

TRANSMITTAL LETTER FOR MANUAL RELEASES

STATE OF MARYLAND
DEPARTMENT OF HEALTH
OFFICE OF ELIGIBILITY SERVICES
DIVISION OF ELIGIBILITY POLICY
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BALTIMORE, MARYLAND 21201

410-767-1463 or 1-800-492-5231 option 2 and request extension 1463

MANUAL: Medical Assistance

EFFECTIVE DATE: IMMEDIATELY

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APPLICABILITY: ABLE Account Resource Exclusions for ABD coverage groups.

Item

Revised Sections

Section 800

Attachment B—Medical Assistance Resource Exclusion Table

COMMENTS

We are updating the Resource table at Attachment B for ABD coverage groups only. Please note the addition of a new financial arrangement for disabled individuals, the ABLE account, which is excluded from consideration of the beneficiary's financial eligibility for Medical Assistance.

Background for ABLE Accounts

“ABLE” stands for Achieving a Better Life Experience. Federally tax-exempt ABLE Accounts were authorized as part of Public Law 113-295, the Tax Increase Provision Amendments of December 19, 2014. Maryland implemented ABLE accounts in the 2016 Session via HB431/CH0039 and amended them in the 2018 Session via HB 782/CH0390.

In Maryland, ABLE accounts are administered by the Maryland 529 Board. A current Program Disclosure Brochure can be found at <https://www.marylandable.org/> describing how Maryland operates these tax-exempt funds for investors.

An individual with “significant disabilities” and an age at onset less than 26 years can invest in an ABLE Account to hold tax-exempt funds to use for “qualifying expenses,” which are any expenses related to the designated beneficiary as a result of living a life with disabilities, including education, housing, transportation, employment training and support, assistive technology, personal support services, health care expenses, financial management and administrative services and other expenses which help improve health, independence, and/or

quality of life. There is one ABLE account per beneficiary, but anyone can make contributions.

Maximum account balance. Maryland maintains account balances up to \$350,000 for a single beneficiary. SSA excludes up to \$100,000 in an ABLE account for purposes of SSI eligibility.

Annual contribution limit. Originally, contributions (from beneficiary and all contributors) were subject to an annual cap of \$14,000, and each contributor could deduct up to \$2,500 per year for such contribution. As of 2018, the annual cap is \$15,000, and the disabled beneficiary if employed may be able to contribute up to the lesser of their annual wages or \$12,060 over and above the \$15,000 annual contribution limit. To be eligible for this additional contribution, neither the beneficiary nor the employer can contribute to a retirement plan for the beneficiary in that tax year.

Under the 2018 Maryland statute, *unless required by federal law*, Maryland Medicaid is prohibited from seeking repayment of medical assistance paid for the designated beneficiary from a Maryland ABLE account. For that reason, unless/until Congress enacts any federal Medicaid recovery requirement, case managers should expect to see free-standing ABLE accounts that are non-countable among the resources of disabled applicants and beneficiaries.

ABLE Accounts in other states. Under the federal ABLE Act, any state is authorized to create a similar program to support education savings for the disabled. Although the funding limits and other aspects of the programs will differ in other states, all accounts under the federal ABLE Act are disregarded as resources for purposes of Medicaid eligibility. An individual can be **beneficiary of only one ABLE account**, but it may be established in a state other than the beneficiary's state of residence (for example, by a grandparent). If a worker can identify an account as an ABLE account, it should be disregarded as a resource. If in doubt, the worker should ask the applicant or recipient to provide documentation to establish that the account is authorized under Pub. L. 113-295, The Stephen Beck, Jr., Achieving a Better Life Experience Act (ABLE Act), enacted December 19, 2014.

If you have questions about these policies or procedures, contact the MDH Divisions of Eligibility Policy and MCHP at 410-767-1463 or 1-800-492-5231 (select option 2 and request extension 1463). Questions regarding CARES and MD THINK Eligibility and Enrollment (E&E) processing should be directed to DHS at 410-767-4047.

SECTION 800 – Attachment B

Medical Assistance Program - Resource Exclusion Table

This alphabetic Resource Exclusion Table is provided as a reference guide, and does not include all policy details applicable to a particular resource type. Additional rules for resources are found in COMAR 10.09.24.08 or in Section 800 of the Medical Assistance (MA) Eligibility Manual. **Please refer to the appropriate resource procedures in the MA Eligibility Manual for complete instructions when determining eligibility.**

If a type of resource is not specified on this table as excluded, it is countable. “EX” under the “Countable For” column means the type of resource is **excludable**. “CT” means the type of resource is **countable**.

