ABD COUNTABLE AND EXCLUDED RESOURCES

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

1. Countable Resources

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

Count the resources of the following individuals:

a. All individuals included in the EDG; and
b. The resources belonging to the Financially Responsible Relative (FRR) of the EDG members, if the relative and EDG members are living together at the time.

For Supplemental Security Income (SSI) recipients, TennCare relies on the resource and income determination made by the Social Security Administration (SSA) and the income information from available data sources. Additional requests for resources and income may occur when there is reason to believe that the individual has additional income or resources beyond what is known to SSA.

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.

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

		Documentary evidence of an ABLE account should show the following information: • The name of the designated beneficiary or owner of the account; • The state ABLE program administering the account; • The name of the person who has signature authority (if different from the owner); • The unique account number assigned by the state to the ABLE account; • The date the account was opened; and • The first-of-the-month account balance.
Annuity	Resource Type	Annuities are contracts or agreements that, in exchange for a lump sum payment or series of payments, provide income at regular intervals (i.e., monthly, quarterly, annually). Annuities establish a source of income for a future period, and are often used in retirement planning. **1. Definitions** **Annuitant:** The person on whose life the income payments are based. Often, the annuitant is the contract owner and receives the benefits of the contract. Annuity payments may also be based on more than one life or based on a fixed period of time. **Annuitization:** The process of converting an annuity contract's value into a guaranteed income stream represented by periodic payments over a specified period of time. **Payee:** The individual or entity designated by the annuity owner to receive periodic payments. An annuity payee is sometimes referred to as an annuitant; however, a payee may not also be an annuitant. **Deferred Annuity:** An annuity contract under which payments begin sometime in the future. **Immediate Annuity:** An annuity contract purchased with a lump sum under which payments begin within a short period, always within 12 months. **Accumulation Phase:** The first phase of a deferred annuity during which the contract accumulates funds from the payments made into the annuity and accrues interest and earnings.

Free Look Period: Period of time after an annuity contract is delivered (usually between 10 and 30 days) when the owner may cancel the contract and receive either their initial payment or the current value of the annuity contract.

Maturity Date: The date specified in the annuity contract at which time the owner may choose to extend the contract, surrender the contract for a one-time lump sum payment, or annuitize the contract and receive periodic payments.

Systematic Withdrawal Plan: A distribution plan that allows a variable annuity contract owner to receive a specified amount or a percentage of funds from an annuity's contract value at regular intervals prior to the annuity start date.

Required Minimum Distribution (RMD): The minimum amount that an owner of a qualified annuity (established with pre-tax dollars) must withdraw annually starting with the year that he reaches 70½ years of age or, if later, the year in which he retires.

2. General Rule

An annuity is a countable resource when it is revocable, assignable or can be sold. Generally, annuities are revocable while in the accumulation phase though an annuity owner will not receive a full refund, unless the annuity is cancelled during the free look period. Once an annuity has been annuitized, the funds are typically unavailable as a lump sum.

3. Types of Annuities

Annuities can be classified in a number of ways based on the following:

- The time at which annuity payments begin (e.g., deferred, immediate);
- The nature of the periodic payments (e.g., fixed, variable);
- The period over which annuity payments will be made (e.g., term or period certain, life); and/or
- The type of annuity issuer (e.g., commercial, private).

4. Countable Value

Annuities may be counted as a resource or as unearned income, depending on the circumstances of the annuity. An annuity is a resource during the free look period and the accumulation phase.

Free Look Period

- During the free look period, the countable value of an annuity is the purchase value.
(Exception: The value of a variable annuity may be more or less than the purchase value.)

Accumulation Phase

- During the accumulation phase, the countable value of an annuity is the cash value, minus any withdrawals and surrender charges or penalty fees for early withdrawal.

Distributions from an annuity, such as systematic withdrawals and RMDs, should be considered conversions of a resource rather than income.

Some annuity contracts contain a provision allowing an individual to cash in the contract after annuitization. If an annuity contract contains such a provision, the annuity is a resource, and the countable value is the commuted cash value, i.e. the present value of all future payments. An annuity is unearned income when it has been irrevocably converted to an income stream and is no longer available as a lump sum.

Any portion of an annuity payment held following the month of receipt is a countable resource, except when the annuity is a State annuity for certain veterans. A State annuity for certain veterans is an annuity paid for by a state to an individual the state determined is a veteran, who is aged, blind or disabled, or to that individual’s spouse.

5. Annuities Funded by a Pension or Retirement Fund

Annuities that are funded by a pension or retirement fund held by an employer or union should not be counted as a resource

		while the individual is employed, if termination of employment would be necessary to access the funds. If the annuity contains a special provision that allows the individual to access a portion of the funds or the funds in entirety under certain circumstances such as a medical emergency, the dollar amount available to the individual is a countable resource. Federal law requires individuals to take all necessary steps to obtain any annuity to which they are entitled, unless they can show good cause for not doing so. **6. Annuities Owned or Purchased by LTSS Applicants** Annuities owned or purchased by individuals applying for Long-Term Services and Supports (LTSS) are subject to additional requirements and should be reviewed according to transfer of assets policy. See the *Transfer of Assets and Penalty Periods* policy. **a. Disclosure Requirements of Interest in an Annuity at Application** Individuals applying for LTSS must disclose information regarding any interest that the individual or his 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 spouse refuses to disclose information related to an annuity, the individual will be denied Medicaid eligibility based on the individual's failure to cooperate.
Burial	Resource Characteristic	Certain otherwise countable resources may be excluded for burial. These resources must be separately identifiable and set aside for burial expenses, and may not be commingled. See the *Burial Contracts, Burial Plot and Space, Burial Reserves, and Burial Trusts* resource types for a complete description of the various types of resources.
Burial Contracts	Resource Type	**Burial Contracts** Legal Authority: Tennessee Code Annotated 62-5-401 through 409

1. Prepaid or Preneed Burial Contracts

A prepaid or preneed burial contract is an agreement under which an individual pays in advance for a burial that the seller agrees to furnish upon the death of the individual or another designated individual. Sellers of prepaid burial contracts are individuals and entities in the funeral industry, e.g. funeral homes.

