security widow/widower benefit were disregarded. Widows/ widowers who are eligible for TennCare Medicaid on the basis of their widow/widower status must meet all other non-financial and financial eligibility conditions.

Widows/widowers may qualify for this category of TennCare Medicaid coverage under one of two categories: 1) Widow/Widower Spousal Retirement; and 2) Widow/Widower Actuarial Reduction.

The Social Security Widow/Widower benefit is based on the deceased spouse's Title II Old-Age, Survivors and Disability Insurance (OASDI) benefit.

2. Eligibility Categories

a. Widow/Widower Spousal Retirement

A disabled widow/widower is eligible for TennCare Medicaid for any month in which he or she is entitled to a Social Security Widow/Widower benefit, but is not eligible for SSI, if he or she:

- Was eligible for SSI based on his or her own disability;
- Was entitled to the Social Security Widow/Widower benefit any time after the age of 50;
- Lost SSI eligibility in the first month that the Social Security Widow/Widower benefit was paid;
- Has been continuously entitled to the Social Security Widow/Widower benefit from the month that the SSI was authorized;
- Would be eligible for SSI if the Widow/Widower entitlement and all subsequent COLAS were disregarded;
- Is not entitled to Medicare Part A; and
- Is at least age 50 and up to age 65.

b. Widow/Widower Actuarial Reduction

Note: This category is closed to enrollment.

TennCare Medicaid benefits continued for certain disabled widows/widowers who lost SSI eligibility in 1984 due to an increase in the Social Security Widow/Widower benefit that

occurred as a result of a change in the way the benefit was calculated. In order to receive TennCare Medicaid benefits in this category; the individual must:

- Have been entitled to a monthly Title II disabled Social Security Widow/Widower benefit for December 1983;
- Have been entitled to a received a Title II Social Security Widow/ Widower benefit for January 1984;
- Have lost SSI eligibility in the first month that his or her increased widow/widower benefit was paid, due to the elimination of the reduction factor;
- Have been entitled to the Social Security Widow/Widower benefit prior to age 60;
- Have continuously been entitled to the Widow/Widower benefit from the month the benefit was increased;
- Have continued to be eligible for SSI when the Widow/Widower increase and all subsequent COLAS were disregarded; and
- Have applied for Medicaid benefits on the basis of this change in the Widow/Widower benefit prior to July 1, 1988.

3. Non-Financial Eligibility Requirements

a. Age

Individuals must be at least age 50 and up to age 65when they lost SSI due to receipt of the Social Security Widow/Widower benefit.

b. Citizenship

Individuals must be U.S. citizens, U.S. nationals, or eligible non-citizens. Individuals are not required to provide documentary evidence of citizenship or national status if they are receiving Social Security benefits.

c. Residency

Individuals must be residents of Tennessee.

d. Enumeration

Individuals must possess and provide a valid Social Security Number (SSN) or proof of application for an SSN.

e. Received an SSI Payment

Individuals would continue to be eligible for SSI if the Social Security Widow/Widower benefit and subsequent COLAs were not counted as income.

f. Medicare Eligibility

Eligible individuals cannot be entitled to Medicare Part A.

4. Financial Eligibility Requirements

a. Household

Applicants/enrollees in the Widow/Widower Spousal Retirement category are treated as an individual, or have a household size of one.

b. Income Limit

The individual's countable income must not exceed the SSI Federal Benefit Rate for an individual, which s $733, effective 1/1/2015.

c. Resource Limit

The individual's countable resources must be under $2,000.

5. Budget Overview

a. Widow/Widower Increase

An individual must present an entitlement/benefit increase letter from SSA verifying the W/W benefit amount. If the applicant cannot present the SSA letter, contact the Buy-In Unit for assistance with determining the Widow/Widower increase or entitlement amount.

i. Initial Entitlement

If the initial entitlement to the Widow/Widower benefit caused SSI ineligibility, the entire initial entitlement is disregarded from the applicant's income. Follow the steps below to determine the amount of the disregard:

- Verify the date SSI was terminated;
- Verify the current Widow/Widower benefit amount and enter it into the eligibility determination system as the Widow/Widower increase and disregard from unearned income.

ii. Increase in Widow/Widower Benefit

If an increase in the Widow/Widower benefit caused SSI ineligibility, the amount of the increase is disregarded from the applicant's income. Follow the steps below to determine the amount of the disregard:

- Verify the date SSI was terminated;
- Verify the current Widow/Widower benefit amount and the amount prior to SSI termination. Subtract the benefit amount prior to SSI termination from the current benefit amount. Enter the difference, of the amount of the increase, into the eligibility determination system and disregard from unearned income.

b. Budget Overview

1. Total Gross Unearned Income Computation

Unearned Income (includes current Widow/Widower benefit; excludes child support)
+ Total Countable Child Support
= Gross Unearned Income

2. Total Gross Earned Income Computation

Total Countable Earned Income
+ Self-Employment Income
– Disabled Student Under Age 22 Earned Income Exclusion
= Gross Earned Income

3. Total Net Unearned Income Computation

Gross Unearned Income
– Widow/Widower Increase or Initial Entitlement Amount
– General Unearned Income Disregard ($20)
– Child Support Disregard
= Net Unearned Income

4. Total Net Earned Income Computation

Gross Earned Income
– General Income Disregard Remainder
– Earned Income Disregard
– Disabled Work Expense
– ½ Disregard
– Blind Work Expense
= Net Earned Income

5. Countable Income Computation

Net Unearned Income
+ Net Earned Income

= Total Countable Income

If Total Countable Income is less than the current SSI-FBR ($733 for one), the individual is eligible in the Widow/Widower Retirement category. If Total Countable Income is greater than the current SSI-FBR, the individual is ineligible.

c. Example Budget

Mrs. Jones became SSI-eligible based on disability at age 50. At age 60, she became entitled to Social Security Widow/Widower benefits. She is now 62. Her initial benefit was $300 a month, and it has now increased to $500. Mrs. Jones lost her SSI eligibility in the month of the increase in her benefits. She has $200 of unearned pension income per month, and $100 of earned income.

1. Widow/Widower Increase Computation

$500 Current Widow/Widower Benefit
– $300 Widow/Widower Initial Entitlement
= $200 Widow/Widower Increase Amount

2. Total Gross Unearned Income Computation

= $700 Total Gross Unearned Income

3. Total Gross Earned Income Computation

= $100 Total Gross Earned Income

4. Total Net Unearned Income Computation

$700 Gross Unearned Income
– $200 Widow/Widower Increase Amount
– $20 General Unearned Income Disregard
= $480 Net Unearned Income

5. Total Net Earned Income Computation

$100 Gross Earned Income
– $65 Earned Income Disregard
– $17.50 ½ Disregard
= $17.50 Net Earned Income

6. Countable Income Computation

$480 Net Unearned Income
+ $17.50 Earned Income

= $497.50 Countable Income

Mrs. Jones' countable income, $497.50, is less than the current SSI-FBR, $733, so she is eligible in the Widow/Widower Spousal Retirement category.

MEDICARE SAVINGS PROGRAMS OVERVIEW

Legal Authority: Social Security Act § 1905(p)(1); 42 CFR 400.200; 42 CFR 435.406

1. Overview

Medicare is a national health insurance program administered by the federal government for individuals aged 65 and above, and disabled individuals. Medicare is a comprehensive health insurance program, but Medicare enrollees are required to pay premiums, certain out of pocket costs and for services not covered by the program. The Medicare Catastrophic Coverage Act (MCCA) of 1988 created the Medicare Savings Programs (MSPs), which are a set of Medicaid programs available only to Medicare enrollees who meet specific resource and income standards. The MSPs provide for payments of Medicare premiums, coinsurance and deductibles for Medicare-covered services.

The four MSPs are:

- Qualified Medicare Beneficiaries (QMB);
- Specified Low-Income Medicare Beneficiaries (SLMB);
- Qualifying Individuals (QI1); and
- Qualified Disabled Working Individuals (QDWI).

2. Medicare Eligibility

An individual is entitled to receive Medicare benefits when:

- He or she is 65 years or older, is a U.S. citizen or has been permanent legal residents for 5 continuous years, and the individual or his or her spouse has paid Medicare taxes for at least 10 years; or
- He or she is under age 65 and has been receiving either Social Security or Railroad Retirement Board disability benefits for at least 24 months; or
- He or she is receiving dialysis for End Stage Renal Disease (ESRD) or needs a kidney transplant; or
- He or she is eligible for Social Security Disability Insurance (SSDI) and has ALS or Lou Gehrig's disease.

Most Medicare beneficiaries are automatically enrolled in Medicare Parts A and B when they become eligible. Those who are not entitled to Medicare Part A, such as those individuals who are over age 65 but did not pay enough Medicare taxes, must apply for coverage and pay a monthly premium. These individuals are considered entitled to enroll in Medicare, and are eligible for the MSPs.

3. Medicare Enrollment Period

There are two enrollment periods for Medicare Parts A & B:

a. The initial enrollment period, which includes:

- The three months prior to an individual's 65th birthday or 25th month of disability benefits receipt;
- The month of the 65th birthday or 25th month of disability benefits receipt; and
- The three months after the month of the 65th birthday or 25th month of disability benefits receipt.

b. The general enrollment period, which includes the months of January, February and March of each year.

c. Enrollment Period Exceptions

Enrollment period requirements are waived for certain MSP applicants/enrollees. The following list provides situations when an individual can be immediately enrolled into Medicare Parts A or B.

- Applicants who are enrolled in Medicare Part A, but who refused Part B coverage during initial Medicare enrollment are automatically enrolled into Part B by the state upon approval of an MSP (QMB, SLMB or QI1).
- Applicants who have established Medicare Part B, but who do not have Medicare Part A coverage, are automatically enrolled into Part A by the state upon approval of QMB only. If the applicant is determined to be otherwise eligible for SLMB or QI1, his or her application will be denied on the basis of not being enrolled in Medicare Part A.

  Note: Tennessee is a Part A Buy-In state, which means the state has elected to cover QMB for individuals who are eligible to purchase Medicare Part A. Although Part A coverage is an eligibility condition for the QMB program, the Part A Buy-In program allows a state to enroll an otherwise QMB-eligible individual into Part A if the individual has already established Part B.

  See a description of the DHS State Office Buy-In Unit below.

4. Medicare Parts and Benefits Overview

Medicare is made up of four separate "Parts": A, B, C and D.

a. Medicare Part A

i. Eligibility

An individual who receives Social Security benefits and has sufficient work quarters is eligible for premium-free Medicare Part A, if one of the following applies:

1. Age 65 or older;

2. Disabled for 24 months or more;
3. Fit into a special Medicare-covered group;
4. Enrolled through ESRD program;
5. No longer considered disabled due to work activities (limited eligibility period).

Individuals who are not eligible for premium-free Medicare may become eligible by paying the Part A monthly premium. An individual under age 65 who does not receive SSDI benefits cannot buy into Part A coverage.

ii. Benefits

Medicare Part A coverage includes inpatient hospitalization, some follow-up and 100 days of skilled level nursing home care.

b. Medicare Part B

i. Eligibility

Medicare Part B coverage is available to any individual age 65 or older, or to individuals who have enough work quarters and have been disabled for a minimum of 24 months. Eligible individuals must pay monthly premiums.

ii. Benefits

Medicare Part B coverage includes physician services, laboratory and x-ray services, medical supplies, outpatient hospital care and other services.

c. Medicare Part C

Medicare Part C is also known as the Medicare Advantage plans. Individuals who are eligible for Medicare Parts A and B may choose to receive their Medicare benefits through private health insurance plans. These plans are administered by health insurance companies, rather than the federal government.

d. Medicare Part D

Medicare Part D is the outpatient prescription drug coverage component of Medicare. Anyone who is eligible/enrolled in Part A or B is eligible for Part D. Part D is administered by private health insurance companies and pharmacy benefit managers, but is regulated by CMS.

5. Application for MSPs

a. Application Forms

Acceptable application forms for the MSPs include the HCFA application or an application submitted to the FFM. The HCFA application and FFM account transfer are processed by the HCFA. In addition, the Low Income Subsidy (LIS) applications for Medicare Part D also initiate an application for the MSPs.

The Social Security Administration (SSA) transmits LIS files to the State daily triggering a review for MSP eligibility.

The MSP application date is the date the LIS application is filed with SSA. If an LIS application is approved for SLMB or QI1, the benefits will begin the date the LIS application was filed at the SSA office. If approved for QMB, the benefits will begin the month after the approval is authorized.

b. DHS State Office Buy-In Unit

For applicants/enrollees who must have Medicare Part A or B established by the state, the DHS State Office Buy-In Unit is responsible for notifying CMS/SSA to begin coverage. The Buy-In Unit sends a manual notification to CMS to begin Medicare in the following situations:

- An applicant is approved for QMB, SLMB or QI1 and needs to be enrolled in Medicare Part B;
- An SSI-recipient has reached aged 65, and must have Medicare Part A established. (The SSA establishes Medicare Part B.); and
- An applicant is approved for QMB and is enrolled in Medicare Part B, but must have Medicare Part A established.

QUALIFIED MEDICARE BENEFICIARIES

Legal Authority: Social Security Act § 1905(p)(1); 42 CFR 400.200; 42 CFR 435.406

1. Overview

The Medicare Catastrophic Coverage Act (MCCA) of 1988 established the Qualified Medicare Beneficiary (QMB) program. The QMB program provides Medicaid benefits to individuals who are entitled to and receive Medicare Part A, have monthly income and resources under the under specific limits and who meet the non-financial eligibility requirements of the Medicaid program. Individuals enrolled in QMB receive Medicaid payment of Medicare premiums, coinsurance and deductibles for Medicare-covered services.

2. Policy Statement

To be eligible in the QMB category an individual must be entitled to and receive Medicare Part A, have income that does not exceed 100% of the Federal Poverty Level (FPL) and not have resources over $7,280 for an individual or $10,930 for a couple.

3. QMB Benefits

QMB benefits include payment of:

- Medicare Part A premiums (for individuals who do not receive premium free Part A coverage);
- Medicare Part B premiums;
- Medicare deductibles; and
- Medicare coinsurance (the cost share amount the enrollee is responsible pay).

NOTE: QMB recipients are not subject to Medicare co-pay provisions.

QMB eligibility will establish Medicare Part B effective the month after approval, even if the individual had previously refused Part B coverage. QMB eligibility will also establish Medicare Part A, if the applicant has already established Part B coverage. HCFA will automatically establish Part A or B coverage with the Social Security Administration (SSA), therefore it is not necessary to refer these individuals to the SSA.

4. QMB Effective Date

The eligibility start date is the first day of the month after the application is approved.
NOTE: QMB is the only MSP in which the coverage effective date is first day of the month after the application is approved.

5. Non-Financial

a. Medicare Part A (Hospital Insurance)

Individuals must be entitled to Medicare Part A benefits. Individuals may be either entitled to receive premium-free Medicare Part A, or eligible to purchase Medicare Part A. See *Medicare Savings Program Overview* policy.

HCFA will use an individual's Social Security Number (SSN) to verify his or her entitlement to and receipt of Medicare Part A benefits with the SSA.

Applicants who are enrolled in Part B only, but are otherwise eligible for QMB, will be determined eligible for QMB and the state will automatically enroll them into Medicare Part A.

b. Age

If an applicant is eligible on the basis of age, he or she must be age 65 or older. There is no age limit for individuals who are eligible on the basis of disability.

c. Citizenship

Individuals must be U.S. citizens, U.S. nationals or eligible non-citizens. Individuals are not required to provide documentary evidence of citizenship or national status if they are entitled to or enrolled in any part of Medicare.

d. Enumeration

Individuals must possess and provide a valid SSN or proof of application for an SSN, unless they meet an exception.

e. State Residence

Individuals in this category must be residents of Tennessee.

6. Financial

a. Household Composition

Household composition is governed by the principle of Financially Responsible Relatives (FRR) and the applicant/enrollee's living arrangements. See *ABD Household Composition* policy.

b. Income Limit

The income limit for receiving benefits in this category is up to 100% FPL.

c. Resource Limit

The resource limit for receiving benefits in this category is:

- $7,280 for an individual; or
- $10,930 for a couple.

d. Cost of Living Adjustment (COLA) Disregard

The SSA is responsible for applying COLA to its benefit programs, including Old-Age, Survivors, and Disability Insurance (OASDI), Railroad Retirement Benefits (RRB), and Supplemental Security Income (SSI). If the SSA applies a COLA for a given year, it is applied on January 1st of that year. However, the annual update for FPLs is not typically released until March or April. This can cause individuals who were previously QMB eligible to become income-ineligible due to their increased Social Security income in the period between the COLA adjustment and the FPL increase.

To address the discrepancy caused by the timing of the COLA and FPL adjustments, QMB enrollees who become income-ineligible in January are provided with a COLA disregard for the months of January, February, March, and if needed, April. The COLA disregard is equal to the amount of the monthly COLA increase.

e. Budget Overview

1. Child Support Calculation

Gross Child Support
– 1/3 Reduction if Recipient is under age 18
= Total Countable Child Support

NOTE: The child support reduction only occurs when the child receiving support is the applicant.

2. Total Gross Unearned Income Computation

Deemed Income from Parent(s)
+ Deemed Unearned Income from Spouse
+ Unearned Income (other than child support)
+ Total Countable Child Support
= Gross Unearned Income

3. Total Gross Earned Income Computation

Total Countable Earned Income
+ Self-Employment Income
+ Deemed Earned Income from a Spouse or Parent
– Disabled Student Under Age 22 Earned Income Exclusion

= Gross Earned Income

4. Total Net Unearned Income Computation

Gross Unearned Income
– General Unearned Income Disregard ($20)
– Child Support Disregard ($50)
= Net Unearned Income

5. Total Net Earned Income Computation

Gross Earned Income
– General Income Disregard Remainder
– Earned Income Disregard ($65)
– Disabled Work Expense
– ½ Disregard
– Blind Work Expense
= Net Earned Income

6. Countable Income Computation

Net Unearned Income
+ Net Earned Income
= Total Countable Income

If the applicant's total countable income is equal to or less than 100% FPL, based on household size, then he or she is income eligible for QMB.

f. Example Budget

Mr. Johnson is applying for a Medicare Savings Program (MSP). He is entitled to and enrolled in Medicare Parts A and B, and meets all non-financial eligibility requirements. Mr. Johnson has $600 in OASDI payments per month, $150 in unearned income per month, and $0 in earned income. Mr. Johnson is not married.

1. Total Gross Unearned Income Computation

= $750 Total Gross Unearned Income

2. Total Gross Earned Income Computation

= $0 Total Gross Earned Income

3. Total Net Unearned Income Computation

$750 Gross Unearned Income

– $20 General Income Disregard
= $730 Total Net Unearned Income

4. Total Net Earned Income Computation

= $0 Total Net Earned Income

5. Total Countable Income

$730 Net Unearned Income
+ $0 Net Earned Income
= $730 Countable Income

Mr. Johnson's total countable income, $730, is less than 100% FPL, $981, for a household of one so he is income eligible in the QMB category.

The above budget is current as of March 2015.

7. QMB and TennCare Medicaid Eligibility

Individuals may be eligible for both TennCare Medicaid and QMB, with the exception of TennCare Standard. Only individuals with "grandfathered status" in TennCare Standard may be eligible for both TennCare Standard and QMB because TennCare Standard enrollees, other than those with grandfathered status, are not allowed to have access to third party insurance.

Applicants/enrollees may not receive benefits in more than one MSP.

SPECIFIED LOW INCOME MEDICARE BENEFICIARIES

Legal Authority: Social Security Act § 1902(a)(10)(E); 42 CFR 435.406

1. Overview

Effective January 1, 1993, Section 4501 (b) of the Omnibus Budget Reconciliation Act (OBRA) of 1990 required states to pay Medicare Part B premiums for individuals whose income exceeds QMB standards, but is less than a specified higher percentage of Federal Poverty Level (FPL). The coverage is called Specified Low Income Medicare Beneficiaries (SLMB).

2. Policy Statement

To be eligible in the SLMB category an individual must be entitled to and receive Medicare Part A, have income that is at least 100% FPL but less than 120% of the FPL, and not have resources over $7,280 for an individual or $10,930 for a couple.

3. SLMB Benefits

Medicaid benefits available to SLMB enrollees only include payment of Medicare Part B premiums. If an applicant is approved for SLMB and previously refused Part B coverage, the SLMB approval will automatically establish Part B coverage.

4. SLMB Effective Date

Eligibility begins the date a HCFA application or LIS application is filed or the date all eligibility requirements are met, whichever is later.

5. Non-Financial

a. Medicare Part A (Hospital Insurance)

Individuals must be enrolled in Medicare Part A benefits. Individuals may be either entitled to receive premium-free Medicare Part A, or eligible to purchase Medicare Part A. See the *Medicare Savings Program Overview* policy.

HCFA will use an individual's Social Security Number (SSN) to verify his or her entitlement to and receipt of Medicare Part A benefits with the SSA.

Applicants who are enrolled in Part B only, but are otherwise eligible for SLMB, will be denied eligibility.

b. Age

If an applicant is eligible on the basis of age, then he or she must be age 65 or older. There is no age limit for individuals who are eligible on the basis of disability.

c. Citizenship

Individuals must be U.S. citizens, U.S. nationals or eligible non-citizens. Individuals are not required to provide documentary evidence of citizenship or national status if they are entitled to or enrolled in any part of Medicare.

d. Enumeration

Individuals must possess and provide a valid Social SSN or proof of application for an SSN, unless they meet an exception.

e. State Residence

Individuals in this category must be residents of Tennessee.

6. Financial

a. Household Composition

Household composition is governed by the principle of Financially Responsible Relatives (FRR) and the applicant/enrollee's living arrangements. See *ABD Household Composition* policy.

b. Income Limit

The income limit for receiving benefits in this category is less than 120% FPL for an individual or couple.

c. Resource Limit

The resource limit for receiving benefits in this category is:

- $7,280 for an individual; or
- $10,930 for a couple.

d. Cost of Living Adjustment (COLA) Disregard

The Social Security Administration (SSA) is responsible for applying COLA to its benefit programs, including Old-Age, Survivors, and Disability Insurance (OASDI), Railroad Retirement Benefits (RRB) and Supplemental Security Income (SSI). If the SSA applies a COLA for a given

year, it is applied on January 1st of that year. However, the annual update for FPLs is not typically released until March or April. This can cause individuals who were previously SLMB eligible to become income-ineligible due to their increased Social Security income in the period between the COLA adjustment and the FPL increase.

To address the discrepancy caused by the timing of the COLA and FPL adjustments, SLMB enrollees who become income-ineligible in January are provided with a COLA disregard for the months of January, February, March, and if needed, April. The COLA disregard is equal to the amount of the monthly COLA increase.

e. Budget Overview

1. Child Support Calculation

Gross Child Support
– 1/3 Reduction if Recipient is under age 18
= Total Countable Child Support

NOTE: The child support reduction only occurs when the child receiving support is the applicant.

2. Total Gross Unearned Income Computation

Deemed Income from Parent(s)
+ Deemed Unearned Income from Spouse
+ Unearned Income (other than child support)
+ Total Countable Child Support
= Gross Unearned Income

3. Total Gross Earned Income Computation

Total Countable Earned Income
+ Self-Employment Income
+ Deemed Earned Income from a Spouse or Parent
– Disabled Student Under Age 22 Earned Income Exclusion
= Gross Earned Income

4. Total Net Unearned Income Computation

Gross Unearned Income
– General Unearned Income Disregard ($20)
– Child Support Disregard ($50)
= Net Unearned Income

5. Total Net Earned Income Computation

Gross Earned Income
– General Income Disregard Remainder
– Earned Income Disregard ($65)
– Disabled Work Expense
– ½ Disregard
– Blind Work Expense
= Net Earned Income

6. Countable Income Computation

Net Unearned Income
+ Net Earned Income
= Total Countable Income

If the applicant's total countable income is at least 100% but less than 120% FPL, based on household size, then he or she is income eligible for SLMB.

f. Example Budget

Mrs. Daley is 65 years old, receives $1,200 per month in Social Security benefits and is entitled to and receiving Medicare Part A. Her spouse is 60 years old with deemed monthly income of $400. Mr. Daley does not yet receive Medicare. The couple lives together in their home.

1. Total Gross Unearned Income Computation

$200 Deemed Unearned Income from Spouse
+ $1,200 Unearned Income
= $1,400 Gross Unearned Income

2. Total Gross Earned Income Computation

$0 Earned Income
+ $400 Deemed Earned Income from Spouse
$400 Gross Earned Income

3. Total Net Unearned Income Computation

$1,200 Gross Unearned Income
– $20 General Income Disregard
$1,180 Net Unearned Income

4. Total Net Earned Income Computation

$400 Gross Earned Income
– $65 Earned Income Disregard (this disregard is applied given that the spouse has earned income)
– $167.50 ½ Disregard
= $167.50 Net Earned Income

5. Total Countable Income

$1,180 Net Unearned Income
+ $167.50 Net Earned Income
= $1,347.50 Total Countable Income

Mrs. Daley's total countable income, $1,347.50, is greater than 120% FPL, $1,177, so she is not income eligible for the SLMB category.

The above budget is current as of January 2015.

7. SLMB and TennCare Medicaid Eligibility

Individuals may be eligible for both TennCare Medicaid and SLMB, with the exception of TennCare Standard. Only individuals with "grandfathered status" in TennCare Standard may be eligible for both TennCare Standard and SLMB.

Applicants/enrollees may not receive benefits in more than one Medicare Savings Program.

QUALIFYING INDIVIDUALS 1

Legal Authority: Security Act § 1902(a)(10)(E), § 1933; 42 USC 1396a(a)(10)(E)(iv); 42 CFR 435.406

The Balanced Budget Act (BBA) of 1997 created the Qualifying Individuals 1 (QI1) program for states to assist eligible individuals with payment of the Medicare Part B premium. The Medicare Access and CHIP Reauthorization Act (MACRA) of 2015 permanently extended the QI1 program.

1. Policy Statement

To be eligible in the QI1 category an individual must be entitled to Medicare Part A, have income at least at 120%, but less than 135%, of the Federal Poverty Level (FPL) and not have resources over $7,280 for an individual or $10,930 for a couple. To be eligible in the QI1 category, individuals must not be enrolled in TennCare Medicaid or TennCare Standard.

2. QI1 Effective Date

Eligibility begins the date a HCFA application or LIS application is filed or the date all eligibility requirements are met, whichever is later.