Effective 1/1/2014, resources are no longer tested for eligibility of former FAC/PWC groups (pregnant women, parents/caretakers, and children), new adults aged 19 < 65 without Medicare, and CHIP groups (P13, P14, D02 and D04). The same applies to E, G and T track (children’s LTC).

- **Aged, Blind and Disabled (ABD)** rules are used by MA coverage groups in the **H, L, and S** tracks.
- **MAGI** or **ABD** rules are used for coverage group **X02** depending on assistance unit composition.

Type of Resource	Count for ABD	NOTES
401-K funds (see “retirement”)	CT	Count after subtracting any penalty for liquidating.
ABLE accounts	EX	• For disabled beneficiary whose age at onset was less than 26, exclude account balance up to \$350,000 and annual contributions up to \$15,000 • For beneficiary without a retirement plan, additional contributions from earnings up to \$12,060 • www.marylandable.org
Annuities	CT/EX	• Count if it may be cashed in, withdrawn, or liquidated. • Otherwise, exclude. • For a LTC or HCBC waiver case, determine if purchase of the annuity was a transfer subject to a penalty (e.g., not actuarially sound or not transferred to spouse or disabled child).
Automobiles and other vehicles	CT/EX	• Exclude automobiles, SUVs, trucks, and motorcycles. • Count recreational vehicles, boats and their trailers, and airplanes. • Count vehicles owned by an institutionalized person who does not intend to return home.
Bank and other financial institution accounts	CT	Count checking, saving, draft, share, savings certificates, investment, certificate of deposit, and money market accounts.
Basic items essential to day-to-day living such as clothing, furniture, household furnishings, appliances, health aids, educational material, children’s toys, and other similarly essential items of limited value	EX	
Bonds	CT	
Burial/funeral fund, plan, agreement, trust, or contract, which specifies that a funeral home will receive all proceeds, for the actual anticipated costs of the burial/funeral of an AU member or a member’s spouse	EX	Exclude both irrevocable and revocable burial funds, as well as interest earned on those funds.

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Burial savings accounts and other liquid assets designated for burial/funeral	CT/EX	Exclude up to \$1,500 for each AU member or spouse; count amounts that exceed the cap.
Burial spaces for each member of the AU and a member's immediate family	EX	
Cash on hand	CT	
Certificates of deposit	CT	
Checking bank accounts	CT	
Continuing Care Retirement Community (CCRC) entrance deposit	CT/EX	Consider according to Regulation .08-3: count if withdrawal permitted, otherwise exclude.
Crime victims compensation for expenses incurred or losses suffered	EX	
Disaster relief assistance	EX	
Dividends , accumulated	CT/EX	- Count accumulated dividends for a countable resource. - Exclude accumulated dividends for an excludable resource.
Earned Income Tax Credit refunds and advances	EX	
Education assistance	EX	
Energy assistance	EX	
Escrow or other dedicated financial institution account (e.g., rent or utility security deposit)	EX	
Farm property and livestock	CT/EX	- Exclude if used only for the household's consumption. - Otherwise, count according to the rules for income-producing property.
Ground rent	CT	Count as income-producing property according to the yearly fair market value of the ground rent or what the lease would bring on the open market.
Home consumption —value of livestock, farm property, and farm or home produce used only for household's consumption	EX	
Home property including the associated land	CT/EX	- Exclude if the individual, spouse or other specified family member lives in the home. - Exclude if the individual is institutionalized and intends to return to the home. - Exclude if in a life estate without powers. - Count if the individual is institutionalized and either the home is part of a life estate with powers or was not excludable as home property immediately before the admission.