Prepaid burial contracts can be funded numerous ways, including cash payment to the funeral home or the purchase of an annuity or life insurance with assignment to the funeral home (See Section b. for additional information about life insurance funded burial contracts). The funeral home is then required by state law to place those funds into a preneed burial trust, or a preneed burial insurance product.

NOTE: Installment payments on a prepaid burial contract are treated as countable funds subject to the burial reserve exclusion, until the contract is paid off in full. Once the contract has been paid in full, apply burial space and funds exclusions as provided below. This applies to contracts under which the buyer is not entitled to the spaces or services listed in the contract until paid in full; and the seller is not obligated to provide spaces or services until the contract is paid in full.

a. Revocable Burial Contract

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

b. Irrevocable Burial Contract

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

i. 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.

ii. 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."

iii. 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 Assets and Penalty Periods* policy for individuals applying for Institutionalized Medicaid. If the individual is receiving Fair Market Value (FMV) for all services specified under the contract, then the burial contract does not constitute a transfer of assets for less than FMV.

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

c. 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.

2. Life Insurance Funded Burial Contract

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

Life insurance funded burial contracts are <u>not</u> burial insurance.

a. Revocable Assignment

The resource value of the burial contract is equal to the Cash Surrender Value (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 FV 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. **b. Irrevocable Assignment** The life insurance policy and the burial contract are excluded resources if the burial contract meets the criteria described in (1)(a) of this section. If the burial contract includes an FV 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 FV of the life insurance policy is $3,000. The burial contract includes the purchase of $1,300 of burial space/plot and $1,700 of burial funds. The contract is an excluded resource, and the $1,700 in burial funds will be counted against any possible burial reserve exclusion (limit of $1500), so Mr. Jones may not have any other excluded burial funds.*
Burial Plot and Space	Resource Type	Exclude the value of one burial space for each family member, e.g. spouse, child, parent, sibling) whether living in the home or not. Burial plots and spaces include a burial plot, gravesite, crypt, mausoleum, niche or other repository for bodily remains. It also includes vaults, headstones, markers, plaques, containers, and arrangements for opening and closing the gravesite. Burial plots are real property (if a single individual has two burial spaces, but no family member to which he may designate the second burial space).
Burial Reserves	Resource Type	**1. Burial Reserve** Individuals and their spouses are each allowed a $1,500 resource exclusion for funds set aside for burial expenses. This exclusion is separate from, and in addition to, the burial plot exclusion.

Funds allowed to be excluded under this provision include certain otherwise countable resources. These resources must be separately identifiable and set aside for burial expense, and they may not be commingled. To determine the amount of the burial reserve, the maximum $1,500 that may be excluded is first reduced by:

a. Life insurance, if the total value of all life insurance owned by the individual is $1,500 or less; and

b. Funds in an irrevocable burial agreement or contract (see above for irrevocable burial contract definition).

Any remaining amount of the reserve once the above reductions have been applied can be used to exclude other burial funds/expenses. Burial funds set aside for any relatives other than the individual and her spouse are not eligible for exclusion.

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

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

2. Determining the Amount of the Reserve

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

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

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

		\$1,800 Total Value of all Burial Assets – \$1,500 Maximum Burial Reserve \$300 Countable Asset **3. Treatment of Excluded Value** Interest earned on excluded burial funds is excluded as long as the individual remains continuously eligible for TennCare Medicaid. If an individual's eligibility is terminated, and she later applies for benefits, the full value of the asset (including interest) must be considered when evaluating for a burial exclusion. The value of the burial reserve loses its exclusion if any portion of the principal and accrued interest is used for any other purpose than to meet the individual's burial expenses.
Burial Trusts	Resource Type	A burial trust is a trust established by an individual for the purposes of setting aside funds or payment of burial expenses for the individual or someone else. A burial trust is a trust established with the individual's assets. It may be a revocable or irrevocable trust. NOTE: It is important to determine whether the trust was established with the individual's assets or with funds that have been irrevocably paid to the funeral provider. If it is the latter, then that trust is subject to the policies in the *Burial Contracts*, section (1)(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 assets policy for Institutionalized Medicaid applicants.
Business or Self Employment	Resource Characteristic	Excluded as essential for the production of earned income either in trade, business or self-employment. Resources may include:

		• Tools/equipment; • Stock or raw materials; • Real property; • Personal property essential for income production; • Office equipment; • Business loans for the purchase of capital assets; • Inventory; • Machinery and equipment; • Business/commercial checking accounts; and • Life insurance. No exclusions listed in this section will be applied to property a household does not own, nor to use of such property except by owners who are members of the household. Property that represents the authority granted by a governmental agency to engage in an income-producing activity is also excluded if it is used in a trade or business or non-business income-producing activity or not used due to circumstances beyond the individual's control and there is a reasonable expectation that the use will resume.
Cash	Resource Type	Cash is money on hand or available in the form of currency or coins and 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; and • 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 Deficit Reduction Act of 2005 (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 community spouse before determining the amount of resources that a resident must spend on her own care. **3. CCRC Entrance Fees as a Countable Resource** Entrance fees paid to a CCRC may be a countable resource. The following three conditions must all be met in order for the entrance fee to be an available, countable resource: • The entrance fee can be used to pay for care under the terms of the entrance contract should other resources of the individual be insufficient; • The entrance fee (or remaining portion) is refundable when the individual dies or terminates the contract and leaves the CCRC; and • The entrance fee does not confer an ownership interest in the community. It is not necessary for the CCRC to provide a full, lump-sum refund of the entrance fee to the resident in order to satisfy the first condition. If portions of the fee can be refunded or applied to pay for care as required, the condition is met. In order to meet the second condition listed above, it is not necessary for the resident to actually receive a refund of the entrance fee or deposit. This condition is met as long as the resident could receive a refund were the contract to be terminated, or if the resident dies.
Contract for Deed or Mortgage	Resource Type	The value of a contract for deed or mortgage may be a countable asset 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 security held by the lender on a particular property for the repayment of debt by the borrower within a particular time period. A contract for deed, land contract, and deed of trust are all mortgages on real property.

2. Individual is the Lender

a. Countable Value

When the individual is the lender for a contract for deed, he may sell or transfer the instrument to have immediate access to the unpaid loan principal. The value of the resource equity value is a countable asset.

Any subsequent payments to the principal made by the debtor after approval are considered a resource because the unpaid loan principal is a resource.

b. Excluded as a Resource

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

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

c. Establishing Value

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

3. Individual is the Borrower

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

4. Reverse Mortgage

a. Description

A reverse mortgage is a loan against the equity in an individual’s home that provides cash advances but requires no mandatory monthly repayment 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;

<table>
<tr><td></td><td></td><td>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 LTSS 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. </td></tr>
<tr><td>Educational Income</td><td>Resource Characteristic</td><td> 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 receipt. </td></tr>
<tr><td>Farm, Business/Self-Employment or other Equipment</td><td>Resource Type</td><td>The equity value of non self-employment income-producing real property, other than the homestead, is subject to the Rate of Return Test. See the Income-Producing resource characteristic. If the property is used for self-employment, it is excluded as Business or Self-Employment.</td></tr>
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		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.
Health Reimbursement Account (HRA)	Resource Type	A Health Reimbursement Account is an employer-funded group health plan from which an employee is reimbursed tax-free for qualified medical expenses up to a fixed dollar amount per year. An unused amount may be rolled over for use in subsequent years. The account is funded and owned by the employer, and is not a countable resource for the beneficiary. Any amounts paid to the employee that exceed the cost of medical expenses incurred in the year are countable income.
Homestead Exclusion	This policy applies to resource type **Real Property**, with the resource characteristic of **Home**	**1. General Rule** The entire value of the home, whether on land or water, all adjoining land not separated by property owned by others, and any related outbuildings are excluded in determining resource eligibility, as long as: • The home is the principal place of residence for the applicant, spouse or dependent relatives; and • Intent to return to the home is established, if the individual resides in a Long-Term Care Facility (LTCF). An individual must have lived in the home for it to be considered her home or principal place of residence. For an institutional individual, the individual is ineligible for payments of LTSS (CHOICES) when home equity exceeds $585,000, unless one of the following lawfully resides in the individual's home: • the spouse of such individual; • such individual's child who is under age 21; or

- such individual's child who is blind or disabled according to 42 USC 1382c. If the individual's child is not receiving benefits from SSA, contact the Policy Unit for assistance.

2. Exclusion Based on Intent to Return

The value of the home and surrounding land will not be counted as a resource during the individual's absence from an unoccupied home when she intends to return to the property.

- **Absence from the Home**

  An absence from the home can be necessary to accomplish a specific purpose such as hospitalization, confinement in a nursing home or receipt of services, such as nursing or personal care services not available to the individual in her home.

- **Development of Intent to Return**

  When the individual is absent from her homestead, and it is not occupied by a spouse or dependent relative, verify the individual's intent to return home at each redetermination of eligibility.

- **When the Exemption Period Ends**

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

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

  The exemption based on residence of the enrollee's

		dependent relative ends the first day of the month after the relative last lived in the homestead, if the relative does not intend to return. **3. Homestead Located Outside of Tennessee** Real property located outside of Tennessee can be excluded from countable resources as homestead property, if there is substantiation of the individual's intent to return to the home OR the property is the principal residence of the individual's spouse or dependent relatives. **4. Dependent Relative (for purposes of Homestead Exclusion)** A homestead retains its exclusion if it is the principal residence for the individual, her spouse or relative within the specified degree below who is dependent on the individual. Dependency may be of any kind: financial, medical, residential, etc. Relatives include: Aunt, Grandson, Son Brother, Half brother, Stepbrother Cousin, Half sister, Stepdaughter Daughter, In-laws, Stepfather Father, Mother, Stepmother Granddaughter, Nephew, Stepsister Grandfather, Niece, Stepson Grandmother, Sister, Uncle Accept the signed statement by the individual's spouse or dependent relative regarding her relationship to the individual and residence in the homestead without question, unless it is contradictory.
Individual Development Account (IDA)	Resource Characteristic	IDAs may be established by or on behalf of an individual eligible for Families First assistance. An IDA is different from a regular savings account because funds deposited by a participant are matched by a separate entity and there are restrictions on the use of these funds. An IDA will provide an opportunity for a participant to build assets to further support the transition to self-sufficiency. Funds, including accrued interest, in the account are disregarded as a resource as long as the individual complies with the IDA