3. QI1 Benefits

The QI1 program only pays the current Medicare Part B premium. If an applicant is approved for QI1 and previously refused Part B coverage, the QI1 approval will automatically establish Part B coverage.

4. Non-Financial

a. Medicare Part A (Hospital Insurance)

Individuals must be enrolled in Medicare Part A. Individuals may either be entitled to receive premium-free Medicare Part A or eligible to purchase Medicare Part A. See the *Medicare Savings Program Overview* policy.

HCFA will use an individual's Social Security Number (SSN) to verify his or her entitlement to and receipt of Medicare Part A benefits with the Social Security Administration (SSA).

Applicants who are enrolled in Part B only, but are otherwise eligible for QI1, will be denied eligibility.

b. Age

If an applicant is eligible on the basis of age, he or she must be age 65 or older. There is no age limit for individuals who are eligible on the basis of disability.

c. Citizenship

Individuals must be U.S. citizens, U.S. nationals or eligible non-citizens. Individuals are not required to provide documentary evidence of citizenship or national status if they are entitled to or enrolled in any part of Medicare.

d. Enumeration

Individuals must possess and provide a valid SSN or proof of application for an SSN, unless they meet an exception.

e. State Residence

Individuals in this category must be residents of Tennessee.

5. Financial

a. Household Composition

Household composition is governed by the principle of Financially Responsible Relatives (FRR) and the applicant/enrollee's living arrangements. See the *ABD Household Composition* policy.

b. Income Limit

The income limit for receiving benefits in this category is at least 120%, but less than 135% FPL for an individual or couple.

c. Resource Limit

The resource limit for receiving benefits in this category is:

- $7,280 for an individual; or
- $10,930 for a couple.

d. Cost of Living Adjustment (COLA) Disregard

The SSA is responsible for applying COLA to its benefit programs, including Old-Age, Survivors, and Disability Insurance (OASDI), Railroad Retirement Benefits (RRB) and Supplemental Security Income (SSI). If the SSA applies a COLA for a given year, it is applied on January 1st of that year. However, the annual update for FPLs is not typically released until March or April. This can cause individuals who were previously QI1 eligible to become income-ineligible due to their increased Social Security income in the period between the COLA adjustment and the FPL increase.

To address the discrepancy caused by the timing of the COLA and FPL adjustments, QI1 enrollees who become income-ineligible in January are provided with a COLA disregard for the months of January, February, March, and if needed, April. The COLA disregard is equal to the amount of the monthly COLA increase.

e. Budget Overview

1. Child Support Calculation

Gross Child Support
– 1/3 Reduction if Recipient is under age 18
= Total Countable Child Support

NOTE: The child support reduction only occurs when the child receiving support is the applicant.

2. Total Gross Unearned Income Computation

Deemed Income from Parent(s)
+ Deemed Unearned Income from Spouse
+ Unearned Income (other than child support)
+ Total Countable Child Support
= Gross Unearned Income

3. Total Gross Earned Income Computation

Total Countable Earned Income
+ Self-Employment Income
+ Deemed Earned Income from a Spouse or Parent
– Disabled Student Under Age 22 Earned Income Exclusion
= Gross Earned Income

4. Total Net Unearned Income Computation

Gross Unearned Income
– General Unearned Income Disregard ($20)
– Child Support Disregard ($50)
= Net Unearned Income

5. Total Net Earned Income Computation

Gross Earned Income
– General Income Disregard Remainder
– Earned Income Disregard ($65)
– Disabled Work Expense
– ½ Disregard
– Blind Work Expense
= Net Earned Income

6. Countable Income Computation

Net Unearned Income
+ Net Earned Income
= Total Countable Income

If the applicant's total countable income is at least 120% but less than 135% FPL, based on household size, he or she is eligible for QI1.

f. Example Budget

Mrs. Woods is 70 years old, receives $800 per month in Social Security benefits and is entitled to and receiving Medicare. Her spouse is 71 years old, receives $900 per month in Social Security benefits and is entitled to and receiving Medicare. The couple lives together in the home.

1. Total Gross Unearned Income Computation

$800 Unearned Income (Mrs. Woods)
+ $900 Unearned Income (Mr. Woods)
= $1,700 Gross Unearned Income

2. Total Gross Earned Income Computation

The couple has no earned income.

3. Total Net Unearned Income Computation

$1,700 Gross Unearned Income
– $20 General Income Disregard (Only one General Income Disregard is allowed per household.)
= $1,680 Net Unearned Income

4. Total Net Earned Income Computation

The couple has no earned income.

5. Total Countable Income

$1,680 Net Unearned Income
+ $0 Net Earned Income
= $1,680 Total Countable Income

Mrs. Wood's total countable income, $1,680, is greater than 120% FPL ($1,593) but less than 135% FPL ($1,793), so she is income eligible for the QI1 category.

The above budget is current as of March 2015.

6. QI1 and TennCare Medicaid Eligibility

QI1 enrollees may not also enroll in TennCare Medicaid or TennCare Standard. If an applicant is eligible for a TennCare Medicaid category and QI1, he or she should be determined eligible in the TennCare Medicaid category.

Applicants/enrollees may not receive benefits in more than one Medicare Savings Program.

Qualified Disabled Working Individuals

Legal Authority: Social Security Act § 1905(s)

1. Overview

Section 6012 of the Omnibus Budget Reconciliation Act (OBRA) of 1989 provides an option to purchase Medicare Hospital Insurance Benefits (Part A) for an indefinite period for certain disabled working individuals (DWI) under age 65 who are no longer entitled to premium-free Medicare Part A because they returned to work. Section 6048(s) of OBRA 1989 requires states to "buy in" the Medicare Part A only premium for those DWIs who meet all the requirements of being a Qualified Disabled Working Individual (QDWI).

2. Policy Statement

To be eligible in the QDWI category an individual must:

- Be under age 65;
- Have a disabling impairment (determined by the Social Security Administration (SSA));
- Be eligible to enroll in Medicare Part A, but no longer entitled to free Medicare Part A due to substantial gainful activity (SGA);
- Have income that does not exceed 200% of the Federal Poverty Level (FPL);
- Not have resources over $4,000 for an individual or $6,000 for a couple;
- Not be eligible for TennCare Medicaid; and
- Meet all non-financial eligibility requirements.

3. SSA's Responsibility

When an individual who was previously disabled returns to work, the SSA will:

- Determine continuous disability;
- Determine whether the income the individual receives exceeds the SGA limits;
- Notify the individual of Medicare termination, and the opportunity to purchase continued coverage and/or apply for Medicaid assistance; and
- Update the Social Security system with the DWI eligibility determination and enrollment.

4. QDWI Benefits

QDWI individuals receive payment of Medicare Part A premiums only. QDWI eligibility does NOT pay for Part B Medicare premiums, co-insurance or deductibles.

If the individual is enrolled as a DWI more than 3 months prior to becoming eligible as a Qualified Disabled Working Individual (QDWI), the individual may be responsible for the premiums in the months prior to QDWI eligibility.

5. QDWI Effective Date

Eligibility begins the date a HCFA application or LIS application is filed or the date all eligibility requirements are met, whichever is later.

6. Non-Financial

a. Age

Individuals must be under age 65 to be eligible in this category.

b. Citizenship

Individuals must be U.S. citizens, U.S. nationals or eligible non-citizens. Individuals are not required to provide documentary evidence of citizenship or national status if they are entitled to or enrolled in any part of Medicare.

c. Enumeration

Individuals must possess and provide a valid Social Security Number (SSN) or proof of application for an SSN, unless they meet an exception.

d. State Residence

Individuals in this category must be residents of Tennessee.

7. Financial

a. Household Composition

Household composition is governed by the principle of Financially Responsible Relatives (FRR) and the applicant/enrollee's living arrangements. See *ABD Household Composition* policy.

b. Income Limit

The income limit for receiving benefits in this category is up to 200% FPL for an individual or couple.

c. Resource Limit

The resource limit for receiving benefits in this category is:

- $4,000 for an individual; or
- $6,000 for a couple.

d. COLA Disregard

The SSA is responsible for applying COLA to its benefit programs, including Old-Age, Survivors, and Disability Insurance (OASDI), Railroad Retirement Benefits (RRB) and Supplemental Security Income (SSI). If the SSA applies a COLA for a given year, it is applied on

January 1st of that year. However, the annual update for FPLs is not typically released until March or April. This can cause individuals who were previously QDWI eligible to become income-ineligible due to their increased Social Security income in the period between the COLA adjustment and the FPL increase.

To address the discrepancy caused by the timing of the COLA and FPL adjustments, QDWI enrollees who become income-ineligible in January are provided with a COLA disregard for the months of January, February, March, and if needed, April. The COLA disregard is equal to the amount of the monthly COLA increase.

e. Budget Overview

1. Total Gross Unearned Income Computation

Deemed Income from Parent(s)
+ Deemed Unearned Income from Spouse
+ Unearned Income (other than child support)
+ Total Countable Child Support
= Gross Unearned Income

2. Total Gross Earned Income Computation

Total Countable Earned Income
+ Self-Employment Income
+ Deemed Earned Income from a Spouse or Parent
– Disabled Student Under Age 22 Earned Income Exclusion
= Gross Earned Income

3. Total Net Unearned Income Computation

Gross Unearned Income
– General Unearned Income Disregard ($20)
– Child Support Disregard ($50)
= Net Unearned Income

4. Total Net Earned Income Computation

Gross Earned Income
– General Income Disregard Remainder
– Earned Income Disregard ($65)
– Disabled Work Expense
– ½ Disregard
– Blind Work Expense
= Net Earned Income

5. Countable Income Computation

Net Unearned Income
+ Net Earned Income

= Total Countable Income

If the applicant's total countable income is less than 200% FPL, then he or she is eligible for QDWI.

f. Example Budget

Mr. Davis is 60 years old, has been determined a Disabled Working Individual (DWI) by SSA, but is no longer entitled to premium free Medicare Part A. Mr. Davis receives $1300 in earned income per month, and $200 in unearned per month. Mr. Davis is not married.

1. Total Gross Unearned Income Computation

   = $200 Gross Unearned Income

2. Total Gross Earned Income Computation

   = $1,300 Gross Earned Income

3. Total Net Unearned Income Computation

   $200 Gross Unearned Income
   – $20 General Income Disregard
   = $180 Net Unearned Income

4. Total Net Earned Income Computation

   $1,300 Gross Earned Income
   – $65 Earned Income Disregard
   – $617.50 ½ Disregard
   = $617.50 Net Earned Income

5. Total Countable Income

   $180 Net Unearned Income
   + $617.50 Net Earned Income
   = $797.50 Total Countable Income

   Mr. Davis' total countable income, $797.50, is less than 200% FPL, $1,962, so he is income eligible for the QDWI category.

The above budget is current as of March 2015.

8. Termination of QDWI Benefits

An individual will lose QDWI eligibility when:

- He or she becomes eligible for any category of TennCare Medicaid;
- Personal resources exceed the resource limit;

- Income exceeds 200% of the current FPL;
- He or she becomes age 65 and is entitled to premium-free Medicare Part A; or
- SSA notifies HCFA that the individual is no longer considered disabled.

INSTITUTIONAL STATUS

Legal Authority: 42 CFR 435.1009; 42 CFR 435.1010

1. Policy Statement

An individual must be institutionalized in order to receive benefits in the Institutional Medicaid category.

An individual is considered institutionalized when he or she has:

- Been admitted to a Nursing Facility (NF) or Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID), and has been determined by HCFA to be likely to be continuously confined for at least 30 days going forward; or
- Applied to enroll in the HCBS waiver program, and has been determined to need and likely to receive services for a continuous period of at least 30 days going forward; or
- Died while in long-term care nursing facility prior to meeting the 30 days continuous confinement requirement.

2. Continuous Confinement

a. Individuals with a Pre-Admission Evaluation (PAE)

An individual with a PAE is considered continuously confined when:

- The individual has been admitted to a NF and was continuously in a medical institution (i.e., hospital, NF or ICF/IID) for at least 30 days prior to admission; or
- The individual has been admitted to a NF or ICF/IID and has been determined by HCFA to be likely to be continuously confined for at least 30 days going forward, demonstrated by an approved PAE which is effective for at least 30 days; or
- The person has been admitted to a NF or ICF/IID and the period of time spent in a medical institution combined with the period of time for which an approved PAE is effective exceeds 30 days; or
- The individual has been determined to need and likely to receive HCBS for a continuous period of at least 30 days going forward, demonstrated by an approved PAE and a CHOICES Enrollment form or 2350 form, as applicable. If a 2350 form is used, the form must be received from the Department of Intellectual and Developmental Disability (DIDDS) for enrollment into an IID waiver program.

b. Individuals without a Pre-Admission Evaluation

An individual without a PAE is considered continuously confined when:

- The individual has been admitted to a NF and was continuously in a medical institution (i.e. hospital, NF or ICF/IID) for at least 30 days prior to admission; or
- The individual is dually-eligible for Medicare and Medicaid, and is receiving Level 2 Skilled Nursing Facility (SNF) care paid by Medicare. Medicare pays for the first 100 days of Level 2 SNF care.

NOTE: A dual-eligible individual receiving SNF care paid for by Medicare does not need to be in an Institutional Medicaid category for HCFA to pay the Medicare co-pay. He or she must receive QMB, but may be eligible as a Supplemental Security Income (SSI) recipient or in another TennCare Medicaid category.

NOTE: If the dual-eligible individual continues to need Long-Term Services and Supports (LTSS) after his or her Medicare-covered stay in the SNF, then he or she must apply for CHOICES. If the individual is applying for HCBS services, he or she will need a PAE. If the individual applies for nursing facility care, he or she will need a PAE or may be approved based on continuous confinement.

3. Institution Types

An institution is an establishment that provides food, shelter, treatment and services to four or more individuals. Types of institutions include:

a. Medical Institution

An institution authorized by state law and organized to provide medical care, including nursing and convalescent care. Examples of medical institutions include: hospitals, convalescent or progressive care centers, and Long-Term Care Facilities (LTCFs), providing both skilled and intermediate care.

b. Institution for the Intellectually and Developmentally Disabled

An institution organized primarily for the diagnosis, treatment or rehabilitation of the intellectually and developmentally disabled. It provides a protected residential setting for the evaluation, rehabilitation and 24-hour supervision of the patient.

c. Institution for Mental Disease (IMD)

An institution licensed to provide diagnosis, treatment or care for persons with mental diseases.

TennCare Medicaid reimbursement is limited to care provided for an eligible individual who is at least 65 years of age and confined to an approved ward.

Confinement in an IMD does satisfy and establish institutional status for individuals under age 65 and those confined to unapproved wards; therefore, when subsequently admitted to a medical institution these individuals may already meet confinement.

d. Public Institution

A public institution is an institution serving more than 16 residents that is the responsibility of or controlled by a governmental unit. A public institution does not include:

- A medical institution; or
- An intermediate care facility (ICF), including those providing services to individuals age 65 and older in institutions for tuberculosis or mental disease.

e. Institution for Tuberculosis

A facility established and maintained primarily for the care and treatment of tuberculosis. Tennessee does not have any chest disease or tuberculosis hospitals. Reimbursement is available to an out-of-state hospital for a Tennessee resident who requires such care.

4. Inmate of a Public Institution

a. Inmate Status

Inmate means any person living in a public institution who was committed under the penal system with NO exceptions. Inmate status suspends receipt of Medicaid benefits, but is no longer considered a factor when looking at non-financial eligibility criteria.

The following would not be considered inmates:

- Individuals in public educational or vocational institutions designed for the primary purposes of educational or vocational training designed to prepare him or her for gainful employment; or
- Individuals temporarily confined pending other arrangements appropriate to his or her needs; or
- Individuals receiving medical treatment in a ward approved by HCFA, such as patients in certified wards of State Developmental Centers for Intellectual and Developmental Disabilities, including certified ICF/IID wards and certified SNF, as well as patients in certified wards of State Mental Health Hospitals and Private Certified Mental Health Hospitals.

b. Termination of Inmate Status

Inmate status is interrupted or terminated when an individual is admitted as an inpatient to a medical institution, except for those committed under the penal system. Inmate status for those committed under the penal system terminates upon release from custody. Release means:

- Parole;
- Pardon;
- Bail; or
- Dismissal of charges.

5. Verification of Institutional Status

Establish the individual's institutional status using any one of the following methods or evidence as appropriate. Document the verification source(s) in the case notes.

a. Confinement to a Medical Institution (Hospital or similar institution)

Check with the hospital admission office either by phone or written correspondence to verify admission and discharge dates. Review the individual's bill for hospital charges as it may include an admission and a discharge date.

b. LTCF

Evidence of an individual's institutional status includes:

- An approved PAE in the appropriate TennCare Pre-Admission Evaluation System (TPAES) queue.
- A completed Form 2350, Notice Recipient-Patient Admitted to or Discharged from Skilled Nursing Home Care or Intermediate Care, received by HCFA Member Services.

c. Confinement to an IMD

Form 2350 from a Department of Mental Health and Substance Abuse Services (MDHDD) facility is sufficient evidence that the unit to which the individual was admitted is one qualified for TennCare Medicaid reimbursement. Review the voluntary admission form the individual signed prior to admission to substantiate that the individual is not an inmate.

d. Enrollment in HCBS

The individual must have an approved PAE in TPAES to be eligible to receive HCBS. An approved PAE in the TPAES Member Services queue is verification of institutionalized status.

6. Patient in an IMD

Patient includes an individual receiving professional service in an institution for mental diseases, but does not include an individual on conditional release or convalescent leave from such an institution.

7. Coverage for Former Patients and Inmates of Institutions for Mental Diseases (IMD)

a. Overview

A qualifying individual who is no longer a patient in an IMD or has had his inmate status interrupted may be eligible for TennCare Medicaid benefits upon his admission to a medical institution that is a Title XIX facility. Interruption of IMD patient status occurs when the individual is released, transferred from or receives convalescent leave from an IMD. Inmate status is interrupted when an individual is admitted to a medical institution unless he was admitted under the penal system, which requires release from the institution, i.e., parole, pardon, bail or dismissal of charges.

b. Tennessee IMD

An individual may qualify for TennCare Medicaid benefits as an institutionalized individual when his patient or inmate status in one of the following public institutions is interrupted:

- Memphis Mental Health Institute, Memphis;
- Middle Tennessee Mental Health Institute, Nashville;
- Western Mental Health Institute, Bolivar; or
- Moccasin Bend Mental Health Institute, Chattanooga

These individuals must follow all procedures for filing an application for assistance and must meet all non-financial and financial requirements for TennCare Medicaid. As applications are processed for this group, refer to any individuals who might qualify for Supplemental Security Income (SSI) cash assistance to Social Security. Eligibility for SSI cash assistance includes TennCare Medicaid benefits.

The IMD representative will arrange for placement in a medical institution and will develop a plan with either the individual's family or the medical facility to apply for TennCare Medicaid. Because of the individual's former patient or inmate status, HCFA Member Services should be able to secure all necessary information from an IMD representative. If the IMD representative applies on behalf of the patient, he or she will act as the responsible person for the patient.

If an Eligibility Specialist (ES) is unable to establish eligibility due to missing information, notify the patient's IMD representative and allow 10 days for the representative to secure the necessary information or verification. If the additional 10 days causes the application to be held pending beyond the processing time limit, this is beyond the ES' control, as long as the ES has otherwise acted promptly.

7. Children in Residential Treatment Centers

Children in Residential Treatment Centers are not considered to be continuously confined for the purpose of determining institutional status.

When a child is ordered by Juvenile Court or by a treating physician to undergo a psychiatric evaluation or treatment for a sex offense, alcohol and drug abuse or some other type of residential treatment, the cost of care is the responsibility of the child's family if the child remains in the custody of his parents or other caretaker relative.

If the family cannot afford to pay the cost of care, the family may apply for medical assistance. The child will be considered a member of the household whose absence from the home is temporary. This policy is applied to children who are in approved treatment centers, whether in state or out of state facilities.

Note: Residential treatment when medically necessary is a TennCare covered service.

a. Individuals who enter residential treatment

TennCare Medicaid or TennCare Standard children who enter residential treatment facilities, such as those for sex offenses or alcohol and drug abuse, and are in the custody of a parent or caretaker relative may be eligible in their existing eligibility group. Children in this situation should still be considered a member of the household whose absence from the home is temporary.

Once it has been reported to HCFA that a child has been placed in a treatment facility the Eligibility Specialist should document the expected discharge date in case notes. Follow up with the individual should occur within ten business days of the anticipated date of return. The ES should continue to monitor and document changes in the child's anticipated date of return. If a renewal is required during the period of absence, follow renewal procedures and secure assistance from another state if necessary.

As long as the steps listed above are taken and documented in case notes, the child will continue to be considered a member of his or her household and retain eligibility in his or her original category (the category the child was eligible in prior to placement in the treatment facility).

If at any time during the absence it is determined that the child is no longer eligible for benefits, terminate eligibility.

8. Treatment Facilities

Examples of treatment facilities that provide these types of services:

- Parkwood Behavioral Health System – located in Mississippi
- Hermitage Hall – located in Tennessee

9. Home and Community Based Services (HCBS)

a. General Description

HCBS are provided in a home or community setting as an alternative to, or to delay the need for, LTSS in a NF or ICD/IID. HCBS are available to individuals who qualify for and are enrolled in CHOICES.

b. Waiver Types

i. HCBS

The HCBS program is authorized by a waiver of TennCare Medicaid statutory requirements. In this waiver program:

- Services are provided to individuals in their own homes or in a facility participating in the HCBS program who would otherwise require the level of care provided in an ICF;
- Services are required to be furnished under an individual written plan of care; and
- Individuals enrolled must meet the same eligibility criteria as if admitted to an ICF.

ii. Department of Intellectual and Developmental Disabilities (DIDD) Waivers

The DIDD waivers provide LTSS for individuals with intellectual disabilities through one of two environments:

- ICF/IIDs; and
- HCBS.

Individuals eligible for a DIDD waiver must meet the non-financial and financial eligibility requirements of the Institutional Medicaid category or receive Medicaid through SSI. There are three DIDD HCBS waivers for individuals with intellectual disabilities:

1. Comprehensive Aggregate Cap Waiver

Individuals qualify for, and absent the provision of waiver services would be placed in, an ICF/IID.

To enroll in this waiver program, an individual must:

- Meet TennCare ICF/IID level of care criteria (TennCare Rule 1200-13-1-.15) and financial eligibility criteria and have a PAE approved by TennCare;
- Have been assessed and found to have an intellectual disability manifested before eighteen 18 years of age, as specified in Tennessee State law (Tennessee Code Annotated, Title 33-1-101); and
- Have been identified by the state as a former member of the certified class in the United States vs. State of Tennessee, et al. (Arlington Developmental Center), a current member of the certified class in the United States vs. the State of Tennessee, et al. (Clover Bottom Developmental Center), or an individual transitioned from the Statewide Waiver (#0128) upon its renewal on January 1, 2015, because he or she was identified by the state as receiving services in excess of the individual cost neutrality cap established for the Statewide Waiver.

2. State-Wide ID Waiver

The Statewide ID Waiver provides services to Tennessee children with developmental delays and adults and children with intellectual disability who meet the ICF/IID level of care criteria.

To enroll in this waiver program, an individual must:

- Meet TennCare ICF/IID level of care criteria (TennCare Rule 1200-13-1-.15) and financial eligibility criteria and have a PAE approved by TennCare;
- Have been assessed and found to:
    - Have an intellectual disability manifested before eighteen (18) years of age, as specified in Tennessee State law (Tennessee Code Annotated, Title 33-1-101); or
    - Have a developmental disability, which is defined as a condition of substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in an intellectual disability and be a child five (5) years of age or younger.

3. Self-Determination Waiver

The Self-Determination Waiver provides community-based services to individuals with developmental disabilities who would otherwise require the level of care provided in an ICF/IID.

To enroll in this waiver program, an individual must:

- Meet TennCare ICF/IID level of care criteria (TennCare Rule 1200-13-1-.15) and financial eligibility criteria and have a PAE approved by TennCare;
- Have been assessed and found to:
    - Have an intellectual disability manifested before eighteen (18) years of age, as specified in Tennessee State law (Tennessee Code Annotated, Title 33-1-101); or,
    - Have a developmental disability, which is defined as a condition of substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting an intellectual disability and be a child five (5) years of age or younger; and
- Not require residential waiver services (e.g., family model, residential habilitation, supported living) and have an established non-institutional place of residence where the individual lives with family, a non-related caregiver or the individual's own home.

TRANFER OF ASSETS AND PENALTY PERIODS

Legal Authority: Social Security Act § 1917(c)**;** 42 USC 1396p; State Medicaid Manual § 3257

1. Transfer of Assets for Less than Fair Market Value (FMV)

a. Policy Statement

The uncompensated value of a transferred asset is considered available and countable for the purpose of determining eligibility for TennCare Medicaid Long-Term Services & Supports (LTSS) payments. The uncompensated value of a transferred asset is the equity value minus the amount received by the individual. An otherwise eligible Medicaid applicant or recipient is ineligible for payment of LTSS payments (nursing facility or Home and Community Based Services) for a period directly related to the uncompensated value of an asset transfer for less than FMV occurs.

Only asset transfers that occur during an individual's look-back period are considered available and countable for the purpose of determining eligibility for TennCare Medicaid LTSS payments.

b. Definitions

Asset	Prior to 8/11/1993, asset refers to the value of the resource involved in the transfer, e.g., cash, bank accounts, bonds, real estate, etc. As of 8/11/1993, asset also refers to the value of the income, as well as the resource, of the total uncompensated value transferred.
Equity Value	The price that an item can reasonably be expected to sell for on the open market in a particular geographic area minus any encumbrances.
FMV	The price that an item can reasonably be expected to sell for on the open market in a particular geographic area at a given time.
Legal Representative	A guardian conservator or one who has the individual's power of attorney. Effective 10/1/1993 for transfers occurring on or after 8/11/1993, legal representative includes any court or administrative body or any person acting on behalf or at the request or direction of the institutionalized individual or his or her spouse.
Sole Benefit of a Transfer	Sole benefit of a transfer to someone other than a spouse or child (minor or disabled adult child) for the benefit of the spouse or child in which no one else can benefit from the transfer at any time.
Transfer	Transfer means the sale, exchange, donation or divestiture of a liquid or non-liquid asset including the exchange of an asset for one of less value, e.g. transfer of real property in exchange for a life estate in the property.
Uncompensated Value	The uncompensated value of an asset is the difference between the individual's equity in the resource at the time of transfer and the compensation he received in the transaction.

