

Families and Children Manual	Section: Financial Eligibility Requirements
Policy Manual Number: 010.062	Chapter: Medically Needy Conditional Assistance

## **MEDICALLY NEEDEY CONDITIONAL ASSISTANCE**

Legal Authority: 45 CFR 233.20

### **1. Policy Statement**

Conditional assistance may be available to an otherwise eligible TennCare Medicaid Medically Needy applicant based on the fact that she agrees to make reasonable efforts to sell excess real property for its Current Market Value (CMV). The applicant must also agree to repay TennCare for Medicaid costs during the conditional assistance period with proceeds of the sale of that real property. An individual is allowed to receive one period of conditional assistance during a period of eligibility.

### **2. Eligibility Conditions**

To be eligible for conditional assistance, an individual must:

- a. Meet all non-financial eligibility criteria;
- b. Have countable resources (other than the property that can be excluded under the conditional assistance agreement) below the resource limit for the applicable Eligibility Determination Group (EDG) size;
- c. Have countable income less than the Medically Needy Income Standard (MNIS) based on EDG size or have provided sufficient medical expenses in order to meet spenddown;
- d. Have total countable resources which exceed the Medically Needy resource standard; and
- e. Agree in writing to sell excess real property within the conditional assistance period.

All joint owners of a property must sign the *Medically Needy Agreement to Sell Property Form* in order for any joint owner to be considered for conditional assistance.

### **3. Real Property**

Real property consists of land, buildings or immovable objects that are attached permanently to the land and do not meet the definition of a home.

An individual's home is her principal place of residence and can include land and buildings.

### **4. Eligibility Period**

Conditional assistance may be allowed for eligible individuals up to 9 months while attempting to dispose of excess real property. There is no good cause extension for failure to dispose of real property within 9 months.

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Conditional benefits end the earliest of the following:

- a. The property is sold;
- b. Reasonable efforts to sell the property end without good cause;
- c. The individual requests in writing that conditional benefits end;
- d. The individual becomes resource eligible without the property exclusion; or
- e. The applicable conditional benefits eligibility period has ended.

The individual is required to sell all parcels of real property within one conditional assistance period. When eligibility is terminated, a new conditional benefits period is required if the person becomes eligible again.

## 5. Reasonable Efforts to Sell

Reasonable efforts to sell resources consist of taking all necessary steps to sell in the geographic area where the resource is located. Within thirty (30) days of signing a conditional assistance agreement, the individual must:

- a. List the property with an agent;
- b. List the property for sale at auction with an auction company; and
- c. All of the following: begin continuously advertising in at least one of the appropriate local media; place a “For Sale” sign on the property in clear public view; begin conducting “open houses” or otherwise show the property to interested parties on a continuous basis; and attempt any other methods of sale.

An individual who enters into a conditional assistance agreement must provide verification that she is making reasonable efforts to sell the property. Verification may include, but is not limited to: copy of contract with real estate agent; collateral contact; or copy of property advertisement in local media. Efforts to sell should not have gaps of more than one week. The individual may not reject any reasonable offers on the property. An offer for real property is assumed to be reasonable if it’s at least two-thirds of CMV. The individual has the burden of proving that rejected offers over two-thirds of CMV are not reasonable.

## 6. Property Not Sold During Conditional Assistance Period

If property under a conditional assistance agreement is not sold during the conditional assistance period, the property will become an inaccessible resource after the end of the conditional assistance period. An individual may receive one period of conditional assistance during the eligibility period.

If the property is sold after the period of conditional assistance is over, then the sale of the property will be reviewed as a conversion of resources, and the recoupment process for Medicaid costs incurred during the conditional assistance period will begin.

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## 7. Procedure

Conditional assistance is not provided automatically if an individual is over the resource limit. An Eligibility Specialist must manually review the case to determine if an offer of conditional assistance can be made.

- a. Completed application for TennCare Medicaid is submitted. Required verification is provided.
- b. The individual is not determined eligible for any TennCare Medicaid category.
- c. The EDG income qualifies the individual for Medically Needy coverage, or the individual is able to meet their calculated spenddown. However, the individual remains ineligible due to excess resources. The Eligibility Specialist will review the resources to determine if the EDG owns non-home, real property.
- d. If the EDG owns non-home, real property, the Eligibility Specialist will offer conditional assistance to the individual if that property is the only thing placing the individual over resources. If the EDG does not own non-home, real property, the application will be denied.
- e. The individual will complete the *Medically Needy Agreement to Sell Property Form*, ensuring signatures of all owners of the property, and return the form to TennCare.
- f. Upon receipt of the *Medically Needy Agreement to Sell Property Form*, the application will be approved. The Eligibility Specialist must set a case alert at 9 months for real property, to determine whether property remains for sale or has sold.

## 8. Real Property

If real property is listed at the Total Market Appraisal (Fair Market Value), consider the value to be CMV. If real property is listed significantly below or above the Total Market Appraisal (Fair Market Value), obtain a statement from a knowledgeable and disinterested third party stating the value of the real property and why it should be considered current market value. If the individual is working with a real estate agent to sell the home, obtain the statement from the individual's real estate agent. If the individual is selling the home himself, then request that the individual obtain a written statement from a third party real estate agent.

## 9. Recoupment

Individuals receiving conditional assistance are subject to the recoupment of Medicaid costs up to the total net proceeds received from the sale of excess real property. Only the Medicaid costs assumed during the period of conditional assistance are subject to recoupment.

The individual must continue making reasonable attempts to sell the property after the property becomes inaccessible due to the expiration of the conditional assistance period. If sold after the

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conditional assistance period ends, the recoupment amount is limited to the amount of Medicaid payments made during the conditional assistance period.

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