		eligibility rules and continue to maintain or make contributions into the account.
Income-Producing	Resource Characteristic	For property used in a trade or business (i.e. farming), see “Business or Self-Employment”. Income-producing resources can be real or personal property. Income-producing property is non-liquid property used in the passive production of income (i.e., not a business or trade). It may include such property as rental property (when the person is not in the business of managing rental properties), a non-working ownership in a business venture, or leased land in which the owner is not actively participating in the operation and decision-making of the business for at least 20 hours per week. If the owner is participating at least 20 hours per week throughout the year, claims the endeavor as self-employment, and, if filing taxes, reports the income on Schedule C, F or SE, the property is treated as property/equipment necessary for self-employment. Otherwise, the property is treated as income-producing property. Other income-producing resources include buildings, farm, business and other equipment and supplies, motor vehicles, livestock, oil and mineral rights and items of unusual value. **Rate of Return Test** Exclude up to $6,000 of an individual’s equity in an income-producing resource if it produces a net annual income to the individual of at least 6 percent of the property’s equity value. If the individual’s equity value is greater than $6,000, the amount that exceeds $6,000 is countable towards the resource limit. If an income-producing resource does not produce a net annual income of at least 6 percent of the resource’s equity value, the entire equity value of the resource is countable. If the individual owns more than one piece of income-producing resource and each produces income, each is reviewed to determine whether the 6 percent test is met. Then the amounts of the individual’s equity in all of those properties producing 6 percent are totaled to determine if the total equity of all properties is $6,000 or less. If the total equity value in the properties that meet the 6

		percent rule is over the $6,000 equity limit, the amount exceeding $6,000 is counted as a resource.
Insurance	Resource Type	There are two types of insurance considered under this resource type: **1. Sick and Disability Insurance** Excluded. Sick and disability insurance primarily provides income to the insured if he becomes disabled. **2. Burial Insurance** Excluded. Burial insurance is a contract whose terms specifically provide that the proceeds can only be used to pay the burial expenses of the insured.
Items of Unusual Value Household Goods and Personal Effects	Resource Type	**Items of Unusual Value** An item of unusual value that generates income for the individual is countable. The countable value is determined by applying the Rate of Return test, see the *Income-Producing* resource charateristic. A personal item of unusual value is excluded from resources. Items that an individual acquires or holds because of their value or as an investment. These items may meet the definition of personal effects. Examples of an item of unusual value include: gems, art collections and animals owned for investment purposes. In general, an item may be considered an item of unusual value if the item is not excluded as a household good or personal effect, and the equity value of the item is greater than $500. **Household Goods and Personal Effects** Household good and personal effects are excluded from countable resources. Household goods are items of personal property, found in or near the home, which the individual uses on a regular basis. The individual needs household goods for maintenance, use and occupancy of the premises as a home. Examples of household goods include: furniture, appliances and electronic equipment.

		Personal Effects are items of personal property ordinarily worn or carried by the individual, or items that have an intimate relation to the individual. Examples of personal goods include: personal jewelry, personal care items and clothing, pets, educational or recreational items and items of cultural or religious significance to the individual. Items required because of an individual's physical or mental impairment, such as prosthetic devices or wheelchairs, are also personal effects.
Life Estates	Resource Type	**1. General Rule** A life estate is property right with a duration limited to the life of the party holding it or to the life of some other party. The holder of a life estate does not have title to the property and cannot sell the property. However, the holder of a life estate can sell his interest in the property, unless restricted by the terms of the contract, and is entitled to any income from the property. The income is deemed available to the holder, regardless of whether she actually receives the income. Upon the death of the owner of a life estate, full title and ownership usually passes to the individual named in the will or deed as entitled to the property. Property in which an individual holds a life estate is subject to the same exclusion rules as property the individual owns by title. **2. Life Estate Exceptions** • A life estate will be excluded as the home when the property meets the homestead exemption. • If the property is used in the passive production of income, the life estate is subject to the Rate of Return test. See Income-Producing. • A life estate will be excluded when ownership is necessary for the production of earned income. See the *Business or Self-Employment* resource characteristic.

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

3. Countable Value

If the life estate is not excluded based on the criteria above, the entire value of the life estate is a countable resource. The life estate value is determined by multiplying the Fair Market Value (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 effected. **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. **Face Value (FV):** The amount that is contracted for at the time the life insurance policy is purchased (the amount to be paid out

when the insured dies). The FV does not include any dividend additions or additional amounts paid in the event of an accidental death or other special provision.

Cash Surrender Value (CSV): The amount, which increases with the age of the policy, the insurer will pay upon cancellation or surrender of the policy before the death of the insured or maturity date of the policy.

Dividends: Any interest paid by the insurance company to its policy holders. If dividends are paid, they may be paid directly to the owner, added to the CSV of the policy, or to purchase additional coverage.

2. Types of Life Insurance

There are two groups of life insurance policies: those that accrue a CSV and those that do not. Count only the CSVs of the types of life insurance policies that accrue a CSV.