Institutionalized Individual	An institutionalized individual for application of transfer or assets policy includes the institutionalized individual, the institutionalized individual's spouse, legal representative (including a court or administrative body), or any person acting at the request of or direction of the institutionalized individual or his or her spouse.

c. Types of Transfers

In addition to giving away or selling property for less than FMV, the actions listed below may be considered uncompensated transfers of assets:

- Altering or establishing joint accounts in which the individual gives up or limits his or her rights or access to or interest in the asset;
- Establishing an irrevocable trust;
- Purchasing an annuity that does not satisfy the Deficit Reduction Act (DRA) of 2005 requirements;
- Waiving entitled income or benefits;
- Waiving or giving up an inheritance;
- Refusal to take legal action to obtain child support or alimony that is not being paid; or
- Purchasing an irrevocable burial trust that exceeds the value of merchandise and services.

d. Look-Back Period

The look-back period is the time period in which any asset transfer made for less than FMV will affect an individual's eligibility for Long-Term Services & Supports (CHOICES). An asset transfer that occurred prior to the individual's look-back period is not counted as a resource or an asset transfer. An individual establishes his or her look-back period the date the individual is both institutionalized and is applying for TennCare Medicaid.

i. Transfers made between 7/1/1988 and 8/11/1993

The look-back period for resource transfers made on or after 7/1/1988 and before 8/11/1993 is thirty (30) months.

ii. Transfers made between 8/11/1993 through 2/7/2006

The look-back period for resource transfers made on or after 8/11/1993 through 2/7/2006 is:

- Thirty-six (36) months; or
- Sixty (60) months for irrevocable trusts established with an individual's own assets.

iii. Transfers made on or after 2/8/2006

The look-back period for resource transfers made on or after 2/8/2006 is sixty (60) months for all types of transfers.

e. Effective Date Real Property is Evaluated as a Transfer of Assets

The effective date of the transfer of real property is the date the deed is registered with the Register of Deeds.

Example: Mrs. Jones quitclaims her homestead to her two sons on 10/15/2010. The deed is signed that day in the presence of a notary. The deed is not registered until 7/1/2012. HCFA must use the date the deed is registered as the effective date of the asset transfer.

In the Tennessee Attorney General Opinion 04-161, "failure to register a deed of conveyance for real property meant that such transfer has not occurred and that the property is still owned by the seller". Therefore, if the property has not been registered with the Register of Deeds office, it is still owned by its original owner. The 60-month look-back period for the purpose of when to begin a penalty count is the date the deed is registered.

The Eligibility Specialist may need to contact the Register of Deeds office for the county where the land is located to determine if a reported transfer of real property has been recorded. The Eligibility Specialist may also check how the deed is registered at the Tennessee Property Data home page at http://www.assessment.state.tn.us/. This proof will determine when or if ownership status of the real property has changed.

f. Determining Whether a Transfer Occurred

i. Jointly Held Assets

Creation or alterations of jointly held assets which reduce or eliminate an asset for the institutionalized individual are transfers for less than FMV. Examples include:

- An individual is added to an "and" account and the new owner refuses to sign for a withdrawal of funds; or
- Removal of an institutionalized individual's name from an account that he or she previously co-owned; or
- Addition of a joint owner who removes funds from the account for uses not allowed by policy (i.e., not for the sole benefit of a spouse or dependent).

To determine whether a transfer took place under these conditions, evaluate the evidence and ask these questions:

- How long has the asset been jointly owned?

- Who contributed the largest share to purchase the asset?
- Why did the joint owner transfer the asset or remove funds?

Document Case Notes with information pertinent to the determination of whether the action constituted a transfer of assets.

ii. Transfer Executed by a Financially Responsible Relative (FRR) or Others

The transfer of an asset prior to 10-1-89 by an FRR does not constitute a transfer of assets by the applying individual unless he was part owner of the asset AND he participated in the transfer.

Effective 10-1-89, a transfer of an asset by a community spouse may be a transfer of assets and result in a penalty for the institutionalized individual.

Effective 10-1-93, transfers made 8-11-93 or later by the institutionalized individual, the community spouse or legal representative including a court or administrative body at the request, direction or on behalf of the institutionalized individual or community spouse may result in a penalty for the institutionalized individual.

iii. Asset Exchange versus Asset Conversion

1. Exchange

The exchange of one asset for another is not a transfer provided the individual received FMV for the exchanged item. The exchange of a countable asset for one which is excluded is not a transfer of assets for less than FMV as long as the individual remains the owner.

Example: An individual exchanges $1000 cash surrender value of life insurance for an irrevocable burial arrangement of the same value. This is not a transfer of assets for less than FMV.

2. Conversion

The conversion of one asset for another is not a transfer of assets for less than FMV provided the individual receives FMV in the exchange, e.g. the individual uses $1500 cash to purchase an automobile valued at $1500.

g. Exempt Asset Transfers

Transfers of assets made under the following circumstances are not considered as transfers of assets for less than FMV.

- The asset was transferred to a spouse prior to establishment of Institutional Medicaid eligibility under spousal impoverishment policy. See the *Resource Assessment* policy.

- The asset was transferred from the institutionalized or HCBS spouse to a community spouse during the 12-month transfer period after approval of TennCare Medicaid and was part of the Community Spouse Resource Maintenance Allowance (CSRMA). See the *Resource Assessment* policy.

- The asset was transferred to or for the benefit of the owner's totally and permanently disabled minor or adult child.

- The asset was transferred to or for the sole benefit of the individual's spouse or from the spouse to another for sole benefit of the spouse.

- The asset transferred is the individual's home and title to the home is transferred to:

    1. The spouse of the owner;
    2. A child who is under age 21;
    3. An adult child of the owner who has been determined to be blind or permanently disabled according to Social Security Administration (SSA) criteria;
    4. A sibling who has equity interest in and has resided in the home for at least one year prior to the individual's institutionalization;
    5. A child of the owner, regardless of age, who:
        A. Resided with the individual for two years immediately prior to the individual's nursing home admission; and
        B. Provided care which permitted the individual to reside at home; or
    6. Another for the sole benefit of the community spouse or those individuals described above. The community spouse must not transfer such resources to another person other than the spouse for less than FMV.

- The asset was transferred exclusively for a purpose other than qualifying for TennCare Medicaid, such as satisfaction of legally enforceable debts.

  NOTE: The timing of payment of debts should be considered. For example, if a family member suddenly remembers or decides to collect on an alleged debt that has purportedly been outstanding for years, and no convincing evidence exists that either the individual affirmatively acknowledged the debt or worked toward satisfying the debt and the individual to whom the debt was owed made previous efforts to collect the debt, the validity of the debt and whether it is legally enforceable may be questionable.

- The assets were transferred into the individual's Special Needs Trust OR the assets were transferred into the individual's pooled trust before the individual reached aged 65. Contact the Policy Unit regarding assets transferred into a pooled trust for individuals age 65 and over.

h. Excluded Resources Requiring Transfer Information

Transfers of the following excluded resources must be evaluated in order to determine that adequate compensation was received. The initial exclusion of these resources was based on their intended use and a transfer may void the exclusion:

- Burial space excluded based on its intended use; and
- Real property excluded as property essential to self-support or as a homestead.

i. Transfer Executed by an Individual's Legal Representative

A transfer of assets for less than FMV made by any of the following people or entities will result in a penalty period for the institutionalized individual:

- A person, court, or administrative body with legal authority to act on behalf of or in place of the individual and/or his or her spouse; or
- A person, court or administrative body acting at the direction of or request of the individual and/or his or her spouse.

j. Compensation

i. Determining Compensation

To determine whether the individual received fair compensation for the transferred asset, subtract the amount the individual received in the transaction from the FMV of the asset, as follows:

FMV – Compensation Received = Compensated Value (Round the result to the nearest whole dollar)

If the individual alleges that part or all of his or her compensation is in-kind, attach a dollar value to the support and/or maintenance and subtract that value from the FMV as shown above. If the individual alleges he or she has an agreement for total support and care from the individual to whom he transferred the asset, determine the monthly amount of the support and care contribution. If the individual has transferred an asset in exchange for life-time medical

care, he or she may not be eligible for TennCare Medicaid benefits. See Section 1.m. Life Care Contracts.

ii. Fair Compensation

An individual receives fair compensation for a transferred asset if the compensated value is equal to or greater than 100% of the FMV of the asset on the date of transfer or contract for sale. Compensation may be in-cash or in-kind.

iii. In-Kind Compensation

In-kind compensation is limited to agreements of support or maintenance. Compensation in the form of support or maintenance is acceptable if the individual can provide verification of the value of the in-kind compensation in written documentation form, including cancelled checks, receipts, etc.

A transfer of assets in exchange for total support and care requires a determination of the amount of monthly support and care contribution provided by the individual to whom the asset was transferred.

iv. Unfair Compensation

An asset is transferred for less than FMV if the compensated value received by the individual is less than the FMV of the asset on the date of transfer or contract for sale. If the asset was transferred for less than FMV, presume that the asset was transferred to establish eligibility for TennCare Medicaid benefits unless one of the following applies:

- The individual can rebut either of the transfer presumptions:
  - transfer to attain TennCare Medicaid eligibility, or
  - receipt of unfair compensation; or
- The transfer was executed by the individual's legal representative, other than a spouse, without his or her knowledge or permission prior to 8-11-93; or
- Hardship is determined to exist for transfers of assets belonging to institutionalized individuals occurring 7-1-88 or later.

The uncompensated value of the transferred asset is counted in determining the period of ineligibility for LTSS payments.

k. Rebuttal of the Transfer Presumption

An individual may rebut one or both of the following presumptions regarding a transferred asset:

- The transfer was done to establish eligibility for TennCare Medicaid benefits; or

- The individual received inadequate compensation, i.e. less than FMV for the asset.

i. Rebuttal of the Transfer to Establish TennCare Medicaid Eligibility

The individual has the right to rebut the presumption that an asset was transferred to establish TennCare Medicaid eligibility. He or she must present convincing evidence that the transfer was executed solely for some other purpose and that TennCare Medicaid eligibility was not a factor in his or her decision.

Request substantiating evidence and a written statement from the individual that includes the following:

- The individual's reasons for transferring the asset;
- The individual's attempts to dispose of the asset for its FMV; and
- The individual's reasons for accepting less than the FMV in the exchange.

The Eligibility Specialist will document the individual's cooperation in providing needed information regarding the transfer immediately.

ii. Rebuttal of the Inadequate Compensation Determination

The individual can rebut the determination that fair compensation was not received for the transferred asset.

Request a written statement from the individual that includes a description of attempts to dispose of the asset for its FMV and reasons for accepting less than the FMV.

1. Written Statement

Request that the individual provide written documentation from at least two knowledgeable sources familiar with the type of transferred asset, e.g. real estate agent that contains:

- The specific reason(s) the transferred resource could not be sold for its FMV; and
- A statement that indicates that the price the individual realized in the transaction was justified under the circumstances.

iii. Successful Rebuttal

If the individual is successful in his or her rebuttal of either of the above assumptions, do not count any uncompensated asset value as an available asset in determining his or her eligibility. Document in case notes a thorough explanation of the decision and the facts upon which it is based.

iv. Unsuccessful Rebuttal

If the individual's rebuttal is unsuccessful, consider the uncompensated value of the transferred asset as an available asset in the eligibility determination.

1. Evaluation of Evidence

Evaluate the individual's evidence carefully and consult a supervisor, keeping in mind the following consideration:

- Did the individual make an effort to obtain a fair price?
- Regarding the compensation received:
  - What percentage of the real value did the individual receive?
  - Why did the individual accept less than FMV?
  - Are the reasons the individual accepted less than FMV supported by factual evidence and was the individual's action justified?
  - What was the timing of the transfer with the Medicaid application? Was it before the individual knew about TennCare Medicaid or the program's resource limitation, or did the transfer take place just before the individual applied or just after being advised of ineligibility due to excess resources? Were the assets unreported and later transferred after eligibility was established, based on erroneous information provided by the individual or responsible/legal representative?

l. Hardship

Hardship is considered to exist if the institutionalized individual has no available resources (other than the uncompensated value) in excess of the resource limit and application of the penalty will would deprive the individual of medical care such that the individual's health or life would be endangered or of loss of food, clothing, shelter, or other necessities of life..

Note: If the community spouse has available assets, he or she is legally obligated for the support of his or her spouse; therefore, hardship does not exist.

Requests for hardship submitted to an ES are forwarded to the program manager. HCFA will determine whether hardship exists and notify the individual within thirty (30) days of receiving a request for hardship. A hardship denial may be appealed within forty (40) days. When needed, input from the Eligibility Policy Unit is requested by the program manager or director.

m. Life Care Contracts

An individual who has transferred his or her available assets to a third party in exchange for full medical care for life is considered to have entered into a life care contract. Because the individual has a third party medical resource legally responsible for all his or her medical needs, these individuals are not eligible for TennCare Medicaid benefits. These provisions apply even if the full amount of the individual's assets have been spent by the third party for his or her care, unless the contract between the two parties is void or not enforceable for some reason.

If the individual entered into a contract of more limited scope, i.e., the terms of the contract specified certain medical care limitations, he or she may be eligible for benefits.

i. Third Party Defined

For purposes of this policy, third party includes any individual, institution, corporation, or public or private agency liable or potentially liable for all or part of an individual's medical costs.

ii. Enforceable Contract

An enforceable contract does not exist when its terms cannot be fulfilled and are void or rescinded. A contract is rescinded when the third party is financially unable to fulfill its contractual responsibilities. Under these circumstances, the third party is legally obligated to return to the individual any remaining assets from those originally assigned in the contract.

The individual may be eligible for TennCare Medicaid after requiring a financial accounting from the third party of the following:

- The full amount of income and resources originally assigned to the third party by the terms of the contract;
- Total expenses paid and fees charged by the third party; and
- The full amount of the refund.

The full amount of the refund is a countable asset.

iii. Contractual Agreement Limited in Scope

The contractual agreement that is limited in scope, i.e. limited to basic room and board, or basic room and board and partial medical services, may not preclude TennCare Medicaid eligibility.

Determine the individual's eligibility and review his or her transfer of assets to the third party as described in the transfer of asset policy, Section 1 *Transfer of Assets for Less than Fair Market Value (FMV)* of this chapter.

If the individual is determined to be eligible, TennCare Medicaid reimbursement is available for those items encompassed within the State Plan that are not included in the life care contract. The individual must fax or mail a copy of the life care contract to the Third Party Liability Unit of the Bureau of TennCare, who will enter the resource in the data base.

Bureau of TennCare
Third Party Liability Unit
310 Great Circle Road
Nashville, TN 37243
Fax Number: 615-253-5588

2. Penalty Periods For Assets Transferred for Less than FMV

a. Policy Statement

An otherwise eligible TennCare Medicaid individual is ineligible for payment of TennCare Medicaid LTSS payments if a transfer of assets for less than FMV has occurred. Individuals in long term care facilities (LTCF) may be approved for TennCare Medicaid benefits in an Institutional Medicaid category (not LTSS payments), if otherwise eligible. HCBS applicants are not eligible for Institutional Medicaid, including demonstration equivalent categories such as 217-Like and the At-Risk Demonstration categories, during a penalty period. Institutional Medicaid eligibility for HCBS applicants is conditioned upon the actual receipt of HCBS services, which cannot commence until the applicant is able to enroll in the CHOICES program.

b. Calculating the Penalty Period for Assets Transferred on or after 2/8/2006

The penalty period for NF and HCBS applicants is calculated in the same manner. To determine the penalty period, divide the uncompensated value of the asset(s) transferred by the average daily private pay rate for nursing facility care at the time of application for TennCare Medicaid or the date of transfer, whichever is later. Specifically, for applicants who made a transfer prior to the date of application, the penalty period begins on the date that eligibility is determined. For enrollees making a transfer after eligibility is granted, the penalty period begins on the date of the transfer.

Average Cost of Nursing Facility Care		
Date	**Daily Rate**	**Monthly Rate**
6/1/2011 – 11/30/2012	$152.23	$4,567
12/1/12 – 2/28/2015	$153.02	$4,591
3/1/2015 – Present	$182.42	$5,472

The penalty period will determine the number of days in which the individual is ineligible for nursing facility services. Eligibility cannot begin until the full number of days has passed.

See Section 1.j.i. Determining Compensated Value

Example: An individual transferred an asset in January 2015 with an uncompensated value of $10,000. He applied for TennCare Medicaid on February 1, 2015. He is eligible for TennCare Medicaid, but for the transfer of asset for less than FMV. The individual has been in the nursing facility since February 1, 2015. The uncompensated value is divided by the average daily cost of nursing facility care to determine the penalty period: $10,000/182.42 = 54.8 days. Round down to the nearest whole number to determine the penalty period of 54 days.

The penalty period will begin on February 1, 2015, and will run for 54 days.

c. Penalty Periods for Assets Transferred On or After 2/8/2006

i. The DRA of 2005

The DRA of 2005 made the following changes to asset transfers occurring on or after 2/8/2006:

- The look back period for all transferred assets is 60 months; and
- For applicants, the penalty period begins on the date on which the individual is eligible for TennCare Medicaid and is receiving institutional level of services (whereas the penalty period began on the date of transfer prior to enactment of the DRA).

  Note: In order to comply with the requirement that partial month penalties are assessed, TennCare Medicaid will use the average daily rate of nursing facility care to calculate the penalty period.

ii. Penalty Period Start Date

For Nursing Facility individuals the start date for the penalty period is:

- The date the individual is eligible for Institutional Medicaid and would have been eligible for CHOICES if not for an improper transfer, or
- The date of the transfer, whichever is later.

For HCBS individuals that would be eligible for CHOICES if not for an improper transfer, the start date for the penalty period is:

- The date of application; or
- The date of the transfer if the enrollee is already receiving CHOICES benefits.

The penalty period cannot begin until the expiration of any existing period of ineligibility. There is no limit on the maximum months of ineligibility. Once a penalty period begins, it

will continue to run uninterrupted even if the individual subsequently stops receiving institutional level of care services.

Penalty periods for more than one transferred asset will run consecutively, not concurrently. Any uncompensated value from multiple transfers is added to the initial uncompensated value if penalty periods overlap to determine the consecutive penalty period.

d. Penalty Periods for Assets Transferred Prior to 2/8/2006

Note: Penalty periods for assets transferred prior to 2/8/2006 were assessed only for periods of whole months (i.e., partial month penalty periods were not allowed). Penalty periods were rounded down to the nearest whole number, i.e. a calculated penalty period of 4.3 months resulted in a four month penalty period.

i. Resources Transferred Prior to 7/1/1988

Resources transferred prior to 7/1/1988 by an institutionalized individual or couple who applied for TennCare Medicaid before, on or after 7/1/1988, will not have any transfer of assets penalty applied unless a penalty period was previously established and has not expired at the time of application.

ii. Resources Transferred Between 7/1/1988 and 8/11/1993

The penalty period for transfers on or after 7/1/1988 and before 8/11/1993 will be the lesser of the uncompensated value of the transferred asset divided by the average monthly private rate nursing home charge as follows:

- $2,190 per month effective 7/1/1988 to 6/30/1993; or
- $2,215 per month effective 7/1/1993 through 8/10/1993, OR 30 months maximum penalty period.

iii. Resources Transferred On or After 8/11/1993 Through 2/7/2006

The penalty period for assets transferred on or after 8/11/1993 may begin no earlier than 10/1/1993, but will contain the total number of penalty months as determined directly below. The penalty for transfers on or after 8/11/1993 is determined by dividing the uncompensated value of the transferred asset by the average monthly private nursing home charge as follows:

- $2,215 per month effective 8/11/1993 to 9/30/1994
- $2,519 per month effective 10/1/1994 to 2/28/1996
- $2,572 per month effective 3/1/1996
- $3,394 per month effective 10/1/2001
- $3,874 per month effective 7/1/2005

iv. Uncompensated Value of Transfer is Less Than Average Monthly Private Rate

No penalty was applied when the uncompensated value of an asset transferred prior to 2/8/2006 was less than the average monthly private pay rate unless:

- It occurred during a penalty period in which case the uncompensated value was added to the total overlapping values and recomputed; or
- The individual transferred his or her rights to a stream of entitled income or benefits.

The cumulative value of all uncompensated transfers made within the look-back period was added together as a single transfer.

e. Spousal Transfer Causes Penalty for Institutionalized Individual

If a spousal transfer results in a penalty for the institutionalized individual and the spouse becomes institutionalized during the established penalty period, the remaining penalty months must be apportioned between both spouses.

Example: Mrs. Carver enters a nursing home in 10/2007. A 60 month penalty beginning 10/2007 was assessed due to a transfer by Mr. Carver, the community spouse. In 8/2008, Mr. Carver goes into the nursing home and requests TennCare Medicaid beginning 8/2008 (the 11th month of the penalty period). In 8/2008, the remaining penalty period of 49 months is apportioned between both spouses, giving each a penalty period of 24.5 months or 745 days. During this penalty period, no nursing home payment is paid for either spouse.

If one spouse dies or is discharged from nursing care, the total remainder penalty period remaining for both spouses must be served by the spouse receiving nursing services.

f. Return of Transferred Asset

If the entire transferred resource is returned, the period of ineligibility does not apply. To meet this exception, the individual must reacquire the same percentage of ownership interest in the resource that existed prior to the original transfer. If partial ownership of the transferred resource is returned, the period of ineligibility is adjusted based on the ownership interest not returned. Reacquiring physical possession of the resource is not sufficient to meet this exception; the individual must also reacquire legal ownership of the resource.

g. Less Than the Entire Resource is Returned

If the entire resource is not returned, the period of ineligibility does not end. Re-compute the uncompensated value based on the adjusted uncompensated value. If additional funds are subsequently returned, it will be necessary to re-compute the uncompensated value again.

Note: The return of the resource to the individual is not counted as income to the individual.

h. Waiving of Entitled Income Benefits

When a single lump sum of income is transferred for less than FMV, calculate the penalty based on the total lump sum divided by the average private pay nursing home charge. If the amount of the uncompensated value is less than the average private pay nursing home charge, no penalty is imposed.

If a stream of income (i.e., income paid on a regular basis such as a pension or other benefit) is transferred to another for less than FMV, determine the approximate value of the income to be received during the individual's life expectancy. Divide the anticipated total of transferred income by the average private pay nursing home charge to determine the penalty period beginning with the month of transfer.

Example: Mrs. Dale, age 67, is entitled to a royalty payment of $200 per month or $2400 per year, but she has transferred that right to her nephew. At age 67, Mrs. Dale has a life expectancy (see *SSA Life Expectancy Table* *http://www.ssa.gov/oact/STATS/table4c6.html*) of 18.62 years x $2400 year = $44,688. This uncompensated value divided by the average private pay nursing home charge equals the number of days of penalty.

i. Supplemental Security Income (SSI) Recipients (Effective 7-1-88)

If it is determined that an SSI recipient or their FRR has transferred an asset for less than FMV, the SSI recipient must serve the penalty period associated with that transfer prior to receiving TennCare Medicaid payment of nursing facility services.

j. Notification

Before taking any action on the application, i.e. approval, closure, continuation or rejection, contact the individual in person (by telephone contact or failing that, by mail) and give him the following information:

- The decision regarding the transfer;
- Identification of the transferred asset;
- The amount of the uncompensated value;
- The impact on the individual's resource eligibility;
- The length of the penalty period; and
- The individual's rebuttal rights and those procedures.

Allow the individual 10 days to respond with an indication of his rebuttal intention. If he does not respond, take the appropriate action observing standard advance notification procedures.

Document the contact in case notes. If a penalty period is imposed on an individual, a notice of denial of LTSS payments is issued.

RESOURCE ASSESSMENT

Legal Authority: 42 USC 1396r(c)(1)(B); 42 USC 1396r-5

1. Policy Statement

The Medicare Catastrophic Coverage Act of 1998 amended Medicaid income and asset limit rules so that the community spouse of an individual applying for Institutional Medicaid does not become impoverished as a result of the spouse gaining Medicaid eligibility. When determining eligibility for the institutionalized spouse, a calculated amount of the couple's assets is allocated to the community spouse to be used for his or her own needs. The Medicaid rules that govern the special treatment of a community spouse's income and resource allocation are referred to as spousal impoverishment policy. The main purpose of the spousal impoverishment policy is to ensure that the community spouse has sufficient income and assets to remain in his or her home.

The process for determining the amount of resources that will be allocated to the community spouse begins by taking a snapshot of all of the couple's countable resources. The community spouse's share of resources is determined, and that amount is subtracted from the total resources in order to determine the institutionalized individual's resource eligibility. Any amount of resources in excess of the $2,000 limit (after the community spouse's share has been subtracted) must be depleted prior to the applicant gaining TennCare Medicaid eligibility.

2. The Resource Assessment

a. Defined

The resource assessment is a snapshot of all countable assets owned by the couple at the time the resource assessment is requested. All of the countable resources owned individually or jointly by both spouses are counted; resources excluded under the *ABD Countable and Excluded Resources* policy are not counted in the resource assessment. Only one resource assessment will be completed for a married couple.

b. Who is Required to Have a Resource Assessment

A resource assessment is required for all individuals applying for Institutional Medicaid who have a legal spouse living in the community, whose whereabouts are known. If an estranged community spouse refuses to cooperate with providing verifications of assets owned by either spouse, the community spouse should be notified of the State's requirement to determine the applicant's resource amount and spousal allocation for resources owned by the applicant and the community spouse. Undue hardship may be requested with the *Undue Hardship Waiver Form*. Please contact the Eligibility Policy Unit for further guidance in cases such as these.

If the community spouse lives out of state, the resource assessment is required if the community spouse can be located and the couple is still legally married.

The resource assessment and Community Spouse Resource Maintenance Allowance (CSRMA) may be allowed if a couple is still legally married, but living separately and consider themselves separated, if the whereabouts of the community spouse are known or he or she can be located.

c. Request Time Frame

The resource assessment may be requested whether or not the resident is applying for TennCare Medicaid at the time of admission to a nursing facility. Generally, it may be to each spouse's benefit to have the assessment done at the time of admission, even if no concurrent application for TennCare Medicaid is made, since the availability of documentation at this time may result in the protection of a greater amount of assets for the community spouse. Under no circumstances can a resource assessment be completed prior to the date of admission to a long-term care facility (LTCF) or enrollment in a Home and Community Based Services (HCBS) waiver.

If the request for the assessment is delayed until the time of application, the assessment will be done retroactively to the time of admission, but the results may be limited by the availability of documentation. When a TennCare Medicaid application is made, the results of the assessment are used as part of a formula to determine how much of the total assets may be protected for the community spouse. The remaining resources after allocation to the community spouse are considered available to the institutionalized individual.