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Home property – proceeds from sale of a home	CT/EX	- Exclude for up to 3 months if the home was excluded as home property, and if the proceeds are used to purchase another excluded home. - Otherwise, count.
Household goods, personal effects, and basic items essential to day-to-day living.	CT/EX	- Count the equity value of non-essential collections of valuable personal effects or collections such as stamps, jewelry, furs, antiques. - Otherwise, exclude.
Housing assistance	EX	
HUD Section 8 and Public Housing Family Self-Sufficiency Program —funds placed in escrow account for the program	EX	
Income-producing property – home, business, farm, recreational, or other non-home property (building, land, farm machinery, livestock, tools, equipment, ground rent)	CT/EX	- Exclude value of real property if annual income is consistent with the fair market value. - Exclude if associated with excluded home property. - Exclude business property essential to self-support. - Exclude tools and equipment necessary for employment. - Exclude real or personal property that is directly used to maintain or use an income-producing vehicle. - Otherwise, count.
Indian lands, certain government payments to Native Americans, Indian judgment funds	EX	
Individual Development Accounts (IDAs)	EX	Exclude money deposited and interest earned.
Individual Retirement Accounts (IRAs) (see “retirement”)	CT	Count after subtracting any penalty for liquidating.
Interest (accumulated)	CT/EX	- Count accumulated interest for a countable resource. - Exclude accumulated interest for an excludable resource.
Keogh accounts (see “retirement”)	CT	- Count after subtracting any penalty for liquidating. - Exclude for EID per COMAR 10.09.41.04C(3)
Life estate	CT/EX	- Exclude the life tenant’s interest in a life estate without powers. - Count value of property held as a life estate with powers.
Life insurance policies	CT/EX	- Exclude the current cash value if the sum of the original face value for all of the A/R’s policies is less than \$1,500. - Exclude life insurance irrevocably designated for the insured person’s burial/funeral expenses. - Otherwise, count the current cash value.
Loans and promissory notes – principal payments received by the A/R as the lender for a formal, contractual loan	CT	Payment received for the principal is counted as a resource. Payment of the interest is counted as income. Payment received for an informal loan is not counted.
Medicaid Qualifying Trusts established on or before 8/10/1993	CT/EX	Consider according to the policies in COMAR 10.09.24.08-2 and section 800.14(f) of the Manual.
Money market accounts	CT	
Mortgage payments - payment of the principal received by the customer as the lender	CT	
Mutual fund shares	CT	
Nazi persecution compensation – Nazi Persecution Victims Eligibility Act of 1994	EX	Exclude World War II reparation or compensation payments from Germany, Austria, or the Netherlands.

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Personal property	CT/EX	- Count a valuable collection that is not needed to meet basic living needs (e.g., stamps, furs, jewelry, antiques). - Otherwise, exclude.
Plan for Achieving Self Support (PASS)	EX	Exclude resources of a blind or disabled person that are necessary to fulfill a Plan for Achieving Self-Support, approved by the Social Security Administration
Pooled Special Needs Trust	EX	Exclude a disabled beneficiary's subaccount with a MDH-approved Pooled Trust entity (check with OES)
Real property —buildings and land	CT/EX	Count real property, unless excluded as home property or as income-producing property.
Real property that is not the primary residence and is listed for sale with a realtor with a good faith effort to sell	CT	
Relocation assistance --Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 or relocation assistance provided by a state or local government	EX	
Replacement received in cash or in-kind for casualty losses of a lost, damaged, or stolen excluded resource	CT/EX	- Exclude for 9 months after receipt, with possible extension for at most 9 more months. - Afterwards, count what is retained and any interest.
Resource conversion --receipts from the sale, exchange, or replacement of a resource	CT/EX	- Count if the original resource was counted. - Exclude if the original resource was excluded and the receipts are put back into another excluded resource in 3 months (e.g., home property). - Otherwise, count.
Resources retained or accumulated from income excluded by federal statute	EX	
Retirement and pension plans	CT/EX	- Count if beneficiary is permitted to withdraw or borrow against, using the current equity value minus any encumbrance or penalty for early withdrawal but including tax withholding and other deductions. - Exclude if withdrawal/liquidation/borrowing not permitted. - Note special EID rules excluding most employer plans
Retroactive payments under Title II (Social Security) or Title XVI (SSI) of the Social Security Act	CT/EX	- Exclude the unspent portion for 6 months following the month of receipt. - Count afterwards.
Reverse mortgage – money received by the customer as the borrower	CT/EX	- Exclude from income and resources in the month of receipt. - Count as a resource any unspent amount after the month of receipt.
Savings bank accounts or savings certificates	CT	
Security deposit , e.g., for rent or utilities	EX	
Special needs trust (see “trusts”)	EX	Exclude if OES has approved (determined SNT meets requirements of §1917 and COMAR 10.09.24.08-2). Otherwise, count.
Stocks	CT	
Supplemental Security Income recipient's resources	EX	
Tax refunds —refund of income, food, or property taxes already paid by the household; refund or advanced payment of the Earned Income Tax Credit	EX	

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Tools and equipment necessary for employment	EX	
Trust (see also “special needs trust” and “Medicaid Qualifying Trust”)	CT/EX	• Exclude if the trust is irrevocable, beneficiary not able to withdraw, no funds of the individual or spouse formed the trust’s corpus, or certain other conditions are met. • Exclude benefits in a trust formed under Maryland Discretionary Trust Act. • Submit trust for OES document review if in doubt.
Vehicles	CT/EX	• Exclude automobiles, SUVs, trucks, and motorcycles. • Count recreational vehicles, boats and their trailers, and airplanes. • Count vehicles owned by an institutionalized person who does not intend to return home.
Welfare-to-Work Rental Voucher Program —subsidy payments	EX	