Life Insurance with a CSV

Whole life insurance is a contract for which the insured pays premiums during his lifetime or up to age 100 and the insurer pays the FV of the policy to the beneficiary upon the death of the insured. The net CSV of whole life insurance is countable.

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

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

Life Insurance without a CSV

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

3. Life Insurance Limit

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

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

4. Countable Value

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

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

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

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

5. Ownership

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

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

6. Establishing Value

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

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

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

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

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

Estimated CSV Method:

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

Estimated CSV Calculation:

- Determine the number of years the policy has been in effect.

- Consult the table entitled Presumed Valuation Table below to obtain the percentage amount that corresponds to the number of years in effect.

- Multiply the percentage amount by the life insurance policy's FV.

- The result is the Estimated CSV for the policy.

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

PRESUMED VALUATION TABLE

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

7. Additional Life Insurance Topics

		Encumbered or Lapsed Policies Secure written verification from the insurance company or the individual’s insurance agent for any life insurance policies that are either encumbered, i.e. the owner has borrowed against the CSV, or the policy lapsed when the owner stopped paying premiums. **Accelerated Life Insurance Payments** A life insurance company, or a privately owned business, may offer to pay the owner of a life insurance policy money that would normally go only to the named beneficiary after the insurer’s death. Accelerated payments usually provide payments to cover costs related to long term care, a catastrophic illness or a terminal illness. Payments may be received in a lump sum or monthly amounts. Accelerated payment plans involve early payout of some or most of the proceeds of the policy to the insured. Accelerated payments are income in the month received, and a resource if retained into the following month. The receipt of an accelerated payment is not treated as a conversion of a resource. Accelerated payments are not considered benefits for the purpose of the eligibility requirement to apply for other benefits. Therefore, an individual is not required to file for accelerated payments as a condition of eligibility.
Livestock	Resource Type	The value of livestock necessary for self-employment, as a tool of the trade, or raised for home/personal consumption is an excluded resource. Income received is countable as self-employment income. Livestock that is used as non-business income-producing property is countable, and subject to the policy provided under the *Income-Producing* resource characteristic.
Oil and Mineral Rights	Resource Type	Oil and mineral rights may be included with land ownership or owned separately. If surface rights of the same property are excluded (for example, as a home) so are oil and mineral rights. Oil and mineral rights are countable when owned for personal use, or when the surface rights of the same property are countable (non-

		homestead, real property). Obtain verification of oil and/or mineral rights. Acceptable verifications are deeds, lease agreements, titles and homestead documents. If oil or mineral rights are producing income under a lease agreement, the owner may be constrained from selling or otherwise disposing of those rights. If the land is already excluded, the oil and mineral rights are excluded. If oil or mineral rights are producing income to the individual, and she is not actively engaged in the production of income, the equity value of the rights is subject to the Rate or Return test. See the *Income-Producing* resource characteristic.
Patient Trust Account	Resource Type	Countable. A patient trust account is a bank account set up by the nursing home for the convenience of the resident. An enrollee may deposit her Personal Needs Allowance (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 Nursing Facility (NF) holding a patient trust account with a balance of $50 or less is not required to pay interest on the account. Any earned interest on the account belongs to the patient/enrollee. The balance of the account at the time of application and redetermination is the countable amount. Verify the balance with the facility at every application, reapplication and redetermination. Document the contact with the facility and include the patient trust account number, date of contact, name of contact and the value of the trust account in Case Notes. If the amount in the account reaches $200 less than the SSI resource limit, the NF is required to notify the enrollee that if the amount reaches the SSI resource limit, he may lose Medicaid eligibility.
Personal	Resource Characteristic	A personal resource is typically for the use of the individual and his family. A personal resource is typically countable, unless excluded based on the terms of the resource.

Personal Consumption	Resource Characteristic	Up to $6,000 of the equity value of non-business property used to produce goods or services essential to daily activities is excluded from resources. Any portion of the property's equity value in excess of $6,000 is not excluded under this provision. Non-business property used for personal consumption can be real or personal property. It produces goods or services essential to daily activities if it is used, for example, to: • Grow produce or livestock solely for personal consumption in the individual's household; or • Perform activities essential to the production of food solely for home consumption. NOTE: This does not include any vehicle that is used for transportation. The property must be in current use or, if it is not in use for reasons beyond the individual's control, there must be a reasonable expectation that the required use will resume.
Plan to Achieve Self Support (PASS)	Resource Characteristic	PASS is an SSI provision to help individuals with disabilities return to work. Any income an SSI recipient places in an approved PASS account is excluded as a resource. The PASS account itself is also excluded. This exclusion expires when the PASS contract expires or ends, or when the individual is no longer an SSI recipient.
Prepayment of Rent	Resource Type	Prepayment of an individual's mortgage is not considered a resource. Prepayment of rent, however, will be a countable resource unless the individual cannot receive the money back under any circumstances (i.e., the lease agreement includes a no refund policy, or the landlord provides a statement that the funds will not be returned to the renter).
Prepayment of Nursing Home Care	Resource Type	This resource type is only available to individuals who have entered Title XIX Long-Term Care Facilities (LTCFs). **1. Defined** Prepayment for care deposited by the individual upon admission to a TennCare Medicaid-participatingLTCF. 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

An LTCF may require a deposit or prepayment for the first month’s care upon admission. Federal Medicaid regulations provide for certain restrictions regarding these deposits based on the individual’s TennCare Medicaid eligibility status:

- Deposits for the currently eligible individual are limited to the amount of her patient liability. The facility may not require the full amount of a month’s cost of care and may not require any deposit as a condition of admission.