If it is discovered at application, or at any time after the assessment is completed, that not all resources were reported or known, the assessment is recalculated. Resources available at the beginning of the period of institutionalization, regardless of interruptions of confinement in long-term care, must be reconstructed and documented.

Transfer of assets is not considered at the time an assessment only is requested (i.e., no TennCare Medicaid application filed concurrently).

d. Longevity of the Assessment

An assessment remains in effect until a HCFA application is filed, regardless of any interruptions in long-term care.

If a resource assessment is completed and the individual applies for TennCare Medicaid, but is found ineligible, the original resource assessment is still valid if the individual applies again in the future.

e. Application Filed at Assessment Request

When an assessment is requested, advise the individual or representative that he or she must provide all necessary documentation and verification timely to ensure that an accurate assessment

can be completed within a reasonable amount of time (i.e., 30 days from the date all required documentation is received).

Transfer of assets is considered as part of the application process whether a resource assessment has been previously requested or is requested at application.

3. Responsibilities of LTCF

LTCFs are required by law to notify all admitted residents, spouses and representatives of their right to request an assessment of the resident's assets and the assets of the community spouse.

The provider must inform all residents, spouses and representatives orally and in writing that they may request an assessment of their resources by contacting HCFA or TNHC.

4. Resource Assessment Procedure

The resource assessment process is completed offline. When a resource assessment is requested, the Eligibility Specialist gathers appropriate documentation to verify countable resources included in the resource assessment. The *Resource Assessment* form is completed by the Eligibility Specialist. The Eligibility Specialist thoroughly documents the resources used for the resource assessment, the CSRMA amount and any spend down amount determined by the assessment in case notes. Once the form is completed and the amount of CSRMA is determined, a copy of the form, notice of the CSRMA determination and any spend down amount are sent to the individual. The signed Resource Assessment form, which should include the spouse's signature, is returned to HCFA and a copy is maintained for the case.

5. CSRMA

a. CSRMA Amount

The CSRMA is based on the spouses' combined countable resources documented in the resource assessment. The amount of the CSMRA is the greater of:

- One-half (1/2) of the total countable resources, but not less than $23,844 or greater than $119,220 (as of January 2015)
- One-half (1/2) of the total countable resources, but not less than $23,448 or greater than $117, 240 (January – December 2014);
- The court-ordered amount; or
- The amount determined by an appeals officer due to a hardship situation (extreme financial duress).

When an application is filed by or on behalf of the spouse seeking LTSS, the CSRMA amount determined in the resource assessment is the amount allocated to the community spouse. This amount is deducted from the combined resources of both spouses as of the first day of the first

month for which assistance is requested. None of the community spouse's share of the resources is considered available to the individual when determining his or her TennCare Medicaid eligibility.

b. Refusal of CSRMA

A community spouse who receives Families First (FF), Supplemental Nutrition Assistance Program (SNAP) benefits, Supplemental Security Income (SSI), TennCare Medicaid, Veterans Affairs (VA) pension, Qualified Medicare Beneficiary (QMB) benefits or other needs-based assistance may accept or decline all, some or none of the CSRMA if the allocation would cause the loss of or decrease in those program benefits. If the community spouse accepts only a portion of the CSRMA, the remainder amount is counted as part of the institutionalized spouse's resources.

c. CSRMA Examples

Example 1: The combined resources of Mr. and Mrs. Smith total $25,000. The total divided by 2 equals $12,500. Mr. Smith's, the community spouse's, share of the total resources is the required minimum ($23,844). This leaves $1,156 available to the institutional spouse. Mrs. Smith is resource-eligible for Institutional Medicaid.

If the resources determined available to the institutionalized spouse exceed the $2,000 resource limit, plus the allowable burial resource (see *ABD Countable and Excluded Resources* policy), the institutionalized individual is not eligible until resources are within allowable limits.

Example 2: The combined resources of Mr. And Mrs. Revco totals $50,000. The total divided by 2 equals $25,000. Since one-half of the total is above the required minimum, Mrs. Revco's share equals $25,000. This leaves $25,000 available to the institutional spouse. Mr. Revco must decrease his share of the resources to $2,000 in order to be resource-eligible. When total resources do not exceed $27,000 ($25,000 + $2,000), then Mr. Revco will be resource eligible.

6. Resource Transfer as a Result of Assessment

a. CSRMA "Grace Period"

Sometimes a legal transfer of resources must occur to effectuate the results of a Resource Assessment. Following a resource assessment and initial approval of eligibility, resources must be transferred within 12 months of the approval. Both spouses must agree to the transfer in order to use the institutionalized spouse's share in determining his or her eligibility. The transfer may require conveyance of resources from the institutionalized individual to the community spouse, or vice versa. The community spouse who receives SSI, FF, VA pension, TennCare Medicaid or

other needs-based benefits is not required to accept the total allocation if it will reduce or terminate his or her benefits.

b. Transfer Refusal

When the community spouse refuses to transfer resources to the institutionalized individual, the institutionalized spouse may still be eligible if the Eligibility Appeals Unit finds that undue hardship circumstances exist.

c. Hardship

Hardship may be determined when the institutionalized spouse and/or his or her spouse have resources in excess of the resource limit, the institutionalized spouse is otherwise eligible, and for whom TennCare Medicaid ineligibility will result in loss of essential nursing care which is not available from any other source.

If the community spouse has available assets, he or she is legally obligated to provide support. Hardship cannot be determined to exist unless assets have been reallocated as the result of an appeal decision or a court order.

7. CSRMA Appeals

a. When the Individual and/or Spouse Has Appeal Rights

Appeal rights are considered only after an HCFA application has been filed and either spouse alleges that the assessment or eligibility determination decision is not correct. An assessment completed exclusive of a filed application cannot be appealed. Revisions to the spousal allowance of resources can be made by the appeals officer or by court order (or by a HCFA Eligibility Specialist ONLY if additional verification/documentation is provided).

b. CSRMA Revisions

The amount of the community spouse's resource maintenance allowance may only be revised by the appeals officer, by court order or by a HCFA Eligibility Specialist ONLY if additional verification/documentation is provided.

The CSRMA may be only be revised when:

i. The initial assessment was alleged to be incorrect and the appeals officer confirms the allegations; or

ii. The community spouse's income, including the Community Spouse Income Maintenance Amount (CSIMA), is inadequate to meet the basic standard maintenance amount. See Section 8, Allocation of Additional Resources to the Community Spouse.

8. Allocation of Additional Resources to the Community Spouse

a. When Additional Resources May be Allocated to Community Spouse

An appeals officer may determine a larger CSRMA is necessary to offset a CSIMA that is below the required Standard Maintenance Amount ($1,991.25). See CSIMA in the *Post-Eligibility Treatment of Income* policy. In the event that the institutionalized spouse does not have enough income to provide the community spouse with the SMA, and the couple has additional resources above the community spouse's protected amount (CSRMA), some or all of the institutionalized individual's resources can be allocated to the community spouse.

The Deficit Reduction Act (DRA) of 2005 requires all States to allocate the maximum amount of available income of the institutionalized spouse to the community spouse before granting an increase in the CSRMA. This is referred to as the "income-first" method.

b. Procedure

HCFA uses the Single Fixed Annuity model to address appeals when there is insufficient income to provide the community spouse with the minimum required CSIMA and the couple has additional resources. A single fixed annuity can turn a portion of an individual's savings in to income payments made for the rest of the individual's life. The procedure for establishing a single fixed annuity is listed below.

i. Additional resources may be allocated to the community spouse through the administrative appeals process to make up any shortfall between the amount of income allocated from the IS to the community spouse and the Standard Maintenance Amount (SMA), if determined appropriate.
ii. The amount of additional resources that are necessary to cover the income shortfall shall be determined in reference to the purchase of a Single Premium Annuity as follows:
    1. By calculating the shortfall between the amount of income allocated and the SMA, and then determining the amount of additional resources that must be invested in a single premium annuity in order to generate the income necessary to cover the shortfall.
    2. The amount of resources needed to cover the shortfall shall be determined in reference to an annuity calculator as adopted by the HCFA.
iii. The additional resource allocation to the community spouse does not require the actual purchase of a Single Premium Annuity that is used for purposes of calculating the amount of the additional resource allocation.

iv. The amount of the community spouse's protected resources shall be excluded from this calculation.
v. If a single premium annuity is actually purchased pursuant to these rules, the annuity must comply with all other relevant requirements of state and federal law. See Annuities in *ABD Countable and Excluded Resources* policy.
vi. The amount of additional resources that are necessary to cover the shortfall in the SMA shall not be determined in references to any investment which contemplates the return of the entire principal at maturity.

Example: Mr. Smith enters a nursing facility on January, 2015, requests a resource assessment and submits an application for Institutional Medicaid. Mrs. Smith lives in the home and is not applying for or receiving Medicaid. Mr. Smith has an approved PAE in TPAES. Mr. Smith receives $800/month in Social Security benefits and $200/month in pension. Mrs. Smith has no income. Mrs. Smith's total shelter cost is $500 per month and she receives the Standard Utility Allowance ($335). Her calculated CSIMA is $2,212. Mrs. Smith is allocated all of Mr. Smith's income (less $50 PNA), which is $950. Given that the income allocation is less than the Standard Maintenance Amount of $1,991.25, there is an income shortfall of $1,041.25.

The Smiths have $260,000 in combined countable resources. Mrs. Smith receives the maximum resource allocation of $119,220. The remaining $140,780 is available to Mr. Smith. Given that Mr. Smith's resources exceed the $2,000 resource limit, Mr. Smith is resource-ineligible for TennCare Medicaid.

The Smiths appeal the TennCare Medicaid denial on the basis of Mrs. Smith's income shortfall as the Community Spouse. The Eligibility Appeals Unit (EAU) determines that additional resources are needed in order to make up the shortfall in Mrs. Smith's CSIMA. The CSIMA can then be overridden by the EAU.

9. Transfer of Assets for Less than Fair Market Value (FMV)

A transfer of assets for less than FMV is not considered to have occurred when resources are transferred from the institutionalized individual to the community spouse or vice versa in accordance with a completed resource assessment. This also holds true for any spouse-to-spouse transfers that take place after 9-30-89. There will be no penalty applied for transfers between spouses after that date.

Should the transferred-to spouse then transfer the resource to someone else for less than FMV, the transfer will be treated as a transfer of assets by the institutionalized individual.

Transfer of assets for less than FMV is considered part of the application process whether or not a resource assessment has been requested previously or is requested at application. Transfer of assets is not considered if ONLY a resource assessment (no TennCare Medicaid application filed concurrently) is requested.

See *Transfer of Assets and Penalty Periods* policy.

10. Inactive Individuals

Assessments completed for individuals not currently applying are filed in individual case folders and kept secure. A master file of resource assessments is maintained at HCFA for access.

POST-ELIGIBILITY TREATMENT OF INCOME

Legal Authority: 42 CFR 435.725; Tenn. Code Ann. § 71-5-147; Tennessee Medicaid State Plan, Attachment 2.6-A, Supplement 3

1. Policy Statement

Individuals determined eligible for Institutional Medicaid are required to contribute to the cost of their care as a resident in a nursing facility or as a Home and Community Based Services (HCBS) recipient. Patient liability is determined by allowing the following deductions from the individual's gross income:

- A Personal Needs Allowance (PNA) for clothing and other personal needs while residing in the institution;
- A monthly fee for maintenance of a Qualified Income Trust (QIT), if applicable;
- A Community Spouse Income Maintenance Allowance (CSIMA), for institutionalized individuals with a spouse residing in the community;
- A Dependent Income Maintenance Allowance (DIMA), for institutionalized individuals with a dependent residing in the community;
- Health insurance premiums, coinsurance and deductibles; and
- Expenses for medical services and items not covered by TennCare Medicaid (Item D Expenses).

2. PNA

The PNA is provided to cover the institutionalized individual's personal needs and incidentals while residing in the nursing facility or receiving HCBS waiver services. Apply the appropriate PNA based on the type of long-term services and supports (LTSS) the individual receives.

- **Nursing Facility**

  Subtract a $50 PNA from the available income of an individual in a nursing facility.

- **HCBS, PACE and Self-Determination ID Waivers**

  Subtract 300% of the Supplemental Security Income Federal Benefits Rate (SSI-FBR) from the gross income of an individual receiving HCBS, PACE or Self-Determination ID Waiver services.

- **Statewide ID and Comprehensive Aggregate Cap Waivers**

  Subtract 200% of the SSI-FBR from the gross income of an individual receiving Statewide ID and Arlington ID Waiver services.

3. QIT Allowance

A QIT is a trust established for individuals seeking LTSS who are ineligible for TennCare Medicaid due to excess income. See the *Qualified Income Trust (QIT) or Miller Trust* section in the *ABD Trusts* policy.

Individuals who establish a QIT for the purposes of becoming TennCare Medicaid eligible in Institutional Medicaid are allowed a QIT allowance. The purpose of the QIT allowance is to cover any bank fees associated with maintaining the QIT.

Subtract a $20 QIT Allowance from gross income after the PNA deduction for individuals who establish a QIT for TennCare Medicaid eligibility purposes, if applicable.

4. CSIMA

When determining an institutionalized individual's patient liability, an allowance is deducted from his or her income for the needs of the community spouse. The CSIMA is allowed unless specifically refused by the institutionalized spouse. Funds must actually be transferred to the community spouse to be deducted.

a. When to Allow a CSIMA

- The CSIMA is allowed unless specifically refused by the institutionalized spouse.
- Funds must actually be transferred to the community spouse in order to be deducted.
- A CSIMA is not allowed if both spouses are institutionalized.
- If the community spouse applies for TennCare Medicaid, the CSIMA will be counted as unearned income.
- A community spouse receiving SSI, Families First (FF), Veteran's Affairs (VA) Pension, TennCare Medicaid or means-tested benefits does not have to accept the total or any of the income allocation if it will result in the termination or decrease of those benefits.
- If a couple is married but living separately, and considers themselves to be separated, the CSIMA may be allowed if both individuals agree to the allocation and the community spouse is not institutionalized.
- If the community spouse lives out of state, the CSIMA is allowed if the community spouse can be located and the couple is still married.

b. CSIMA Calculation

i. Terms and Standards

Standard Maintenance Amount: The minimum monthly amount of income, as determined by the Centers for Medicare and Medicaid Services (CMS), that the Community Spouse must receive to meet basic needs.

The standard maintenance amount is $1,991.25, effective July 1, 2015.

Maximum Maintenance Amount: The maximum monthly amount of income, as determined by CMS, that the Community Spouse can receive as a CSIMA.

The maximum maintenance amount is $2,980.50, effective January 1, 2015.

Standard Utility Allowance (SUA): The SUA is used when the community spouse is responsible for heating and/or cooling costs. If the SUA is used, then it is considered to cover all utilities, including garbage, water, lighting, etc.

The SUA is $308, effective October 1, 2015.

Standard Housing Allowance (SHA): The SHA is used to determine whether the community spouse requires an Excess Allowance.

The SHA is $597.38, effective July 1, 2015.

ii. CSIMA Calculation

The CSIMA is calculated using three steps:

1. Determine Excess Shelter Allowance (ESA)

   An ESA is allowed when the total shelter costs for rent, mortgage, taxes and insurance, maintenance charges and utility costs exceed the SHA. The SHA is 30% of the Standard Maintenance Amount.

   The SUA is used when the community spouse is responsible for heating and/or cooling costs. If the SUA is used, it is considered to cover all utilities (no additional allowance for garbage, telephone, etc.) When there is no or reduced cost to the community spouse because the cost of a particular utility is paid by a third party (in cash or in kind), reduce the amount of the SUA by the third party payment.

   Determine ESA:

   Rent, mortgages, taxes, insurance, etc.
   + SUA
   – SHA
   ESA

2. Determine Community Spouse Net Income

   Determine the Community Spouse's total net income, including Supplemental Security Income (SSI) and FF payments. The Community Spouse net income is defined as income over which the Community Spouse has control over and which is actually available. Income which is not considered available to the Community Spouse includes child support payments and other types of court-ordered payments made by the community spouse.

3. Calculate CSIMA

   The CSIMA is calculated by adding the Standard Maintenance Amount and the ESA, and then subtracting the Community Spouse's net income.

   Standard Maintenance Amount ($1,991.25)
   + ESA (Amount determined in Step 1 of CSIMA budget)
   – Community Spouse Net Income (Amount determined in Step 2 of CSIMA budget)
   = Community Spouse Maintenance Allowance

iii. CSIMA Example

Casey Jones is approved for Institutional Medicaid. Shannon Jones, the community spouse, remains in the community and resides at home. Casey receives $800 per month in Social Security benefits, and $200 in monthly pension. Shannon receives $600 per month in Social Security benefits.

Shannon Jones pays the mortgage of $400 per month, which includes taxes and insurance. She is responsible for all monthly heating and cooling costs.

Step 1: Determine ESA

$400.00	Mortgage, taxes, insurance
+ $308.00	SUA
– $597.38	SHA
= $110.62	ESA

Step 2: Determine Community Spouse Net Income

Countable income is determined according to the *ABD Earned Income* policy *and ABD Unearned Income* policy. The community spouse's net income is defined as income over which the community spouse has control over and which is actually available to him or her.

Step 3: Calculate CSIMA

$1991.25	Standard Maintenance Amount
+ $110.00	ESA
– $600.00	Community Spouse Net Income
= $1,501.25	CSIMA

Casey's monthly income is $1,000. Since the income is less than the calculated CSIMA, all of the income (less $50 PNA) will be allocated to Shannon.

NOTE: In the event that the institutionalized spouse does not have enough income to provide the community spouse with the allowed CSIMA, and the couple has additional resources above the Community Spouse Resource Maintenance Allocation (CSRMA), there may be an allocation of additional resources to the community spouse to make up for the income shortfall. This must be done by appeal, and a HCFA Appeals Officer will determine whether the additional resource allocation is needed. See *Resource Assessment* policy.

5. DIMA

When determining patient liability, an allowance is deducted from the individual's income for the needs of his or her dependents.

a. General Rules

- Dependent relatives include all persons who can be or are being claimed as tax dependents. This includes adult dependent children, parents and siblings, as well as minor children.
- A DIMA is not allowed for any dependent receiving HCBS or who is institutionalized.
- A dependent does not have the option of declining all or a portion of the income allocation for any reason according to the HCFA interpretation of the Medicare Catastrophic Coverage Act (MCCA), even if needs-based benefits may be decreased or lost because of the allocation.
- The total of both the CSIMA and DIMA combined cannot exceed the Maximum Income Allocation Amount.
- The Maximum Maintenance Needs Allowance for each additional dependent family member is equal to one-third of the difference between the Standard Maintenance Amount and the dependent's gross income.

i. Calculate DIMA

The dependent allocation(s) equals the Standard Maintenance Amount for the community spouse minus the dependent's own gross countable income divided by 3 (standard maintenance amount – gross countable income = deficit/3 = dependent allocation).

1. Determine Dependent's Gross Income

Earned Income

+ Self-Employment Income
+ Unearned Income (other than Child Support)
+ Gross Child Support
= Dependent Gross Income

2. Calculate DIMA

Standard Maintenance Amount	$1,991.25
– Dependent Gross Income	Determined in Step 1
÷ 3	1/3 of the difference of the subtotal
= DIMA	

6. Health Insurance Premiums

Health insurance premiums may be deducted when determining an individual's patient liability. When health insurance premiums for several coverage months are due in a given month, the premiums paid in that given month cannot be prorated over the coverage period. Any premium amount which exceeds the individual's income can be applied against his or her patient liability in following months.

Premiums are deducted for health insurance policies that meet the following criteria:

- The policy is reported to HCFA as third party liability (TPL);
- Benefits are assignable and the individual has agreed to assign them to the State of Tennessee (HCFA); and
- Premiums are paid by the individual, and not by a third party.

Life insurance premiums are not allowed as a deduction.

7. Medicare Premiums

Medicare Parts A, B, C or D premiums are deductible as health insurance premiums, unless:

- The individual is SSI eligible; or
- The individual is enrolled as an SSI Pass Along; or
- The individual is enrolled in any of the following Medicare Savings Programs: QMB, Specified Low Income Beneficiary (SLMB), Qualifying Individual (QI) or Qualified Disabled Working Individual (QDWI).

8. Item D Deductions for Institutionalized Individuals

The law allows for the deduction of expenses incurred by the eligible individual for medical or remedial care that are recognized by state law as medical or remedial care items but are not included in Tennessee's TennCare Medicaid State Plan. Tennessee calls these non-covered expenses Item D.

Item D medical expenses also include expenses incurred during the three (3) months immediately prior to application for coverage of institutional care.

Institutional charges incurred during an institutional coverage ineligibility period due to an uncompensated transfer of assets may not be used as Item D deductions.

Cost items are those medical or remedial services and goods that must be provided by the nursing care providers. Cost items cannot be charged to the patient or allowed as an Item D deduction.

a. Criteria for Deduction of an Expense

- The expenses(s) must not be subject to payment by a third party not expecting reimbursement, e.g., medical or health insurance, the client's spouse or family or medical trust fund, Medicare, etc.

- The expense may be unpaid or paid by the client during the month(s) of eligibility determination or paid by a member of the client's family and reimbursement is expected by the family member.

- The expense must not have been allowed previously as a necessary item.

- The expense must be outstanding and considered collectible by the party who provided the medical service and one for which the client is legally liable.

- Medical expenses incurred during TennCare Medicaid ineligibility do not impact whether the bill is an allowable medical expense.

Example: Mrs. Carter applied for TennCare Medicaid for the month of January. She did not meet TennCare Medicaid eligibility for that month. She reapplied in March. The expense applied in the previous month, but which did not result in eligibility, may be used as an Item D in a later month if still owed and there are plans to pay the expense.

9. Item D Expenses in the Budget

Item D deductions are allowed from patient liability for qualifying paid medical expenses. Item D medical expense deductions are allowed until the full unpaid balance has been deducted, or until the expenses are paid in full, whichever comes first.

10. Qualifying Expenses

Payments for the following types of medical or remedial care recognized under state law, but are not encompassed within Tennessee's State Medicaid Plan, are subject to the following criteria:

a. Eyeglasses and necessary related services

Deductions can only be made for the following services and must be the least of the provider's usual and customary charges, billed charges or the Medicaid fee schedule:

- Examination and refraction;
- Frame;
- Lenses (bifocal); and
- Lenses (single).

No deductions should be made for the first pair of eyeglass or contact lenses after cataract surgery, since those are allowed by HCFA.

b. Hearing aids and necessary related services

Deductions can only be made for the following services and must be the least of the provider's usual and customary charges, billed charges or the Medicaid fee schedule:

- Audiogram;
- Ear mold;
- Hearing aid;
- Batteries; and
- Hearing aid orientation.

c. Dental services

Deductions can be made for routine and emergency dental services and in accordance with HCFA's dental fee listing, whether such services are provided at a dental office, on-site at the LTCF, or through a mobile dental services provider that contracts with the long-term care facility (LTCF).

d. Other medical service recognized under state law but not covered by TennCare Medicaid

Deductions for any other medical service recognized under state law but not covered by TennCare Medicaid will be made at the least of the provider's usual and customary charges, billed charges or 80% of the Medicare fee schedule. Deductions will be allowed only for services that are determined by the State to be medically necessary for the particular individual on whose behalf the services are being requested.

e. Charges for nursing home days incurred as the result of bed-holds or therapeutic leave days

Charges for nursing home days incurred as the result of bed-holds or therapeutic leave days that are in excess of the number of days covered under the Medicaid State Plan for the type of facility in question are not allowable deductions.

f. Prescription Drugs

There are four criteria that a prescription drug must meet to be an allowable Item D expense.

- It must not be subject to a payment by a third party (e.g., Medicare or private insurance)
- It must be recognized under State law
- It must not be covered by Medicaid
- It must be determined by the state to be medically necessary

Here are the Item D coverage policies for four frequently requested drugs:

Drug	Covered by Medicare?	Covered by Medicaid/ TennCare?	Status as an allowable Item D deduction?	Reasoning
Medically necessary benzodiazepines	Yes	Yes	Not allowed	Drug is covered by both Medicare and TennCare
Medically necessary cough and cold products	Yes, EXCEPT products used for symptomatic relief of cough and colds	Yes, EXCEPT products used for symptomatic relief of cough and colds	*Only if* the products are used for the symptomatic relief of cough and colds	Item D can only be applied to drugs not covered by TennCare and Medicare
Medically necessary prescription vitamin and mineral products	Yes, but ONLY IF the items are prenatal vitamins and fluoride preparations	Yes, but ONLY IF the items are prenatal vitamins and fluoride preparations	*Only if* the items are NOT prenatal vitamins and fluoride preparations	Item D can only be applied to drugs not covered by TennCare and Medicare
Medically necessary smoking cessation products	Prescription-only smoking cessation products are COVERED; non-prescription drugs are NOT COVERED	Yes	Not allowed	Prescription-only smoking cessation products are covered by Medicare and TennCare; non-prescription drugs are covered by TennCare

HCFA does not cover prescription drugs for individuals who are dually eligible for both Medicare and TennCare. These individuals are considered to have access to Medicare Part D for their prescription drug coverage, regardless of whether they choose to enroll in Medicare Part D or not.

g. Dental Services Provided in a LTCF

There are certain requirements that must be met by the mobile dental service providers in order to have their services covered as an Item D deduction.

These are the requirements of the mobile dental service:

1. To obtain a signed consent form from the responsible party prior to performing any dental services. If the responsible party fails or refuses to sign the consent form and has not made any arrangements for alternative dental care, the LTCF is authorized to sign the form on behalf of the resident. The consent will remain valid for the length of the resident's stay (only one form per patient, not one per procedure), unless otherwise revoked by the responsible party.
2. To deliver the consent form, along with the verification of services form, via hand delivery, mail or facsimile to Tennessee Health Connection (TNHC).
3. To contract with a dentist licensed in the State of Tennessee who is a Medicare/Medicaid provider. A licensed dentist must perform all services. The dentist's name and provider number must be entered on the Item D request form prior to submitting the bill to HCFA.
4. To create and supply all new forms that are submitted from the mobile dental service provider and the LTCF. The facility should ensure that a copy of these forms is kept on file in the patient records at the facility, along with proof that the services were provided by a licensed dentist.

These are the requirements for HCFA Member Services:

1. Prior to authorizing any Item D expense received from a mobile dental services provider, the Eligibility Specialist must view and document in the data base that the consent form, the Item D request form, and the verifications of service form have been provided.
2. Any services related to the provision of dentures deemed medically necessary must be thoroughly documented in the electronic case record. Process the Item D request within thirty (30) days after receipt in the county office.
3. Once the bills have been processed, the Eligibility Specialist must notify the responsible party and the LTCF of any action taken to approve or deny the expense as an Item D deduction. These expenses will be deducted from the patient's countable income. This will reduce the patient liability.

Note: Payment can only be made from the patient liability amount, not from the patient's trust account or the PNA. If the patient liability is already zero, then payment cannot be allowed.

11. Item D Request Form

The form used for processing Item D expenses includes a verification of service/item received, consent for receipt of service/item, information relating to medical necessity, and other identifiers

relating to the Item D, including the provider number and a description of the service/item received. HCFA will maintain a copy of the Item D Request Forum on the HCFA website, and will provide copies to providers.

12. Items Ds which Exceed Income

When the total of Item D expenses (and health insurance premiums) is greater than the individual's net income less PNA, QIT, CSIMA and DIMA deductions for the month, deduct only the amount equal to the available income. Item D medical expenses in excess of the individual's net income are carried over into the next month as Medical Expense Carry Over from the previous month.

Expenses will be carried over until the full amount of the expense is deducted or the expense is paid in full, whichever occurs first.

LONG-TERM CARE PARTNERSHIP POLICY

Legal Authority: 42 USC 1396p

1. Long-Term Care Partnership (LTCP) Insurance Overview

The LTCP program is a joint effort between the Federal Medicaid program and long-term care (LTC) insurers. The program was developed to encourage people to plan for their future LTC needs, such as residing in a nursing facility or receiving services in a home and community-based setting.

The LTCP program in Tennessee involves private LTC insurers, HCFA and the Tennessee Department of Commerce and Insurance (TDCI). The LTCP program is overseen by CMS and states are given flexibility in how the program is administered at the state level. In Tennessee, qualified LTCP insurance policies must provide a specific amount of inflation protection based on the person's age when the policy is purchased. An LTCP policy must also meet other requirements determined by TDCI.

To participate in HCFA's LTCP program, a person must have purchased and received the benefits of a qualified LTCP policy. A person who requests TennCare Medicaid payment of LTC services after exhausting some or all LTCP policy benefits may have certain assets "disregarded" in an amount equal to that paid by the LTCP policy at the time the person is determined eligible for TennCare Medicaid.

These assets are NOT counted when the individual's TennCare Medicaid eligibility is determined and will NOT be recovered during estate recovery when the individual dies.

2. LTCP Program and TennCare Eligibility

a. Long-Term Care Partnership Policy Participants

An LTCP participant in Tennessee is someone who either:

- Requests TennCare Medicaid payment of LTC services after exhausting all benefits of a qualified LTCP policy; or
- Requests and receives TennCare Medicaid payment of LTC services before exhausting all benefits of a qualified LTCP policy; or
- Receives TennCare Medicaid payment of LTC services and dies before the LTCP policy benefits are exhausted.

b. Asset Disregard

When determining eligibility for TennCare Medicaid, HCFA shall disregard an individual's assets in an amount equal to the amount of payments made by the individual's qualifying LTC policy for services covered under the policy.

TennCare Medicaid individuals will be required to submit written proof of benefits paid from their LTCP policies.

c. Partnership Program Benefits

An LTCP participant receives the following benefits during his or her lifetime:

- Assets may be designated for disregard in an amount equal to the benefits paid out by the qualified LTCP policy as of the effective date of the initial TennCare Medicaid approval;
- Designated assets are not counted toward the TennCare Medicaid asset limit for eligibility purposes; and
- The designated assets may be transferred to any other person without penalty.

Note: Additional benefits paid by the qualified LTCP policy after initial TennCare Medicaid approval shall not be disregarded in future renewal or determination of TennCare Medicaid eligibility.

d. LTCP and Estate Recovery

After the LTCP/TennCare Medicaid enrollee is deceased:

- Assets which were disregarded for purposes of TennCare Medicaid eligibility determination during the enrollee's lifetime are also protected from estate recovery.
- When the amount of assets disregarded during the enrollee's lifetime is less than the total benefits paid by the LTCP policy, additional assets may be protected in the estate recovery process up to the amount of payments made by the enrollee's qualifying LTCP policy for services covered under the policy.
- If no assets were disregarded during the enrollee's lifetime, the authorized representative may designate assets to protect from estate recovery in an amount up to the lesser of the two options specified above, even if LTCP policy benefits were not completely exhausted.

3. Individual Responsibilities

It is the responsibility of the LTCP policy holder to inform the HCFA Eligibility Specialist that he or she has an LTCP policy.

TennCare Medicaid is typically the payor of last resort. Enrollees with other health care coverage or who have another party liable for their medical expenses will have medical costs paid by those sources before TennCare pays claims. Enrollees are required to cooperate with providing information regarding other payment sources. This includes LTC and LTCP insurance.

LTCP insurance benefits may not be used to offset the amount the enrollee is required to contribute, pursuant to federal post-eligibility provisions, to the cost of TennCare Medicaid reimbursed LTC services (known as "patient liability"), but rather, must be used to help offset the cost of LTC services that would otherwise be reimbursable by TennCare. Thus, both the LTC insurance benefits and patient liability reduce the TennCare payment for LTCP services.

4. When an LTCP Policy Holder Should Apply for TennCare Medicaid

- If the LTCP policy holder exhausts the benefits of his LTCP policy; or
- When the LTCP policyholder, a spouse, a family member or friend feels that the policyholder can no longer afford to pay for the cost of care.

5. Does an LTCP policy guarantee access to TennCare Medicaid?

No, owning an LTCP policy does NOT guarantee access to TennCare Medicaid even if the policy holder exhausts his benefits. Individuals must still meet all other eligibility requirements. The LTCP allows policy holders to have a portion of their assets disregarded (i.e., not counted) during the eligibility determination process and subsequently protected from estate recovery.

An institutionalized individual requesting TennCare Medicaid may designate assets that will not count toward the TennCare Medicaid resource limit up to the full amount of benefits paid by the LTCP policy. Protected assets(s) should be documented in case notes. In addition, a copy of the LTCP *Statement of Benefits Paid* must be mailed or faxed to:

The Bureau of TennCare
Third Party Liability/Estate Recovery Unit
310 Great Circle Road, 4E
Nashville, TN 37243

Fax # 615-253-5588

6. Examples

Example 1: LTCP Benefits have been Exhausted When an Institutionalized Individual Applies for TennCare Medicaid

Patricia McVey is a resident of Happy Homes nursing facility. Her qualified $90,000 LTCP policy has been paying for her care. When Ms. McVey applies for TennCare Medicaid, she verifies that the benefits of her LTCP policy have been exhausted and were used towards her cost of care.

Ms. McVey has the following countable resources: a $6,000 savings account; a $7,500 checking account; and $80,000 in a Certificate of Deposit.

HCFA verifies her countable resources equal $93,500 ($6,000 + $7,500 + $80,000). Her TennCare Medicaid resource limit is $2,000.

Because Ms. McVey has fully exhausted her LTCP policy benefit, she may designate $90,000 of her countable resources as protected. The protected resources do not count toward her $2,000 TennCare Medicaid resource limit.

Ms. McVey designates the $80,000 Certificate of Deposit, her $6,000 savings account and $4.000 of her checking account. This leaves her with $3,500 in resources that are to be considered when determining her eligibility for TennCare Medicaid. The resource limit is $2,000 and since she does not have a prepaid burial plan, she can designate $1500 for burial. She is now TennCare Medicaid eligible.

Example 2: LTCP Benefits have been Exhausted While Institutionalized Individual is Receiving TennCare Medicaid

Some individuals may request Medicaid payment of LTC services before LTCP benefits are exhausted when:

The LTCP policy does not cover all LTC needs, and the person's income and resources are not sufficient to pay the LTC expenses that are not covered by the LTCP policy.

Joan and Beth are sisters. Both receive home care services that are partially covered by their separate qualified $20,000 LTCP policy. They have both used $10,000 of their policy benefits and each has $3,000 in separate savings accounts. Neither has enough income or resources to pay for their daily services that are not covered by their LTCP policies. Joan and Beth both apply for and are eligible for TennCare Medicaid through HCBS. Their LTCP policies are treated as third party liability and Medicaid pays for services not covered by the LTCP policies.

When applying for and while receiving TennCare Medicaid, they each own the following assets: a $3,000 savings account; a home with an equity value of $50,000; and a prepaid burial trust valued at $6,000

The savings account is the only countable resource and is designated by each as a disregarded asset. The home and burial trust are excluded resources.

Joan dies after using another $5,000 of LTCP benefits, for a total expenditure of $15,000. Although she did not benefit from the full value of the policy ($20,000), the policy is considered exhausted and $15,000 of her assets may be protected from estate recovery. The $3,000 savings account and $12,000 from the value of the house will be protected from estate recovery.

Beth exhausts the remaining $10,000 of her LTCP policy benefits during her first six months of receiving TennCare Medicaid. Because the full $20,000 of her LTCP benefits has been exhausted, TennCare Medicaid now pays for services that were previously covered by her LTCP policy. Beth may protect $20,000 from estate recovery.

At Beth's death, the $3,000 in the savings account and $17,000 from the value of her house will be protected from estate recovery.

7. LTCP and Third Party Liability

When an individual has an LTCP insurance policy and applies for TennCare Medicaid prior to exhausting all LTCP benefits, the individual or his or her representative shall be informed that:

- The insurance policy must be assigned to the nursing home or HCBS lead agency;
- Any payments received from the LTCP policy must be assigned to the nursing home in which the individual is a resident or to the HCBS lead agency;
- The nursing home or HCBS lead agency will collect any payments made on the benefit of the patient prior to billing HCFA; and
- TennCare Medicaid is the payor of last resort.

TENNCARE CHOICES IN LONG-TERM SERVICES AND SUPPORTS

Legal Authority: Social Security Act § 1915(c); 42 CFR 435.217; TennCare 1115 Medicaid Demonstration

1. Overview

The TennCare CHOICES in Long Term Services and Supports program was established in 2008 with the dual purposes of expanding Home and Community Based Services (HCBS) in the TennCare program, and improving access to HCBS and other long term care services to those who qualify. The CHOICES program allows the State of Tennessee to integrate all nursing facility care and HCBS into the existing managed care system. Individuals who are eligible for CHOICES are approved under different groups, based on the setting in which they receive services and their own level of care needs.

CHOICES enrollees have their care in the long term care facility (LTCF) or HCBS program paid for by TennCare Medicaid. These payments, called Long-Term Services & Supports (LTSS) payments, are separate from the regular TennCare Medicaid benefit. An applicant/enrollee must have an approved Pre-Admission Evaluation (PAE) and be enrolled in CHOICES in order to be eligible for LTSS payments.

Within HCFA, the Long Term Services and Supports (LTSS) Unit is responsible for administering the CHOICES program. The LTSS Unit is responsible for determining whether a CHOICES applicant meets the level of care requirements (also known as medical eligibility), and manages enrollment into long term care programs and database. The Member Services Unit is responsible for determining Medicaid eligibility for a CHOICES applicant. In order to receive CHOICES HCBS, an individual must be eligible in an Institutional Medicaid category or be a SSI Cash Recipient. An individual may not receive CHOICES HCBS without being eligible for Institutional Medicaid.

2. Definitions

Form *2350* A LTCF or HCBS agency reports to HCFA the admission and discharge of its TennCare Medicaid eligible individuals, including Supplemental Security Income (SSI) Cash recipients, in writing via this form titled "Notice Recipient-Patient Was Admitted to or Discharged From Skilled Nursing Facility (SNF) or Intermediate Care."

Form *2362* A form used to manually update or correct HCFA interChange records regarding patient liability. Form 2362 may only be used when: 1) the begin date of eligibility is so far in the past that the eligibility system cannot create a budget; 2) the enrollee's only income is SSI; 3) there is a Patient Liability overcharge; or 4) an individual is in the NF for a short period of time and is eligible for QMB or SSI Cash. The form is sent to HP, who keys the update into interChange.

Group 1 Individuals who are receiving Medicaid-reimbursed LTSS in a nursing facility. Individuals must be eligible for Medicaid and meet nursing facility Level of Care (LOC) criteria.

Group 2 Individuals age 65 and older and adults age 21 and older with physical disabilities who meet the nursing facility LOC criteria, who are eligible for Medicaid either as SSI Cash recipients or in an Institutional category, and who need and are receiving HCBS instead of nursing facility care.

Group 3 SSI Cash recipients who do not meet the nursing facility LOC criteria, but who, in the absence of HCBS, are "at risk" for nursing facility care. Group 3 enrollees are eligible for payment of HCBS.

Prior to July 1, 2015, eligibility for Group 3 was not limited to SSI Cash enrollees. Individuals age 65 and older and adults age 21 and older with physical disabilities were also potentially eligible for Group 3. Non-SSI Cash enrollees who were enrolled in Group 3 prior to July 1, 2015 were grandfathered in to the program and remain eligible for payment of HCBS so long as they continue to be "at risk" of nursing home placement.

Inactive SSI Enrollee Individuals who have continued to receive Medicaid coverage even though their SSI cash benefits were terminated due to the SSI Cluster Daniels injunction. The injunction was lifted in 2009, and the population now goes through the redetermination process. Inactive SSI enrollees are not eligible for CHOICES. This population is also known as Former SSI Cash Recipients with active SSI Medicaid.

Money Follows the Person (MFP) Demonstration grant obtained by HCFA to help the state improve LTSS for Medicaid recipients who prefer to live in home and community based settings.

Pre-Admission Screening/Resident Review (PASRR) The process by which the State determines whether an individual who resides in or seeks admission to a Medicaid-certified Nursing Facility has, or is suspected of having, a mental illness or intellectual disability. If so, the PASRR then allows the State to determine whether the individual requires specialized services and is appropriate for NF placement. See TennCare Rule 1200-13-01-.02(114).

Personal Needs Deduction from the institutionalized individual's patient liability amount to cover personal needs and incidentals. Currently amounts are:

- $50 per month for individuals in a nursing facility;
- 300% of the Supplemental Security Income – Federal Benefits

Rate (SSI-FBR) for HCBS enrollees and Self-Determination Waiver; and
- 200% of the SSI-FBR for the Arlington and Statewide Waivers.

Pre-Admission Evaluation (PAE) Evaluation of an individual's LOC, or medical need, for LTSS. The PAE is completed by the Area Agency on Aging and Disability (AAAD), discharging hospital, Managed Care Organization (MCO) or nursing facility, and is reviewed by the HCFA LTSS Unit. For Medicaid eligible individuals, the PAE is submitted by the MCO, discharging hospital, or nursing facility.

LTSS Payments Benefits paid to cover the cost of long term care in a nursing facility or payments for Home and Community Based Services for CHOICES-eligible institutionalized individuals.

3. General Eligibility Criteria

In order to be enrolled in CHOICES, an individual must be determined eligible to receive CHOICES by the LTSS Unit, and be approved for TennCare Medicaid eligibility by the Member Services Unit or be eligible as a SSI Cash recipient. It is only once both determinations are made that the individual is enrolled in the programs. An applicant must meet the following conditions to receive CHOICES:

a. The individual has been determined to need and likely to receive LTCF services for a continuous period of at least 30 days going forward, as evidenced by an approved CHOICES Group 1 PAE and actual admission to a nursing facility; or
b. The individual has been admitted to a nursing facility or an intermediate care facility for individuals with intellectual disabilities ICF/IID and the period of continuous confinement in the institution, combined with the period of time for which a PAE is approved, exceeds 30 days; or
c. The individual is receiving HCBS and has been determined to need HCBS for a continuous period of at least 30 days going forward, as evidenced by an approved CHOICES Group 2 PAE; or
d. The individual is an SSI Cash recipient/enrollee and has entered a nursing facility and does not meet the nursing facility LOC criteria, but, in the absence of HCBS, is determined to be at risk for nursing facility care. These individuals will have an approved CHOICES Group 3 PAE, and will begin receiving CHOICES benefits once they are in the home or community-based setting; and
e. The individual meets the non-financial and financial eligibility requirements of one of the following TennCare Medicaid categories:
    - SSI Cash Recipient;
    - Inactive SSI;
    - Institutional Medicaid; or
    - SSI-Related Categories (Disabled Adult Child, Pick Passalong and Widow/Widower Categories);
f. The individual is not in a penalty period for an uncompensated transfer of assets.

NOTE: An individual may be approved for Institutional Medicaid based on 30 days continuous confinement, but they are not enrolled in CHOICES until a PAE is submitted and approved. See Section 7 in this chapter and the *Institutional Medicaid* policy.

4. CHOICES Application Process

- **Overview of Application Process and Materials**

The application and enrollment process for CHOICES requires collaboration between HCFA, the local Area Agencies on Aging and Disability (AAAD), LTCF and the TennCare Managed Care Organizations (MCOs).

The AAADs serve as the Single Point of Entry (SPOE) into LTSS for the majority of elderly and physically disabled individuals. When the application process begins with the AAADs, the AAADs submit the Medicaid application to HCFA and complete the Level of Care (LOC) assessment. When the application is received without a PAE from another entity (nursing facilities, hospitals, families, individuals or FFM applicants), HCFA refers the HCBS individuals to the AAAD in their area for the LOC assessment only. Enrollment through the AAAD is not mandatory.

TennCare Medicaid MCOs help facilitate enrollment into LTSS for their current members, i.e., individuals who already have TennCare Medicaid eligibility.

To help facilitate the TennCare Medicaid financial eligibility determination and LTSS enrollment processes, the AAAD and MCO staffs use the following HCFA documents:

- Checklist of HCFA Requirements for LTSS Enrollment;
- *AAAD-LTSS Facilitated Enrollment* Addendum;
- *MCO-LTSS Eligibility Checklist*; and
- *CHOICES Enrollment* Screen in TennCare Pre-Admission Evaluation System (TPAES).

The TennCare Application for Individuals Needing Long Terms Services and Supports, Hospice Care or a Medicare Savings Program (MSP) will be used for all new applicants or enrollees who are required to submit a new application. HCFA Forms 2350 and 2362 will also be used to support enrollment for existing enrollees. Appropriate use of these forms is described in Sections 13 and 14 in this chapter.

- **New Applicants**

i. Application

New applicants who apply directly with the State will use the TennCare Application for Individuals Needing Long Term Services and Support, Hospice Care or a Medicare Savings Program. Applications can be mailed or faxed to Tennessee Health Connection (TNHC) and processed by the Member Services Waiver Unit.

Individuals who submit an application to the Federally Facilitated Marketplace (FFM) and indicate that they need LTSS will be contacted by HCFA to provide the information necessary to complete the application.

ii. AAAD Responsibilities

- Serve as facilitated enrollers and assist individuals with completing the TennCare Application for Individuals Needing LTSS, Hospice Care or MSP (TennCare Application);
- Complete the level of care assessment and submit the PAE to HCFA via TPAES;
- Submit the TennCare Application via mail or fax;
- Gather and submit proof of non-financial eligibility criteria;
- Gather and submit proof of all income and resources, including life insurance; and
- Provide a signed copy of the *AAAD-LTSS Facilitated Enrollment* Addendum. This document will be used by HCFA along with the application in lieu of an interview.

  NOTE: HCFA will be able to verify the following based on available electronic data sources: SSN, Citizenship, SSI eligibility, SSI and SSA income.

iii. HCFA LTSS Responsibilities

- Verify completed PASRR (if applicable);
- Determine level of care and approve or deny the PAE;
- Verify CHOICES enrollment criteria have been met; and
- Place approved PAEs in the TPAES Member Services county queue. TPAES will auto-generate a *CHOICES Enrollment* form and place the item in the Member Services county queue for those with an approved PAE.

iv. HCFA Member Services Responsibilities

- Process applications received by TNHC (from AAAD, LTCF, hospital, or individual);
- Contact individuals to provide any missing information or verifications, to provide information regarding establishing a Qualifying Income Trust (QIT) when gross income exceeds the Medicaid Income Cap (MIC), or to conduct a resource assessment;

- Refer HCBS applicants who directly submit an application to HCFA to their local AAAD;
- Complete the LTC Pre-Screening Form (NH Face Sheet);
- Determine Medicaid eligibility in an Institutional Medicaid category;
    - Applications for HCBS or Hospice services should be under review within 10 days from the application being assigned to the Member Services;
    - All other LTSS applications must be processed within 45 days of being received by HCFA.
- Update TPAES based on Institutional Medicaid eligibility determination.

- **Existing Enrollees**

i. MCO Responsibilities

- Facilitate enrollment for existing TennCare-Medicaid enrollees;
- Verify Medicaid category, whether the enrollee has an authorized representative, the date of the scheduled Medicaid annual review, whether the enrollee is QMB, SLMB or QI eligible and whether he or she is an Inactive SSI Enrollee, using TN Anytime, the 834 file or TNHC contact;
- Provide proof of all resources for enrollees in the following categories: MAGI Child, Pregnant Woman, Caretaker Relative, Foster Care, Breast and Cervical Cancer, and TennCare Standard.
- Provide a signed copy of the *MCO-LTSS Eligibility Checklist*. This document is used in lieu of an interview.

A TennCare Application for Individuals Needing Long Term Services and Supports is required if the following occurs:

- If TennCare Medicaid renewal is due during the month institutional coverage is requested;
- If the State authorized closure during the month that Institutional Medicaid is requested; or
- If individual is an Inactive SSI Enrollee and is awaiting redetermination to qualify for Medicaid in another open category (AAADs will submit an application).

ii. HCFA LTSS Responsibilities

- Verify completed PASRR (if applicable);
- Determine LOC and approve or deny PAE;
- Verify CHOICES enrollment criteria have been met; and
- Place approved PAEs in the TPAES Member Services county queue.

- TPAES will auto-generate a *CHOICES Enrollment* form and place the form in the Member Services queue for those with an approved PAE.

iii. HCFA Member Services Responsibilities

- Monitor the TPAES queue on a regular basis and retrieve the *CHOICES Enrollment* form and attachments, including the *MCO-LTSS Eligibility Checklist* and any collected verifications from TPAES;
- Check the *CHOICES Enrollment* form to verify PAE approval and confirm nursing facility admission or that individual will begin receiving HCBS upon approval so that institutional eligibility may be determined;
- Verify eligibility in an existing TennCare Medicaid category;
- Request an application when the enrollee meets any of the conditions listed in Subsection 4.c.i.;
- Contact enrollee to provide information about QIT, conduct a Resource Assessment or collect verifications, if needed;
- Process Medicaid eligibility within 10 days from the date the enrollment form and MCO checklist are submitted and available in the queue, and update TPAES accordingly:

    - If the individual is determined eligible in an Institutional Medicaid category, terminate Medicaid coverage in the original category and approve the Institutional Medicaid coverage. Update the *CHOICES Enrollment* form in TPAES by entering the Medicaid approval date and Patient Liability amount.

    - If the enrollee is determined ineligible for Institutional Medicaid, take the following steps:

        - If the enrollee was applying for HCBS, he or she will retain eligibility in his or her original TennCare Medicaid category.
        - If the enrollee was applying for nursing facility services, he or she may remain eligible in his or her original category for 90 days. If he or she remains in the LTCF for more than 90 days, the non-institutional Medicaid coverage must be terminated.
        - If eligibility is terminated, update the CHOICES Enrollment form in TPAES with the TennCare Medicaid denial date and archive the *MCO-LTSS Checklist* and *CHOICES Enrollment* form.

iv. Existing Enrollees in a Medicare Savings Program

Individuals only enrolled in a Medicare Savings Program (QMB, SLMB, QDWI or QI1) who are applying for Institutional Medicaid and CHOICES must submit a TennCare Application

for Long Term Services and Supports and work with their local AAAD or NF to apply for CHOICES.

- **SSI Cash Recipients**

i. Overview

SSI Cash recipients who apply for LTSS do not need to file a HCFA application and, in general, will not be moved into an Institutional Medicaid category (see exception for SSI Cash recipients with Other Income). An SSI Cash recipient who applies for LTSS must have the following documents:

- An approved, unexpired PAE;
- An *MCO-LTSS Eligibility Checklist (if PAE is submitted by the MCO)*; and
- A *CHOICES Enrollment Form* via TPAES.

When approving an SSI Cash recipient for LTSS, and at subsequent renewals, HCFA will rely on resource eligibility as determined by SSA and income information in SOLQ as reported, to and verified by, SSA. A new TennCare application or additional verification of resource and income eligibility is not permitted, unless there is reason to believe that the individual has additional income or resources beyond what is known to SSA.

ii. SSI Cash Recipients Applying for HCBS

The MCOs facilitate the application process for SSI Cash recipients applying for HCBS. The MCO will submit a PAE to the HCFA LTSS Unit for review. If the PAE is approved, it is placed in the appropriate TPAES Member Services county queue.

Once an approved, unexpired PAE has been established and the PAE has been placed in the Member Services county queue, Member Services will complete the following:

- Update the Medicaid Approval Date in TPAES with the PAE approval date; and
- Enter the Patient Liability field in TPAES ($0 for HCBS).

At the time of PAE application, the MCO representative will act as contact with the individual and his or her family or other authorized representative and will notify them of their obligation to report any changes in income to the Social Security Administration (SSA) and to HCFA within 10 days.

iii. SSI Cash Recipients in Long Term Care Facilities

When an SSI Cash recipient enters an institution, such as a NF, the SSA reduces the SSI cash benefit. The individual's benefit is typically lowered to $30 a month.

1. SSI Cash Recipients with no other income

When an SSI Cash recipient who has no other income (or less than $50 in other income) enters a LTCF, his or her SSI cash benefit will be reduced but he or she will retain SSI eligibility. SSI Cash recipients in an LTCF do not have a patient liability.

An SSI Cash recipient is eligible for CHOICES when he or she has the following documents:

- An approved, unexpired PAE;
- MCO-LTSS Eligibility Checklist; and
- A CHOICES Enrollment Form in TPAES.

Update TPAES by entering the $0 into the Patient Liability field on the CHOICES Enrollment Screen. The Medicaid Approval Date is the PAE Approval Date.

Send Form 2362 to HP via messenger mail or to HP 2362 P.O. Box 1700 Nashville, TN 37202-1700 once the individual has been approved for Long-Term Services and Supports in order for HP to enter $0 Patient Liability into interChange.

Send Form 2350 to the SSA at 120 Athens Way, Nashville, TN 37228 once the individual has been approved for long term care in a facility as notification that the individual is in a NF.