- The facility may require a deposit of any amount not to exceed whatever the facility “normally requires of all admitted patients” from any individual ineligible for TennCare Medicaid benefits at admission, including individuals applying for TennCare Medicaid. If the individual is subsequently approved for benefits, the facility must refund that portion of the deposit that was not used to pay for the individual’s care, i.e. the amount paid by the TennCare Medicaid program. A refund is made after the facility is notified of the individual’s TennCare Medicaid approval.

3. Refund as a Countable Resource

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

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

		Use the following procedure to determine the amount of the deposit that is a countable resource: • Determine the total amount of the deposit and from whose funds it was paid. • Subtract the amount of the individual's patient liability effective the first month of her eligibility for TennCare Medicaid/CHOICES from the total deposit paid. • The result is the amount of the anticipated refund and part of the individual's countable resources for the first month in which the individual has applied for TennCare Medicaid. Use the following procedure to determine the individual's resource eligibility when part of or her countable resources is an anticipated deposit for prepaid institutional care: • Add the amount of the anticipated refund from the deposit to the rest of the individual's countable resources beginning with the first month for which the individual requested coverage. • If the amount of the individual's resources, including the anticipated refund, exceeds the resource reserve limit throughout the month, she is ineligible due to excess resources effective the first month for which coverage is requested. Assume the entire amount of the anticipated refund will be retained by the facility to cover the cost of care for the first month for which the individual requested TennCare Medicaid benefits and was determined to be resource ineligible. Beginning the first day of the following month, the anticipated refund is no longer a countable resource. • If the total amount of the individual's countable resources is within the appropriate resource limit, he is resource eligible. Do not verify or budget the refund as income in the month the individual actually receives it, because it has already been counted as an available resource. Beginning the month following the month in

		which the individual actually receives the refund, the value of the refund is considered a countable resource if retained. The value of the refund of a prepayment of institutional care belongs to the individual who paid the deposit. The facility can verify who paid the deposit upon the individual's admission. Resolve any discrepancies by requesting the individual or responsible party provide some verification of payment. Verify the full value of the deposit with the admitting facility or other verification of payment provided by the individual. Calculate the value of the anticipated refund of the item. The resultant amount is the value of the prepaid institutional care. It is not necessary to verify the actual amount of the refund.
Proceeds from the Sale of a Home	Resource Characteristic	The proceeds from the sale of a home are excluded to the extent that the funds are intended to be used to purchase another home subject to the homestead exclusion, and the funds are used for such a purpose within 3 months of the date of receipt of the proceeds.
Promissory Note and other Loans	Resource Type	**1. Promissory Notes: Personal Use** A promissory note or other loan given by the household is considered personal property and is countable, unless the note or loan balance is inaccessible or the promissory note is held for reasons other than personal use. The lender holds legal interest and has the legal ability to make available his share in the note or loan. The equity value of the note or loan is countable. **2. Promissory Notes and Transfer of Asset Policy** If a household makes a loan that is considered inaccessible, or is shown to have a significantly lower market value than the unpaid balance of the loan, the loan will be considered to be an uncompensated transfer of assets. The uncompensated asset transfer will be considered to be the outstanding balance due on the loan as of the date of the lender's application for LTSS (nursing facility or HCBS services). In addition, the Deficit Reduction Act of 2005 (DRA) provides that funds used to purchase a promissory note, loan or mortgage

		must meet the following criteria or the purchase will be treated as a transfer of assets for less than Fair Market Value (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 the *Business or Self-Employment* resource characteristic).

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 own interest without the consent of the other owner(s). Upon the individual owner's death, his share passes directly to his heir(s).

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

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

b. Verification

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

3. Establishing Value

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

a. Total Market Appraisal

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

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

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

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

b. Assessed Value

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

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

c. Equity Value

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

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

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

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

The surviving spouse of an intestate (without a will) decedent who elects against taking an intestate share, or a surviving spouse who elects against a decedent's will, has the right of election, unless limited by subsection (c) of this same title, to take an elective share amount equal to the value of the decedent's net estate as defined in subsection (b) of this title. The elective share is determined by the length of time the surviving spouse and the decedent were married to each other.
Share of Surviving Spouse and Heirs (TCA 31-2-104)

The intestate share of the surviving spouse is:

- If there are no surviving descendants of the decedent,

		the entire intestate estate; or • If there are surviving heirs of the descendants, either one-third or a child share's of the entire intestate estate, whichever is greater. **5. Ownership Interest in Unprobated Estate** An individual may inherit an interest in property which he may sell or transfer even though the estate is still in probate, i.e. the inheritance has not been legally distributed. Ownership interest in an unprobated estate is substantiated by the will which granted the individual her interest: • Deceased died Testate (with a will): Review a copy of the will or request that the individual provide a written statement from her attorney itemizing the property in which the individual has an interest. Value each item as is appropriate for its classification, i.e. real estate, personal property, vehicle, etc. The value is a countable resource unless the individual alleges it to be inaccessible and it is determined the availability of the asset provisions apply. • Deceased died intestate (without a will): Collect the following information and submit it to the TennCare Eligibility Policy Unit with a request for assistance in determining the value and availability of the individual's interest in unprobated property: o Copies of deeds or titles to all properties owned by the deceased; o Description of other items owned by the deceased, e.g. motor vehicles; o The individual's relationship to the deceased; o The date of the deceased's death; and o The number of surviving relatives and their relationship to the deceased.
Qualified Tuition Savings	Resource Type	A Qualified Tuition Savings Plan, also known as a 529 plan, is a special savings plan operated by a state or educational institute. A