2. SSI Cash Recipients with at least $50 of other income

SSI Cash recipients who enter an institution, and who have at least $50 in other income, will lose their SSI cash benefit eligibility at some point in the future. Once the individual's SSI cash benefit terminates, he or she will also lose his or her SSI Medicaid. In order to prevent a gap in Medicaid coverage, an Institutional Medicaid case will be approved when the individual is determined eligible for CHOICES. Once the SSA terminates the SSI Cash eligibility, the individual will maintain Medicaid eligibility in the Institutional Medicaid case.

Verify the amount of the SSI Cash recipient's additional income in SOLQ. If the amount is greater than $50, the ES must create an open Institutional Medicaid Aged, Blind or Disabled category, as appropriate, for the individual.

NOTE: HCFA will rely on resource eligibility as determined by SSA and income information in SOLQ as reported, to and verified by, SSA. A new TennCare application or additional verification of resource and income eligibility is not required, unless there is

reason to believe that the individual has additional income or resources beyond what is known to SSA.

Send Form 2350 to the Social Security Administration at 120 Athens Way, Nashville, TN 37228 once the individual has been approved for long term care in a facility.

5. Inactive SSI Enrollees

Individuals who are eligible as Inactive SSI Enrollees must have eligibility established in an Institutional Medicaid category before CHOICES, an HCBS waiver, or Program of All-Inclusive Care (PACE) can be approved. Inactive SSI Enrollees must have:

- An approved, unexpired PAE;
- A completed TennCare Application for Individuals Needing Long Term Services and Supports;
- An *AAAD-LTSS Facilitated Enrollment* Addendum; and
- A *CHOICES Enrollment* Form in TPAES.

Inactive SSI Enrollees who are applying for CHOICES will be processed according to the procedures provided in Section 4.c.

6. Institutional Medicaid Eligibility and CHOICES Enrollment Dates

- **Approvals**

i. Institutional Medicaid

- If approved for Institutional Medicaid and CHOICES Group 1 (NF), the Medicaid approval date in TPAES is the latter of the date of application or the date of nursing facility admission.
- If approved for Institutional Medicaid and CHOICES Group 2 (HCBS), the Medicaid approval date in TPAES is the date the case is approved/authorized in the eligibility determination system;
- If enrolled as an SSI Cash recipient and approved for CHOICES Group 3 (At Risk HCBS), the Medicaid approval date in TPAES is the date the case is authorized for HCBS.

Note: If an applicant requires a QIT to establish eligibility for Institutional Medicaid, then the approval date is the first day of the month in which the QIT is established, but not before the application date or date of nursing facility admission.

ii. CHOICES/TPAES

Update the CHOICES Enrollment form in TPAES by entering the Medicaid approval date used in the eligibility system.

- **Denials**

i. Institutional Medicaid

- If an applicant is required to submit additional information or verifications and fails to do so within 10 days of receiving notice, the Institutional Medicaid application will be denied.
  - If the applicant provides the missing information or verifications prior to 45 days after the application date, the application will be reviewed.
- If an applicant is applying for HCBS, and he or she does not have an approved PAE in TPAES there should be a referral to the AAAD and the application should be held pending.
- If an applicant is applying for HCBS and he or she has a denied PAE in TPAES, contact the AAAD prior to denying the Institutional Medicaid application. If the AAAD intends to appeal the PAE denial, the application must be processed and denied in the eligibility determination system.
- If an applicant is applying for nursing facility care and he or she has a denied Group 1 PAE in TPAES, determine whether he or she can be approved for Institutional Medicaid based on 30 days continuous confinement.

ii. CHOICES/TPAES

Update TPAES with the Institutional Medicaid denial if the applicant fails to submit additional information or verification within 10 days of receiving notice. If the disposition of the case changes prior to 45 days after the application date, i.e. the Institutional Medicaid case is approved, update the enrollment tab in TPAES, and contact the LTSS Unit to review the PAE for enrollment in CHOICES.

7. Institutional Medicaid Approval based on 30 Days Continuous Confinement

An applicant for long term care in a nursing facility may be determined eligible for Institutional Medicaid based on 30 days continuous confinement. Individuals approved for Institutional Medicaid based on 30 days continuous confinement are not eligible for payment of NF services, but are eligible for TennCare Medicaid benefits. Eligibility will be established in an Institutional Medicaid category based on the special income standard (300% FPL) if:

- The applicant has been admitted to a nursing facility and has been continuously in a medical institution (i.e. hospital, nursing facility, ICF, SNF or ICF/IDD) for at least 30 days; and
- Has met all financial and non-financial eligibility criteria for Institutional Medicaid.

Individuals approved for Institutional Medicaid based on 30 days continuous confinement may not have an approved, unexpired PAE. If an individual is approved based on 30 days continuous confinement, and then later has an approved, unexpired PAE in TPAES for CHOICES Group 1, he or she will be eligible and enrolled in CHOICES.

Eligibility for long term care in a nursing facility based on 30 days continuous confinement only lasts as long as the individual is institutionalized. If the enrollee is discharged from the nursing facility or other medical institution, his or her Institutional Medicaid eligibility will be terminated.

Applicants for HCBS cannot be approved for Institutional Medicaid based on 30 days continuous confinement. All HCBS applicants must have an approved, unexpired PAE.

8. Medicare Recipients Requiring Co-Pays or Cross-Over Payments for Skilled Nursing Facility Care (Medicare Cross-Over Payments)

- **Policy Overview**

  Medicare Part A covers for the first 100 days in a Skilled Nursing Facility (SNF), when the Medicare enrollee is in the SNF for the purpose of rehabilitation. Medicare typically pays 100% of the cost for the first 20 days, and 80% of the cost for days 21-100. If the Medicare enrollee is also TennCare Medicaid eligible either in an Institutional Medicaid category or QMB, HCFA will pay the Medicare co-pays, or cross-over payments, for days 21-100 of the SNF stay. An approved PAE is not required to establish Medicare cross-over payments. However, patient liability must be established in the following scenarios (even if it is $0) to process the cross-over payment:

  - A partial dual-eligible (Medicare and QMB benefits) is admitted to a nursing home for a short period of time. The QMB eligibility will cover the SNF Medicare co-payments for days 21-100 (See Scenario 1 below for processing instructions).

  - A Medicare recipient (who is not QMB eligible) is admitted to the NF, and is confined in a medical institution for at least 30 days. In this scenario, the individual must apply for Institutional Medicaid and will be approved based on 30 days continuous confinement, if otherwise eligible. The Institutional Medicaid eligibility will cover the SNF Medicare co-payments from the date of eligibility through day 100 (See Scenario 2 below for processing instructions).

    NOTE: Medicare may pay for more or less than 100 days of SNF, however, 100 days is the general rule. For the sake of this policy, the Institutional Medicaid eligibility will cover the SNF Medicare co-payment from the date of eligibility through day 100 or the last day of Medicare-approved skilled stay day.

- **Procedures**

i. Scenario 1

- Individual enrolled in Medicare (Parts A and B) and QMB
- No TennCare application has been filed
- No PAE is required for Medicare co-payments (cross-over payments)
- No change in eligibility determination system required
- No TPAES update is required (enrollee is not entered in TPAES)
- Enrollee is not required to meet 30 days continuous confinement
- TennCare Member Services will send a completed form 2362 to HP to key into interChange to the NF, the enrollee, the enrollee's responsible party within 10 business days of receipt of form 2350 from the NF
- If the enrollee returns home before the first 100 days of SNF coverage, there is no change to the case.
- If the enrollee files a TennCare Application for LTSS prior to the expiration of the 100 days, the application will be processed and the enrollee may be approved based on continuous confinement, if otherwise eligible. The individual may also be approved for CHOICES if there is an approved Group 1 PAE.

ii. Scenario 2

- Individual is enrolled in Medicare, but is not QMB eligible
- A TennCare Application for LTSS is filed.
- There is no PAE in TPAES.
- HCFA Member Services will pend the application to determine whether the applicant meets 30 days continuous confinement.
- If otherwise eligible, the applicant will be approved for Institutional Medicaid once 30 days continuous confinement is met.
- The eligibility determination system must include the enrollee's nursing facility Patient Liability amount.
- If approved, HCFA will pay the co-pays for days 21-100.
- If the enrollee remains in the nursing facility beyond the last Medicare-approved skilled stay day, his or her nursing home costs will not be paid for unless he or she is approved for CHOICES (approved Group 1 PAE).
- No additional action is required as long as the enrollee remains confined in the NF.

9. Short Term Stay

A short-term stay is one of 90 or less days. HCBS-eligible enrollees who enter a nursing facility may remain active in their HCBS case for 90 days. An enrollee cannot be moved out of HCBS if the nursing facility stay is anticipated to be short-term and the enrollee plans to return home to receive HCBS.

Short-term nursing facility stays for individuals approved for HCBS will not be reported to Member Services LTSS unit, as no change in Medicaid eligibility is required. Member Services Waiver Unit should not receive a *CHOICES Transition* form in TPAES or a *2350* form. Should the Member Services Waiver Unit receive a 2350 form from the nursing facility in error, the person should not be moved out of the HCBS case until receipt of a *CHOICES Transition* form in TPAES indicating the person is no longer in HCBS.

During a 90-day short-term nursing facility stay for a person in HCBS, the community Personal Needs Allowance (PNA) will continue to apply (300% of the SSI-FBR). This is to allow the enrollee to maintain his or her community residence in order to facilitate transition back home.

If the enrollee remains in the nursing facility beyond 90 days (or such time that it is determined the enrollee needs to remain in the nursing facility beyond 90 days), the MCO will facilitate the member's transition via the CHOICES Transition process.

10. Transitions

When a CHOICES individual moves from one CHOICES Group to another, and the move is not a short-term stay, it is considered a transition. Transitions must be processed in TPAES, the eligibility determination system and documented in interChange.

- **MCO Responsibility**

  The MCO will report the transition to HCFA by submitting a CHOICES Transition Request via TPAES

- **HCFA LTSS**

  The HCFA LTSS Unit reviews the transition request, and if approved will transition the individual's CHOICES segment in interChange and approve the Transition PAE in TPAES. If denied, the Transition PAE in TPAES is denied. If the transition request is approved, the request is placed in the Member Services county queue.

- **Member Services**

  Process the transition in the eligibility determination system within 3 days of receiving the transition request when the expected transition date is not in the future, and update TPAES. When the expected transition date is in the future, leave the Transition PAE pending until the ACCENT budget month arrives for the expected transition date, update the eligibility determination system, and update TPAES. (Note: When the transition occurs in the middle of the month, a decrease in patient liability requires a 2362 to adjust for the partial month between eligibility system budget periods.)

Once the transition has been processed in the eligibility determination system, then Member Services will update TPAES as follows:

- Log in to the CHOICES individual's Transition Request
- Click on the "Calculate Liability" button at the top of the screen
- Under the "Standard" section, verify the individual's information and enter the new Patient Liability amount in the "Patient Liability Amount in Nursing Facility/HCBS Setting"
- Indicate whether the address has been updated in the eligibility determination system in the "Address updated in ACCENT" field (highlighted in green)

Note: It is critical that the "Address updated in ACCENT" field is completed; otherwise the case will not be removed from the queue once it is updated.

- **Transition Process for SSI Cash Recipients**

When a transition request is received for an SSI Cash recipient, the Eligibility Specialist must first check State On-Line Query (SOLQ) to determine whether the enrollee receives only SSI cash benefits or if he or she receives SSI cash benefits PLUS more than $50 in additional income.

i. SSI Cash Recipient with no other income or other income less than $50

A. Group 1 (nursing facility) to Group 2 or 3 (HCBS) Transition

When an SSI Cash recipient transitions from Group 1 to Group 2, the ES will process the transition request as follows:

- Confirm that the individual does not have an open Medicaid case in the eligibility determination system.
- Open the transition request in TPAES and click on "Patient Liability".
- Enter $0 in the Patient Liability field and "No" in the Address Updated In ACCENT field.
- Click on "OK".

B. Group 2 or 3 (HCBS) to Group 1 (nursing facility) Transition

When an SSI Cash recipient transitions from Group 2 or 3 to Group 1, the ES will process the transition request as follows:

- Confirm that the enrollee does not have an open Medicaid case in the eligibility determination system.
- Open the transition request in TPAES and click on "Patient Liability".

- Enter $0 in the Patient Liability field and "No" in the Address Updated in ACCENT field.

ii. SSI Cash Recipients with other income over $50

A. Group 1 to Group 2

When an SSI Cash recipient who has other income over $50 transitions from Group 1 to Group 2 or 3, the ES will process the transition request as follows:

- Determine whether the enrollee has an open Medicaid case in the eligibility determination system and open SSI Cash coverage in interChange. If there is an open Institutional Medicaid Aged, Blind or Disabled case and open SSI Cash coverage, the ES should close the Institutional Medicaid Disabled case.
- Open the transition request in TPAES and click on "Patient Liability".
- Enter $0 in the Patient Liability field and indicate whether the address was updated in the Address Updated in ACCENT field.
- Click on "OK".

B. Group 2 or 3 to Group 1

When an SSI Cash recipient who has other income over $50 transitions from Group 2 or 3 to Group 1, the SSI Cash benefit will terminate at some point in the future. In order to prevent a gap in the individual's coverage when the SSI Medicaid terminates, HCFA will authorize Institutional Medicaid Aged, Blind or Disabled, as appropriate, in the eligibility system. Since the individual is already Medicaid eligible, a new TennCare application or additional verification of resource and income eligibility is not required, unless there is reason to believe that the individual has additional income or resources beyond what is known to SSA. The transition is processed as follows:

- Conduct a TPAES search, under the PAE tab, for the enrollee's Social Security Number.
- Determine which TPAES ID (if several exist) is correct, i.e., the TPAES ID under which the enrollee was initially approved for CHOICES.
- Use the MCO checklist that was received at the end of the initial HCBS approval in lieu of a HCFA application to establish the Institutional Medicaid case. The MCO Checklist is found in the PAE tab, under Related Items.
- If the MCO Checklist is not available, the Eligibility Specialist will use the transition request in lieu of an application.
- Use the date that the transition is processed in the eligibility determination system as the receipt date for the MCO Checklist or Transition Request.

iii. Inactive SSI

If there is an open Institutional Medicaid Disabled case and open SSI Medicaid in interChange, but the SSI Medicaid is Inactive SSI Enrollee, the ES should leave the Medicaid case open in the eligibility determination system and process the transition.

- If the enrollee does not have an open Medicaid case, continue to follow the instructions below and mark "No" in the Address Updated in ACCENT field in TPAES.

Note: An Inactive SSI individual cannot transition to Group 3.

11. Other Long Term Services and Supports Programs

The PACE program and the DIDD HCBS Waivers are not part of the CHOICES program, but provide similar services to the eligible populations. More information about the PACE program and the DIDD Waivers is available at http://www.tn.gov/tenncare/long_overview.shtml.

- **PACE**

PACE is a community based adult day care program whose purpose is to serve the frail elderly residents of Hamilton County. Participants must:

- Be age 55 or older;
- Meet criteria for Level 1 nursing home care; and
- Meet financial criteria.

The PACE program also provides an adult day care center and covers all medical needs of the individual including but not limited to hospitalization and nursing home coverage.

- **DIDD Waivers**

The DIDD Waivers provide LTSS for individuals with intellectual and developmental disabilities (IDD) through one of two environments:

1. ICF/IIDs
2. HCBS

The DIDD waivers are not a part of the CHOICES program; however individuals eligible for a DIDD waiver must meet the non-financial and financial eligibility requirements of an Institutionalized Medicaid category or receive SSI Cash benefits. Medical eligibility (i.e., LOC) is determined by HCFA LTSS Unit, and processed in TPAES.

The DIDD serves as the Operational Administrative Agency for the DIDD waivers, which are administered under the supervision of HCFA.

- **Statewide ID Waiver**

  The Statewide ID waiver provides services to Tennessee children with developmental delays and adults and children with intellectual disability who meet the ICF/IID LOC criteria.

- **Comprehensive Aggregate Cap Waiver**

  The Comprehensive Aggregate Cap (CAC) Waiver, formerly known as the Arlington Waiver, provides services to individuals with intellectual disabilities who are former class members in the United States vs. The State of Tennessee, et al. (Arlington Developmental Center), current class members in the United States vs. the State of Tennessee, et al. (Clover Bottom Developmental Center), and individuals transitioned from the Statewide Waiver upon its renewal on January 1, 2015. Individuals eligible under the CAC Waiver have been institutionalized in a public institution, are part of a certified class because they were determined to be at risk of placement in a public institution, or require a level of care (LOC) that would otherwise require placement in an ICF/IID, if they were not receiving services provided under the waiver.

- **Self-Determination Waiver**

  The Self-Determination Waiver provides community-based services to individuals with developmental disabilities who would otherwise require the LOC provided in an ICF/IID.

  To enroll in this wavier program, an individual must:

  - Be a Tennessee resident;
  - Be financially eligible for TennCare Medicaid (Institutional Medicaid or SSI Cash);
  - Meet TennCare Medicaid criteria for payment of institutional ICF/IID care; and
  - Have an adequate support system to assure health and safety while receiving services in a home and community based setting.

12. Form 2350

Form 2350, Notice Recipient-Patient was Admitted to or Discharged from Skilled Nursing Home Care or Intermediate Care", is used by a LTCF or HCBS agency to notify HCFA of an applicant or enrollee's status.

Form 2350 contains the following information:

- The name, Social Security Number and date of birth for the patient;

- The date of admission to the facility, i.e. the first date the facility will accept TennCare Medicaid reimbursement for the individual's care;
- The name and address of the responsible party;
- The amount and source of the individual's income;
- The PAE effective date for CHOICES applicants/enrollees, if known. Note: The PAE effective date must be included on HCBS cases to verify enrollment in the waiver program;
- The name and address of the medical facility from which the individual was discharged, if applicable; and
- The level of care to which the individual is admitted.

Form 2350 reports the level of care, the individual's forwarding address and the date the individual is officially discharged from the facility due to one of the following:

- Discharged to home;
- Transferred to another facility;
- Expiration of the bed-hold;
- Therapeutic leave expiration; or
- The individual's death including the last day of care and the date of death.

If a 2350 is received from a LTCF or HCBS agency regarding an individual who is not currently eligible or who has not filed an application, the ES will contact the facility or agency to determine whether an application should be filed. If the individual is in need of TennCare Medicaid and wishes to apply, the ES will work with the individual, the facility or the agency to ensure that an application is filed.

13. Form *2362*

a. Permissible Use of Form 2362

Form *2362*, Notice of Disposition or Change (for Skilled Nursing Care and ICFs) is used to notify the individual confined to long term care and his or her authorized representative or responsible party of a change in patient liability. The form is completed manually and there are limitations on when it can be used.

Form 2362 may only be submitted to HP Operations in any of the following four situations:

1. When the begin date of eligibility is so far in the past that eligibility system cannot create a budget;
2. When the enrollee's only income is SSI;
3. When there is a patient liability overcharge; and
4. When an individual is in the nursing facility for a short period of time and is eligible for QMB or SSI Buy-In. The ES ensures patient liability is $0 on the 2362.

Upon receipt, HP Operations will key the patient liability noted on the 2362 into interChange.

b. Recipients

The following individuals or entities may receive a copy of form 2362:

- The enrollee;
- The authorized representative, if applicable;
- The LTCF or NF;
- HP Operations; and
- The DIDD Fiscal Services and Office of Community Services (only for HCBS cases processed by DIDD caseworkers).

c. Patient Liability Changes

Monthly deadlines for submitted patient liability changes on active cases have been established. Any increase in the amount of the patient liability requires enrollee notification of 10 days prior to the effective date. A decrease in the amount of the patient's liability does not require notification 10 days prior to the effective date, through an explanation of the reduction is required.

Any change in the amount of patient liability with an effective date in a prior or current month is prohibited UNLESS:

- To recalculate patient liability for the last month of institutionalization due to death or discharge and there are additional Item D's to be considered; or

- A correction is being made in a patient liability overcharge due to an agency error (corrections may be made up to the past 24 months).

  An agency error means a mistake by the Eligibility Specialist resulting in an overstated liability or overdue eligibility review. It does not include errors made that are the result of the failure of the enrollee, the authorized representative or the LTSS provider to report changes within 10 days of their occurrence, or any error that is not directly attributable to the caseworker, such as Item Ds which cannot be deducted in full for the last month of institutionalization because the expense exceeds income.

A patient liability overcharge that occurred in a prior month can be adjusted in a future month(s) IF the overcharge was the result of an agency error or administrative procedures. The correction may also be adjusted retroactively, if necessary. A patient liability overcharge results when the enrollee pays more toward the cost of his or her care than he or she should have, or when the individual's Item D deductions are greater than his or her countable income.

Adjust the overstated liability as soon as possible after it is discovered. Confine the adjustment to one month if at all possible, even though it may reduce the patient liability to zero. An adjustment may continue more than one month if necessary to fully reimburse the enrollee. Explicitly label the Form *2362* as a "Correction" for retroactive corrections or enter as a patient liability overcharge on the appropriate budget screen. Immediately terminate the adjustment effective the month following the adjustment month (or later, if necessary). Notice must be given at least 10 days before the effective date of the increase in patient liability.

All Notice of Disposition or Change Forms (Form *2362*) are now processed by HP. They should be forwarded through messenger mail to H.P. at 310 Great Circle Road or mailed to the address below:

H.P. 2362
P.O. Box 1700
Nashville, TN 37202-1700

If it is not possible to fully adjust an overstated liability for some reason, e.g. the individual's financial situation changes or the case is closed, there is no mechanism for the individual's recoupment of any overstated patient liability other than through retroactive correction of the overcharge using Form *2362*. The Form *2362* must clearly indicate "Correction" at the upper portion of the form and may contain corrections for up to the previous 24 months from the current processing month.

v. Facility Types

TennCare Medicaid LTSS payments are available to eligible individuals receiving LTSS in the following medical institutions:

a. State Developmental Centers for the Developmentally Disabled, which include:

- Certified Intermediate Care Facility for People with Developmental Disability wards for patients of any age; and
- Certified Level II nursing wards for patients of any age. Patients in non-certified wards in Level II care are not eligible for TennCare Medicaid, except when transferred to a Title XIX (TennCare Medicaid approved) facility.

b. State Mental Health Hospitals and Private Certified Mental Health Hospitals, which include:

- General hospital wards for patients age 65 and older; and
- Certified Level I and Level II wards for patients age 65 and older.

Patients in non-certified wards and all patients under age 65 are not eligible for TennCare Medicaid in psychiatric facilities with the following three exceptions:

1. A patient who was already an active TennCare Medicaid recipient when admitted to the psychiatric facility will be eligible the month of admission (no LTSS payment will be authorized). Coverage cannot extend beyond the month of admission or the earliest month action can be taken to close the case.

2. Ineligible patients who are transferred to a Title XIX facility located off the hospital grounds may attain eligibility during their absence from the facility.

3. Patients under age 21 may be eligible for TennCare Medicaid if they are receiving active in-patient treatment in an accredited psychiatric hospital. These cases are not defined as long-term institutional cases, as no LTSS payment is made.

c. Licensed Public and Private Nursing Homes, which include:

- Level II, ICF, for patients of any age;
- Level II, SNF , for patients of any age; and
- Tuberculosis Care Units for patients age 65 and older.

Tennessee does not have any chest disease/tuberculosis hospitals or care units. Care is limited to TN residents at least age 65 whose out-of-state care has been approved by HCFA.

Residents of unlicensed nursing homes or custodial homes are not considered to be receiving medical care and therefore do not meet the medical institutionalization technical requirement. These individuals are not eligible for TennCare Medicaid in an institutional category and are not eligible for LTSS payments.

d. Certified Institutions

LTCFs are certified by HCFA and have a TennCare Medicaid per diem rate established by the State Comptroller's Office. A list of certified facilities and their rates are furnished by the Comptroller's office. A list is also available at the Department of Health's website at: http://tn.gov/health

If an Eligibility Specialist receives a request for TennCare Medicaid reimbursement from a facility not included on the list, contact the Member Services Eligibility Policy Unit for information regarding the facility's certification status.

CONFIDENTIALITY & PRIVACY

Legal Authority: 42 CFR 431.300; 42 CFR 431.305; 45 CFR 160-164

1. Policy Statement

Federal and state law provides safeguards that restrict the use or disclosure of information concerning the individual to purposes directly connected with the administration of the Medicaid program. Such purposes include establishing eligibility, determining the amount of medical assistance, providing services to the individual and conducting or assisting in an investigation or prosecution of administrative, civil or criminal proceedings related to program administration.

2. The Health Insurance Portability and Accountability Act (HIPAA) and the Health Information Technology for Economic and Clinical Health (HITECH) Act

HIPAA and HITECH require HCFA to protect the privacy and security of any protected health information (PHI) received, used, stored and created in the course of business. PHI is any information about a past, present or future physical or medical condition, provision of health care or payment for health care that can be linked to a specific individual. This includes, but is not limited to, any part of a patient's medical record or payment history. HIPAA privacy rules give patients privacy rights regarding access to and use of their medical records in all forms, including electronic and paper records, and oral communications.

Privacy protections apply to all requests for information from outside sources, including governmental bodies and the courts, as well as law enforcement officials. Information subject to privacy protections includes but is not limited to:

- The individual's name, date of birth, and address;
- Unique identifiers such as Social Security or medical records numbers;
- Agency evaluation of personal information;
- Social and economic conditions or circumstances;
- Medical services provided;
- Medical information including past history of disease or disability, current diagnosis, and future planned or needed care;
- Any information received for the purpose of verifying income eligibility and amount of medical assistance payments. Income information received from the Social Security Administration (SSA) or Internal Revenue Services (IRS) must be safeguarded according to the requirements of the agency that furnished the data; and
- Any information received in connection with the identification of legally liable third party resources.

3. Requests for Information by Outside Parties Regarding Eligibility of Clients and Related Medical Information

Federal and state statutes restrict the provision of information about an individual to outside parties. This includes PHI as well as the individual's eligibility status, and medical, financial and other information used to determine eligibility for TennCare Medicaid. When HCFA employees or HCFA contractors are contacted by outside parties, including family members, family friends and attorneys or their staff, who represent an individual receiving TennCare Medicaid, HCFA employees and contractors must adhere to the following policies and procedures:

a. When contacted by an attorney, or someone from the attorney's office such as a paralegal or member of the clerical staff, about the status of a particular enrollee:

- Inform the person that HCFA requires appropriate authorized representative documentation and that it is HCFA policy to refer attorney inquiries about an individual's TennCare Medicaid case to the HCFA Office of General Counsel (OGC), Privacy Office when needed.
- Take the person's name, number and relevant inquiry details, and tell the person that someone from the Privacy Office will contact him or her.
- Immediately e-mail the individual's contact information to Privacy.TennCare@tn.gov
- Call the Privacy Office at 615-507-6855 or 615-507-6820 to confirm receipt of the information. Do not discuss the individual's case with the requesting party or provide the person with any information (written or otherwise) about the individual's case unless otherwise notified by OGC staff.

b. Contact by any other third party (including a person who claims to be a relative or friend of the individual):

- Inform the requesting party that federal law prohibits discussion of the individual's case with a third party unless there is written consent from the individual, or unless the individual is present and provides verbal consent to the discussion. Offer to mail or fax the requesting party or individual a blank authorization form that the individual can complete, execute and mail or fax to Tennessee Health Connection (TNHC). The Authorized Representative forms are available at http://www.tn.gov/assets/entities/tenncare/attachments/HCFAAuthorizedRepresentativeIndividual.pdf and http://www.tn.gov/assets/entities/tenncare/attachments/HCFAAuthorizedRepresentativeOrganization.pdf. There are separate forms for entities and individuals being designated as representatives, and the correct one must be submitted in each case. Once the completed form is received, discuss the individual's TennCare Medicaid only with the person(s) listed on the form as being authorized to receive the information.

Notes regarding authorization forms that may be received:

- If an Eligibility Specialist receives an authorization form or if a signed authorization form is received that is different from the form provided, forward the form to the HCFA OGC, Privacy Office for approval at Privacy.TennCare@tn.gov or via fax to 615-532-7322.
- In order to be valid, the authorization form must be completely filled out. The authorization form must also contain an expiration date. Always check the expiration date on the form to ensure that the authorization has not expired.
- If approval is provided by the Privacy Office, you must note in the case record that a valid authorization form was approved by the Privacy Office. Describe the specific information authorized to be released as listed in the authorization, to whom the information was released, and any information provided to third parties. This documentation is important and ensures that other HCFA staff (including the Appeals Unit) are able to look up the individual's case record and understand the details of the information request or release. The expiration date of the authorization should also be noted in the case record.

4. Application by Department Employees and their Relatives

A HCFA employee must notify his or her supervisor as soon as practicable if and when the employee, the employee's family member or person with whom the employee maintains a close personal relationship applies for benefits.

a. Definitions

Family Member: A family member is defined as one of the following

- Relationships by blood: parent, child, grandparent, grandchild, brother, sister, uncle, aunt, nephew, niece, first cousin; and
- Relationships by marriage: husband, wife, step-parent, stepchild, brother-in-law, sister-in-law, father-in-law, mother-in-law, son-in-law, daughter-in-law, half-brother, half-sister, uncle, aunt, nephew, niece, spouse of any of the above.

Close Personal Relationship: A close personal relationship is one defined as but not limited to:

- A dating or co-habiting relationship;
- A domestic partnership;
- A relationship in which business transactions are regularly conducted; and
- A personal friendship that transcends a casual acquaintance, such as:

- A person whose home is frequently visited by the employee, or vice versa; and
- A person with whom the employee socializes on a regular basis.

5. Social Media Relationship

A HCFA employee shall disclose to the employee's supervisor if and when the employee becomes aware of a person with whom the employee maintains a social media relationship has applied for benefits. The HCFA employee shall not be involved in or access records related to an individual with whom the employee maintains a social media relationship.

RIGHTS AND RESPONSIBILITIES

Legal Authority: Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000 et seq.*;* 45 C.F.R. pt. 80); Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794 et seq.; 45 C.F.R. pt. 84); The Age Discrimination Act of 1975 (42 U.S.C. § 6101 et seq.; 45 C.F.R. pts. 90 and 91); Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.; 45 C.F.R. pt. 86); The Americans with Disabilities Act (42 U.S.C. § 12101 et seq.; 28 C.F.R. pts. 35 and 36); Section1557of the Affordable Care Act (42 U.S.C. § 18116); Tenn. Code Ann. Title 4, Chap. 21, pt. 4.

1. Policy Statement

Federal and State laws do not allow HCFA to treat you differently because of your race, color, national origin, age, sex, disability/handicap, language, or religion. Federal laws also protect people from different treatment based on their sexual orientation in: Programs of All-Inclusive Care for the Elderly (PACE), hospitals (including critical access hospitals), and long-term care facilities (nursing homes, hospice).

HCFA, at all administrative levels, shall not discriminate against any individual for reasons of age, race, color, sex, disability, religion, creed, national origin, or any other group protected by the applicable federal and state civil rights laws. Individuals with Limited English Proficiency (LEP) and individuals with disabilities have equal access to HCFA programs.

HCFA is required to seek and recover certain funds paid by the TennCare Medicaid program. TennCare Medicaid individuals who receive institutionalized care are subject to estate recovery. Individuals are notified of estate recovery in the HCFA application.

2. Federal Non-Discrimination Laws

The federal non-discrimination statutes listed below prohibit discrimination on the basis of race, color, national origin, age, sex, and disability in programs or activities that receive or benefit from federal financial assistance. Discrimination on the basis of disability is prohibited in all programs, services or activities of public entities. The Americans with Disabilities Act (ADA) coverage does not depend on receipt of federal funds.

- **Title VI of the Civil Rights Act of 1964**: Prohibits discrimination, denial of benefits or being excluded from participation on the basis of race, color, or national origin in any program or activity that receives federal financial assistance from the U.S. Department of Health and Human Services.

- **The Americans with Disabilities Act of 1990 (ADA)**: Prohibits discrimination on the basis of disability by both public and private entities, whether or not they receive federal financial assistance.

- **The Age Discrimination Act of 1975 (ADEA)**: Prohibits discrimination on the basis of age in programs or activities receiving federal financial assistance.

- **Section 504 of the Rehabilitation Act of 1973 (Section 504)**: protects a qualified individual with a disability from discrimination in the provision of any benefit or service provided under any program or activity receiving funds from the Department of Health and Human Services.

- **Title IX Education Amendments of 1972**: No person shall on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance

- **Section 1557 of the Patient Protection and Affordable Care Act (42 U.S.C. 18116)**: , an individual shall not, on the ground prohibited under title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, or section 504 of the Rehabilitation Act of 1973, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any health program or activity, any part of which is receiving Federal financial assistance.

3. Title VI Prohibition on Discriminatory Conduct In Federally Funded Programs and Activities

Under Title VI, HCFA shall not discriminate against people on the basis of race, color, or national origin in how its programs are administered.

HCFA shall not exclude or deny benefits to persons based on their race, color, or national origin.

HCFA shall not impose different standards or procedures to determine who may receive benefits on the basis of race, color, or national origin.

Examples:

- Eligibility Specialists shall not reject an individual for benefits because he or she is, or appears to be African-American, Hispanic, Asian, American Indian, Alaskan Native, or a member of another racial or ethnic group.

- Eligibility Specialists shall not reject an application based on the assumption that a person with a foreign-sounding last name is not a U.S. citizen and therefore not eligible.

- Eligibility Specialists shall not deny benefits to persons who are not fluent in English (known as being LEP) because they assume persons who are or appear to be from other countries are not eligible for such benefits.

- Eligibility Specialists shall not accept a self-declaration of qualified immigration status requiring verification from individuals who appear to be of African origin, yet require that all immigrants from Spanish speaking nations submit documentation because of an assumption that these individuals are undocumented.

4. Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 Prohibited Discriminatory Conduct on the Basis of Handicap or Disability

HCFA shall not discriminate against any qualified individual with a disability in providing services or administering any program or activity, whether or not the program receives federal financial assistance. In general, an individual with a disability is qualified if that person meets the essential eligibility requirements for receipt of services or the participation in programs or activities provided by HCFA. HCFA shall not refuse to allow a person with a disability to participate because the person has a disability. There cannot be unnecessary eligibility standards or rules that deny an individual with a disability an equal opportunity to participate. HCFA shall not harass an individual based on a disability.

HCFA is required to make reasonable modifications in its policies, practices, and procedures so that qualified individuals with disabilities can take part in HCFA's programs, services, or activities unless a requested modification would result in a fundamental alteration or undue financial and administrative burden to HCFA.

5. Effective Communication (LEP and Individuals with Disabilities)

To ensure compliance with Title VI, the ADA, and Section 504, individuals with LEP and/or disabilities must have meaningful access to HCFA's programs, services, or activities. To do this, HCFA works to ensure that communications with members and potential members and these individuals' families or representatives are as effective as communications with others who are not LEP or have disabilities by using language assistance services and/or auxiliary aids or services that are free to these individuals.

a. Individuals with Disabilities

Under the ADA, effective communication is required except where HCFA can show that providing effective communication would fundamentally alter the nature of the service or program in question or would result in an undue financial and administrative burden. In order to be effective communication, auxiliary aids and services must be provided in accessible formats, in a timely manner, and in such a way as to protect the privacy and independence of the individual with a disability.

Remember the type of auxiliary aid or services needed by an individual can change during a conversation or service encounter. During brief or simple face-to-face exchanges, very basic aids are usually appropriate. For example, exchanging written notes may be effective when an individual with a hearing disability asks for a copy of a form at a doctor's office. Conversations

that are more complex or lengthy may require more advanced aids and services. Consideration should be given to how important the communication is, how many people are involved, the length of the communication anticipated, and the context.

When an auxiliary aid or service is requested by someone with a disability, they must be provided an opportunity to request the auxiliary aids and services of their choice, and HCFA must give primary consideration to the individual's choice. "Primary consideration" means that HCFA must honor the choice of the individual with a disability, with certain exceptions (see the bullet points below for a list of the exceptions). The individual with a disability is in the best position to determine what type of aid or service will be effective.

The requirement for consultation and primary consideration of the individual's choice applies to orally communicated information (i.e., information intended to be heard) as well as information provided in visual formats.

The requesting person's choice does not have to be followed if:

- HCFA can demonstrate that another equally effective means of communication is available;
- Use of the means chosen would result in a fundamental alteration in the service, program, or activity; or
- The means chosen would result in an undue financial and administrative burden.

b. LEP Individuals

Similar steps are taken to ensure effective communication with LEP individuals with LEP. It is important that LEP individuals understand their rights and the services, programs, and activities that are available.

In order to ensure that LEP individuals are not excluded from equal program participation, HCFA must provide trained and competent interpreters and translators who can provide oral and/or written language assistance services to accommodate these individuals. HCFA may:

- Contract with an outside interpreter or translation service; or
- Use a telephone interpreter service.

LEP Individuals must be advised that a free interpreter is available. It is not advisable to use friends and family members as interpreters. Using friends and family as interpreters may compromise the effectiveness of the communication, create a conflict of interest and violate confidentiality and privacy safeguards. At the request of the LEP individual they may use friends and family as their interpreter. Before allowing this the LEP individual's declination of the offer of free interpreter services must be documented. However, if the friend or family member is not competent or appropriate a trained interpreter should be used to ensure reliable and correct interpretation of information. Minor children cannot be used as interpreters.

Questions regarding when an interpreter should be used or when written materials should be translated should be directed to supervisory staff.

If you need to use an interpreter in order to assist an individual contact: AVAZA Language Services.

Eligibility Specialists should consult their supervisor for translation assistance.

Some of HCFA's documents have been translated into the Spanish language and are available on the TennCare website at: http://www.tn.gov/tenncare/

6. Filing Discrimination Complaints

Any individual or his or her representative may file a discrimination complaint. The complaint may concern discriminatory practices or actions on the part of HCFA. The complaint may also involve practices or actions by other agency related institutions, organizations, contractors, medical care vendors or practitioners that participate in HCFA programs by providing aid, care, or services.

The Complaint Form is available at:
http://www.tn.gov/assets/entities/tenncare/attachments/complaintform.pdf

http://www.tn.gov/assets/entities/tenncare/attachments/complaintformSP.pdf (Spanish)

Civil Rights Contacts:

HCFA Office of Civil Rights Compliance

Bureau of TennCare
310 Great Circle Road
Nashville, TN 37243

Phone: (615)507-6474 or for free at 1-855-857-1673
For TTY/TRS: Dial 711 and ask for 855-286-9085 (Toll Free).
Fax: (615)253-2917
Email: HCFA.Fairtreatment@tn.gov

U.S. Department of Health & Human Services - Region IV Office of Civil Rights

Write to:
U.S. DHHS / Region IV Office for Civil Rights
Sam Nunn Atlanta Federal Center, Suite 16T70
61 Forsyth Street, SW
Atlanta, Georgia 30303-8909

Call: (800) 368-1019
TTY/TDD: Toll Free 1-800-537-7697
Fax: (404) 562-7881

Use **Complaint Portal**:
https://ocrportal.hhs.gov/ocr/cp/complaint_frontpage.jsf

U.S. Department of Justice

A person can file an ADA complaint alleging disability discrimination against a State or local government or a public accommodation (including, for example, a restaurant, doctor's office, retail store, hotel, etc.) by mail, fax, or email.

To file an ADA complaint by mail:

U.S. Department of Justice
950 Pennsylvania Avenue, NW
Civil Rights Division
Disability Rights Section – 1425 NYAV
Washington, D.C. 20530
Fax: (202) 307-1197

To file a complaint online: http://www.ada.gov/complaint/

7. Estate Recovery

Estate recovery occurs when the State files a claim with the deceased individual's estate for reimbursement of certain TennCare Medicaid expenditures incurred during the individual's period of eligibility. Estate recovery is required by Federal and State law.

Estate recovery applies to:

- TennCare Medicaid-covered services received by individuals permanently confined to a Long-Term Care Facility regardless of age;
- TennCare Medicaid-covered services received in an LTCF or in a home and community-based services setting and related hospital and prescription drug services, by individuals age 55 or older;
- Individuals who have no children under the age of 18 or no surviving child;
- Individuals who have no children who are blind or permanently and totally disabled; and
- Individuals who have no surviving spouse.

HCFA Member Services is required to inform the responsible party of individuals in long-term facilities about the estate recovery provisions. Information about estate recovery is available in the

HCFA application. The State will not impose a lien on real property which is occupied by an applicant for TennCare Medicaid.

Estate Recovery Unit

The Estate Recovery Unit is responsible for the estate recovery program. The TennCare Reform Act of 2002 requires a release to be obtained from HCFA indicating that no money is owed by a former Medicaid recipient before an estate can be settled. For further information, attorneys or relatives may contact:

Bureau of TennCare
Estate Recovery Unit
310 Great Circle Road
Nashville, TN 37243
Telephone: 1-866-389-8444
Fax: 615-413-1941

APPLICATION FOR OTHER PROGRAM BENEFITS

Legal Authority: 42 CFR 435.608

1. Policy Statement

As a condition of eligibility, individuals are required to take all necessary steps to obtain benefits to which they are entitled, except for public assistance programs to which the individual is entitled, unless the individual can show good cause for failure to apply. If the individual cannot demonstrate good cause for failure to apply for other benefits, he or she is not eligible for benefits.

2. Definitions

Benefits: Benefits include financial benefits in the form of annuities, pensions, retirement, and disability benefits, including but not limited to:

- Veterans' compensation, pension and Veterans Affairs (VA) contract payments (but not VA benefits or Aid and Attendance benefits);
- Old Age, Survivors and Disability (OASDI) benefits (Social Security);
- Railroad Retirement benefits;
- Unemployment compensation; and
- Workers' Compensation benefits.

Public Assistance: Public Assistance includes Supplemental Security Income (SSI) and Families First/Temporary Aid for Needy Families (TANF).

3. Possible Entitlement Hints

a. Black Lung Benefits

An individual is:

- A coal miner and who is totally disabled due to pneumoconiosis; or
- The dependent spouse, surviving or divorced spouse, or the child (under 18) of an eligible miner (or eligible at death).

b. Railroad Retirement Benefits

The individual or his Financially Responsible Relative (FRR) worked for the railroad or a company closely connected to the railroad, and he or she is at least age 60 or disabled.

c. Social Security Benefits

An individual or his or her FRR is:

- At least age 62; or
- Disabled based on Social Security criteria; or
- Is a child under 18 of a deceased, retired or disabled worker; or
- Is the child who became disabled before age 22 of a deceased, retired or disabled worker.

d. SSI

An individual who is:

- At least age 65; or
- Disabled or blind based on Social Security criteria; and
- Has monthly income limited to the amount of the current SSI Federal Benefit Rate (FBR) or less, if living in the household of another; and
- Has resources limited to $2,000 for an individual or $3,000 for a couple.

e. Veterans' Benefits

An individual who is:

- A veteran of services in the U.S. Armed Forces and discharged under conditions other than dishonorable; or
- A dependent or surviving spouse of a veteran.

f. Workers' Compensation

An individual:

- Injured or disabled on the job; or
- The surviving dependent of a worker who was killed on the job.

4. Good Cause

An individual is considered to have good cause for failure to apply for other benefits if he or she does not have someone available to act on his or her behalf AND he or she cannot apply. Examples of good cause include, but are not limited to, the following:

- The individual is not able to apply for benefits due to his or her own illness (explain that the Social Security Administration (SSA) can have a telephone interview); OR
- The individual applied for benefits at one time, was denied, and he or she remains ineligible for the same reason.

The individual is considered to have good cause for failure to apply if HCFA failed to advise them of the availability of other benefits.

5. Application of Good Cause Provision

Once good cause has been established, take one of the following actions depending on the circumstances of the case:

a. Hold the Application Pending

If the TennCare Medicaid application is held pending, give the individual a specific deadline for filing an application for other benefits.

If the deadline exceeds the processing time limits and the TennCare Medicaid application becomes overdue, document the case record with an explanation of the reasons the application continues in a pending status. An Eligibility Specialist is not considered at fault in this situation if the case record is well-documented.

If at expiration of the deadline the individual has failed to apply, and does not have good cause for his or her failure to apply, the application is denied.

6. Approve the Application

If the individual is otherwise eligible, approve his or her application for benefits. Inform the applicant that the requirement to apply for other benefits has been temporarily waived, and he or she has an obligation to apply in the future. The time limit for that application and acceptable evidence of application for other benefits must be provided.

Set up a case worker alert to follow up on the individual's application for other benefits, and upload evidence of his or her application for other benefits to the case.

7. Applying the Provision at Redetermination

If all other conditions and eligibility criteria are satisfied, consider the redetermination complete and document the Case Notes with an explanation of the waiver of this requirement. Set up a case worker alert to follow-up on the individual's application for other benefits if the requirement has been temporarily waived.

8. Verification

At application, self-attestation by an individual regarding application for other programs is accepted.

PROHIBITION AGAINST CONCURRENT RECEIPT OF BENEFITS

Legal Authority: 42 CFR 435.403

1. Policy Statement

An individual is prohibited from receiving Medicaid benefits from two or more programs, or from two or more Medicaid categories in the same state. An individual is prohibited from receiving Medicaid benefits from another state concurrent with TennCare Medicaid or CoverKids eligibility.

2. At-Home Individuals

An individual living at home is prohibited from receiving Medicaid from two or more state programs and from two or more Tennessee Medicaid categories simultaneously, except for those individuals who are eligible for a Medicare Savings Program (MSP) and Medicaid. An individual living at home who is a recipient of Medicaid or SSI from another state is prohibited from receiving TennCare Medicaid, CoverKids and MSP coverage.

NOTE: Tennessee does not reimburse medical expenses using an individual's Medicaid card from another state. TennCare Medicaid or CoverKids reimburses only on a TennCare Medicaid or CoverKids Identification number.

3. Institutionalized Individuals

Out-of-state Medicaid and/or SSI benefits must be closed or transferred before an individual is approved for Medicaid in Tennessee.

An institutionalized individual is prohibited from receiving Medicaid benefits from two or more states, or from two or more TennCare Medicaid categories simultaneously, except for those individuals who are eligible for MSP coverage and TennCare Medicaid.

4. Recipients of Out-Of-State Medicaid

Inform the recipient and his or her responsible party that the Medicaid benefits received in another state should be terminated if they are a Tennessee resident seeking Medicaid benefits in Tennessee. Deny or hold the application in a pending status due to receipt of Medicaid in another state until documentation of Medicaid closure is received from the other state or applicant, then process the application as usual. The earliest day for TennCare Medicaid eligibility will be the day after Medicaid ends in the other state. Example: Robert recently moved to Tennessee from Alabama and is still enrolled in Alabama Medicaid. Robert sends a letter to the Alabama Medicaid Agency requesting they terminate his coverage on March 18, 2015 and submits the same letter to TNHC to document the closure of his Medicaid in Alabama. Robert's eligibility will begin on March 19, 2015.

5. Recipients of Out-of-State SSI Benefits:

Refer the recipient and his or her responsible party to the SSA to effect transfer of their SSI and Medicaid benefits to Tennessee. Inform the recipient and his or her responsible party that the SSA must change the client's address to the new Tennessee address. The eligibility effective date will be the date the individual receives SSI in Tennessee.

6. Public Assistance Reporting Information System (PARIS)

Tennessee participates in PARIS, which is an information exchange system between states designed to identify individuals who may be receiving benefits or have unreported income in more than one state. Other states may request information to assist in resolving matches concerning individuals who appear to be receiving benefits in more than one state. HCFA may also take steps to terminate coverage in Tennessee if concurrent benefits in another state are confirmed through a PARIS match.

ASSIGNMENT OF THIRD PARTY MEDICAL SUPPORT

Legal Authority: 42 CFR 435.610

1. Policy Statement

As a condition of eligibility, an individual is required to assign his or her rights to medical support or other third party payments to the State, and to cooperate with the State in obtaining medical support and payments.

Third party medical support is also referred to as Third Party Liability (TPL).

2. Definitions

Assignment of Rights: When the individual or responsible party signs the application for benefits, he or she agrees that rights to any medical support or payment for medical expenses are assigned or given to the State.

The State reserves the right to receive reimbursement from any third party, including an insurance company, for any medical expenditure made on the individual's behalf.

The individual is required to return to the State any support or payments for medical expenses he or she may receive from a third party.

Medical Support: Medical Support is financial support available to an individual for his or her medical expenses.

Third Party Payments: Any payment made by an entity that is not the individual and not the State, including a responsible relative or an insurance company.

3. Cooperation with the State

The individual is required to provide the State any and all information necessary to obtain medical support or payment including but not limited to the following:

- The name(s) of the third party;
- The address;
- Any identifying information required to claim payment such as the subscriber's information, the subscriber's Social Security Number (SSN), the policy number, and the group or certification number;
- Household members covered by a health insurance policy; and
- The individual's signature on all forms required for reimbursement.

The individual is required to cooperate in any other way with the State in obtaining the medical support or payments to which he or she is entitled.

4. Refusal to Cooperate In Assignment

The refusal to cooperate with the State in reporting and obtaining medical support, or in the assignment of such support or third party payment to the State results in the individual's ineligibility for program benefits.

5. Medical Trust Fund

The individual is required to provide information regarding a medical trust fund established to defray or to entirely absorb his or her medical expenses including but not limited to the following:

- Location of the account;
- Account trustee;
- Account number; and
- Availability of the funds (e.g. limitations on disbursement).

6. Individual Responsibilities

The individual is required to provide sufficient information to obtain the third party medical support to which he or she is entitled such as:

- The name(s) of the third party;
- The address;
- Any identifying information required to claim payment such as the subscriber's information, the subscriber's Social Security Number (SSN), the policy number, and the group or certification number;
- Household members covered by a health insurance policy; and
- The individual's signature on all forms required for reimbursement.

The individual is required to cooperate with the State in any collection efforts including but not limited to his or her signature on all forms required to obtain reimbursement.

The individual is required to report within 10 days the receipt of any cash reimbursement for medical expenses including the following:

- Insurance settlement and refunds;
- Medical support paid by an absent parent; and

- Medical trust fund proceeds.

7. Reporting Third Party Medical Support

a. Overview

TPL information is collected at application and renewal. The individual is required to provide information about third party support and the information is collected in interChange.

8. Reporting Changes in Third Party Medical Support

Individuals must report any changes in third party support. Types of changes that must be reported include:

- Addition of third party support (e.g. purchase of health insurance or gaining Medicare eligibility);
- Deletion of third party support (e.g. termination of health insurance coverage for any reason);
- Third party change (e.g. coverage changed from one insurance company to another); and
- Receipt of cash reimbursement for medical expenses.

9. HCFA TPL Unit

The HCFA TPL Unit is responsible for pursuing TPL collection. All third party medical support is entered into interChange. If TPL information must be submitted via mail or fax, the individual should send the information to Tennessee Health Connection (TNHC).

Contact information for the TPL Unit is provided below:

HCFA TPL Unit
310 Great Circle Rd
Nashville, TN 37243

FAX: 615-253-5588

THE APPLICATION PROCESS

Legal Authority: 42 CFR 435.906; 42 CFR 435.907; 42 CFR 435.909; 42 CFR 435.910; 42 CFR 457.330; 42 CFR 457.340

1. Overview

The Affordable Care Act (ACA) of 2010 reformed the Medicaid application process. The ACA provides that a single, streamlined application must be used to collect information sufficient to determine an individual's eligibility for Medicaid, Children's Health Insurance Program (CHIP, or CoverKids in Tennessee) and subsidies available for insurance policies sold on the Marketplaces. If the information collected in the single, streamlined application is not sufficient to determine an individual's eligibility for Medicaid and CHIP (e.g. an individual applying for long-term services and supports - LTSS) then supplemental application materials may be used.

The ACA reformed the application process for TennCare Medicaid and CoverKids, establishing a no wrong door approach between the state and federal government. Applications may be submitted electronically through the Federally Facilitated Marketplace (FFM) or by mail to the FFM. Individuals may also apply in person at local Department of Human Services (DHS) offices using a HCFA kiosk. Under the ACA, all of these methods of application are acceptable and will be processed accordingly. Applications specifically for LTSS, Emergency Medical Services (EMS) or Medicare Savings Programs (MSPs) can be mailed or faxed to TNHC.

2. Policy Statement

An individual who wants to file an application for TennCare Medicaid or CoverKids must have the opportunity to do so without delay. Applications must be voluntary and initiated by the person in need, or if the applicant is incompetent or incapacitated, someone responsible for acting on his or her behalf.

Individuals are not required to provide proof of eligibility prior to applying for assistance. However, proof of eligibility is required before assistance can be granted. Proof of eligibility circumstances may be secured by HCFA when information is readily available, or provided by the applicant, depending on the information type and circumstances.

3. FFM Application

The FFM application is used to determine eligibility for TennCare Medicaid categories and CoverKids. Information collected in the FFM application may also be used to determine eligibility for federal subsidies for insurance policies sold on the FFM. For individuals seeking eligibility in a MAGI TennCare Medicaid category or CoverKids, only certain portions of the application are required. For individuals seeking eligibility based on other factors, such as the need for LTSS or just assistance paying for Medicare premiums, a separate HCFA application is required.