Plan (529 Plans)		529 plan is intended to make it easier for an individual to save money for higher education. A 529 plan acts like a savings account, from which the account owner can withdraw funds at any time. The funds in a 529 plan are a countable resource to the individual who owns the account, minus any early withdrawal penalties. Funds distributed to a beneficiary and used or set aside for educational expenses are excluded as income in the month of receipt, and if retained into the month following the month of receipt, excluded for 9 months as a resource.
Retirement Accounts and Pension Funds	Resource Type	Retirement accounts and pension funds are work-related plans established for providing income when an individual retires. **General Rule** Retirement accounts and pension funds owned by an individual are resources if the individual has the option of withdrawing funds in a lump sum. The value of a retirement account or pension fund is the amount of money the individual can currently withdraw less any early withdrawal penalty. Retirement accounts and pension funds are excluded: • if termination of employment is necessary to access the funds; and • excluded from deeming, if owned by an ineligible spouse or an ineligible parent (non-institutional categories). Note: Retirement accounts and pension funds owned by a community spouse are considered in the resource assessment and in determining the institutionalized spouse's eligibility for Institutional Medicaid. When a retirement account or pension fund is an individual's resource, distributions and systematic withdrawals are not income, but are resources that have changed from one form to another. **Types of Retirement Plans** Retirement plans may be established by an employer for the benefit of employees or set up through a financial institution for the benefit

of an individual. Qualified plans are employer-sponsored plans that qualify for tax-favored treatment because they meet the requirements of the Internal Revenue Code. There are two basic types of qualified plans: defined benefit plans and defined contribution plans.

Defined Benefit Plans

Defined benefit plans promise a participant a specified monthly benefit at retirement, often based on salary, age and length of employment. A traditional pension is the most common type of defined benefit plan. Generally, pension funds cannot be accessed until a participant retires or attains the normal or early retirement age specified in the plan, at which time the participant has the option to receive the funds in either a single lump sum or in periodic payments. Even after an individual is eligible to receive funds in a lump sum, pension funds are not counted as resources if the individual is eligible for periodic payments that could begin immediately.

Some defined benefit plans may allow a participant to choose more than one form of benefit. For example, an individual may receive a portion of the accrued benefit in periodic payments, but may also have the option of withdrawing a portion in a lump sum. If a defined benefit plan provides this option, each portion of the accrued benefit is treated separately. Any amount that can be withdrawn in a lump sum is counted as a resource. If periodic payments are received, the payments also count as unearned income in the month received.

Individuals eligible for periodic benefits must take all necessary steps to obtain any benefits to which they are entitled, unless they can show good cause for not doing so.

Defined Contribution Plans

Defined contribution plans do not promise a specific amount of benefits at retirement. An employee and an employer make contributions to the employee's individual account under the plan. Typically, funds within a defined contribution plan can be accessed at age 59 ½ without a tax penalty, or before age 59 ½, with a tax penalty. Other withdrawal restrictions may apply depending on the plan. Examples of defined contribution plans include 401(k) plans, 403(b) plans, and Keogh plans.

401(k) and 403(b) Plans

Funds held in a 401(k) or 403(b) retirement account are countable when an individual is no longer job-attached or, if part of a profit-sharing plan or stock bonus plan, when an individual has attained age 59 ½. Funds for a Savings Incentive Match Plan for Employees (SIMPLE) account may be held in a 401(k). Funds in a SIMPLE plan set up as a 401(k) should be treated as a 401(k).

Keogh Plan

A Keogh plan established for a self-employed individual is considered accessible and is counted as a resource to the individual even if the household is not actually accessing the funds.

Individual Retirement Account (IRA)

Funds held in an IRA, established for the benefit of an individual, are considered accessible. Count the equity value of an accessible IRA when determining eligibility. Funds in a SIMPLE plan or a Simplified Employee Pension (SEP) may be held in an IRA. Funds in an SEP or SIMPLE plan set up as an IRA should be treated as an IRA. An IRA held in the form of an annuity must be evaluated as an annuity.

If the accessibility of a retirement account or pension fund cannot be determined, the summary plan description or a written statement from the plan administrator must be obtained.

Retirement funds are considered nonliquid resources unless there is evidence to suggest otherwise (i.e., that they can be converted to cash in less than 20 days). As such, an individual with excess nonliquid resources, including retirement funds, who is otherwise Medicaid eligible, may qualify for conditional assistance while waiting for funds to become available if the individual agrees in writing to use the funds to repay the benefits he received during the conditional assistance period. Any excess funds remaining after the repayment are considered a resource. See the *ABD Conditional Assistance* policy for additional information regarding conditional

		assistance.
Savings Account	Resource Type	The value of a savings account is a countable resource. If the current month's income has been deposited into the account it must be excluded when determining the current value of the account. See the *ABD Treatment of Resources: Ownership, Equity Value & Accessibility* policy for treatment of jointly owned accounts. A savings account may be excluded if it is used for one of the following purposes: • Burial funds; • Business or Self-Employment; • Educational Income; • Individual Development Account; • PASS; • Proceeds from the Sale of a Home (subject to time limits); • Prorated as Income; • Settlement or Disaster Payment, if excluded by policy; and • SSI/SSA Retroactive Payment (subject to time limits).