The online FFM application is designed to request the information necessary to determine eligibility in a MAGI TennCare Medicaid category and CoverKids first. If applicable, the online application then collects information needed to determine eligibility for other TennCare Medicaid categories. The paper application clearly indicates which portions of the application are required, depending on the type of assistance requested.

a. Application Forms

The acceptable application forms include the:

- HCFA Paper Application for LTSS or MSPs; or
- FFM Application for Assistance (Long Form or Short Form).

b. Who May Submit an Application

An application and any documentation required to determine eligibility may be submitted by the following individuals:

- The individual who is requesting assistance (the applicant)—a minor child must be a "mature minor" to submit his or her own application. In determining who is a "mature minor," Tennessee common law follows the "Rule of Sevens."
    - Under the age of seven, there is no capacity. The application and any documentation required to determine eligibility must be submitted by an adult who lives in the home with the applicant, an authorized representative, or an individual acting responsibly for the applicant (unless a statutory exception applies).
    - Between the ages of seven and fourteen, there is a rebuttable presumption that there is no capacity. The application and any documentation required to determine eligibility generally should be submitted by an adult who lives in the home with the applicant, an authorized representative, or an individual acting responsibly for the applicant (unless a statutory exception applies).
    - Between the ages of fourteen and eighteen, there is a rebuttable presumption of capacity. The applicant may submit an application and any documentation required to determine eligibility unless it is determined that the minor is not sufficiently mature to make his or her own health care decisions.
- An adult who lives in the home with the applicant, if the applicant is a minor. This may be the applicant's biological, step or adopted parent; a family member who claims the applicant as a tax dependent, or another individual who is in a position to know of the applicant's circumstances.
- An authorized representative.
- An individual acting responsibly for the applicant, if the applicant is a minor or incapacitated. A responsible party may be a relative, friend, guardian, conservator or other individual who is in a position to know of the applicant's circumstances.

NOTE: When an applicant in a hospital or nursing facility cannot sign an application, HCFA may accept a paper application signed by the social worker, hospital or nursing home facilitator. The signing individual must include a statement on the bottom of the paper application just below the signature line indicating why the applicant is unable to sign the application. Valid reasons include: applicant is comatose, in emergency surgery, or physically unable to sign and there are no family members present.

c. How to Submit an Application

An application may be filed and will be accepted by HCFA through the following modes of submission:

FFM Web site: An applicant may submit an application via the FFM Web site, www.healthcare.gov. This may be done independently, with informal assistance from a friend or family member, or with formal assistance (e.g. DHS staff, Area Agencies on Aging and Disability (AAAD) staff, hospital staff, or others). Assistance may be in-person or provided over the phone.

Telephone Application: An applicant may complete an application telephonically using the FFM. The FFM call center staff will guide the applicant through the application process and enter all data provided verbally into the FFM Web site.

Faxed Application: LTSS, MSP, and EMS applications may be faxed to the TNHC. The date of application for LTSS/MSP/EMS applications faxed to TNHC will be the date the application is received by TNHC. If a non-EMSFFM application is faxed to TNHC, the state will forward the application to the FFM to be processed. The date of application will be the date the FFM processes the application and not the date the application is received by TNHC.

Paper Application: Paper applications are received by TNHC for LTSS, MSP, and EMS applicants. Paper applications for other categories should be mailed by the applicant to the FFM. The date of application for LTSS/MSP/EMS applications faxed to TNHC will be the date the application is received by TNHC.

In-person Application: An individual may apply in person at their local DHS county office. Individuals applying at a DHS office will complete an online application at a designated kiosk or by telephone. DHS staff are available to assist the applicant with the application process.

Applications filed with the FFM, using the FFM Web site, call center or paper application, are processed by the FFM. Once processed, the federal government transmits the applicant's information to HCFA through an electronic file.

In person interviews are not required to complete or submit an application, or to renew eligibility.

d. When an Application may be Submitted

Applications for TennCare Medicaid and CoverKids may be filed at any time throughout the year.

e. Applicant Requirements

- Applicants must provide complete and accurate information regarding their individual circumstances within specified time limits.
- Applicants and enrollees must report changes in their individual circumstances within 10 days. Enrollees of TennCare Standard must report changes within 30 days. Failure to report changes within the required timeframe may be interpreted as a willful attempt to commit fraud and any resultant overpayment of benefits is subject to recovery by HCFA.

f. Limits on Information

Individuals are only required to provide information needed to determine eligibility, or for administration of TennCare or CoverKids. HCFA may request information needed to determine eligibility for other insurance affordability programs (IAPs).

The FFM application requires the applicant provide only the information necessary to make a TennCare Medicaid eligibility determination for the following categories: MAGI Child, MAGI Pregnant Woman and MAGI Caretaker Relative.

Social Security Numbers (SSNs) may be requested for non-applicants on a voluntary basis. The SSN is used to determine eligibility for TennCare and CoverKids, and may be shared with the FFM to determine eligibility for IAPs. When an SSN is requested, individuals are informed that provision of an SSN by non-applicants is voluntary. An individual must also be told how his or her SSN will be used.

4. Application Process

a. Obtaining an Application

- To file an online application, an individual must visit www.healthcare.gov.
- To file a paper application, an individual may request an application in any of the following ways:

- Download the FFM paper application at: https://marketplace.cms.gov/applications-and-forms/marketplace-application-for-family.pdf;
- Request an application by calling TNHC 1-855-259-0701; and
- Visit a local DHS county office to pick up a paper application. Download the LTSS/MSP application at: http://www.tn.gov/assets/entities/tenncare/attachments/LTSSMedicaidApplication.pdf

b. Application Date

The application date for LTSS/MSP or EMS applications is the date the signed application is received and date-stamped by TNHC. The application date may be any one of the following, whichever is earliest:

- The date the electronic application is submitted via the FFM Web site; or
- The date the applicant completes the application telephonically and submits it to the FFM; or
- The date the mailed LTSS/MSP or EMS application is received at TNHC; or
- The receipt date recorded by a fax machine when an LTSS/MSP or EMS application is received via fax; or
- The application date provided by the FFM (for individuals who apply through the FFM and are assessed as potentially eligible for TennCare Medicaid or CoverKids).

The following information is the minimum required information needed for HCFA to accept an application:

- Applicant's name;
- Applicant's mailing address; and
- Applicant's or responsible party's signature.

Note: In order to approve TennCare Medicaid or CoverKids benefits, a complete application must be filed.

c. Signatures Required

Individuals must sign initial applications under penalty of perjury. Individuals may submit paper signatures, electronic signatures such as telephonically recorded signatures, and signatures transmitted by any other electronic transmission.

d. Complete Application

While the receipt of an application according to the policy stated above determines the application date, TennCare Medicaid and CoverKids cannot be approved or authorized until:

- All required questions on the application are answered;
- All required signatures are received; and
- All necessary verifications are received, unless otherwise excepted by policy (i.e., reasonable opportunity to verify citizenship).

e. Application Processing Time Limits

Federal regulations require that HCFA process an application and notify the applicant of the eligibility determination within 45 days, or 90 days for individuals who apply for Medicaid on the basis of disability.

f. Reinstatement of Withdrawn Applications

If an individual is assessed and found ineligible for TennCare Medicaid or CoverKids by the FFM, the FFM reviews the individual for Advanced Premium Tax Credits (APTCs) and cost sharing reductions. The FFM gives these individuals the option of withdrawing their TennCare Medicaid or CoverKids application. If the individual elects to withdraw the TennCare Medicaid or CoverKids application and appeals an APTC or cost sharing reduction determination by the FFM, he or she may have their original application date reinstated if the Office of Marketplace Eligibility and Appeals (OMEA) finds the individual potentially eligible for TennCare Medicaid or CoverKids.

5. Assistance with Application and Renewal

a. Accessibility

The FFM application is accessible to individuals with Limited English Proficiency (LEP) and individuals that have disabilities. Language services and auxiliary aids and services are provided at no cost to LEP individuals and individuals with disabilities.

b. Application Assistance

Assistance is available to individuals that need help with applications or with renewing eligibility.

In person assistance: In person assistance is available at local DHS offices. Individuals applying for TennCare Medicaid or CoverKids at a local DHS office will be instructed on how to use a designated HCFA kiosk to file an application. If the applicant requires assistance, a DHS worker will be available to assist with application completion. Access to a telephone to file an application with the FFM call center is also available in local DHS

offices. NOTE: DHS workers are not HCFA Eligibility Specialists, but each county office has personnel that have completed Certified Application Counselor (CAC) training and are available to assist with online application filing.

In person assistance is also available through local AAADs. Individuals that do not have TennCare and are interested in receiving in-home LTSS services may contact the local AAAD at 1-866-836-6678 for assistance with the application process.

Assistance from the AAADs is not limited to individuals apply for LTSS. Individuals with disabilities that need assistance to complete an application through the FFM may contact the AAAD at 1-866-836-6678.

Individuals with disabilities that need additional assistance in person may also contact TNHC for a referral to the Tennessee Community Services Agency (TNCSA). TNCSA will reach out to the individual to assist with the application process. TNCSA makes referrals to AAADs for individuals identified as needing in-person assistance to complete an application.

In person assistance is also available to the following, specific groups of individuals:

- Pregnant women may receive application assistance with the Tennessee Department of Health (DOH) staff; and
- Women with breast cancer may receive application assistance with DOH staff.

Telephone assistance: Telephone assistance is available through the FFM call center. FFM staff are able to assist an individual with completing an application telephonically or providing assistance to an applicant filing an online application from their personal computer.

Online assistance: Individuals requiring assistance who intend to file an online application may call the FFM for assistance while completing the application.

Assistance is available for all applicants and enrollees. All assistance provided will be in a manner that is accessible to individuals that are LEP and individuals with disabilities.

An individual may choose to have someone help him or her with the application process or renewal.

6. Automatic Medicaid Eligibility Based on Eligibility in Other Programs

Individuals are not required to file a separate application if they have been determined eligible for Supplemental Security Income (SSI). HCFA receives notice of SSI eligibility via an electronic file from the Social Security Agency (SSA) and automatically enrolls SSI recipients.

7. Medicare Part D: Low Income Subsidy

The Medicare Modernization Act (MMA) of 2003 established a new voluntary Part D Prescription Drug Program. The Centers for Medicare and Medicaid Services (CMS) has overall responsibility for the drug program, and the Social Security Administration (SSA) is required to take applications and determine eligibility for the Low Income Subsidy (LIS) program, which provides Medicare drug payment assistance for low-income individuals.

Those who are deemed eligible are automatically eligible for Low-Income Subsidy (LIS) and do not need to apply. SSI recipients and QMB, SLMB and QI1 recipients are considered "deemed" eligible. Here are ways an individual can apply for the LIS program:

- Receive an application in the mail from SSA. Complete and return the application in the postage paid envelope provided by SSA;
- Apply on-line at SSA website: http://www.ssa.gov/;
- Call SSA at 1-800-772-1213 or (TTY 1-800-325-0778);
- Visit local SSA field office;
- Attend an SSA sponsored outreach event. The events will include gatherings at senior centers, churches, retail stores and will also include brochures with applications placed in various community locations. Individuals will be able to file an application at these events.

Eligibility for LIS will be determined by SSA. SSA will mail notification of eligibility (eligible or ineligible). If determined to be ineligible, the individual can file an appeal with SSA. SSA also sends TennCare electronic files on LIS applicants that are required to be process by HCFA as an application for a Medicare Saving Program.

VERIFICATION

Legal Authority: 42 CFR 435.945; 42 CFR 435.948; 42 CFR 435.949; 42 CFR 435.952; 42 CFR 435.956; 42 CFR 457.380; 42 CFR 435.1101; 42 CFR 435.1102; 42 CFR 435.1103

1. Overview

The Affordable Care Act of 2010 reformed the verification processes used to determine eligibility for TennCare Medicaid and CoverKids. To support a streamlined application process, state Medicaid agencies must use electronic data sources, if available, to verify information provided by an individual. If an electronic data source is not available or there are discrepancies between the information provided by the individual and the information obtained via an electronic database, the state may request additional verification.

2. Policy Statement

Verification is the process of confirming or substantiating information provided by an individual. Non-financial and financial information must be verified and documented for all TennCare Medicaid and CoverKids individuals.

Providing requested information is the responsibility of the applying individual. However, HCFA is required to verify information provided by the individual using electronic data sources and interfaces, whenever possible. If information related to eligibility for TennCare Medicaid is available through an electronic service, HCFA must use the information available prior to requesting additional information or documentation from the individual.

HCFA will follow the verification procedures for TennCare Medicaid and CoverKids as established in HCFA's Verification Plan.

Note: Self-attestation is accepted for presumptive categories regarding citizenship, residency, and enumeration.

3. The Federal Data Services Hub

The Federal Data Services Hub (the Hub) is an electronic service established by the U.S. Department of Health and Human Services (HHS) to facilitate sharing of data and other information between federal agencies, state agencies, and other entities involved in administering Insurance Affordability Programs (IAPs). The following eligibility information is available through the Hub:

- Social Security Administration (SSA): Social Security Number (SSN), citizenship, age and date of birth verification;
- Department of Treasury, Internal Revenue Service: Income verification; and
- Department of Homeland Security (DHS): Immigration status verification.

HCFA will use eligibility-related information received through the Hub, when available. All applications filed with the FFM are matched with Hub data.

4. Use of Electronic Data and Requesting Additional Information

Information provided by an individual at application is verified with the Hub. Individuals are not be required to provide additional documentation when the information is available for verification from the Hub, as long as the information provided by the individual is reasonably compatible with the Hub. See the *Reasonable Compatibility and Verification* policy for further explanation of reasonable compatibility.

Individuals must submit additional information or documentation when information is not reasonably compatible. Individuals have 10 days to provide additional documentation when requested. Information determined not reasonably compatible is not used to deny or terminate eligibility without first requesting additional information. If requested additional information is not received within 10 days, a denial or termination notice is sent to the individual for failure to respond to the request for documentation.

5. Documentary Evidence

If documentary evidence must be used to verify an individual's statement, document case notes with the date received, why it was requested and other relevant information.

a. Official Evidence

Official documentation are those prescribed or recognized as authorized, and are most commonly provided by businesses, agencies, and organizations engaged in specific enterprises or service delivery. A Social Security card, utility bill and award letter are examples of official documents.

b. Unofficial Evidence

Unofficial documentary evidence may include such items as notes from an employer, an estimate from a real estate agent, etc.

6. Collateral Contact

A collateral contact is a verbal confirmation of the individual's attestation by an individual outside of the home who is knowledgeable of the individual's circumstances. Contact may be made in writing or by telephone.

If a collateral contact must be used, document the date of contact, mode of contact, the name of the collateral contact, relationship of the contact to the individual, and content of the conversation or letter in the case notes.

7. Non-Financial Eligibility Conditions

NOTE: The list below provides an overview of the verification requirement for each eligibility condition. Additional information about verification requirements can be found in the relevant policy chapters.

a. Age

HCFA accepts self-attestation of age. SSA data is used to verify age when there is reason to believe the attested age is incorrect. If HCFA is unable to electronically verify age then documentary evidence is requested.

b. Citizenship and Immigration Status

Federal law requires HCFA to use SSA and DHS data to verify citizenship and immigration status. If verification is unavailable through the Hub, documentary evidence is requested.

c. Death

Verification can either be obtained electronically through Vital Statistics or SOLQ, or with a hard copy of the obituary or death certificate.

d. Disability

SSA electronic data is used to verify that an SSA disability determination has been made.

e. Health Insurance Information

HCFA accepts self-attestation of other health insurance information. If paper documentation is necessary, obtain a copy of the individual health insurance card.

f. Household Composition

HCFA accepts self-attestation of household composition. HCFA will use the Public Assistance Reporting Information System (PARIS) data to identify individuals receiving benefits in another state, in order to identify children claimed by non-custodial parents. Paper documentation may be requested if necessary.

g. Identity

If HCFA is given a reason to doubt an individual's identity, SSA data obtained via the Hub that verifies citizenship and immigration status can also be used to verify identity. If paper documentation must be requested, accept a State driver's license, school identification card with a photograph, a U.S. Military card, etc. See the *Citizenship and Immigration* policy.

h. Medicare Eligibility

SSA is used to verify Medicare eligibility. If paper documentation is necessary, obtain a copy of the Medicare card, Medicare Explanation of Benefits (EOB), Medicare Advantage enrollment card, etc.

i. Parent/Caretaker Relative Status

HCFA accepts self-attestation of parent and caretaker relative status. If there is a discrepancy in information provided by multiple caretakers of a child, paper document may be requested if necessary.

j. Pregnancy

HCFA accepts self-attestation of pregnancy as required by federal law.

k. Residence

HCFA accepts self-attestation of residency. If HCFA is given a reason to doubt the individual's residence, HCFA can conduct post-eligibility verification of state residency using PARIS data, or request paper documentation.

l. SSN

SSNs are verified by the SSA via the Hub. If no electronic data match is available, request a copy of the individual's SSN card or a copy of the SS-5 Application for SSN.

8. Financial Information

Financial information from the Hub will be used for verification when available. The individual's SSN, when available, is used for financial verification.

a. Income

The FFM will apply a reasonable compatibility standard to attested income data and income information obtained via the Hub. Income data is obtained from the SSA, the IRS and the Work Number/Equifax.

If additional information must be requested, accept pay stubs, employer statements, tax records, etc. Document in case notes what type of documentation is used.

b. Resources

Resources are not verified through the Hub. Verification of resources may include bank statements, stock certificates, titles, contracts; information received from knowledgeable sources (real property). Document in case notes what type of document was used for verification. Allow up to 10 days for individuals to provide verification of resources.

ELIGIBILITY DETERMINATION

Legal Authority: 42 CFR 435.911; 42 CFR 435.912; 42 CFR 435.913; 42 CFR 435.915; 42 CFR 457.340; TennCare II Demonstration Waiver

1. Policy Statement

All HCFA applications are disposed of by a finding of eligibility or ineligibility, unless there is supporting documentation that the applicant is deceased prior to application date, cannot be located, or has voluntarily withdrawn his or her application. An individual is eligible for TennCare Medicaid or CoverKids when he or she meets the financial and non-financial eligibility requirements. All facts used by HCFA to substantiate an eligibility determination are recorded in the individual's case. A decision will be rendered in each case, and the individual will be notified of the decision.

2. Timely Determinations and Processing Time Limits

An eligibility determination and notice of such determination must be sent to an individual:

- Within ninety (90) days from the date of application for individuals applying for Medicaid based on a disability; or
- Within forty-five (45) days from the date of application for all other individuals.

The date of application is the date the signed and dated application is received by HCFA online, by mail, by telephone or by fax. The date of application for applications processed by the FFM or referred to the state by the FFM is the original date of application with the FFM.

The above time standards are not used as a waiting period to determine eligibility, nor considered an acceptable reason to deny eligibility when the determination is not made within these standards.

The 45 and 90 day processing time frame may be extended in the following situations:

- The individual delays required action until the end of the allowed timeframe; or
- The individual has requested assistance in obtaining verifications; or
- An administrative or other emergency beyond HCFA's control.

All processing delays must be fully explained and documented in the individual's case notes.

3. Withdrawn Applications

If an application is withdrawn, document the individual's request to withdraw an application in the case notes and issue a notice to the individual regarding the withdrawn application.

4. Unable to Locate an Individual

If notified that the individual has changed his or her location or contact information, attempt to locate the individual and document all efforts, including phone calls and written requests for contact, to

locate the individual in Case Notes. Include the following about all sources of information or verification:

- Identity of the source;
- Relationship or connection to the individual;
- Type of contact: written correspondence, telephone contact, personal contact, etc.;
- Date of contact, correspondence or pay stubs; and
- The nature of the information provided by the source.

If at renewal the individual does not respond to verification requests, a termination notice will be issued. If HCFA is notified that the individual no longer lives in Tennessee, HCFA will attempt to verify Tennessee residency. A termination notice will be issued if verification is not received.

5. Individual is Deceased

Once an individual's death has been verified, the date of death must be keyed in interchange and document in case notes how the death became known.

6. Case Documentation

All facts used by HCFA to substantiate an eligibility determination are recorded in the individual's electronic case. HCFA will record all pertinent information and documentation reviewed, or online verifications obtained or used in the eligibility determination process (i.e., birth certificate, Medicare information, property deed, etc.). Pertinent information and facts include, but are not limited to:

- Type and date of document used, information verified by the document, form or document number, name and title of signatory on document; and
- Date the documentation is viewed and by whom.

NOTE: HCFA does not retain original documents and will return original documents after documents are reviewed.

7. Notice of Determination

Notice of eligibility determinations are sent to individuals promptly after a finalized eligibility determination. Once an eligibility approval is loaded into interChange, a notice of the eligibility determination is sent to the individual or his or her responsible party. The notice includes the following:

- The decision regarding the individual's eligibility;
- If eligibility is denied, the specific reason for denial and citations of specific regulations that support the denial;

- A statement to inform the individual of his or her right to appeal the eligibility determination. The notice will provide additional information about how to file an appeal; and
- A reminder to report any household changes within 10 days of the date the notice is received.

8. Eligibility Begin Date

The TennCare II Medicaid Section 1115 Demonstration waiver enables HCFA to waive the eligibility begin date requirement under the Social Security Act § 1902(a)(34) and 42 CFR 435.915. Therefore, eligibility is not extended to a date prior to the date an application is received. TennCare Medicaid eligibility begins the date an application is received or the first of the month during which the person meets all eligibility requirements, whichever is later.

Example 1: Mr. Clarkson applies for Institutional Medicaid on March 25th, 2015. He has no community spouse. At the time of application, he receives $1,000 in Social Security income and $2,000 in pension income, totaling $3,000 per month. On April 17th, 2015, he establishes a Qualified Income Trust (QIT) and diverts his $1,000 monthly Social Security income into the QIT to bring him under the 2015 Medicaid Income Cap level of $2,199. His effective date of eligibility is April 1st, 2015 because he became eligible during the month of April.

Example 2: Mrs. Howard applies for Institutional Medicaid on January 2nd, 2015. She has a community spouse. A resource assessment is conducted on January 17th, 2015, which shows that Mr. and Mrs. Howard own a combined total of $60,000 in resources. After the spousal allocation of $30,000, Mrs. Howard is instructed to spend $28,000 of her resources. On March 30th, 2015, Mrs. Howard meets her spend down requirement. Her effective date of eligibility is March 1st, 2015.

CoverKids eligibility begins the date an application is received. Individuals applying for CoverKids are not required to be uninsured for a specific period of time, or to go bare, before eligibility begins.

9. Reported Changes

Changes must be reported by an individual within 10 days of the changed circumstance. Changes may be reported using any of the acceptable modes of submission: telephone, mail or fax. The change will be considered reported on the date the change is received. If sent to HCFA via U.S. mail, this will be the date the envelope is date-stamped.

The caseworker must record all changes in the appropriate system and provide a full explanation of the changes in case notes. Documentation should include:

- When the change was reported;
- How the change was reported;
- What was used to verify the change; and
- What action was taken on the change.

APPEALS

Legal Authority: 42 CFR 431.205; 42 CFR 431.206; 42 CFR 431.230; 42 CFR 221

1. Policy Statement

Applicants and enrollees in TennCare Medicaid and CoverKids may file an appeal with HCFA when dissatisfied with an action taken on the individual's eligibility case. Appeal requests will be given prompt and careful attention, and corrective action, when indicated, will be taken immediately. Tennessee Health Connection (TNHC) or HCFA staff will provide the appellant with a HCFA Appeal form, or complete the form on the individual's behalf. HCFA must provide whatever assistance the complainant requires in appealing for a fair hearing.

2. Appeal Rights

Every applicant and recipient of TennCare Medicaid and CoverKids has the right to appeal if he or she is aggrieved by an action or lack of action taken by HCFA. Individuals should be informed of their right to a hearing, how to obtain a hearing, and that the individual may represent himself or herself, use legal counsel, a relative, a friend or other spokesman. An individual must be informed of his or her hearing rights:

- At application;
- When an action taken by HCFA affects his or her claim;
- When a skilled nursing facility or nursing facility notifies a resident of a transfer or discharge (not including movement to a bed within the same certified facility); and
- When an individual receives an adverse action from a preadmission screening and annual resident review under §1919(e)(7) of the Social Security Act.

HCFA will inform the individual of free legal representation that is readily available in the individual's area. All HCFA hearing records and decisions are available for public inspection and copying, subject to the disclosure safeguards provided by federal regulations. The names and addresses of appellants will be kept confidential.

3. Appealable Actions

Appeals may arise from conflicts or dissatisfaction related to an action or lack of action by HCFA such as, but not limited to:

- A decision regarding eligibility for TennCare Medicaid or CoverKids, such as a denial for eligibility or eligibility begin date;
- Termination of TennCare Medicaid or CoverKids benefits;
- Failure to make a timely eligibility determination;
- Discriminatory treatment or practice (See *Rights and Responsibilities* policy); and

- Amount of a co-pay obligation for TennCare Medicaid or CoverKids.

4. Timely Appeal

An appeal filed within 40 days from the date of the termination or denial notice is considered timely. Benefits will be continued if the request is filed within 20 days of the notice or before the end date of coverage if that is later, pending the final decision of the Administrative Law Judge. However, the individual must be informed that if HCFA's decision is upheld, he or she may be responsible for repaying the benefits paid pending the decision. If benefits are to continue pending the outcome of the appeal, the Eligibility Appeals Unit will manually continue the benefits, as applicable.

If benefits are continued, HCFA will not terminate benefits before a decision is reached unless:

- It is determined at the hearing the issue at hand is one of federal or state law or policy; and
- HCFA informs the beneficiary in writing that services will be terminated or reduced pending the hearing decision.

5. Good Cause for an Untimely Appeal

Appeals may be accepted after the 40 day time limit if the appellant can show good cause as to why the appeal could not be filed within 40 days. In addition, benefits can be continued if the appellant can show good cause for failing to file the request within 20 days. The decision regarding good cause is made by designated attorneys within the Eligibility Appeals Unit.

6. Filing an Appeal

An individual may file an appeal by phone, mail, in person or by fax. Individuals may file appeals with TNHC.

Mailing Address:
Tennessee Health Connection
P.O. Box 305240
Nashville, TN 37230-5240

Toll-free Phone:
1-855-259-0701

Toll-free Fax:
1-855-315-0669