Settlement or Disaster Payment	Resource Characteristic	Payments or benefits provided under certain federal statutes are excluded. Excluded settlement and/or disaster payments include:
		
		• Agent Orange Settlement Payments;
		• Disaster Relief Assistance received under the Disaster Relief Act of 1974;
		• Distribution of perpetual judgment funds to Indian tribes under the following:
		    o Indian Judgment Funds Distribution (P.L. 93-134);
		    o Black Feet and Gros Ventre Tribes (P.L. 92-254);
		    o Grand River Band of Ottawah Indiana in Indian Claims Commission Docket No. 40-K;
		    o Tribes of groups under P.L. 93-134;
		    o Yakima Indian Nation or the Apache Tribe of the Mescalero Reservation (P.L. 94-433); and
		    o Receipts from land held in trust by the Federal government and distributed to certain Indian tribes under P.L. 94-114.
		• Factor VIII or IX Concentrate Blood Products Litigation:

		Settlement payments made as a result of the class action lawsuit to hemophilia patients infected with HIV through blood plasma products; • Filipino Veterans Equity 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; • Radiation Exposure Compensation Trust Fund; 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 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 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 Current Market Value (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. See the *ABD Trusts* policy.

Vehicle	Resource Type	**1. Vehicle Types** Vehicle includes cars, trucks, motorcycles, campers, motor homes, aircraft, snowmobiles, watercraft, boats and all-terrain vehicles (ATVs). **2. Determining Ownership** Accept the individual's sworn statement regarding motor vehicle ownership. If ownership is questionable, the following are acceptable verifications: • Vehicle registration; • Bill of sale; or • Title (individual named on title is the undisputed owner). **3. CMV** The CMV value of a vehicle is the average price that particular year, make, model and condition will sell for on the open market in the particular geographical area involved. Use the average loan value in a current National Automobile Dealers Association (NADA) Used Car Guide Book (or website) to establish the CMV of a car or truck. If the vehicle is not listed in the Guide Book, request estimates of the vehicle's market value from two reputable dealers. Use the higher estimate to value the vehicle and make note of both estimates in Case Notes. Contact a reputable dealer to obtain an estimate of the value of other types of vehicles, such as campers, motorcycles, etc. Document contact and estimate in Case Notes. The individual can substantiate a lower value be submitting written statements of the vehicle's value by from two reputable dealers. **4. Equity Value** The equity value of a vehicle is the price it can reasonably be

		expected to sell for on the open market in the particular geographic area involved less any encumbrances. **5. Exclusion of One Vehicle Regardless of Value** One vehicle of any of the types listed above is excluded regardless of its value if it's used for transportation of the individual or a member of her household. Assume that a vehicle is used for transportation, absent evidence to the contrary. **6. Applying the Exclusion When Individual Owns More than One Vehicle** When an individual owns more than one vehicle that is used for transportation of household members, apply the exclusion in the manner most advantageous to the individual. In general, the total exclusion will be applied to the vehicle with the greatest equity value. **7. Countable Value** The equity value of any vehicle, other than the one wholly excluded, is a resource when it: **a.** Is owned by the individual or a deemed household member; and **b.** It cannot be excluded under another provision, including: • Home (only applicable to cars, trucks, campers and motor homes); • Business or Self-Employment; • Income-Producing; • PASS; or • Tools of the Trade (only applicable to cars, trucks, campers and motorhomes and only one vehicle may be excluded).
Recreational Vehicles	Resource Type	Boats, motorcycles, snowmobiles, jet skis, ATVs and aircraft are generally considered recreational vehicles. The entire amount of the individual's equity in this type of vehicle is a countable resource, unless the vehicle can be excluded under one of the vehicle

		exclusions listed above. Accept the individual's attestation regarding ownership unless there is reason to question his statement. Request the appropriate type of legal documentation of ownership if ownership is questionable. Contact a reputable dealer familiar with the type of asset in question to determine the item's market value. The individual may substantiate a lower market value than that determined by submitting written statements of the vehicle's value by two reputable dealers.

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12.01.2015	3.	Burial Contracts; Burial Trusts	11; 15	Policy Clarification	AF
05.17.2016	3.	Burial Contracts; Retirement Accounts and Pension Plans	8-15; 45-46	Policy Clarification	LW
11.01.2016	3.	ABLE Accounts	2-3	Policy Change	AJ
11.01.2016	3.	Annuity	3-8	Policy Clarification	AJ
12.01.2016	3.	Homestead Exclusion	17-18	Policy Clarification	RS
12.01.2016	3.	Life Insurance	26	Policy Clarification	RH
03.17.2017	3.	ABLE Accounts	2-3	Policy Clarification	AJ
09.11.2017	3.	Homestead Exclusion	17-18	Non-Substantive Change	AJ
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11.01.2018	3.	Annuity	3-6	Policy Clarification	AJ
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03.18.2019	3.	Retirement Accounts and Pension Funds	42-45	Policy Clarification	AJ
03.18.2019	3.	Legal Authority; Burial Plot and Space; Burial	1-48	Non-Substantive	ME

		Trusts; Checking Account; Contract for Deed or Mortgage; Life Insurance; Patient Trust Account; Savings Account; Settlement or Disaster Payment; Stocks/Bonds; Trusts		Change	